TRANSLATION FOR REFERENCE PURPOSSE ONLY

Investigation Report

January 16, 2012

Olympus Corporation
Non-Director Management Liability Investigation Committee

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To the Board of Directors, Olympus Corporation

Olympus Corporation Non-Director Management Liability Investigation Committee

Chairman Commissioner	Akira Watanabe, Attorney-at-Law [seal:] Akira Watanabe, Attorney-at-Law
Commissioner	Atsushi Toki [seal:] Atsushi Toki, Attorney-at-Law
Commissioner	Yoichiro Yamato [seal:] Yoichiro Yamato, Attorney-at-Law

List of Abbreviations and Terms

Corporate auditors and Accounting auditors

Abbreviation	Name (full name), period of service, etc.
Kunihisa	Yoshio Kunihisa Period of service as auditor: from June 29, 1989 to June 28, 2001
Ikoma	Seiya Ikoma Period of service as auditor: from June 29, 1993 to June 29, 2004
Kawashima	Hiroshi Kawashima Period of service as auditor: from June 26, 1998 to June 29, 2004
Komata	Hitoshi Komata Period of service as auditor: from June 29, 1999 to June 27, 2003
Ota	Minoru Ota Period of service as auditor: June 28, 2001 to June 29, 2004 Ota joined the company in April 1965 and worked in the Treasury Section of the Accounting Department through October 1971. Thereafter, he was transferred back to the Accounting Group in the Accounting Department in January 1978 and worked as person in charge of said Group until September 1982. In September 1982, Ota became Leader of the Accounting Group in the Accounting Department, and after working as head of the Accounting Department from October 1990 until May 2001; he became Standing Auditor Corporate Auditor in June 2001 and retired in June 2004.
Amemiya	Tadahiko Amemiya Period of service as auditor: from June 27, 2003 to June 28, 2007
Imai	Tadao Imai Period of service as auditor: since June 29, 2004
Shimada	Makoto Shimada Period of service as auditor: since June 29, 2004
Nakamura	Yasuo Nakamura Period of service as auditor: since June 29, 2004
Komatsu	Katsuo Komatsu Period of service as auditor: from June 28, 2007 to June 29, 2011
Yamada	Hideo Yamada Period of service as auditor: from June 29, 2011 to November 24, 2011 Yamada was a director from June 27, 2003 to June 29, 2011.
KPMG AZSA LLC	KPMG AZSA LLC Period of service as accounting auditor: until the year ended March 2009. Former Asahi & Co. (prior to January 2004) and former KPMG AZSA (from January 2004 through July 2010).
Ernst & Young ShinNihon LLC	Ernst & Young ShinNihon LLC Period of service as accounting auditor: since the year ended March 2010

Executive Officers

Abbreviation	Name (full name), period of service, etc.
Ichikawa	Kazuo Ichikawa served as an executive officer from June 28, 2001 to June 29, 2006.
Kojima	Yusuke Kojima served as an executive officer from June 28, 2001 to April 1, 2003.
Kuribayashi	Masao Kuribayashi has served as an executive officer since June 29, 2004.
Gomi	Toshiaki Gomi has served as an executive officer since June 29, 2004.
Yokoo	Akinobu Yokoo served as an executive officer from June 29, 2005 to May 12, 2009.
Saito	Takashi Saito has served as an executive officer since June 29, 2005.
Karaki	Koichi Karaki has served as an executive officer since June 29, 2005.
Ueda	Yasuhiro Ueda served as an executive officer from June 29, 2006 to June 26, 2009.
Saito	Norio Saito served as an executive officer from June 29, 2006 to September 30, 2011.
Kawada	Hitoshi Kawada has served as an executive officer since June 29, 2006.
Masakawa	Yoshihiko Masakawa has served as an executive officer since June 29, 2006.
Kawamata	Naohiko Kawamata has served as an executive officer since June 28, 2007.
Sasa	Hiroyuki Sasa has served as an executive officer since June 28, 2007.
Nakatsuka	Makoto Nakatsuka has served as an executive officer since June 28, 2007.
Nishikawa	Atsushi Nishikawa served as an executive officer from June 27, 2008 to March 31, 2011.
Yoda	Yasuo Yoda has served as an executive officer since June 27, 2008.
Gumz	F. Mark Gumz served as an executive officer from June 27, 2008 to March 31, 2011.
Nakajima	Masanori Nakajima served as an executive officer from June 27, 2008 to March 31, 2011.
Kubota	Akira Kubota has served as an executive officer since June 26, 2009.
Takeuchi	Yasuo Takeuchi has served as an executive officer since June 26, 2009.
Koga	Nobuyuki Koga has served as an executive officer since June 26, 2009.
Hayashi	Shigeo Hayashi has served as an executive officer since June 26, 2009.
Taguchi	Akihiro Taguchi has served as an executive officer since June 29, 2010.
Ogawa	Haruo Ogawa has served as an executive officer since April 1, 2011.
Bang	Il-Seok Bang has served as an executive officer since April 1, 2011.

Directors

Abbreviation	Name (full name), period of service, etc.
Shimoyama	Toshiro Shimoyama Shimoyama was Representative Director and President from 1984 through June 1993, became Representative Director and Chairman from July 1993 through June 2001, and retired as director in 2004.
Iwamoto	Masayoshi Iwamoto Iwamoto became Representative Director and President in June 1993, became Representative Director and Chairman in June 2001, and retired as director in June 2005.
Kikukawa	Tsuyoshi Kikukawa Kikukawa became director in June 1999 and was in charge of the Management Planning Department, Administration and Finance Department, Personnel, and Accounting Department. In April 2001, he became head of the Director Corporate Center, and in June 2001, he became Representative Director and President.
Yamada	Hideo Yamada Yamada served as director from June 27, 2003 to June 29, 2011. From October 1980 onward he was consistently involved with the management of financial assets at the Treasury Group in the Accounting Department. In January 1989, he became Group Leader of said Group, and in October 1990, he became Group Leader of the Finance Group in the Accounting Department due to the Group's name change. Thereafter, he became deputy head of the Accounting Department in April 1994 and head of the Administration and Finance Department in April 1997. In July 2001, he became deputy head of the Operations Supervision Office, with responsibility for the Finance Department, and in April 2002, he became head of the Administration Supervision Office, likewise with responsibility for the Finance Department. Thereafter, he acted as head of the Corporate Center that has control over the Finance Department from April 2003 through March 2009, and he was elected as a director in June 2003, became an auditor in June 2011, and resigned on November 24, 2011.
Mori	Hisashi Mori After being transferred to the Treasury Group in the Accounting Department in June 1987, Mori worked at the Treasury Group in the Accounting Department (and the Finance Group in the Accounting Department) until March 1997. After that, on April 1, 1997, Mori became Leader of the Finance Group in the Administration and Finance Department, and from the following April 1998 until March 2000, he was Assistant to the Head of the Administration and Finance Department. From April 2000 until March 2001, he acted as Leader of the Financial Planning Group in the Administration and Finance Department, and from October 2000 until June 2001, he acted as Deputy Head of the Administration and Finance Department. Furthermore, from July 2001 until April 2002, he was head of the Finance Department, and from April 2002, he was head of the General Business Planning Office and head of the Management Planning Office. After that, from June 2005 until March 2011, he was head of Managing Planning Headquarters. He was elected as a director in June 2006.
Kawamata	Hironobu Kawamata From March 1988, Kawamata moved to the Treasury Group in the Accounting Department, and from October 1990, he started working in the Finance Group in the Accounting Department (and the Finance Group in the Administration and Finance Department). After that, from April 1997 through the end of March 2000, he was Group Leader of the Finance Group in the Administration and Finance Department. Then in May 2000 he was sent to Olympus America, and from October 2004 through June 2009, he was head of the Accounting Department (head of the Business Support Headquarters in April 2007). On June 29, 2009, he was elected as a director.
Nakatsuka	Makoto Nakatsuka Nakatsuka joined the company in April 1981. From April 1997 through March 2000, he was Group Leader of the Financial Planning Group in the Administration and Finance Department. After that, from April 2000 through May 2002, he was Group Leader of the Finance Group in the Administration and Finance Department (and Group Leader of the Finance Group in the Finance Department). From April 2002 through March 2006, he was head of the Finance Department, and from April 2006 through May 2008, he was head of the Financial Strategy Department in the Management Planning Headquarters, with responsibility for financial asset management (during this period, he became an executive officer in June 2007). In June 2010, he because an executive officer of Olympus, in April 2011, he became head of the Corporate Center, and on June 29, 2011, he was elected as a director.
Woodford	Michael Christopher Woodford Woodford became an executive officer in June 2008, President in April 2011, and representative director and president/COO in June 2011. However, he was removed as representative director and president on October 14, 2011, but remained a director. He resigned as director on December 1, 2011.

Outside collaborators

Abbreviation	Name (full name), period of service, etc.
Walch	Gerhard Walch Walch was employed at LGT Bank, but retired several years ago. He is thought to be involved in both the Gurdon Overseas S.A. and Nayland Overseas S.A. funds.
Sagawa	Hajime Sagawa Yamada, who had been involved in the finances of Olympus since around 1980, became friends with Sagawa through Nakagawa, who met him in the process of managing the company's money. Sagawa was involved in specifically planning the separation (*tobashi*) of financial instruments incurring unrealized losses by using funds that were not subject to consolidation under Olympus. He established AXES under the laws of Delaware in 1997. He invested along with Nakagawa in AXES and Axes (Japan) Securities.
Chan	Full name unknown A person whom Yamada and Mori met around 1998 through an introduction by Commerzbank Singapore Branch through Nakagawa when they were looking for a place to procure funding to float into Receiver Funds. Chan, at the time, was working at Commerzbank, but after he retired from Commerzbank in 2000, he changed jobs to SG, and in 2004, he retired from SG and established his own company. In February 2005, the investment manager of SG, a tax-exempt limited partnership formed in the Caymans, was Strategic Growth Asset Management, which Chan owns.
Nakagawa	Akio Nakagawa Yamada, who had been involved in the finances of Olympus since around 1980, met Nakagawa in the process of managing the company's money. Nakagawa is a person who was involved in specifically planning the separation (*tobashi*) of financial instruments incurring unrealized losses by using funds that were not subject to consolidation under Olympus. He has working experience at foreign securities firm[s], established Axes (Japan) Securities, and acts as its President & CEO. In addition, he invested capital in AXES and Axes (Japan) Securities along with Sagawa.
Yokoo	Nobumasa Yokoo Originally from a major securities firm, Yokoo was close with Yamada through transactions with Olympus during his time at the securities firm. Even before the Series of Problems, he was someone who was consulted regarding Olympus' investment activities. It was also Yokoo who introduced LGT Bank's executives to Yamada and Mori. Yokoo established GC and its affiliates, GCI and GCI Cayman, from 1998 through around 2004.

Other

Abbreviation	Name (full name), period of service, etc.
2009 Committee	A third party committee of three outside experts including attorneys-at-law, which was formed by resolution of the Board of Corporate auditors on May 9, 2009.
2009 Committee Report	A report dated May 17, 2009, by the 2009 Committee.
21C	Twenty First Century Global Fixed Income Fund Ltd. A pass-through fund of Cayman registry, which was involved in the Singapore Route. The Director is Mori. Hillmore and Easterside moved money to 21C in the form of granting loans, etc., and 21C moved money in the amounts of 19.3 billion yen to CFC and 20 billion yen to Proper in the form of underwriting bonds issued by Proper and CFC. 8 billion yen of the 20 billion yen moved to Proper was then moved to CFC by means of Proper underwriting bonds issued by CFC.
AXAM	Axam Investments Ltd. A Cayman corporation that Sagawa established on November 19, 2007, for the purpose of receiving the money that was paid to Olympus in connection with the Gyrus acquisition as part of the Loss Separation Settlement Scheme.
AXES (Axes America)	Axes America, LLC A company that Sagawa established in Delaware, which signed an FA agreement, etc. with Olympus in connection with the Gyrus acquisition. Warrant purchase rights and stock options were granted as part of the FA fee, and the purchase money for said warrant purchase rights and the purchase money for the preferred dividends issued instead of stock options were used to settle the separated losses. AXES is abbreviated as "AXAM" in the FA agreement and amended FA agreement, but in this report, "AXAM Investments Ltd.," abbreviated as "AXAM," is a different corporation from AXES.
CD	Creative Dragon SPC A pass-through fund involved primarily in the Loss Separation Settlement Scheme, which was used to float the money paid to DD and GT (13.7 billion yen) to purchase shares of the three domestic companies, the purchase money for the preferred shares in Gyrus (620 million dollars), and so forth back to Olympus.
CFC	Central Forest Corp. One of the Receiver Funds. A fund of Cayman registry that Sagawa and Nakagawa formed by March 1998 after Yamada and Mori asked Sagawa and Nakagawa to set up a Receiver Funds for "tobashi" which were not subject to consolidation under Olympus.
DD	Dynamic Dragon II SPC A pass-through fund of Cayman registry. Easterside invested capital in CD using a total of 13.7 billion yen paid to DD and GT for stock in the three domestic companies, and then this was floated back to Olympus through GPAI, TEAO, and LGT-GIM.
Easterside	Easterside Investments Limited A special purpose company in the British Virgin Islands which was involved in the Singapore Route. Receiving a loan (approx. 30 billion yen) from the Singapore Branch of SG Bank, which was secured by Olympus deposits in said Bank, Easterside made capital infusions in a Receiver Funds (QP), etc. through 21C and Proper. Olympus borrowed and capitalized bonds in which said Fund invested from SG Bond.
FA	Financial Advisor
FA Agreement	Financial Advisory Agreement between Olympus and AXES dated June 12, 2006. (It is in letter format presented by AXES on June 5, 2006 and accepted by Olympus on June 12.)
GC	Global Company Inc. A company established by Yokoo *et al*, which essentially was the manager of GCI Cayman
GCI	Global Company Investments Inc. A company established by Yokoo *et al*, which essentially was the manager of GCI Cayman

Abbreviation	Name (full name), period of service, etc.
GCI Cayman	GCI Cayman Limited A company established by Yokoo *and others* GCI Cayman is a general partner of NEO and GCNVV, and in addition to having received fund management fees (management fees) from NEO and GCNVV, it was also paid a completion fee and termination fee when GCNVV was dissolved.
GCNVV	G.C. New Vision Ventures, L.P. A fund established on March 1, 2000, for use in the scheme of providing money to Receiver Fund[s]. Multiple funds invested capital in GCNVV, but all that money was paid by Olympus. GCNVV invested some money to invest in venture companies, but also provided approximately 30 billion yen to a Receiver Fund (QP), though the amounts were different depending on the time.
GIM (LGT-GIM)	PS Global Investment Markets-O One of the investment instruments called a class fund, which the LGT Bank Group formed and managed. Olympus and OAM purchased investment unit[s] of the LGT-GIM fund in January 2000 (Olympus purchased 15 billion yen and OAM 20.3 billion yen) in order to infuse capital into Receiver Fund[s] so that the Receiver Fund[s] would get financial asset holdings incurring unrealized losses at book value through an account opened at LGT Bank.
GPAI	GPA Investments Ltd. A pass-through fund involved primarily in the Loss Separation Settlement Scheme. It was used when the money (13.7 billion yen) for shares of the three domestic companies paid to DD and GT and the purchase money for the Gyrus preferred shares (620 million dollars) was floated back to Olympus.
GT	Global Target SPC A pass-through fund of Cayman registry. Easterside invested capital in CD using the total 13.7 billion yen paid to CD and DD for shares in the three domestic companies and thereafter floated this back to Olympus through GPAI, TEAO, and LGT-GIM.
Gurdon Overseas S.A.	Thought to be a fund involving Walch, from whom Yamada and Mori *et al* received cooperation in funding on the LGT Bank Route. In September 2008, 1.259 billion yen was paid from NEO.
GV	Genesis Venture Capital Series Ltd. A pass-through fund of Cayman registry that was involved in the Singapore Route. Proper and CFC moved money to GV in the form of underwriting bonds issued by GV (Proper 4 billion yen, CFC 5.1 billion yen). GV was a limited partner along with Olympus when GCNVV was established in March 2000 and contributed 5 billion of money to GCNVV, but this money is presumed to have been paid from the 9.1 billion yen moved from Proper and CFC.
Hillmore	Hillmore East A special purpose company that was involved in the Singapore Route. Hillmore East received a loan (15.0 ~ 45.6 billion yen) from Commerzbank Singapore Branch, which was secured by deposits of Olympus at said bank, and made capital infusions in a Receiver Fund (QP) and such through 21C and Proper.
ITV	New Investments Ltd. Class Fund IT Ventures One of the investment instruments called a class fund, which the LGT Bank Group formed and managed. After floating excess money procured in order to execute the Loss Separation Scheme to ITV, Olympus had ITV invest in multiple venture companies in Japan in addition to ITX and the three domestic companies.
LGT Bank	LGT Bank in Liechtenstein AG The bank of the Principality of Liechtenstein, which was used in the Europe Route. It loaned money (total approximately 30 billion yen) to a Receiver Fund (CFC), secured by Japanese government bonds and such that Olympus had deposited at said bank.
Nayland Overseas S.A.	Thought to be a fund involving Walch, from whom Yamada and Mori *et al* received cooperation in funding on the LGT Bank Route. 950 million yen was paid from TEAO.

Abbreviation	Name (full name), period of service, etc.
NEO	Neo Strategic Venture, L.P. A pass-through fund (limited partnership) of Cayman registry, which was involved in the Europe Route. Established on March 15, 2000, the general partner was GCI Cayman, and the limited partner was TEAO. Capital infusions were made from GIM through TEAO. In addition, money was moved several times between NEO and QP to both.
NEWS CHEF	NEWS CHEF Inc.
OAM	Olympus Asset Management Ltd.
OCA	Olympus Corporation of Americas
OFH	Olympus Finance Hong Kong Ltd.
OFUK	Olympus Finance UK Ltd.
OUKA	Olympus UK Acquisition Limited
Perella	Perella Weinburg Partners UK LLP.
Proper	A pass-through fund that was involved in the Singapore Route. Established by Yamada and Mori. 20 billion yen was moved from 21C to Proper by means of 21C underwriting bonds, and 8 billion yen of this was moved from Proper to a Receiver Fund (CFC). In addition, 4 billion yen was moved from Proper to GV, and this is presumed to be the source of capital invested by GV in GCNVV.
PwC	PricewaterhouseCoopers Legal LLP.
QP	Quick Progress Co., Ltd. One of the Receiver Funds. A fund of Cayman registry that Sagawa and Nakagawa formed by March 1998 after Yamada and Mori asked Sagawa and Nakagawa to set up a “tobashi” Receiver Fund[s] that were not subject to consolidation under Olympus.
SG Bond	SG Bond Plus Fund A fund of Cayman registry that was involved in the Singapore Route. It was formed in February 2005, and its investment manager was Chan’s company, Strategic Growth Asset Management. Olympus made a capital investment of 60 billion yen in SG Bond and repaid the money loaned to Hillmore and Easterside secured by deposits in an Olympus account at SG Bank and Commerzbank. As a result, a shift was made from a Loss Separation Scheme using time deposits to a Loss Separation Scheme using capital investments in funds.
SG Bank	Societe Generale A French bank that was used in the Singapore Route. It loaned money (approximately 30 billion yen) to a pass-through fund (Easterside) secured by deposits in an Olympus account at the Singapore Branch of said bank.
TEAO	TEAO Limited A special purpose company of Cayman registry that was involved in the Europe Route. It was established in March 2000 with Mori as a director. LGT-GIM moved money (31 billion yen) to TEAO by means of purchasing corporate bonds issued by TEAO. TEAO invested some of the money (30 billion yen) in NEO, and part of this (19.4 billion yen) was injected into a Receiver Fund (QP).

Abbreviation	Name (full name), period of service, etc.
Axes Securities	Axes (Japan) Securities Co., Ltd. A company in which Nakagawa and Sagawa invested capital, of which Nakagawa is CEO
Altis	Altis Co., Ltd.
Receiver Fund(s)	Fund(s) primarily for the purpose of having financial instruments with unrealized losses purchased in the Loss Separation Scheme (a method to keep unrealized losses from surfacing by having a fund not subject to consolidation under Olympus purchase financial instruments with large-sum unrealized losses at book value). Specifically, this means CFC and QP.
Exposed Fund(s)	Fund(s) in which Olympus made a direct capital investment in relation to the Loss Separation Scheme. Specifically, this means GCNVV, LGT-GIM, and SG Bond.
Olympus	Olympus Corporation
Share Subscription Agreement	Share Subscription Agreement dated September 30, 2008, regarding the granting of preferred shares to AXAM and the purchase of warrant purchase rights from AXAM.
Board of Corporate Auditors Report	A report dated May 17, 2009, which the Board of Corporate Auditors submitted to KPMG AZSA LLC after receiving the 2009 Committee Report
Participants	Directors who participated in the formulation of the Loss Separation Scheme and the subsequent maintenance of the state of separation, meaning Yamada, Mori, and Nakatsuka.
Call Option Agreement	Call Option Agreement dated February 14, 2008
Commerzbank	Commerzbank International Trust (Singapore) Ltd. A German bank used in the Singapore Route. Said bank loaned money (approximately 15 billion yen ~ 45.6 billion yen) to a pass-through fund (Hillmore) secured by deposits in Olympus account at said bank's Singapore Branch, and this money was eventually injected into Receiver Funds, etc.
General Partner	General Partner
Capital-Injected State	State of injecting capital into Receiver Funds and Pass-Through Funds that normally do not require capital, for the purpose of loss separation
Asset Management Standards	Asset Management Standards (Management of Surplus Money, Derivative Transaction Management, Management Rules) that took effect from March 25, 1997. Changed to "Asset Management Rules" from April 2000.
Gyrus	Gyrus Group PLC
Revised FA Agreement	Agreement revising the FA Agreement between Olympus and AXES dated June 21, 2007
Loss Separation Scheme	A method to keep unrealized losses from surfacing by having a fund not subject to consolidation under Olympus purchase financial instruments with large unrealized losses
Formulation of the Loss Separation Scheme	Execution of the Loss Separation Scheme. Specifically, this means executing "preparatory acts for the purpose of loss separation" whereby capital is injected from Olympus into Receiver Funds established to receive transfer of financial instruments with unrealized losses, and executing "acts of loss separation" whereby financial instruments with unrealized losses were transferred from Olympus to said Funds.
State of Loss Separation	State in which the unrealized losses of financial assets that Olympus held in the past do not appear on Olympus' financial statements by means of executing the Loss Separation Scheme
Loss Separation Settlement Scheme	Method of settling the losses separated by means of the Loss Separation Scheme. Specifically, when Olympus acquired goodwill and other amortizable assets in the corporate acquisition process, a method, etc. was used to settle separated losses by adding the losses separated under the Loss Separation Scheme to the value of said assets and subsequently amortizing assets with inflated losses over the permitted number of years.
Third Party Committee	Committee established November 1, 2011, chaired by Attorney-at-Law Tatsuo Kainaka

Abbreviation	Name (full name), period of service, etc.
Third Part Committee Report	Audit report that the Third Party Committee submitted on December 6, 2011
Pass-through Funds	Funds used for the purpose of injecting capital procured by Olympus into Receiver Funds in the Loss Separation Scheme, and funds used for the purpose of floating the acquisition capital from Olympus for the three domestic companies in the Loss Separation Settlement Scheme or the money spent by Olympus under the pretext of FA fee for the Gyrus acquisition back to Olympus. Specifically, this means SG Bond, Easterside, DD, GT, CD, AX-AM, GPAI, 21C, Proper, GV, LGT-GIM, TEAO, NEO, ITV, GCNVV, etc.
Initial Purchase Resolution	Resolution at the Board of Directors meeting held on November 18, 2008, which approved the purchase of preferred shares from AXAM at the range of 530 million dollars to 590 million dollars
Tokkin	Specified money trusts and specified fund trusts
Director Liability Investigation Committee	Director Liability Investigation Committee (Chairman Commissioner: Kazuo Tezuka)
Director Liability Investigation Committee's Investigation Report	Investigation Report that the Director Liability Investigation Committee submitted on January 7, 2012
People Who Knew	This means Yamada, Mori, Nakatsuka, Shimoyama, Kishimoto, and Kikukawa. Directors who knew about or could have known about the Loss Separation Scheme and the subsequent maintenance of the state of separation
Humalabo	Humalabo Co., Ltd.
The Committee	Non-Director Management Liability Investigation Committee (Chairman Commissioner: Akira Watanabe)
The Series of Problems	The deferred posting of losses in securities investments, etc. by Olympus from around the 1990s primarily by using acquisitions of Gyrus and the three domestic companies, as reported in the Third Party Committee's Investigation Report, and the series of problems relating thereto
The Purchase Resolution	Resolution at the Board of Directors meeting held on March 19, 2010, which approved the purchase of preferred shares from AXAM at 620 million dollars
The Three Domestic Companies	Altis, NEWS CHEF, and Humalabo
The Communication Letter	Notice dated April 23, 2009, that KPMG AZSA LLC submitted to the Board of Corporate Auditors
The Resolution to Cancel	Resolution at the Board of Directors meeting held on June 5, 2009, which approved the cancellation of the Initial Purchase Resolution
Preferred Shares	Dividend preferred shares that Gyrus issued to AXAM
Limited Partner	Limited Partner
Warrant Purchase Rights	Rights to purchase stock options on the acquisition vehicle up to the lower of either 20 percent of the outstanding shares of the acquisition vehicle or stock purchase rights with an issue price of $200 million, as included in the FA fee under the Revised FA Agreement. These rights were called "warrant purchase rights" at Olympus. The same name is used in the Report.

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I. Outline of the investigation

1 Background to the establishment of the Non-Director Management Liability Investigation Committee

(1) Formation of the Third Party Committee and submission of its investigation report

At the Board of Directors' Meeting held on October 14, 2011, the Olympus Corporation (hereinafter referred to as "Olympus"), removed from the office of representative director, and president and executive officer, Michael Christopher Woodford (hereinafter referred to as "Woodford." Note that honorifics and job titles are omitted with respect to people's names in this Report), who had been pointing out for some time the non-transparent transactions conducted by Olympus in the past in its acquisition projects. Subsequently, however, the voices of shareholders and others were raised questioning the validity and demanding clarification of ① The payment to the financial advisor (hereinafter referred to as "the FA") in the acquisition of the Gyrus Group PLC (hereinafter referred to as "Gyrus"), and ② The acquisitions and subsequent recognition of impairment losses of Altis Co., Ltd. (hereinafter referred to as "Altis"), NEWS CHEF Inc. (hereinafter referred to as "NEWS CHEF"), and Humalabo Co., Ltd. (hereinafter referred to as "Humalabo" and together Altis and NEWS CHEF referred to as the "Three Domestic Companies"); and the stock price fell sharply.

In seeking to conduct a strict and thorough investigation by an independent investigative committee to determine whether or not there was any fraudulent or inappropriate conduct or unreasonable business judgment with respect to all of the transactions, from the planning to the execution of the acquisition of Gyrus and the Three Domestic Companies, to achieve accountability with the shareholders and other stakeholders and to seek proposals for the improvement of the corporate governance regime, on November 1, 2011, Olympus established an investigation committee (Chairman Commissioner: Tatsuo Kainaka; hereinafter referred to as "the Third Party Committee"), made up of five lawyers ad one certified public accountant who had no conflicts of interest with Olympus.

Based on the discovery that there had been a deferment of posting losses related to securities investments, etc., at Olympus from around the 1990s, Olympus also commissioned the Third Party Committee on November 8, 2011 to investigate the facts concerning said loss deferral

(2) Demand from shareholders to file suit against current and former directors

On November 9, 2011, Olympus received a demand from its shareholders to conduct a careful investigation, and to file suit to pursue liability against the current and former directors (hereinafter referred to simply as “the Directors”) who are subsequently judged to be liable. This is because the current and former directors of Olympus were believed to have violated the duty of due care of a prudent manager and committed an abuse of discretion in business judgment regarding the acquisition of Gyrus and the Three Domestic Companies.

(3) Demand from shareholders to file suit against current and former corporate auditors and auditing firms

On November 18, 2011 Olympus received a demand from its shareholders to closely investigate whether there had been violations of the duty of due care of a prudent manager with regard to the assessment of legality and auditing of accounts, etc. in connection with the deferral of posting of losses and the covering of losses due to the acquisition of Gyrus and the Three Domestic Companies, as well as on the handling of matters after Woodford had pointed out suspicions regarding unlawful acts, on the part of the current and former corporate auditors and accounting auditors (hereinafter, current and former corporate auditors are referred to simply as “corporate auditors,” and current and former accounting auditors are simply referred to as “accounting auditors” or as “auditors”), and to file suit against those corporate auditors and accounting auditors who were judged to be liable, to pursue their liability.

(4) Submission of the Third Party Committee Investigation Report

The Third Party Committee conducted an investigation of the facts regarding whether or not there were any fraudulent or inappropriate conduct or unreasonable business judgment with respect to all of the transactions from the planning to the execution of the acquisitions of Gyrus and the Three Domestic Companies, as well as evaluation/verification work of the same; and on December 6, 2011, it submitted its investigation report (hereinafter referred to as “the Third Party Committee’s Investigation Report”).

On receiving the Third Party Committee Investigation Report that was submitted, and on the same day that the Report was submitted, Olympus issued a press release to the effect that it took the results of the investigation and the recommendations of the Third Party Committee seriously, and that the company was planning on fundamental initiatives toward the restoration of confidence without delay and that it would promptly correct the securities reports and other documents that have been submitted from 2007 to 2011.

(5) Establishment of the Director Liability Investigation Committee and submission of the investigation report

On December 7, 2011, the Board of Corporate Auditors of Olympus established the Director Liability Investigation Committee composed of 3 lawyers who have no vested interest in Olympus or Olympus’ directors (chairman commissioner: Kazuo Tezuka. Hereinafter referred to as the “Director Liability Investigation Committee”), in order to conduct an investigation on whether or not there were acts of violation of the duty of due care of a prudent manager, etc. in the performance of duties on the part of the directors with respect to the Series of Problems.

The Director Liability Investigation Committee investigated the facts regarding this series of acts and made a determination on the liability on the part of the directors, and submitted their Investigation Report (hereinafter referred to as "the Director Liability Investigation Committee Report"), on January 7, 2012.

(6) Establishment of the Non-Director Management Liability Investigation Committee

Bearing in mind the aforementioned shareholders' demand to file suit, on December 7, 2011, the Board of Directors of Olympus established the Non-Director Management Liability Investigation Committee composed of three lawyers who have no vested interest in Olympus or Olympus' non-director management (chairman commissioner: Akira Watanabe. Hereinafter referred to as the "Non-Director Management Liability Investigation Committee" or "This Committee"), in order to investigate by an investigation committee whose independence had been secured, whether or not there were violations of the duty of due care of a prudent manager, etc. with respect to their performance of duties on the part of corporate auditors, auditing firms, or executive officers, or former executive officers (hereinafter referred to, simply as "executive officers." Also, corporate auditors, auditing firms, and executive officers, and those who occupied those positions are referred to, collectively, as "Non-Director Management"), in relation to said Series of Problems connected with the deferral of posting of losses in Olympus' past.

2 Revision of securities reports, etc., by Olympus and addition of commissioned work

(1) Revision of the settlement of accounts in past fiscal years by Olympus

On December 14, 2011, after This Committee had begun its investigation Olympus submitted to the Kanto Regional Finance Bureau a revised report of the securities reports, etc. with respect to the settlement of accounts in past fiscal years from the fiscal year ending March 2007 to the fiscal year ending March 2011.

(2) Addition of commissioned work

In view of the fact that in revising the settlements of past fiscal years, it was found the dividend distributions of surplus money exceeded the distributable amounts in the balance sheets after they were revised, on December 16, 2011 the Board of Directors of Olympus requested This Committee to also include an investigation and review on whether or not there were acts of violation of the duty of due care of a prudent manager, etc. in the performance of their duties on the part of Non-Director Management concerning the problem of the dividend distributions of surplus money that were implemented after April 1, 2007, and so additional work was commissioned.

3 Composition of This Committee

(1) Composition

The composition of This Committee is as follows. None of the members of the committee has a conflict of interest with Olympus or with Olympus' Non-Director Management.

Chairman Commissioner:	Akira Watanabe	(Attorney-at-law)
Commissioner:	Atsushi Toki	(Attorney-at-law)
Commissioner:	Yoichiro Yamato	(Attorney-at-law)

(2) Assistants

This Committee has appointed the following individuals to provide help in the investigation. None of these individuals has a conflict of interest with Olympus or with Olympus' Non-Director Management.

Investigation Committee Assistants
Seiwa Meitetsu Law Office
Attorney Keiko Tashiro
Attorney Naoki Iida
Attorney Masaru Nishimura
Attorney Sachiko Murase
Attorney Tomoko Hirai
Attorney Narumi Yamashita
Four certified public accountants

4 Purpose of the investigation and review

The purpose of the investigation and review for which This Committee has been commissioned by the Board of Directors of Olympus, is to provide the assessment of this Committee on whether or not it would be appropriate for Olympus to file suit to pursue liability against the Non-Director Management based on the investigation and review from the legal aspects, as well as the results of said investigation and review, on whether or not there were acts of violation of the duty of due care of a prudent manager, etc., on the part of the Non-Director Management with respect to the problems in ① and ② below.

Note

1 Regarding the corporate auditors

(1) Investigation and review from the legal aspects as to whether or not there were violations of the duty of due care of a prudent manager on the part of the corporate auditors, in the performance of their duties with regard to the problems below.

① The deferment of posting of losses related to securities investments from about the 1990s by Olympus mainly around the method of using the acquisition of Gyrus in addition to Altis, NEWS CHEF, and Humalabo that was reported in the Third Party Committee's Investigation Report and the series of problems related to it (hereinafter referred to as the "Series of Problems").

② The problem of the dividend distribution of surplus money that Olympus implemented after April 1, 2007 (hereinafter referred to as "the Problem of the Surplus Dividend Distribution")

(2) To provide a judgment by the Non-Director Management Liability Investigation Committee as to whether or not it would be appropriate to file suit to pursue the liability of the corporate auditors based on the results of the investigation and review in (1).

2 Regarding the accounting auditors

(1) To investigate and review from the legal aspects whether or not there were unreasonable or inappropriate actions with respect to the following problems by the Company's accounting auditors.

① The Series of Problems

② The Problem of the Surplus Dividend Distribution

(2) To provide judgments by the Non-Director Management Liability Investigation Committee as to whether or not it would be appropriate to file suit to pursue the liability of the accounting auditors based on the results of the investigation and review in (1).

3 Regarding the executive officers

(1) To investigate and review from the legal aspects whether or not there were unreasonable or inappropriate actions with respect to the Series of Problems by the Company's executive officers.

(2) To provide judgments about measures to be taken by the Company and the methods for pursuing the liability of executive officers based on the results of the investigation and review in (1).

END

II. Method, scope, and individuals subject to investigation and review

1 Method of the investigation and review

(1) Investigation of the facts

In view of the background that led to the establishment of the above-noted Director Liability Investigation Committee by the Olympus Board of Corporate Auditors and the establishment of the Non-Director Management Liability Investigation Committee by the Board of Auditors, that the results of the investigation and recommendations of the Third Party Committee would be taken seriously, as well as the time contracts of the deadline by which the aforementioned request to file suit by Olympus' shareholders should be handled, this Committee decided to proceed with respect to the Series of Problems in ①, that as a general rule, the investigation and review would be premised on the facts that were recognized in the Third Party Committee's Investigation Report and the facts recognized in the Director Liability Investigation Committee and the results of the review of the directors' violation of the duty of due care of a prudent manager, and with respect to the Problem of the Surplus Dividend Distributions in ②, that as a general rule, the investigation and review would be premised on the amounts and figures listed in the revised report for the securities reports, etc. for the fiscal year ending March 2007 (139th Term) to the fiscal year ending March 2011 (143rd Term) that was submitted to the Kanto Regional Finance Bureau on December 14, 2011 (a further revision was submitted on December 26, 2011), as well as the facts recognized in the Director Liability Investigation Committee and the results of the review of the directors' violation of the duty of due care of a prudent manager, and proceeded with each investigation and review.

Of course, for the Non-Director Management of Olympus, in light of this Committee's duty of reviewing and passing judgment on whether or not it would be appropriate to file suit to pursue liability, and whether or not there was liability on the part of the Non-Director Management, this Committee conducted interviews of Non-Director Management (excluding those who were deceased). Specifically, among the Non-Director Management listed later who were subject to this investigation, those who were considered necessary, were given interviews through meetings, while at the same time, other Non-Director Management were asked for their opinions through written inquiries. However, this Committee was not able to receive disclosure of internal documents, such as audit plans, audit work papers, with some exceptions, from KPMG AZSA LLC (hereinafter referred to as "KPMG AZSA LLC") and Ernst & Young ShinNihon LLC (hereinafter referred to as "Ernst & Young ShinNihon LLC"), which were subjects of this investigation, and we have not been able to sufficiently confirm the content, knowledge, or evaluation of their specific investigation of Olympus. For that reason, in this report, whether or not there were violations of the duty of due care of a prudent manager is premised on the events and documents that were confirmed as a result of the investigation.

Also, this Committee conducted investigations when the facts recognized by the Third Party Committee Report and the Director Liability Investigation Committee were insufficient for making the judgment on whether or not the Non-Director Management were liable and whether or not it would be appropriate to file suit to pursue their liability, and when considered reasonably necessary for performing the consigned work. Specifically, we reviewed and analyzed documents that were submitted by Olympus to the Third Party Committee and the Director Liability Investigation Committee and other materials, as well as conducting 19 interviews of Olympus directors, corporate auditors, employees (including executive officers) as well as accounting auditors (including those who have retired or resigned).

(2) Review of liability of Non-Director Management

In parallel with the investigation of (1), this Committee handled the work of reviewing and passing judgment on Olympus' Non-Director Management, on the liability of Non-Director Management and whether or not it would be appropriate to file suit to pursue liability regarding the Series of Problems and the Problem of the Surplus Dividend Distributions. Specifically, we reviewed and analyzed court cases where the duty of due care of a prudent manager on the part of Non-Director Management was questioned, and searched cases and legal theory where the liability of Non-Director Management were pursued, and based on the facts that were recognized in (1), made the judgment on the liability of Non-Director Management, and for the Series of Problems, we reviewed and judged the damages incurred by Olympus with sufficient legal cause for which the Non-Director Management should be liable.

2 Scope of the investigation and review

In investigating and reviewing the consigned work, this Committee mainly investigated and reviewed the following items:

(1) Whether or not there were violations of the duty of due care of a prudent manager on the part of Non-Director Management for the formulation and maintenance of the Loss Separation Scheme;

① Whether or not there were violations of the duty of due care of a prudent manager in the preparatory acts for the purpose of loss separation and in the acts of loss separation;

② Whether or not there were violations of the duty of due care of a prudent manager in maintaining the State of Loss Separation;

(2) Whether or not there were violations of the duty of due care of a prudent manager on the part of Non-Director Management for the Loss Separation Settlement Scheme;

① Whether or not there were violations of the duty of due care of a prudent manager regarding the acquisition of shares in the Three Domestic Companies;

② Whether or not there were violations of the duty of due care of a prudent manager regarding payment of the FA fee for the Gyrus acquisition;

(3) Whether or not there were violations of the duty of due care of a prudent manager on the part of Non-Director Management regarding the way the matter was handled after reports were made in the mass media about suspicions regarding the Three Domestic Companies and the Gyrus problem (hereinafter referred to as the "Emergence of Suspicions");

(4) Whether or not there were violations of the duty of due care of a prudent manager on the part of Non-Director Management regarding the misrepresentations in securities reports, etc. that were submitted after the fiscal year ending March 2007;

(5) Whether or not Non-Director Management are liable for the dividend distributions of surplus money that were implemented after April 1, 2007;

(6) Violations of the duty of due care of a prudent manager on the part of Non-Director Management and damages;

(7) Individual liability of Non-Director Management and whether or not it would be appropriate to pursue liability.

3 Individuals subject to investigation and review

The scope of Non-Director Management who are the subject of this Committee's investigation of violations of the duty of due care of a prudent manager and whether or not they are liable, are the Non-Director Management of Olympus and those who served in the position of Non-Director Management subsequent to the day of closing of the general shareholders meeting that was held in June 1997. The details are as follows:

(1) Corporate auditors

Masaya Ikoma, Hitoshi Komata, Hiroshi Kawashima, Yoshio Kunihisa, Minoru Ota, Tadahiko Amemiya, Tadao Imai, Katsuo Komatsu, Makoto Shimada, Yasuo Nakamura

(2) Executive officers

Kazuo Ichikawa, Yusuke Kojima, Masao Kuribayashi, Toshiaki Gomi, Akinobu Yokoo, Takashi Saito, Koichi Karaki, Yasuhiro Ueda, Norio Saito, Hitoshi Kawada, Yoshihiko Masakawa, Naohiko Kawamata, Hiroyuki Sasa, Atsushi Nishikawa, Yasuo Yoda, Gumz, F. Mark, Masatoku Nakajima, Akira Kubota, Yasuo Takeuchi, Nobuyuki Koga, Shigeo Hayashi, Akihiro Taguchi, Haruo Ogawa, Il-Seok Bang

(3) Auditing firms

KPMG AZSA LLC, Ernst & Young ShinNihon LLC

III. Outline of the incident

1 Management of financial assets and the incurring of massive losses at Olympus

Olympus faced a drastic decrease in its operating profit due to the sudden appreciation in the yen after the year 1985, and based on the judgment that it would be difficult to immediately improve operating revenue from sales efforts in its core business, in order to increase non-operating profits, it aimed for an efficient management of excess money and worked out an objective to deploy aggressive financial policies. Based on said objective, with respect to the management of its financial assets, Olympus also began to manage domestic and foreign bonds, futures trading in stocks/bonds, interest/currency swaps, structured bonds, specified money trusts, and specified fund trusts, in addition to the safe financial products up to that time.

However, after that, in the early part of the year 1990, Olympus had to carry the losses from its management of financial assets due to the bursting of the so-called bubble economy. In order to recover said unrealized losses, although the risks were higher, it contemplated the recovery of a large amount of losses by means of financial products such as derivatives, etc., in which large returns were anticipated. However, the consequence was that the losses grew even larger due to such products.

In such circumstances, it was decided that beginning in the fiscal year ending March 2001, mark-to-market accounting standards of financial products would be introduced, in which a market value basis would be adopted to replace the acquisition cost basis of up to that time. If a marked to market valuation of its financial assets were to be made, Olympus faced a situation in which it would be forced to post as a valuation loss the huge amount of unrealized losses that had expanded to roughly 95 billion yen by the year 1998.

2 The execution of the separation of losses in financial products and the maintenance of a state of separation

Faced with such a situation, and with employees in the Finance Department serving as the central figures, Olympus received advice from outside consultants, and from around March 1998, devised and executed a scheme for providing essential funds of as much as 135 billion yen to funds that were not subject to Olympus' consolidated accounting, had Olympus sell financial instruments with unrealized losses for amounts that corresponded to book value, and separated unrealized losses without having them surface, and transferred them off the books (hereinafter referred to as the "Loss Separation Scheme"). With respect to the separation from Olympus of such financial products carrying unrealized losses, such acts were carried out by a very limited number of employees that belonged to the Finance Division, and were subsequently maintained by said limited number of employees and the directors and others who were in charge of the Finance Division (hereinafter referred to as the “Directors and Others Involved”). With respect to the fact of said separation of losses and the status of the unrealized losses, while the same was periodically reported to successive top management (Representative Directors), it was not reported to the other directors or auditors. Also, with respect to said Loss Separation Scheme, not only was its structure extremely complex, such as its execution using multiple overseas Funds, but there were also elaborate cover-ups being carried out by the Directors and Others Involved with outside collaborators, and it remained a closed scheme, so to speak, that was intentionally hidden by the Directors and Others Involved. Consequently, for the long period of more than 10 years after that, not even the auditing firm knew about it, let alone the directors, auditors, and employees outside of the Finance Division.

3 Acts in preparation for the settlement of separation of financial assets

The Directors and Others Involved had considered that the losses that had been separated from Olympus in such ways had to be settled eventually, and as the method for doing so, they thought of attempting to settle said separated losses by means of a method in which at the time of the acquisition of shares of stock and assets of other companies in corporate acquisition projects, a portion of losses that was separated in the Loss Separation Scheme would be added to the value of said assets, or by paying large amounts of fees to the FA at the time of such acquisitions, said added portion and the fee amounts would subsequently be posted under assets such as “goodwill,” etc., and gradually be amortized and posted in terms of accounting as expenses over the amortization period (hereinafter referred to as the “Loss Separation Settlement Scheme”). The execution of this scheme was the acquisition of shares in the Three Domestic Companies of Altis, News Chef, and Humalabo, and the purchase of the Warrant Purchase Rights and the Preferred Shares in Gyrus that were paid as the FA fee that accompanied the acquisition of said company.

A portion of the acquisition of shares in the Three Domestic Companies (approximately 72 billion yen), and the purchase of Warrant Purchase Rights and the Preferred Shares that were paid as the FA fee connected with the Gyrus acquisition (approximately 63 billion yen), were both conducted following a resolution of the Board of Directors, and could have become an opportunity for the directors and corporate auditors in attendance at the Board of Directors’ meeting other than the Directors Involved to discover the facts of the aforementioned loss separation. The other directors and corporate auditors, however, failed to detect the purpose of the acquisition of shares in the Three Domestic Companies or the payment of the FA fee that accompanied the Gyrus acquisition, and they approved the same based on the explanation of the Directors Involved. In particular, from the end of 2008 to around June 2009, the auditing firm made an extraordinary indication of matters to the corporate auditors and to those in charge of accounting and others to the effect that the acquisition price for the shares in the Three Domestic Companies and the FA fee that accompanied the Gyrus acquisition were too high, and that judging from economic rationality with respect to those transactions, there was the risk of violations of the duty of due care of a prudent manager. Notwithstanding that the facts of the indication were reported to the Board of Directors, not only the other directors, etc., but also the corporate auditors did not consider it to be a serious situation, and subsequently in March 2010, a resolution was passed authorizing the purchase of the Preferred Shares that were granted as the FA fee that accompanied the Gyrus acquisition, for the huge amount of 620 million dollars from the party that acquired them, and the corporate auditors did not state any special objections. As a result, the Directors and Others Involved, made the total of approximately 135 billion yen flow back to Olympus via the off-book funds, and succeeded in settling the off-book losses.

In contrast to the separation of unrealized losses in the financial products that had been incurred at Olympus and the maintenance of the same by the Directors and Others Involved, the other directors and corporate auditors had ample time to become aware of these facts, and despite the fact that the other directors and the company corporate auditors could not find out about said facts for a long period of time, and in contrast to the scheming of the transactions for the purpose of settling the losses by the Directors and Others Involved, while the other directors and corporate auditors were given the opportunity to become aware of the same through the process of holding deliberations with respect to such transactions at the Board of Directors' meetings, eventually, they ended up having authorized said transactions, and the corporate auditors overlooked this. As a result, interest and fees were generated in the formulating of the Loss Separation Scheme and its maintenance from the time the losses were separated until they were recovered, while at the same time, mainly as a result of fees, etc., having been paid to the collaborators, etc., who were involved in the management of the Funds in the settlement of the loss separation, Olympus incurred a large amount of losses that it will be unable to recover. (Approximately 28 billion yen). Also, the financial statements not being prepared correctly led to the dividend distributions of surplus money and the acquisitions of treasury stock that were in excess of the distributable amount for dividend distributions.

4 The subsequent history

In July 2011, there was media coverage in some magazines concerning suspicions with respect to the point that the acquisition price for the shares in the Three Domestic Companies and the acquisition price for Gyrus, including the purchases of its Preferred Shares were huge amounts. The Representative Director at the time, Woodford, who learned about this from an acquaintance, independently commissioned an outside accounting firm to conduct an investigation, and had indicated his suspicions to the Board of Directors. With these events as momentum, a Third Party Committee was established at Olympus made up of independent third parties, and in the process of the investigations of said Committee, the aforementioned facts were revealed, and such is the outline of this incident.

In light of the situation outlined above, and in reviewing from the legal aspects whether or not there were actions that violated the duty of due care of a prudent manager in the course of performance of duties on the part of Olympus' Non-Director Management in connection with the Series of Problems and the Problem of the Surplus Dividend Distributions, the directors and corporate auditors who participated in, or who knew of or could have known of the preparatory acts for the purpose of loss separation, its maintenance as well as its settlement (hereinafter referred to, respectively, as "Participants" and "People Who Knew") and the other directors and Non-Management Directors will be reviewed separately.

IV. Whether or not there were violations of the duty of due care of a prudent manager on the part of the corporate auditors regarding the formulation and maintenance of the Loss Separation Scheme

1. Facts that serve as the premise in determining liability

In addition to the facts that are stated in Section III. “Outline of the Incident” above, the facts that serve as the premise in making the judgment of whether or not there were violations of the duty of due care as a prudent manager on the part of the corporate auditors in connection with the formulation of the Loss Separation Scheme (preparatory acts for the purpose of loss separation, and acts of loss separation) are as follows:

(1) Up to the planning of the Loss Separation Scheme (up to the early part of the year 1998)

A. Losses arising from the management of financial assets

Starting in 1985, Olympus, in addition to the safe financial commodities that it had been using, began to manage its financial assets using primarily bonds, foreign bonds, stock futures, and bond futures, and by the end of the 1980s had begun to use interest rate swaps and foreign exchange swaps, and structured bonds that incorporated such derivatives, and structured bonds linked to the Nikkei Stock Average and other equity indexes. In addition, in the late 1980s Olympus started to invest its financial assets in specified money trusts and specified fund trusts (hereinafter collectively referred to as “Tokkin”).

However, the collapse of the so-called bubble economy around 1990 left Olympus with losses that resulted from the investments which the company had made earlier on to manage its financial assets. Olympus began to rely heavily on Tokkin in the hope of recouping the losses, while making attempts to make up for a substantial amount of the losses through derivatives and other such financial commodities. The use of these commodities, however, only resulted in deepening the losses, and by 1998 the size of the company’s unrealized losses had ballooned to nearly 95 billion yen.

In the mid-1990s and thereafter, Hideo Yamada (hereinafter referred to as “Yamada”) and Hisashi Mori (hereinafter referred to as “Mori”) made the decisions as to which financial commodities should be purchased. Yamada and Mori also regularly made reports of the status of Tokkin and other financial assets to the Director responsible for accounting at meetings that were held about once a month.

Note that the company’s “Asset Management Standards (rules on the management of surplus money and the control and management of derivatives transactions)” implemented on March 25, 1997 (hereinafter referred to as “Asset Management Standards”) stipu late that the Head of Department of the Accounting Department must submit reports to the aforesaid Director at least once a month with regard to the status of financial assets.

B. Changes to accounting standards

Around 1997, many discussions began to take place over possible changes to the accounting standards for financial commodities to replace the conventional historical cost-based accounting with the introduction of mark-to-market accounting, which would aid in bringing unrealized losses out into the open. Olympus had been given relevant information by its accounting auditor, Asahi Auditing Corporation (presently KPMG AZSA LLC; hereinafter collectively referred to as "KPMG AZSA LLC"), and, by the beginning of 1998 at the latest, had become aware of the push towards the introduction of mark-to-market accounting.

Note that the official switch from historical cost accounting to mark-to-market accounting was publicly announced after the "Accounting Standards for Financial Instruments" came into effect in January 1999. Prior to that, either the "basket type cost method" (valuation method whereby a single trust agreement in its entirety is treated as a single asset) or "lower of cost or market method" (valuation method whereby the acquisition cost of an asset is compared to its market value, and whichever is lower is deemed to be the fair value of that asset) was permitted to account for Tokkin intended for asset management; however, under the aforesaid standards, each component of trust assets must be marked to market). Said standards apply to any fiscal year that commenced after April 2000.

(2) Formulation of the Loss Separation Scheme (from January 1998 to March 2001)

A. Start of discussions on a possible Loss Separation Scheme

Once it became clear in early 1998 that mark-to-market accounting would be introduced in the near future, which would require that financial commodities be marked to market, Olympus found itself with a massive amount of unrealized losses which totaled approximately 95 billion yen, and which would need to be posted as valuation losses on the company's books. Under the circumstances, discussions began to take place primarily between Yamada, who was the Head of Department of the Administration and Finance Department at that time, and Mori, who was then the Assistant Head of Department of said department with regard to prospects for a scheme that would prevent the unrealized losses on financial assets from being posted on the company's books (i.e., deferment of the posting of unrealized losses).

Yamada and Mori began holding discussions with Akio Nakagawa (hereinafter referred to as "Nakagawa") from Axes (Japan) Securities Co., Ltd. (hereinafter referred to as "Axes Securities"), and Hajime Sagawa from Axes America LLC (hereinafter referred to as "AXES"), with whom they had previously consulted concerning the management of investments. As a result of these discussions, they contrived a scheme to transfer Olympus's financial commodities carrying unrealized losses to Funds that would be excluded from Olympus' consolidated accounting so that the losses would not show up on its consolidated financial statements. [Yamada and Mori] then asked Sagawa and Nakagawa to create Receiver Funds to which said financial commodities carrying unrealized losses would be transferred, and by March 1998 Central Forest Corp. (hereinafter referred to as "CFC") and Quick Progress Co., Ltd. (hereinafter referred to as "QP") were formed as Funds of Cayman registry.

B. Formulation of the Loss Separation Scheme

Yamada and Mori, after having consulted with the aforesaid Nakagawa and Sagawa, devised in this manner a method for preventing the unrealized losses from being uncovered (Loss Separation Scheme) by allowing the Receiver Funds, which were excluded from Olympus' consolidated accounting, to purchase the company's financial commodities that carried large unrealized losses at their book value. Note that Yamada and Mori had informed Masatoshi Kishimoto (hereinafter referred to as "Kishimoto"), who was the President at that time, of the formulation and implementation of the Loss Separation Scheme, and had obtained his approval.

In order to implement the Loss Separation Scheme developed by Yamada and Mori, it was necessary to have Receiver Funds that could acquire by transfer the company's financial commodities that carried the unrealized losses, and it was also necessary to ensure that such Receiver Funds had sufficient capital to purchase said financial commodities at prices equivalent to their corresponding book values. To prepare for the loss separation, Yamada and Mori decided to inject capital from Olympus into CFC and QP, which were the Receiver Funds, to be used to acquire by transfer the company's financial commodities that carried the unrealized losses at their book value. In order to inject the necessary capital, Yamada and Mori, after having consulted with Nakagawa and Sagawa, developed two methods, as follows: ① have the Receiver Funds take out bank loans against Olympus's bank deposits as collateral; and ② have a business investment fund, which would be undertaken by Olympus, transfer the necessary capital to the Receiver Funds.

In actual practice, the injection of capital into CFC and QP, which were the Receiver Funds, from Olympus was carried out primarily via three routes (hereinafter said three routes shall be individually referred to as the "Europe Route," the "Singapore Route," and the "Domestic Route"). The details of each route are explained below.

C. Injection of capital into the Receiver Funds via the Europe Route

(A) Direct loan from LGT Bank to CFC

Around March 1998, Yamada and Mori were introduced to a senior management member of LGT Bank in Liechtenstein AG (hereinafter referred to as "LGT Bank") by Nobumasa Yokoo (hereinafter referred to as "Yokoo") of Global Company (hereinafter referred to as "GC"), and reached an agreement with said senior management member on a scheme under which Olympus would deposit assets, including Japanese government bonds, with LGT Bank, who would in turn make a loan to CFC against said deposit as collateral. Further, Mori had explained to LGT Bank that a scheme for providing a collateralized loan to CFC was necessary to enable Olympus to carry out the acquisition of a European company in a confidential manner, and LGT Bank gave its approval for the proposed scheme. In addition, while setting up this scheme, Mori had obtained prior confirmation from LGT Bank that a procedure would be used to ensure that documents (bank statements) sent to Olympus from the bank would not make it apparent that Olympus's assets deposited with the bank were being pledged as collateral.

Subsequently from April 1998 until September 1998, Olympus deposited approximately 21 billion yen in Japanese government bonds with LGT Bank (note that the amount of government bonds deposited with LGT Bank by Olympus amounted to 25 billion yen at the end of the half-year period ending September 1999, which increased to 35 billion yen at the end of the fiscal year ending March 2000). Using the government bonds and other assets held in Olympus' account as collateral, LGT Bank executed a loan to CFC (hereinafter referred to as "Loan Secured by Deposit") (the first Loan Secured by Deposit provided to CFC by LGT Bank was for approximately 18 billion yen in 1998). Note that at the time of execution of said loan, Olympus also entered into a blanket revolving collateral agreement with LGT Bank, which allowed deposits, marketable securities, or other assets held in Olympus' name at the bank to be pledged as collateral for CFC's present or future indebtedness to the bank.

Note that no resolution was passed at any meeting of the Board of Directors, or no decision-making procedures were undertaken within Olympus that would enable Olympus to pledge collateral to a third party by entering into a blanket revolving collateral agreement arising from the lending of funds to CFC. Thereafter, LGT Bank set up a credit facility of 30 billion yen for CFC, and, in addition to the loan of approximately

18 billion yen mentioned earlier, extended another 12 billion yen prior to the end of 1998 (for a total amount of approximately 30 billion yen).

(B) Injection of capital from LGT-GIM

Another Europe route involved providing investment capital to PS Global Investable Markets-O (hereinafter referred to as "LGT-GIM" or "GIM") (i.e., owning an equity investment in LGT-GIM), which was a class Fund undertaken and managed by LGT Bank, and having the funds received as investment capital injected into the Receiver Funds.

a. Resolution of and report to meetings of the Management Committee (and the Board of Directors)

At the meeting of the Management Committee (and the Board of Directors) of Olympus which was held on January 28, 2000, a resolution was passed as detailed below with respect to the agenda item entitled "Money Management through the Purchase of Fund Shares" (Note that we have found no evidence to confirm that any explanation was given at said meeting with regard to the fact that the money contributed to the aforesaid Fund would be injected into the Receiver Funds.):

Name of the Fund:	LGT Premium Strategy G.I.M. (JPY) Fund
Purpose:	To gain a profit
Purchase amount:	No more than 40 billion yen
Investment manager:	LGT Capital Management
Description of assets invested by the Fund:	
	Diversified investments which are primarily stocks and bonds in the major markets around the world
Investment period:	5 years

Subsequently, at the meeting of the Management Committee (and the Board of Directors) which was held on March 31, 2000, a report was presented entitled "Report on the Outsourcing of Money Management," which stated the following details in connection with the outsourcing of money management which was approved at the meeting of the Management Committee (and the Board of Directors) held on January 28, 2000:

Name of the investment trust purchased:	LGT Class Fund PS Global Investable Markets (G.I.M.)
Purchase amount:	35 billion yen
Breakdown:	Olympus: 15 billion yen
	Olympus Assets Management Limited: 20 billion yen
Date of purchase:	March 21, 2000

Investment manager: LGT Bank in Liechtenstein

b. Injection of capital into the Receiver Funds

As stated in the report presented at the meeting of the Management Committee (and the Board of Directors) which was held on March 31, 2001, Olympus, and Olympus Asset Management Ltd. (hereinafter referred to as “OAM”), which is a 100% owned subsidiary of Olympus, each made an investment into GIM through their respective accounts that they had opened at LGT Bank (Olympus invested 15 billion yen, and OAM approximately 20 billion yen) on March 17, 2000. Using the money that was gained through the above investment, LGT-GIM purchased corporate bonds issued by TEAO Limited (hereinafter referred to as “TEAO”) on March 21, 2000, and made a payment of 31 billion yen to TEAO. In turn, TEAO, using the money gained from the above transaction, provided investment capital of 30 billion yen in NEO Strategic Venture, L.P. (hereinafter referred to as “NEO”), which was formed on the same day. NEO then made money transfers on March 23 and 24, 2000 for 19.4 billion yen in total to QP, which is one of the Receiver Funds.

Note that subsequent to the money transfers referred to above, several money transfers and repayments took place between NEO and QP.

D. Injection of capital into the Receiver Funds via the Singapore Route

(A) Around 1998, Yamada and Mori, while looking for sources of funding to inject capital into the Receiver Funds, became acquainted, through Nakagawa, with Chan, who was working at Commerzbank International Trust (Singapore). Yamada and Mori then formulated a scheme under which Olympus would make a term deposit with Commerzbank, which would, as explained below, then make a loan to a special purpose company against said deposit as collateral, and said special purpose company would inject capital into the Receiver Funds through several Funds (hereinafter referred to as “Pass-Through Funds”).

(B) Loans from Commerzbank International Trust (Singapore) and the Societe Generale

Yamada and Mori, at a certain point after October 1999, undertook an arrangement for Hillmore East (hereinafter referred to as “Hillmore”), which was a special purpose company virtually controlled by Yamada and Mori, to begin taking out a loan from Commerzbank against Olympus’ term deposit held at the bank as collateral. As of March 31, 2000, the term deposit that Olympus held with Commerzbank amounted to approximately 30.6 billion yen, and as of September 30, 2000, the amount of the term deposit reached approximately 45.6 billion yen.

Subsequently, Chan left for another job at the Societe Generale (hereinafter referred to as “SG Bank”) in 2000. As a result, Yamada and Mori restructured the existing scheme of using the term deposit held with Commerzbank as collateral into a new scheme under which a term deposit to be held with SG Bank now would be used as collateral. In other words, a term deposit was made with SG Bank in an equivalent amount to the term deposit held with Commerzbank, and, using the new term deposit as collateral, Easterside Investments Limited (hereinafter referred to as “Easterside”), another special purpose company which was also virtually controlled by Yamada and Mori, took out a loan from SG Bank, while, at the same time, the loan which Hillmore had taken out from Commerzbank was repaid (note, however, that as of March 31, 2001, the restructuring of the scheme was not fully completed, and at this point Olympus still held the term deposit with Commerzbank for approximately 15 billion yen, while approximately 30 billion yen in term deposit was held at SG Bank).

As a result of the foregoing, during the period from October 1999 until March 31, 2001, Commerzbank provided a loan for between approximately 15 billion yen and approximately 45.6 billion yen to Hillmore, and the SG Bank extended to Easterside a loan of approximately 30 billion yen.

(C) Transfer of money from Hillmore and Easterside to the Receiver Funds

Hillmore and Easterside transferred the money gained through the loans taken out against Olympus’ term deposit to Twenty First Century Global Fixed Income Fund Ltd. (hereinafter referred to as “21C”), which was a Pass-Through Fund, in the form of loans or by purchasing bonds issued by 21C (as far as the transfer of said money from Easterside to 21C is concerned, the money was transferred by way of loans until March 2001 at least; however, Easterside thereafter began to transfer the money by purchasing bonds issued by 21C.). Subsequently, using the money transferred from Easterside to purchase bonds issued by Proper and CFC, which were Funds established by Yamada and Mori, 21C transferred 20 billion yen to Proper, and 19.3 billion yen to CFC. In addition, from the 20 billion yen transferred to Proper from 21C, 8 billion yen was transferred from Proper to CFC by way of a purchase of bonds which were issued by CFC.

Proper and CFC each purchased bonds which were issued by Genesis Venture Capital Series Ltd. (hereinafter referred to as "GV"). Through this process, 4 billion yen from Proper and 5.1 billion yen from CFC were transferred to GV.

Note that upon the establishment of G.C. New Vision Ventures L.P. (hereinafter referred to as "GCNVV") in March 2000, GV, along with Olympus, became a limited partner (hereinafter referred to as "Limited Partner"), and contributed 5 billion yen in capital to GCNVV. It is believed that said capital came from the 9.1 billion yen that was transferred from Proper and CFC mentioned above.

E. Injection of capital into the Receiver Funds via the Domestic Route

Yamada and Mori developed a method by which Olympus would undertake a business investment fund within Japan and to provide it investment capital so that said Fund would be able to inject capital into the Receiver Funds. Effective March 1, 2000, GCNVV was undertaken as a business investment fund with the aim of putting it into practice. GCNVV was undertaken with Olympus and GV as Limited Partners, and GCI Cayman as a general partner (hereinafter referred to as "General Partner"), and its capital was comprised of 30 billion yen contributed by Olympus, 5 billion yen by GV, and 0.1 billion yen by GCI Cayman.

Note, however, that the investment capital of 5 billion yen from GV was funded with the money that had been transferred from Olympus through the Europe Route and the Singapore Route, as stated above. In addition, GCI Cayman provided an equity contribution by appropriating the initial management fee as investment capital, and therefore ultimately all of the capital of GCNVV was funded by Olympus alone.

(a) Resolution of and report to meetings of the Management Committee (and the Board of Directors)

An agenda item entitled "Money Management through the Establishment of a Business Investment Fund, and Purchase of Fund Shares" was presented to the Board of Directors' meeting of Olympus which was held on January 28, 2000. At the meeting, a resolution was passed for the approval of the purchase of shares in a business investment fund as described below:

Name of the Fund: G. C. Venture Capital (tentative name)

Purposes:	① To pursue and support the creation of new businesses ② To utilize outside specialists
Purchase amount:	No greater than 30 billion yen
Place of establishment:	Currently being selected by the investment manager
Investment manager:	Global Company (GC)
Asset custodian:	A financial institution with an AA rating or better, such as LGT Bank
Investment period:	10 years

Further, at the Management Committee meeting held the same day, which was normally held together with a meeting of the Board of Directors, a deliberation was held and approval was given concerning the establishment of a business investment fund under the agenda item "Classification by Purpose and Management Method for Liquidity on Hand." Tsuyoshi Kikukawa (hereinafter referred to as "Kikukawa") was the Director who was responsible for the agenda item, and Yamada, who was the Head of Department of the Administration and Finance Department, presented the agenda item.

The material presented at said management meeting stated the following:

Purposes:

- To pursue and support the creation of (new) businesses by creating business plans, acquiring technical and business information, forming partnerships, etc.
- To establish an investment structure by utilizing external resources, and speed up the process of business creation.
- To earn capital gains as a return on investments.

The aforesaid material was prepared under the initiative of Yamada and Mori. We note that, in the eyes of Yamada and Mori, the establishment of GCNVV per se was not entirely aimed at injecting capital into the Receiver Funds as part of the preparatory act they had engaged in for the purpose of loss separation, but was also intended for the creation of new businesses.

Subject to the approval of the Board of Directors described above, an authorization document was drafted by Yamada and Mori, and ultimately, based on this document, Kishimoto, President, gave his approval as of February 24, 2000, after consensual decision-making between Kikukawa, who was the Director in charge of Administration and Finance, and Accounting, and Minoru Ota (hereinafter referred to as "Ota"), who was the Head of Department of the Accounting Department. According to said approval, the purchase amount was to be 30 billion yen, and the date of purchase would take place between late February and early March in 2000.

In addition, at the meeting of the Board of Directors (and the Management Committee) which was held subsequently on March 31, 2000, a report was presented entitled "Report on the Purchase of Shares in a Business Investment Fund," which stated the following:

Name of the Fund:	G. C. New Vision Ventures L.P.
Purchase amount:	30 billion yen
Date of purchase:	March 14, 2000
Investment period:	10 years
Investment manager:	GCI (Cayman)

(B) Agreement with the Business Investment Fund

As of March 1, 2000, an agreement was entered into by and between Olympus and GCNVV, a business investment fund. The key terms of the agreement are described below:

① Date of establishment: March 1, 2000

② Fiscal year end: December 31

③ Term of agreement: 10 years (however, the term may be extended for a further two years)

④ Fees:

Initial management fee:	1.5% of the investment capital provided by the Limited Partners (525 million yen)
Management fee:	0.25% of the net asset value, payable on each record date (there will be four record dates in each year, for a total of 1.0% payable annually)

⑤ Allocation of gains and losses upon termination of the agreement:

Upon termination of the agreement, the net asset value of each investment target will be calculated, and if the calculated value is higher than the purchase cost, then the difference will be deemed a gain. 90% of the gain will be allocated to the Limited Partners, with the remaining 10% allocated to the General Partner.

If, upon termination of the agreement, the calculated net asset value of an investment target falls below the purchase cost, then the difference will be deemed a loss. The loss will be entirely attributed to the Limited Partners.

(C) Injection of capital into QP by GCNVV

By purchasing a note issued by QP in the name of short-term money management, GCNVV injected capital to a maximum of 32 billion yen in cash into QP.

Note that money was transferred from GNCVV to QP and paid back from QP to GNCVV on a number of occasions, and the amount of capital injected into GCNVV from QP varied significantly from time to time (according to the Third Party Committee's Investigation Report, the history of money transfers and payments between the two parties is shown in Exhibit 15 attached to said report). The money transferred to QP was made available, via CFC and others, to other Funds, etc. whose fiscal year end did not match the year end of QP, and the money was held with these Funds mainly for the purpose of preparing documents to evidence that the Funds actually held cash.

Since the fiscal year end of GCNVV was December 31, repayments from QP to GCNVV were often made on or around December 20 prior to the year end. This practice was used to make it appear as if GCNVV held the money in question as a deposit as of December 31 of each year so that the accountant who was in charge of closing audits of GCNVV would not raise any concerns about the money being transferred to QP.

Further, as of March 1, 2000, at the request of Olympus, one of the Limited Partners, an agreement was entered into by and between Olympus, and GCI Cayman, who was the General Partner, with regard to the injection of capital into QP by GCNVV. The agreement stipulated, among other things, that 30 billion yen would be transferred to QP for the purpose of a short-term investment (the amount to be modified as necessary), and that, since no due diligence would be performed with respect to said transfer, Olympus would be responsible if any problems arose from the transfer to QP. In addition, the injection of capital into QP by GCNVV was, as mentioned earlier, based on a note issued by QP which guarantees repayment, and said note was signed by Mori, who was a Director.

F. Posting of extraordinary losses in the half-year period ending September 1999 and the fiscal year ending March 2000

On the morning of September 30, 1999, KPMG AZSA LLC received a report that Olympus had conducted "tobashi". According to the report, Yamada and Mori were involved, and the names of the involved financial institutions and the amounts involved were clearly indicated. Because the information appeared credible, KPMG AZSA LLC visited Olympus to question three individuals—Yamada, Mori, and Makoto Nakatsuka (hereinafter referred to as “Nakatsuka”). Yamada and the others initially denied involvement; however, they eventually admitted that they had engaged in “tobashi,” whereby financial commodities carrying unrealized losses held under a specified fund trust were sold at their book value according to said trust’s books to a Fund, which was associated with individuals connected with foreign securities companies.

KPMG AZSA LLC warned that, since this discovery took place on September 30, 1999, unless the fraudulent transactions mentioned above were terminated on the same day, the firm would have to point out the presence of such transaction in the firm’s audit of Olympus for the half-year period ending September 1999, and advised that Olympus immediately terminate said transactions which involved “tobashi,” and promptly return to the Fund the money that the company had obtained from the transaction, as well as the financial commodities in question.

In response, Yamada and the others attempted to avoid the return of said money by saying, “President Kishimoto is away on a business trip overseas, and we cannot get in touch with him.” However, KPMG AZSA LLC insisted that such fraudulent transactions were absolutely unacceptable, and strongly urged that Olympus cancel said transactions. As a result, the necessary steps were taken to return said money, and the transactions concerned were terminated before 3:00 PM on September 30, 1999.

Note that all documents that might provide evidence for said fraudulent transactions were disposed of, as the prescribed document retention period had elapsed for these documents. Therefore, the details of the transactions remain unknown.

KPMG AZSA LLC subsequently performed an audit to find out whether or not the company had engaged in any other similar fraudulent transactions involving the “tobashi” practice. However, no other fraudulent transactions involving the “tobashi” practice were detected under any other specified money trusts or specified fund trusts.

KPMG AZSA LLC also raised concerns over the fact that Olympus had engaged in the above fraudulent transaction using a specified fund trust, and requested that Olympus discontinue the basket type cost method that the company had been using up to this point, and instead adopt the basket type lower of cost or market method (by which any financial commodities included in the trust assets under a specified fund trust must be marked to market, if the sum of their individual market values falls below their combined purchase cost). Olympus agreed to the above request.

Note, however, that, even though the company had agreed to adopt the basket type lower of cost or market method to account for specified fund trusts, the specified fund trust that would be subject to this new method had not yet matured at this point; therefore, in the half-year period ending September 1999, an allowance was posted rather than a valuation loss.

In addition, KPMG AZSA LLC asked Olympus to eliminate, as was the case with specific fund trusts, those currency and interest rate swap transactions that could create a breeding ground for fraudulent activities, and Olympus agreed to eliminate these swap transactions before the end of the fiscal year ending March 2000.

As a result, Olympus posted an extraordinary loss of 16.8 billion yen in the half-year period ending September 1999. The breakdown of this loss is as follows: approximately 14 billion yen for a valuation loss on specified fund trusts due to the adoption of the basket type lower of cost or market method; and approximately 2.8 billion yen for a valuation difference on swap transactions.

In the fiscal year ending March 2000, Olympus posted an extraordinary loss of approximately 17 billion yen as a valuation loss on financial assets arising from the specified fund trust agreements and swap transactions that had already existed at that time. The breakdown of this loss is as follows: approximately 14 billion yen in disposal loss due to the termination of specified fund trusts; and approximately 3 billion yen in disposal loss due to the termination of swap transactions (by March 2000 Olympus had terminated all of the specified fund trusts that it had held at that time, and therefore there was no outstanding balance for specified fund trusts).

However, the extraordinary losses that were posted in the aforesaid period was hardly enough to cover all of the unrealized losses on the financial assets that Olympus had held at that point.

Note that we have uncovered no facts to confirm that any reports, etc. were ever presented at any of the meetings of the Board of Directors or the Board of Managing Directors held at that time that indicate that the posting of the extraordinary loss in the half-year period ending September 1999 was the result of the concerns raised by KPMG AZSA LLC concerning the illegal transactions involving the "tobashi" practice. Further, no facts have been uncovered to suggest that such reports were ever presented to any of the Directors at that time, with the exception of Toshiro Shimoyama (hereinafter referred to as "Shimoyama"), Kishimoto, and Kikukawa.

G. Accomplishment of the State of Loss Separation

After having carried out the preparatory act described above for the injection of capital into CFC and QP through the three routes referred to above, Olympus injected capital into CFC and QP, which were the Receiver Funds. Through the injection of capital, CFC and QP were able to use the capital to purchase the financial assets that carried unrealized losses from Olympus, from the Tokkin set up by the company.

Through the assignment of Olympus's financial assets that carried unrealized losses at their book value to CFC and QP, Olympus effectively separated said losses without any unrealized losses being incurred by the company, thereby accomplishing the State of Loss Separation. It is believed that the accomplishment of the State of Loss Separation through the Formulation of the Loss Separation Scheme occurred before the end of the fiscal year ending March 2001 at the latest, when the revised accounting standards mentioned earlier were applied.

As a result of the assignment of the aforesaid financial assets at their book value to the Receiver Funds under the Loss Separation Scheme, the amounts of losses that were transferred to the Receiver Funds by Olympus were approximately 64 billion yen to CFC, and approximately 32 billion yen to QP, which were therefore separated from the company as a result.

(3) Maintenance and Settlement of the State of Loss Separation (from April 2001 until March 2011)

A. Maintenance of the State of Loss Separation

By providing its assets as third-party collateral, Olympus was able to have financial institutions provide loans which were used to fund the capital injected into the Receiver Funds via the Europe Route and the Singapore Route. However, it was necessary for the Receiver Funds to eventually make repayment of such loans and release the collateral pledged to the financial institutions.

Olympus also injected capital into the Receiver Funds via the Europe Route and the Domestic Route, using the investment capital that was provided to the Funds, and said investment capital needed to be repaid as well.

Therefore, Yamada and Mori began to consider settling the State of Loss Separation, by creating an outflow of money by having Olympus pay high prices to acquire the venture companies that were purchased by the Funds at low prices, or having Olympus undertake payment of fees, etc. to the Funds in connection with large-scale mergers and acquisitions. By having such money flow back, it would be possible to clean up the claims and debts held by the Funds, etc. that were involved in the Loss Separation Scheme. In addition, the extra money that Olympus would pay as purchase costs for corporations or fees for M&A projects would be posted as "goodwill" on the company's books,, and such goodwill would be amortized over the allowable number of years and therefore be charged to expenses.

However, after April 2001, opportunities that would allow "having Olympus pay high prices to acquire the venture companies that were purchased by the Funds at low prices," or "having Olympus undertake payment of fees, etc. to the Funds in connection with large-scale mergers and acquisitions" as Yamada and Mori had thought of earlier did not appear right away. As a result, it turned out that the State of Loss Separation accomplished through the injection of capital detailed earlier would continue at Olympus.

B. Periodic reporting on the State of Loss Separation

(A) Monitoring of the State of Loss Separation

After April 2001, an employee in the unit responsible for managing financial assets who handled money transfers and other administrative procedures was assigned under the direction of Yamada and Mori, to monitor how large the losses were being incurred at each of the Receiver Funds, as well as each of the Pass-Through Funds that were being used for the injection of capital into the Receiver Funds. About once every six months, said employee prepared documents for the periodic reports referred to in (B) below. It is understood that, in preparing such documents, said employee received detailed reports, either in writing or verbally, from the individuals who were actually involved in the management of the Receiver Funds and Pass-Through Funds with regard to the status, etc. of the unrealized losses on the financial assets managed by each of these Funds. Based on these detailed reports, said employee supposedly prepared the necessary documents (however, we have been informed that the materials that were collected for the purpose of preparing the aforesaid documents were disposed of upon the completion of each periodic report referred to in (B) below).

Note that the same employee, under the direction of Mori or Nakatsuka, also handled the making of deposits and withdrawals into and from the bank accounts (including sending payment instructions for money transfers) that were held by CFC and QP, which were the Receiver Funds.

(B) Periodic reports to Shimoyama, Kishimoto, and Kikukawa

Using the documents prepared by the employee in the unit responsible for managing financial assets as described in (A) above, Yamada and Mori, after June 2001 when Kikukawa was appointed President, began to make reports on a regular basis, about twice each year, directly to Kishimoto, Kikukawa, and Ota at meetings that were attended by these three individuals with regard to the status of the unrealized losses on the financial assets that were held by the Funds that had been separated from Olympus. In addition, apart from the above meetings, periodic reports were made to Shimoyama as well.

An example of the documents used for the purpose of these periodic reports (which had been prepared by the aforesaid employee in the unit responsible for managing financial assets) is a document dated September 12, 2003 entitled “135 PB Investment Report.” As is clear from the fact that this document states its recipients as “Mr. Shimoyama, Director,” “Mr. Kishimoto, Chairman,” “Mr. Kikukawa, President,” and “Mr. Ota, Corporate Auditor,” this report was presented to Shimoyama, Kishimoto, Kikukawa, and Ota.

In this document, the section entitled "Investment Forecasts" breaks down according to the account titles "Deposit," "Bond," "Investment Trust," and "Investment Capital," and for each account title "Period-Over-Period Change" is shown for "Outstanding Balance," which was supposedly an official figure, and for "Unrealized Loss/Gain," which had been actually incurred. Furthermore, under each account title the document states type of asset, which was indicated for the sake of formality, and the Fund/Funds to which the capital gained from each asset was transferred, as shown below:

Deposit:	Deposit at SG Bank (21C, Proper, GV)
Bond:	Government bond (CFC)
Investment trust:	GIM (TEAO, GCNS)
Investment capital:	GCNV[1] (QP)

The same document also details "changes in the unrealized losses/gains" arising from the maintenance of the State of Loss Separation, and the following is noted: "Investment structure adjustments: Outflow of funds: △27 (external outflow of funds: △26; accounting figures: +7/internal adjustment to reflect accounting figures: △8)"

Reports such as the document described above were periodically provided about once every six months until 2006 or 2007.

Further, in addition to the periodic reports mentioned above, Yamada and Mori made reports to Kikukawa, who was the President, whenever necessary with regard to loss separation, and the status of the unrealized losses at the destination Funds of the separated losses.

C. Act for the maintenance of the State of Loss Separation after April 2001

(A) Complete transfer of a loan from Commerzbank to SG Bank

As stated earlier, as of the end of March 2001 Olympus had term deposits of approximately 15 billion yen held with Commerzbank, and approximately 30 billion yen held with SG Bank. Using these deposits as collateral, Yamada and Mori had made arrangements for each bank to provide a loan to Hillmore and Easterside.

Subsequently, by September 30, 2001 Olympus had increased the term deposit held with SG Bank to approximately 45 billion yen, and, using this term deposit as collateral, Yamada and Mori had made arrangements for said bank to extend a loan of approximately 45 billion yen to Easterside, while withdrawing the remaining term deposit that

[1] It is believed that this was meant to be GCNVV.

was held with Commerzbank. Olympus had continued to keep the term deposit of 45 billion yen with SG Bank until the end of March 2004, and between April 2004 and September 30 of the same year had further increased the amount of the term deposit to as much as 55 billion yen.

(B) Re-conclusion of the blanket revolving collateral agreement with LGT Bank, and preparation of an agreement for the renewal of the Loan Secured by Deposit agreement

On July 14, 2003, Kishimoto, as the representative of Olympus, and Nakatsuka, as the representative of CFC, signed and entered into a blanket revolving collateral agreement, under which Olympus would provide LGT Bank with collateral comprised of Olympus assets, etc. that had been already deposited with the bank to guarantee a Loan Secured by Deposit extended to CFC by LGT Bank. The above agreement was, technically speaking, a newly concluded agreement; however, it is presumed that, from a practical point of view, said agreement was a "re-conclusion" of the collateral agreement which had existed previously.

In addition, on July 18, 2003, Kishimoto and Kikukawa, as the representatives of Olympus, and Nakatsuka, as the representative of CFC, signed and entered into an agreement for the renewal of the Loan Secured by Deposit which had been extended to CFC by LGT Bank.

(C) Switch from a SG Bank loan to an equity contribution to SG Bond

In February 2005, Olympus provided investment capital of 60 billion yen to SG Bond, which was formed by Chan for investment purposes.

Subsequently, SG Bond invested Olympus' investment capital of 60 billion yen into a bond worth approximately 60 billion yen, and loaned said bond to Easterside. Easterside then sold the bond loaned by SG Bond in the market and gained cash. Using the money gained from said sale of bond, Easterside repaid its loan from SG Bank, which was secured against the deposit that Olympus had held with the bank.

In addition, of the approximately 60 billion yen transferred from SG Bond to Easterside, the portion that had remained after the loan was repaid to SG Bank was transferred from Easterside to 21C.

(D) Termination of GCNVV

a. Status of the Board of Business Investments

GCNVV, which was undertaken in March 2000, had scouted for venture businesses with technological capabilities and, by 2005, made investments in over 30 companies, all the while transferring to QP a majority of the money provided as investment capital, as described earlier, in the name of short-term money management. The status of the investments undertaken by GCNVV was reported every three months to the Board of Business Investments (Board to Review Business Investments), which had been established by Olympus. The Board of Business Investments was comprised of one chairman, and four to six members (several from the financial and management planning fields, and several more from technical fields). At the time of its establishment, Kikukawa served as chairman, followed by Okubo who was chairman for the half-year period from September 2002 to March 2003, and from March 2003 until September 2007 when GCNVV was terminated as described in "c" below, Yamada was chairman. While most of the members of the board changed in each fiscal year, only Mori served as a member throughout the entire time, from the launch of the board until the termination of GCNVV in September 2007.

The matters that were reported from GCNVV at meetings of the Board of Business Investments were then reported to meetings of the Board of Directors about once every three to six months. Separate from its injection of capital into QP, GCNVV made investments in various venture companies in order to create new businesses, or for pure investment purposes.

It was true, however, that in the eyes of Yamada and Mori these investments provided great opportunities for facilitating the Loss Separation Scheme.

b. Return of money through redemption before maturity

In March 2006, GCNVV returned to Olympus 6 billion yen, which is 20 percent of the company's investment capital, through redemption before maturity. In a similar fashion, through redemption before maturity GCNVV returned 1 billion yen to GV, its Limited Partner, and 20 million yen to GCI Cayman, its General Partner, each accounting for 20 percent of their respective investment capital.

c. Termination of GCNVV

Subsequently, changes were introduced in 2007 to the accounting standards to account for investment partnerships for consolidated accounting, and as a result it became necessary for Olympus to incorporate GCNVV and its principal investees directly into the company's consolidated financial statements.

However, it was very likely that incorporating GCNVV and its key investees directly into Olympus' consolidated accounting would alert the auditing firm responsible for Olympus to keep the company under even closer scrutiny, and therefore it was possible that the State of Loss Separation using QP would be exposed.

Therefore, Yamada and Mori decided to terminate GCNVV without waiting for its maturity in 2010, and, after having consulted with Yokoo from GC, proceeded to terminate GCNVV in September 2007.

As a result of the termination, the shares that had been held by GCNVV in its investees were taken over in kind by Olympus and GCI Cayman. Among these shares, the shares in the Three Domestic Shares were to be taken over by Olympus at the book value of the purchase cost paid by GCNVV. Upon the termination of GCNVV, GCI Cayman, its General Partner, received approximately 1.125 billion yen as a contingency fee, and approximately 537 million yen as a mid-term termination charge. The aforesaid mid-term termination of GCNVV was reported to a meeting of the Management Implementation Committee which was held on July 20, 2007; however, we have uncovered no facts to confirm that said termination was brought up for discussion, or reported at any meeting of the Board of Directors.

2. Whether or not there were violations of the duty of due care of a prudent manager

(1) Regarding Former Auditor Ota

A. Background

After he joined the company in April 1965, Ota was employed in the Treasury Section of the Accounting Department until October 1971. After that he was transferred to the Accounting Group of the Accounting Department again in January 1978, and worked as the person in charge of the same group until September 1982. In September 1982, he assumed office as the Leader of the Accounting Group of the Accounting Department, and was employed as the Accounting Department Manager from October 1990 to May 2001, after which he assumed office as the Standing Auditor from June 2001, and retired in June 2004.

B. Participation in or knowledge of the formulation/maintenance of the Loss Separation Scheme

Ota received a report that there existed massive losses that had not been announced publicly during his tenure as Accounting Department Manager, and thus became aware of this. Although there is no evidence for finding that Ota was actively involved in the formulation of this Loss Separation Scheme, and had been aware of the details of this loss separation scheme, it is found that he tacitly approved of the deferral of losses itself.

When Ota was retiring as Accounting Department Manager in May 2001, he was asked about assuming the office of Corporate Auditor by Kishimoto, but in spite of the fact that he himself had tacitly approved of the fact that the loss deferral was being conducted, he himself has acknowledged that he hesitated to take a subsequent position of having to point out the illegality, etc. in the capacity of Corporate Auditor. However, Ota ultimately agreed to assume office as Corporate Auditor on the condition that he himself not be involved in any matters related to this Loss Separation Scheme.

Starting from June 2001, when Kikukawa assumed office as President, a report was made based on a rate of about twice per year concerning the status of the unrealized losses on financial assets that were being held in the Funds separated from Olympus, and in the reports that were submitted to those meetings (for example, the document entitled "135PB Investment Report"), "Director Shimoyama," Chairman Kishimoto," President Kikukawa" and "Corporate Auditor Ota" were listed as the addressees. In addition, after he assumed office as Corporate Auditor, Makoto Nakatsuka, Group Leader of the Administration and Finance Department (as of that time; hereinafter, "Nakatsuka"), had asked Ota to participate in those meetings.

C. Violation of the duty of due care of a prudent manager related to the formulation/maintenance of the Loss Separation Scheme

Although sufficient proof to find that Ota was involved actively in the formulation/maintenance of the Loss Separation Scheme cannot be found, he had been aware that the unannounced losses about which he had been aware during his tenure as Accounting Department Manager still existed at the time when he assumed office as Corporate Auditor. In addition, one can conclude that it was easy for Ota to acquire information about the separation of the losses in light of the fact that he is listed as one of the addressees in the reports related to the unrealized losses of financial assets in spite of the fact that it is after he assumed his position as Corporate Auditor, and the fact that he was asked by Nakatsuka to participate in those same meetings after he assumed his position as Corporate Auditor.

Judging from Ota's awareness, position and possibility of accessing information, it can be concluded that Ota had borne the duty of due care to investigate and stop the maintenance and settlement of the Loss Separation Scheme, by exercising his authority for operational audits, but despite the fact that this was the case Ota adopted the stance that he was in no way involved in the concealment of losses.

One can only conclude that this was an abandonment of the performance of the duty to investigate in his capacity as Corporate Auditor, and this falls under a violation of the duty of due care of a prudent manager in his capacity as Corporate Auditor.

In the interview by this Committee, Ota defended himself by saying that although he had been aware of the fact that report meetings about the unrealized losses on the financial assets, which are described in the Investigation Report (page 19) of the Third Party Committee, were being held, he himself did not attend even one of these meeting during the three-year period when he served as Corporate Auditor, and that he had not been shown documents like those in Exhibits 17 and 19 of the same report, wherein the Receiver Funds, etc. are noted. However, if one assumes that things were as stated in this defense, this must be assessed as his having abandoned the performance of the duty to investigate in his capacity as Corporate Auditor, and it must be concluded that he cannot escape liability for breach of duty as a Corporate Auditor.

(2) Regarding the other corporate auditors

A. Whether or not there were violations of the duty of due care of a prudent manager as concerns the audits for the performance of duties by Directors, who were the Participants and People Who Knew

According to the Director Liability Investigation Committee's Investigation Report (pages 44–46), each of the Directors Shimoyama, Kishimoto, Kikukawa, Mori and Nakatsuka undertook the formulation (from January 1998 to March 2001) and maintenance (from April 2001 to March 2011) of the Loss Separation Scheme for unlawful purposes during their respective periods in office, and it is believed that violations of the duty of due care of a prudent manager can be found for each of these Directors.

The 9 corporate auditors who were in office during said period (Seiya Ikoma (hereinafter, "Ikoma"), Hitoshi Komata (hereinafter, "Komata"), Hiroshi Kawashima (hereinafter, "Kawashima"), Yoshio Kunihisa (hereinafter, "Kunihisa"), Tadahiko Amemiya (hereinafter, "Amemiya"), Tadao Imai (hereinafter, "Imai"), Katsuo Komatsu (hereinafter, "Komatsu"), Makato Shimada (hereinafter, "Shimada") and Yasuo Nakamura (hereinafter, "Nakamura"), prior to the enforcement of the Company Act (May 1, 2006), bore the duty for "auditing the performance of duties by the Directors" (former Commercial Code, Article 274), and had the authority to audit the status of the performance of duties by the Directors, except for those cases in which Article 22, Paragraph 1 of the Act on Special Provisions of the Commercial Code Concerning Audits of Business Corporations, prior to its abolition by Law Number 87 (2005), is applied, and even after its enforcement, similarly, they bore the duty for "auditing the performance of duties by the Directors" (Article 381, Company Act), and had the authority to audit the status of the performance of duties by the Directors, except for those cases in which there was a limitation on the scope of the audit based on the stipulations of the Articles of Incorporation pursuant to Article 389, Paragraph 1 of the Company Act. Accordingly, the question of whether or not overlooking violations of the duty of due care of a prudent manager on the part of said Directors was a violation of the duty of due care of a prudent manager on the part of the corporate auditors at that time becomes an issue.

Since a corporate auditor audits the performance of duties by the Directors (Article 381, Paragraph 1, Company Act), when he finds that there is a violation of the duty of due care of a prudent manager on the part of a Director as concerns the performance of duties by the Director, he has the duty of due care to seek a report on business from the Directors and employees, or to investigate the status of work and property (Article 381, Paragraph 2, Company Act), and to report to the Board of Directors (Article 382, Company Act), and when there is a risk that conspicuous damage may be incurred by the company due to these acts, he should exercise the appropriate auditing authority, such as halting the acts by the Director (Article 385, Paragraph 1, Company Act).

However, since the corporate auditor cannot audit, all of the acts of all Directors, in general this is interpreted to mean that even if a corporate auditor could not discover an illegal act of a Director, this does not constitute a breach of duty by the corporate auditor, as long as there are no special circumstances whereby he should have been able to learn about an illegal act by a Director, in the process of carrying out the audits required of corporate auditors.

It is acknowledged that above-mentioned 9 corporate auditors naturally attended the Board of Directors meetings and Board of Corporate Auditors meetings, and moreover established an annual audit plan, exchanged opinions with the Directors, exchanged opinions with the executive officers, and convened periodic meetings for exchanging opinions with the Corporate Auditors' Office, and in addition they were also faithfully reading important documents, such as the materials of the Management Implementation Meeting. Moreover, they were undertaking thorough audits, such as reading the reports on audit results by the accounting auditor and hearing the reports from the accounting auditor.

Then, the formulation of the Loss Separation Scheme had been conducted behind a veil of secrecy, and had been deviously hidden, and could not be discovered even by the detailed audit conducted by KPMG AZSA LLC after the indication of "tobashi" on September 30, 1999, so special circumstances whereby the above-mentioned corporate auditors could have discovered the illegal conduct of the Directors are not found.

In addition, as concerns the maintenance of the Loss Separation Scheme as well, the following circumstances existed:

- It was conducted under an extremely complicated scheme, such that the losses were separated through several overseas Funds, and had been separated by an arrangement that could not be understood right away,
- Since the work of concealment was carried out with the cooperation of outside third parties, such as that preparations had been made through meetings with the

banks beforehand as concerns the deposits to the LGT Bank and Commerzbank and the pledging of collateral for the deposits, in order that the fact that collateral had been pledged would not be clear in the Bank Statements either; and

- No disputes had arisen between LGT Bank, Commerzbank and the Business Investment Fund (GCNVV), and so no opportunity had arisen for discovering the state of loss separation.

This is interpreted to mean that it was unavoidable that the corporate auditors could not discover the illegal conduct of the Directors.

As noted above, since each of the above-noted corporate auditors were not able to learn of the illegal acts of the Directors, who were the Participants and People Who Knew, it is not found that there were violations of the duty of due care of a prudent manager on the part of the corporate auditors.

B. Violations of the duty of due care of a prudent manager as concerns the audits for the internal control system

(a) Concerning the audits for the internal control system

In a large-scale joint-stock company like Olympus, it is not realistic to assume that each individual Director can directly undertake to monitor and supervise the execution of business by the other Directors and the actions of the employees, but this is interpreted to mean that Directors bear the duty to develop a risk management system (a so-called internal control system) for managing the various risks that arise according to the nature of the various businesses of the company.

Then, this is interpreted to mean that the corporate auditors bear the duty to audit whether or not the Directors have properly developed and are operating an internal control system.

However, in a large-scale joint-stock company like Olympus, it has not been required of the corporate auditors to carry out a detailed examination of all the specifics of the internal control system, and in general the premises are that the corporate auditors undertake the audits that are required of them, and in addition that the relevant organizations, etc. involved in the risk management (Corporate Auditors' Office, auditing firms, etc.) are executing their duties properly, and this is taken to mean that they have dispatched their duty of due care in their capacity as corporate auditors if they investigate and confirm based on these reports, etc., unless there are special circumstances such as there being clear inadequacies and insufficiencies in the reports that are produced by these organizations, and that they are hesitant to rely on them (Tokyo High Court, May 21, 2008).

In addition, to begin with, if the Directors had developed and were operating properly the internal control system, and if no violations of the duty of due care of a prudent manager can be found for the Directors, then no violations of the duty of due care of a prudent manager would arise as concerns the corporate auditors' audits of the internal control system, unless there were special circumstances such that only the corporate auditors could learn of its inadequacies.

Premised on the above, in examining whether or not there were violations of the duty for auditing the internal control system on the part of the 4 corporate auditors who were in office from January 1998 to March 2001 (Ikoma, Komata, Kawashima, Kunihisa) and the 9 corporate auditors who were in office from April 2001 (Ikoma, Komata, Kawashima, Kunihisa, Amemiya, Imai, Komatsu, Shimada and Yasuo Nakamura), according to the Director Liability Investigation Committee's Investigation Report, it is concluded that an internal control system like that described in (b) and (c) below had been developed at Olympus.

(b) The internal control system in the period of formulation of the Loss Separation Scheme (from January 1998 to March 2001)

① From March 1997, "Asset Management Standards" including surplus fund management standards and derivative trade management provisions were enacted, (from April 2000 these were changed to the "Asset management Rules"), and a certain risk management system for investment of financial assets was formulated, and in the case of the short-term management plans the officer in charge decided these and the President approved them, while a decision by the officer in charge or the President was needed for transactions outside the scope of the short-term management plans, and losses were cut in the event that certain unrealized losses were incurred.

② Once per month, reports were being made regularly to the officer in charge as concerns the status of management of financial assets, including the Specified Fund Trust.

③ It was the practice for the Administration and Finance Department to carry out asset management, and for the Accounting Department to conduct the audits (an Audit Office had been established inside the Accounting Department).

④ Since the audits were being conducted by the auditing firm, for the directors other than the Director in charge of the business, at that time, if there had been any transactions conducted with some sort of problem, they would have expected some indication or other from the auditing firm (no facts were seen that the Directors other than the People Who Knew and the Participants had been aware of special indications from the auditing firm).

⑤ In the Board of Corporate Auditors, audits were conducted for priority audit items each term, and in the fiscal year ending in March 1999, a priority audit was conducted on the actual state of management of derivative trades and the financial subsidiary (OAM), through interviews by the persons in charge of the Administration and Finance Department. In addition, the "Audit about this company's preparations with a view towards the introduction of new accounting standards" was raised as the priority audit item of the corporate auditors for the fiscal year ending March 2000, and a priority audit was implemented based on such methods as hearing reports from the persons in charge of practical business in the Accounting Department, and in addition in the fiscal year ending in March 2001, "Effective utilization of assets and money management (Administration and Finance Department)" was raised as a priority audit item, and an audit was implemented.

⑥ The Board of Directors Regulations were established, and the "items related to important accounting" were taken to be the resolution items of the Board of Directors, in addition to the legal resolution items.

⑦ At the Management Meeting (which were held concurrently with the Board of Directors meetings) on January 28, 2000, the following items were established, and generally implemented, in order to provide for a strengthening of the investment and management of and reporting system for the funds held on hand, whose purpose was alleviation of the effects on business results due to the drop in the value of financial assets, etc.

- The basic portfolio of financial assets are to be subjected to review in the Board of Managing Directors and the Management Meeting,
- The position by asset of the basic portfolio and the realized and valuation profit or loss are to be reported to the Board of Managing Directors and the Management Meeting every quarter,
- A report about the investment contents, etc. of the Business Investment Fund is to be made every 6 months, and
- An effort towards enhancement of the internal management system for the "other investment securities" in the basic portfolio falling under securities management should be undertaken.

⑧ At the Management Meeting (and Board of Directors Meeting) on March 31, 2000, it was resolved to set up a portfolio that raised the ratio of deposits and government bonds, which was premised on the minimization of risk and the assurance of convertibility, as concerns the financial portfolio for the fiscal year ending in March 2001.

⑨ Starting from January 2000, reports about the status of management of the financial assets were made irregularly at Board of Directors Meetings and Management Meetings. (January 28, 2000, March 31, 2000, March 30, 2001).

⑩ Although it was done irregularly, reports about the status of management of the Business Investment Fund were made to Board of Directors Meetings at a rate of about once per every 3 ~ 6 months.

(c) The internal control system in the period of maintenance of the Loss Separation Scheme (starting from April 2001)

① From April 2001, standards for presenting matters and reports to the Board of Directors were established, and money standards were established for presenting of matters for the disposal and assignment or receipt of important property, and in addition the presentation of matters to the Board of Directors concerning the provision of collateral exceeding 5 billion yen per case was clarified.

② In the Board of Corporate Auditors Meetings, matters related to each business year and internal control were raised as the priority audit items, and audits were being conducted for these. The priority audit items for the fiscal year ending March 2002 and the fiscal year ending March 2003 were as follows.

- Fiscal year ending March 2002 "Preparation of Rules and Status of Their Implementation," etc.
- Fiscal year ending March 2003 "Operational Audits through the Internal Audit Function," Etc.

③ From April 2001, the Internal Audit Office became independent from the Accounting Department (the Internal Audit Office was established in the Management Planning Department from April 2001, and in the Administration Management Headquarters from April 2002).

④ Starting from March 30, 2001, in each half-year term, the office in charge of management of financial assets prepared a "Financial Assets Management Execution Plan" for the following half-year term, and it was reported to the Board of Directors before the start of the next half-year term. (The past business results were also recorded in the same Execution Plan. In addition, profit and loss reports for management of financial assets were also made, albeit irregularly).

In addition, starting from July 2001, reports about the status of management of assets for each quarter also began to be made to the Board of Directors, albeit irregularly.

Moreover, starting from May 2001, reports about the status of management of negotiable securities also began to be made to the Board of Directors each month.

⑤ An internal audit office was established as the Audit Office of the Corporate Center from April 2003 to March 2005, and starting from April 2005 it was established as an organization under the direct jurisdiction of the President.

⑥ From October 1, 2005, a Compliance Office was established in the Administration Department, and the operation of a compliance help line was started with the same office as the office in charge. (The Compliance Help Line Operation Rules were decided at the Board of Directors Meeting on November 8, 2005. From April 1, 2006, the Compliance Office was separated from the Administration Department, and the Compliance Office of the CSR Department was established.) In addition, compliance cards were distributed to employees in January 2006, and in addition compliance education was implemented by e-learning in April 2006.

⑦ At the Board of Directors meeting on May 9, 2006, the basic policies of the internal control system were enacted and put into operation (the basic policies of the internal control system have been revised several times since then).

⑧ Starting from the business year for the fiscal year ending March 2009, an internal control report has been submitted, where there is a statement to the effect that after undergoing an audit by the auditing firm, the judgment was passed that the internal controls for Olympus' financial statements are effective.

⑨ The Board of Corporate Auditors had been undertaking audits for the following priority audit items related to internal controls in each business year.

• Fiscal year ending March 2004	Confirmations of status and effectiveness, such as "Corporate governance and internal controls," etc. "Judgments on reasonableness of development of the internal control system for financial statements for the Financial Instruments and Exchange Act"
• Fiscal year ending March 2009	"Verification of the status of preparation of the internal control system pursuant to the Company Act and the Financial Instruments and Exchange Act" "Concerning corporate governance and internal controls"
• Fiscal year ending March 2010	"Verification of the degree of enhancement of the internal control system pursuant to the Company Act and the Financial Instruments and Exchange Act" "Current state and proper state of the work supervision system of the Internal Audit Division"
• Fiscal year ending March 2011	"Judgment of the effectiveness and adequacy of the deployment of the internal control system in the Company Act and the Financial Instruments and Exchange Act," etc.

(d) Whether or not there was a violation of the duty of due care of a prudent manager on the part of the corporate auditors

In the Director Liability Investigation Committee's Investigation Report, it is concluded that a reasonable system had been constructed as far as the internal control system is concerned, with the premises being (b) and (c) above, and it is concluded in addition that it cannot be found that there was any violation of duty as concerns the duty to monitor the development and management of their own internal control system and the development and management of the internal control system of the other Directors, as concerns the Directors other than the Participants and People Who Knew.

In this Committee's investigation as well, facts that would lead to a judgment differing from that of the Director Liability Investigation Committee's Investigation Report cannot be found.

In addition, as noted in "a", in addition to the fact that the corporate auditors had been implementing the audits required of corporate auditors in general, such as attendance at the Board of Directors Meetings, they were also implementing the necessary audits related to the internal control system, as indicated in the above-mentioned (b) ⑤ and (c) ② and ⑨. As for the fact that they were not able to discover the illegal conduct of the Directors who were Participants, although it is not clear whether or not any inadequacies existed in the internal control system, even if there were such inadequacies, it cannot be found that there were any special circumstances that would have enabled the corporate auditors to discover the inadequacies of the internal control system, in the process of these audits.

Therefore, a violation of the duty of due care of a prudent manager for the audits of the internal control system on the part of the above-mentioned nine corporate auditors cannot be found.

V. Whether or not there were violations of the duty of due care of a prudent manager on the part of corporate auditors regarding the acquisition of shares in the Three Domestic Companies

1. Facts that serve as the premise in determining liability

(1) Establishment of the Business Investment Fund

At Olympus, in the Management Meeting held on January 28, 2000, under the agenda item "Classification by purpose and management method for the liquidity on hand," the establishment of a Business Investment Fund, whose purpose was the creation of new businesses, etc., was proposed and approved. The amount of investment was set at 30 billion yen, and the investment period was set at 10 years.

In addition, also at the Board of Directors Meeting held on the same date, the establishment and purchase of the Business Investment Fund, which had the same purpose, was proposed with an investment amount of less than 30 billion yen and an investment period of 10 years, and it was unanimously approved.

For said Business Fund, it was decided that Olympus would have a veto right over the cases involving selection of an operating company according to the investment amount, and it was decided to establish a board directly under the President (the Board to Review Business Investments (provisional name)) in order to undertake study of investment cases (including the review of cases involving selection of an operating company).

(2) Decisions related to the establishment of the Business Investment Fund, etc.

Subsequently, in the Written Decision dated February 24, 2000, a decision was made about the investment fund whereby the party operating and managing it would be GCI Cayman, the purchase amount would be set at 30 billion yen, and the purchase time was set at sometime between the latter part of February 2000 and the first part of March 2000. At that time, it was decided that a Board to Review Business Investments would be established inside the company.

(3) Agreement to establish the Business Investment Fund (GCNVV)

Based on the resolution of the Board of Directors Meeting and the resolution of the Management Meeting in (1) above, as well as the Written Decision in (2) above, an Agreement dated March 1, 2000 for establishing the Business Investment Fund GCNVV, for which Olympus and GV served as limited partners and GCI Cayman served as the general partner, was executed (hereinafter, "Agreement dated March 1, 2000").

The main contents of said GCNVV establishing contract were as follows.

① Amount contributed:	Olympus	30 billion yen
	GV:	5 billion yen

GCI Cayman: 100 million yen

② Date of establishment: March 1, 2000

③ Settlement date: December 31

④ Period: 10 years (2-year extension possible)

⑤ Reports: In principle, the general partner (GCI Cayman) can decide the recipients of investment, but before it invests it must provide written notification to the limited partner (Olympus) of the name of the corporation in which it will invest, the investment amount and the nature of the investment.

In the event that it invests an amount exceeding 20 percent of the net asset value of the Fund for one investment, prior (30 days in advance) written approval by the limited partner (Olympus), which has the majority stake, is required.

⑥ Initial operating fee: 1.5 percent of the amount contributed by the limited partners (525 million yen).

⑦ Management fee: 0.25 percent of the net asset value on the reference date (since the reference date occurs four times per year, 1 percent is the total for one year).

Then, Olympus contributed 30 billion yen to GCNVV pursuant to said contract on March 14, 2000.

(4) Establishment and role of the Board to Review Business Investments

Olympus established the Board to Review Business Investments by issuing a notification dated March 27, 2000, and the first meeting of the Board to Review Business Investments was held on April 10, 2000 (said Board to Review Business Investments was also called the Business Investment Board).

According to the minutes of the first meeting of the Board to Review Business Investments, it was confirmed that “investments of 7 billion yen or more shall be subject to review by this Board”.

Although there are no clear rules about the Board to Review Business Investments, in the document entitled “Concerning the activities of the Board to Review Business Investments” dated September 13, 2002, there is a description of the purpose of the Board, the composition of the Board, the role of the Board, the review methods, the review standards, etc., and according to said document, the following are cited as the roles of the Board to Review Business Investments:

① Judgments about investment in and review of the business plan of outside corporations related to this company’s new businesses, this company’s independent cases and cases involving proposals with an external entity

② Investment proposals about the above-mentioned cases to Global Company Investment KK (hereinafter, “GCI”)
③ Business investment review of the selection of the operating company for the Business Investment Fund in excess of a fixed amount
④ Management of the investment results of the Business Investment Fund, and reports to the Board of Directors
⑤ Review of technological and patent issues related to investment cases

(5) Share acquisitions by GCNVV

A. Acquisitions in 2005

GCNVV acquired respectively the shares of the Three Domestic Companies as indicated below in 2005. Given the fact that the acquisition amount for said acquisitions was not great, they may have been undertaken at the discretion of GCI Cayman, and no evidence that they were reviewed by Olympus’ Board to Review Business Investments can be found.

	Acquisition date	Acquisition unit price	Number of shares acquired	Acquisition amount
Altis	December 2005	50,000 yen	720 shares	36 million yen
News Chef	March 2005	200,000 yen	1,000 shares	200 million yen
Humalabo	July 2005	50,000 yen	200 shares	10 million yen

B. Acquisitions in March 2006

(a) Proposal for acquisition

In a meeting of the Business Investment Board on March 9, 2006, there was a proposal from GCI Cayman to the effect that Olympus should undertake a key investment in the Three Domestic Companies. In response to this proposal, Olympus commented that “This will be studied in a forward-looking manner with the purpose of creating new businesses for our company and having those businesses succeed. However, we will examine and make an independent judgment on the stake, the method for holding such as acquisition by a Fund and the business value, and will respond.”

(b) Approval and execution of acquisition

A document entitled “Report of Review Results” was prepared under the name of the chairman of the Board to Review Business Investments (the Chairman of the Board at that time was Yamada) dated March 16, 2006, and in that document it was stated that the acquisition of the shares of the Three Domestic Companies by GCNVV was approved, as follows.

① Altis

Number of shares acquired: 760 shares

Acquisition amount: 4.44 billion yen (note by citer: 5.79 million yen per share)

Shareholding ratio: 20.0 percent (cumulative 38.9 percent)

② News Chef

Number of shares acquired: 400 shares

Acquisition amount: 1.78 billion yen (note by citer: 4.45 million yen per share)

Shareholding ratio: 11.1 percent (cumulative 38.9 percent)

③ Humalabo

Number of shares acquired: 320 shares

Acquisition amount: 4.6 billion yen (note by citer: 14.375 million yen per share)

Shareholding ratio: 20.0 percent (cumulative 32.5 percent)

Later, the shares of the Three Domestic Companies were acquired by GCNVV as noted in ① ~ ③ above.

(c) Assessment of business value

A document entitled "Investment proposal review materials" dated March 16, 2006, wherein Olympus assessed the business value of each company based on the plans of the Three Domestic Companies, and a document entitled "Trial calculation of the business value of the venture company" with the same date prepared by the Isaka CPA Office, were incorporated in the above-mentioned document, and according to said "Investment proposal review materials," the business value of each company was as follows.

It was concluded that Altis was 22 billion yen (5.79 million yen per share), that of News Chef was 16 billion yen (44.5 million yen per share), and that of Humalabo was 23 billion yen (14.37 million yen per share). In addition, in the above-mentioned "Trial calculation of the business value of the venture company," the business value of each company was provisionally calculated, based on the business plans prepared by the Three Domestic Companies, and according to said trial calculation, Altis was 20.4 ~ 37 billion yen, that of News Chef was 17.1 ~ 30.6 billion yen, and that of Humalabo was 16.7 ~ 30.6 billion yen.

However, it was not possible to confirm the records for the period between March 9 to March 16, 2006, such as Minutes showing that a meeting of the Board to Review Business Investments had been held, and therefore it was not possible to confirm the fact that said “Investment proposal review materials” or “Trial calculation of the business value of the venture company” had been studied and reviewed by that Board.

(d) Comparison with the original prices

According to the Director Liability Investigation Committee’s Investigation Report, while the shares of Altis and Humalabo were acquired from NEO, and the shares of News Chef were acquired from New Investments Ltd. Fond IT Ventures (hereinafter, “ITV”), respectively (pages 83-84 of the same Report), NEO had acquired the shares of Altis and Humalabo at 50,000 yen per share, and ITV had acquired the shares of News Chef for 200,000 yen per share (page 37 of the same Report). In other words, the acquisitions of the shares of the Three Domestic Companies by GCNVV were done by acquiring these at extremely high prices (4.45 million yen per share for News Chef (approximately 22 times), 5.79 million yen per share for Altis (approximately 115 times), 14.375 million yen per share for Humalabo (approximately 287 times)) compared with the share prices (50,000 yen to 200,000 yen per share) at which they were purchased by NEO and ITV, which were the Funds established for the purpose of the formulation and maintenance of the above-described Loss Separation Scheme. Further, even in comparison with the acquisition unit price by GCNVV in 2005, said acquisition prices for the shares of the Three Domestic Companies were approximately 115 times the acquisition price (50,000 yen) of December 2005 in the case of Altis (5.789 million yen), 22 times the acquisition price (200,000 yen) of March 2005 in the case of News Chef (4.45 million yen), and approximately 287 times the acquisition price (50,000 yen) of July 2005 in the case of Humalabo (14.375 million yen), and thus were amounts that had soared in a short period of time.

(6) Report to the Board of Directors meeting regarding the acquisitions of shares by GCNVV

Reports had been made to the Board of Directors, at a rate of about once every 3 ~ 6 months, about the status of management of the Funds in GCNVV, and a report was made by Yamada at a Board of Directors Meeting held on April 28, 2006 about the acquisitions of the shares of the Three Domestic Companies by GCNVV in the preceding fiscal year ending March 2006. In said Board of Directors Meeting report, the fact that an investment exceeding the number of shares approved by the above-mentioned document entitled “Report of Review Results” dated March 16, 2006 was reported, but it was not possible to confirm the account about how an investment exceeding the approved number of shares was undertaken based on the records such as the Minutes, at this Board Meeting.

(7) Indications by KPMG AZSA LLC (Mid-term of the 139th Term)

In the Interim Audit Summary Report for the fiscal year ending March 2007 (139th Term) prepared by KPMG AZSA LLC, there are statements to the effect that the accounting standards for mergers were applied from said period, and the investment amount for the Three Domestic Companies bulked large among the investments made by GCNVV, and given that it was important for the depreciation of the elimination difference of investment, the equity method was applied, and moreover that it was necessary to clarify the management and managerial responsibility as an affiliate in the future, and to examine recognition of impairment losses in the event that business results had diverged from the plan, based on the fact that a rational business plan had been formulated. In addition, there is the following statement of the attributes of the shareholders (not including Olympus, OFH and GCNVV) of the Three Domestic Companies.

Shareholder name	News	Altis	Humalabo	Attributes of shareholders
Olympus (KK)	0.55%	0.77%	──	
OFH	──	──	1.82%	
GC New Vision Ventures L.P.	38.25%	37.95%	31.52%	
NEO Strategic Venture L.P.	──	42.31%	40.61%	This is a Fund operated by GCI, with participation by overseas investors.
LGT Class Fund IT Ventures	43.72%	──	──	GCI is LGT’s advisor, and has made investments based on that relationship.
Dynamic Dragons II SPC	12.29%	13.59%	──	This is a Fund for China-based investors, and GCI is on familiar terms with them through Chinese investment projects, and has made investments.

Global Target SPC	──	──	12.73%	GCI is on familiar terms with them through Chinese investment projects, and has made investments.
Global Company Investment Inc.	──	──	12.12%	This is GCI's group company.
Global Company KK (GCI)	──	3.59%	──	This is an executive member of the GCI Fund.
GCI (Cayman) Ltd.	4.09%	──	──	This is GCI's group company.
Gun Ei Chemical Industry Co., Ltd.	0.55%	0.51%	0.60%	This is a listed corporation, and we made an investments based on an introduction by GCI.
Tensho Limited	0.55%	1.28%	0.60%	At the time of the capital increase, we made an investment based on an introduction by Axes Japan Securities.
Total	100.00%	100.00%	100.00%	

In addition, the four corporate auditors (Amemiya, Imai, Shimada, Nakamura) received an explanation of said Interim Audit Summary Report from KPMG AZSA LLC on November 6, 2006, and received the following indications in connection with the fact that the losses based on the equity method of the Three Domestic Companies were 1.1 billion yen: "Olympus has done an assessment at the time of share acquisition, and the business plans were also included, but one can state that these are completely unrealistic. Although there remain some financial review materials related to new investments on the Fund side as well, there are no business results for which a detailed examination has been done. The management of the investment tends to be lax since it covers a broad range, and it is being handled by the risk approach method since time is needed for the audit, but we believe that the process of investment assessment is problematic. We want you to add this to the scope of your audits in your capacity as corporate auditors."

Concerning this point, the above-mentioned four corporate auditors arrived at the awareness that it was necessary to grasp the actual state of the affiliates with a large investment scale, including the Three Domestic Companies.

(8) Mid-term cancellation of the contract with GCNVV

Subsequently, at the Management Implementation Meeting held on July 20, 2007, a report was made to the effect that the accounting treatment related to the Business Investment Fund was changed from the fiscal year ending March 2007, and that of the change was for applying the equity method to the companies with a large investment scale (the Three Domestic Companies) among GCNVV itself and its investments, and directly incorporating them in the consolidated accounting, and that along with this, negotiations had been continuing to cancel the Agreement dated March 1, 2000 noted above in (3) before its term, and that the coordination had been completed for its implementation.

Then, Olympus executed a "Termination Agreement of G.C. New Vision Ventures L.P." and a "Memorandum for Termination Agreement of G.C. New Vision Ventures L.P." dated September 21, 2007 with GCI Cayman, and liquidated GCNVV. As a consequence, based on said two Agreements, Olympus took in the shares of the Three Domestic Companies that had been held by GCNVV at the investment book value at GCNVV.

(9) Indications by KPMG AZSA LLC (Mid-term period of the 140^{th} Term)

In the Interim Audit Summary Report for the fiscal year ending September 2007 (140^{th} Term) prepared by KPMG AZSA LLC, the fact that the shares of the Three Domestic Companies were taken over due to the cancellation of the Agreement with GCNVV and the business plans of the Three Domestic Companies were indicated clearly, and in addition there is also the following statement: "Given that the question of whether or not it will be possible for the Three Domestic Companies to achieve their business plans will depend on the situation in the second half since all of these companies are still in the business start-up period, and that based on those business plans, they expect that recovery of investment in a period of about 5 years can be aimed at, impairment loss treatment has not been done in this interim period. Depending on the state of the future business results for each company, it will be necessary to review impairment loss treatment or the posting of an investment loss reserve fund or a bad debt reserve fund."

In addition, the four corporate auditors received an explanation of said Interim Audit Summary Report from KPMG AZSA LLC on November 6, 2007, and they received the following indications: “The amount of investment in the Three Domestic Companies taken over from GCNVV is huge, and one can state that that this is a major risk factor. The forecasts for business results also foresee considerable growth, and there is a possibility that these will need to be revised depending on the case.”

(10) Resolution to acquire shares

A. Proposal for and approval of acquisition

At the Management Implementation Meeting held on February 8, 2008 and the Board of Directors Meeting held on February 22, 2008, it was proposed that Olympus increase its purchase of the shares of the Three Domestic Companies to above 67 percent in order to ensure it of a solid position in the business fields of the Three Domestic Companies, and moreover to turn them into subsidiaries, and these proposals were unanimously approved and passed respectively.

The four corporate auditors (Imai, Komatsu, Shimada, Nakamura) attended the above-mentioned Board of Directors Meeting, but voiced no objections and ended up not seeking a re-examination. Also, while they did not attend the above-mentioned Management Implementation Meeting, they did read the materials that were submitted.

B. Contents of the proposal for acquisition

According to the proposal materials submitted to the Management Implementation Meeting and the Board of Directors Meeting, the specific contents of the proposal about acquisition were as follows. The proposal materials were the same for the Management Implementation Meeting and the Board of Directors Meeting.

	Additional shares to be purchased (shares)	Ratio after acquisition	Expected unit price (thousand yen)	Estimated acquisition amount (million yen)
Altis	1,030–2,180 (currently 1,594)	66.7%–95.9% (currently 40.52 percent)	5,790–9,616	5,964–20,963
News Chef	1,001–2,050 (currently 1,440)	66.7%–95.4% (currently 39.34 percent)	4,450–9,683	4,454–19,850

Humalabo	570–880 (currently 560)	66.7%–87.3% (currently 32.12 percent)	14,375–23,370	8,194–20,566

C. Each company's business plan

According to the materials provided, the business plans of the Three Domestic Companies that serve as the premise of the above-mentioned proposal are as follows.

Altis (Unit: Million yen)

	2008	2009	2010	2011	2012
Sales	631	4,405	7,824	13,796	19,375
Operating profit	12	1,498	2,561	5,180	7,006
Ordinary profit	-5	1,481	2,561	5,180	7,006
Current net income	-5	1,225	1,537	3,108	4,204

Humalabo (Unit: Million yen)

	2008	2009	2010	2011	2012
Sales	2,109	9,614	17,897	21,822	26,937
Operating profit	152	4,258	8,105	11,529	14,478
Ordinary profit	92	4,230	8,080	11,504	14,453
Current net income	52	2,411	4,606	6,557	8,238

News Chef (Unit: Million yen)

	2008	2009	2010	2011	2012
Sales	2,679	10,545	22,701	35,710	42,230
Operating profit	187	3,336	7,672	11,237	13,529
Ordinary profit	4	3,180	7,561	11,145	13,437

Current period net profit	4	3,133	4,310	6,353	7,659

D. Share assessments

According to the materials provided, the share assessments of the Three Domestic Companies are as follows, with the premise being the above-mentioned business plans.

	DCF	PER	Average value
Altis	32.1 billion yen	26.1 billion yen	29.1 billion yen
News Chef	45.5 billion yen	43.1 billion yen	44.3 billion yen
Humalabo	50.3 billion yen	46.1 billion yen	48.2 billion yen

Based on this, the respective acquisition prices have been assessed, with the upper limit of the share assessment being the value obtained by adding a controlling right premium of 30 percent to the above-mentioned average value in the case of Altis, and the upper limit being set at 80 percent of the above-mentioned average value after a careful examination of the plan contents was done in the cases of News Chef and Humalabo.

There is a statement in the above-mentioned proposal materials to the effect that "an external share value assessment is being requested" as concerns the share value of the Three Domestic Companies.

On this point, Olympus had received a "Shareholder Value Assessment Report" dated February 29, 2008 from the Isaka CPA Office, but the fact that said assessment report was submitted at any of the subsequent Management Implementation Meetings or Board of Directors Meetings could not be acknowledged, and in addition the fact that the four corporate auditors (Imai, Komatsu, Shimada, Nakamura) confirmed said assessment report after the fact could not be acknowledged.

In said report, there is the following account related to the business plans of the Three Domestic Companies, which served as the premise of the assessment: "This office has taken as its premises the forecasts of finances and balance of payments prepared by the company that is the subject of the assessment (including not only the monetary amounts but also the possibility of their realization) as well as the fact that the preconditions for said forecasts were prepared reasonably, and in the event that this office were to undertake revision or correction thereof, this would be a revision of suppositions and premises, and this means that that makes no difference on the fact of this office being dependent on the accuracy and completeness of the information."

(11) Discussion in the Board of Corporate Auditors Meeting

Immediately after the Board of Directors Meeting held on February 22, 2008, a Board of Corporate Auditors Meeting attended by the four corporate auditors (Imai, Komatsu, Shimada, Nakamura) was held. In the Minutes of the same date, there are statements from the corporate auditors about the acquisition of the shares of the Three Domestic Companies to the effect that "There were also several cases to date, but there has not been any analysis, has there?" "It appears that the risk has not been disclosed. We should discuss this, including the risk." "It is possible to explain Altis, but Humalabo and News Chef cannot be explained," and the fact that a discussion about the acquisition of shares was undertaken is acknowledged.

(12) Resolution to purchase shares in the Three Domestic Companies

Based on a decision by its President, Olympus acquired respectively the shares of the Three Domestic Companies as indicated below on March 26 and April 25, 2008, based on the resolution of the Board of Directors Meeting on February 22, 2008.

① March 26, 2008

	Number of shares acquired	Acquisition unit price	Total amount	Shareholding ratio
Altis	1,650 shares	1.100 billion yen	18.15 billion yen	41.94 percent (cumulative 82.46 percent)
News Chef	1,600 shares	950 million yen	15.2 billion yen	43.7 percent (cumulative 83.06 percent)
Humalabo	670 shares	2.050 billion yen	13.735 billion yen	40.6 percent (cumulative 74.55 percent)

*The shares in Altis and Humalabo were acquired from NEO, and those in News Chef were acquired from ITV.

② April 25, 2008

	Number of shares acquired	Acquisition unit price	Total amount	Shareholding ratio
Altis	530 shares	1.050 billion yen	5.565 billion yen	13.47 percent

				(cumulative 95.93 percent)
News Chef	450 shares	9 million yen	4.05 billion yen	12.30 percent (cumulative 95.36 percent)
Humalabo	210 shares	1.950 million yen	4.095 billion yen	12.72 percent (cumulative 87.27 percent)

* The shares in Altis and News Chef were acquired from DD, and those in Humalabo were acquired from Global Target SPC (hereinafter, “GT”). According to the report by the Third Party Committee, Dynamic Dragon II SPC (hereinafter, “DD”) and GT had acquired these shares from NEO (page 37 of the same report).

Concerning the shares of Altis, the total acquisition amount on March 26, and April 25, 2008 exceeded by 13.1 percent the upper limit approved by the resolution of the Board of Directors Meeting on February 22, 2008, but this was already approved by a decision dated April 24, 2008, so no procedural flaws can be found.

2 Whether or not there were Violations of the Duty of Due Care of a Prudent Manager

(1) Regarding the Acquisition of Shares by GCNVV in March 2006

A. Whether or not there were Violations of the duty of Due Care of a Prudent Manager Regarding Audits of the Performance of Duties by Directors

The Director Liability Investigation Committee’s Report in regard to the acquisition of shares by GCNVV in March 2006 held that Yamada, Mori, and Kikukawa did so for unlawful purposes, and deemed the directors in question to have violated the duty of due care of a prudent manager. (Director Liability Investigation Committee’s Report, Pages 64–66).

The four corporate auditors who were serving in that position at the time (Amemiya, Imai, Shimada, and Nakamura) bore the duty to “audit the performance of duties by the directors” (Former Commercial Law, Article 274), and had the authority to audit the status of the performance of duties by directors, except in instances falling under Article 22, Paragraph 1 of the Law Concerning Special Circumstances of Commercial Law Concerning the Audit of Companies Prior to Dissolution Pursuant to Law No. 87 of 2005. The issue therefore becomes one of whether the corporate auditors at the time violated the duty of due care of a prudent manager for overlooking the violation of the duty of due care of a prudent manager on the part of the directors in question.

Corporate auditors audit the performance of duties by directors (Article 381, Paragraph 1 of the Companies Act), so when a director has been judged to have violated the duty of due care of a prudent manager in the performance of his director's duties, corporate auditors are to request business reports from directors and employees or investigate the status of the business and assets (Article 381, Paragraph 2 of the Companies Act), and report to the Board of Directors (Article 382 of the Companies Act). When there is a danger of serious damage or loss to the company from these actions, the corporate auditors bear the duty of due care in exercising appropriate audit authority, such as to place an injunction (Article 385, Paragraph 1 of the Companies Act) on the acts of the director.

Since it is impossible for the corporate Auditor to audit all of the actions of all directors, the corporate auditors are not regarded as having neglected their duties even if they were unable to discover an illegal act by a director, as long as no special circumstances exist that indicate that the corporate auditors should have been able to know about the illegal act by the director in the process of conducting audits generally required of corporate auditors.

The four corporate auditors mentioned above are deemed to have faithfully performed the review of documentation from the Management Implementation Committee along with other documentation, in addition to naturally attending the Board of Directors and Board of Corporate Auditors meetings, stipulating the audit plans for the year, exchanging opinions with the directors, exchanging opinions with the executive officers, and holding regular meetings with the Audit Office to exchange information. Furthermore, they also performed other audits such as reviewing the report on the results of the audit by the audit firm and hearing the report from the accounting auditors.

Despite that fact, the four corporate auditors mentioned above were not able to know of the violation of the duty of due care of a prudent manager on the part of the Participants and the People Who Knew, and special circumstances that would have enabled them to know the fraudulent purpose of Yamada, Mori, and Kikukawa were not found, so it cannot be said that the four corporate auditors noted above violated the duty of due care of a prudent manager.

B. Whether or not there were violations of the Duty of Due Care of a Prudent Manager Regarding Audits of the System of Internal Controls

(a) Regarding Audits of the System of Internal Controls

As previously stated in Section 4, Paragraph 2(2)B, if the directors have properly developed and are operating a system of internal controls, and unless the directors are judged to have violated the duty of due care as a prudent manager, this would not give rise to a violation of the duty of due care of a prudent manager on the part of the corporate auditors in regard to audits of the system of internal controls as long as special circumstances do not exist that would have enabled the corporate auditors alone to have knowledge of that deficiency.

Assuming the above in considering whether there was a violation of the duty to audit the system of internal controls by the four corporate auditors at the time, the investigation report by the Director Liability Investigation Committee stated that the following system of internal controls had been developed in Olympus at that time, in March 2006.

(b) Specific Internal Controls

a. According to the documentation for deliberation by the Management Committee meeting held when the Business Investment Fund was established (produced by the Management Planning Division, and the Administration and Finance Division):

- While the management firm has the right to make investment decisions, a shareholder holding over two-thirds of the investment ratio (the premise is that this corresponds to Olympus) has a veto right on the projects selected by the management firm, depending on the investment amount.
- A committee reporting directly to the President (Board to Review Business Investments (provisional name)) would be established to consider investment proposals (including the screening of proposals selected by the Management Committee).

The Board to Review Business Investments was then established in response to the decision of the Management Committee in question, etc., but the document entitled, "Regarding the Activities of the Board to Review Business Investments," dated September 13, 2002, describes the purpose, composition, roles, screening method, screening standards, etc. of the Committee and stated in regard to the Board to Review Business Investments that one of the roles of the Board was to "screen business investments selected by the management company for the Business Investment Fund, that exceed a certain amount" (conversely, there was no stipulation that Chair of the Board to Review Business Investments could unilaterally screen an investment).

Also, the Agreement dated March 1, 2000 stated that prior approval from Olympus was necessary when investing amounts exceeding 20% of the net asset value for the Fund in one investment target, so when considered together, it can be said there was a stipulation for screening by the Board to Review Business Investments in instances involving the investment of substantial sums exceeding 20% of the net asset values of the Fund (GCNVV).

b. According to the summary minutes of the Board to Review Business Investments, etc., meetings of the Board to Review Business Investments were actually convened once or twice a year, and the committee was found to have reported on the status of investments destinations and asked questions about these, etc.

c. Moreover, in the document entitled, "Regarding the Activities of the Board to Review Business Investments," dated September 13, 2002, mentioned above, the composition of the Board was stipulated as follows and consisted of multiple divisions within the company (In other words, it did not consist only of members from a specific division).

(Chairman):	Center Manager of the Corporate Center
(Board Members):	Head of the New Business Development Headquarters, Head of the R&D Center Strategy Division, Head of the Accounting Department, Head of the Finance Department, Head of the General Management Planning Department, Heads of the Planning Divisions of Companies to which the proposing department belongs
(Secretariat):	General Management Planning Department, Finance Division

The participation of multiple divisions in the Board to Review Business Investments in this manner is regarded as having made it easier to exercise the oversight function, and it can be said that it contributed to the prevention of corrupt practices.

d. Furthermore, in the previously mentioned document entitled, "Regarding the Activities of the Board to Review Business Investments," dated September 13, 2002, it was stated that one of the roles of the committee is to "manage the investment results of the Business Investment Fund and to report these to the Board of Directors," and reports on the status of investments for GCNVV were actually made to the Board of Directors about once every three to six months. While the reports in question were reports after the investments were made (reports after the fact), it can be said such regular reporting had the effect of a type of deterrent and restraint on improper investments by GCNVV.

(c) Whether or not there were violations of the Duty of Due Care of a Prudent Manager on the part of the corporate auditors

The report by the Director Liability Investigation Committee maintained that a proper system of internal controls had been developed; moreover, no violation of duty had been found on the part of directors other than the Participants and People Who Knew in regard to the duty to develop and operate a system of internal control themselves, or to monitor the development and operation of the system of internal controls by other directors.

The investigation of this Committee has also not found circumstances that would dictatea judgment differing from the report of the Director Liability Investigation Committee.

As stated in "A," moreover, the corporate auditors attended Board of Directors meetings and performed other audits generally required of corporate auditors.

In regard to not having been able to discover the illegal acts on the part of the directors who were the Participants and People Who Knew, it is not clear whether it can be said that some sort of inadequacy existed in the system of internal controls, but even supposing inadequacies existed, no special circumstances were found that would indicate that the corporate auditors could have discovered the inadequacies in the system of internal controls during the process of these audits.

Accordingly, the four corporate auditors mentioned above (Amemiya, Imai, Shimada, and Nakamura) were not found to have violated the duty of due care of a prudent manager in regard to the system of internal controls.

(2) Regarding the resolution to approve the acquisition of shares at the Board of Directors meeting Held on February 22, 2008

A. Violation of the Duty of Due Care of a Prudent Manager on the part of the corporate auditors

The duty of corporate auditors in a company with an established Board of Directors is to audit the performance of duties by the directors (Article 381 of the Companies Act). Corporate auditors are obligated to attend Board of Directors meetings (Article 383, Paragraph 1), and matters presented to the Board of Directors are naturally subject to audit.

When there is a violation of the duty of due care of a prudent manager by directors in regard to decisions made by the Board of Directors, corporate auditors bear the duty to issue a warning or conduct an investigation of the act in question, and also bear the duty to exercise their authority to prohibit an act by a director when that act would give rise to substantial losses or damages for the company (Article 385, Paragraph 1 of the Companies Act). It would be a violation of the duty of due care of a prudent manager for a corporate auditor to fail to exercise proper authority despite the fact that a director has violated the duty of due care of a prudent manager.

Therefore, in regard to the acquisition of shares in the Three Domestic Companies, there needs to be a review from the perspective of whether or not there was a violation of the duty of due care of a prudent manager on the part of the corporate auditors, notwithstanding that the directors had violated the duty of due care of a prudent manager in their decision-making, that violation in question had been overlooked.

B. Whether or not there were violations of the Duty of Due Care of a Prudent Manager on the part of the directors

According to the Director Liability Investigation Committee's Report (pages 71–78), of the directors other than the Participants and People Who Knew (Takayama, Morishima, Yanagisawa, Tsukaya, Okubo, Terada, Nagasaki, Yusa, and Furuhata), and with respect to those directors who agreed to the proposal to purchase additional shares in the Three

Domestic Companies, the gathering of information and its analysis and review that formed the premise for the resolution in question was insufficient and unreasonable, in addition to the fact that the process of inference for making the judgment based on the facts in question was remarkably unreasonable, and they were found to be in violation of the duty of due care of a prudent manager, in light of the so-called business judgment rule. The content was as follows:

(a) Regarding the gathering of information and its analysis

If the reason for purchasing additional shares in the Three Domestic Companies was to make them subsidiaries from the viewpoint of gaining control over the management right of each company, it would first be necessary to consider and determine how great the need was to make them subsidiaries. In other words, it was necessary to consider the relatedness of the businesses of the Three Domestic Companies to the business of Olympus (the so-called synergy effect), the shareholder composition for the Three Domestic Companies and the intentions of the other shareholders regarding management, and the attributes of the sellers and past history of negotiations with the sellers, but the gathering of information, its analysis, and review were insufficient in all of the cases in this incident.

The projected amount for the acquisition of shares in the Three Domestic Companies (totaling a maximum of 61.379 billion yen) proposed to the Board of Directors was formulated based on the business plans of the Three Domestic Companies, so the appropriateness of the projected amount for the share acquisitions in question could not have been reviewed, without gathering, analyzing, and reviewing information about the feasibility of achieving the business plans in question as well as the risks involved if they were not achieved. In light of how high the projected amount for the acquisition of the shares was, a third party valuation of the commercial potential (business due diligence) should have been sought, and this could not be called an excessive demand as a response demanded of managers in general.

Also, since the shares were acquired in the Three Domestic Companies gradually, it would have been easy to verify the prices paid for shares acquired in the past, the business plans at the time of the past acquisitions, and the actual business results for those, etc., but there is no record that these points were confirmed. Supposing that they had been considered, they would have understood how extremely high the price had gotten and the fact that the actual results differed considerably from the initial business plans.

Even considering the fact that strict verification of the feasibility of the achieving the business plans presented difficulties since the Three Domestic Companies were venture firms, it was clearly apparent at a glance that the content of the business plan for each company presented at the Board of Directors meeting in question was based on extremely optimistic projections for both sales and profits, and that a person engaged in management would naturally see that there was also a high likelihood that operating results, etc. would not follow the business plans in question. Despite this, there were no records found that indicated that information had been gathered, analyzed, and examined for purposes of share price valuations and calculations assuming a scenario under which the business plans in question were not achieved.

Major investments such the acquisition of shares in the Three Domestic Companies ought to call for share price valuations being requested from one or more external institutions and careful consideration of the share acquisition price based on the results of those calculations (or by referencing those results), but no evidence was found that the results of such calculations had been indicated.

(b) Regarding the Process of inference and Content of the Decision Based on Recognition of the Facts

It is true that directors are generally deemed to have broad discretion in management with regard to business judgments concerning the acquisition of shares in a company, but the gathering, analysis, and review of the requisite information for making the business judgment (the judgment on whether or not to approve the proposal to purchase additional shares in the Three Domestic Companies) was not sufficient at the Board of Directors meeting in question. In particular, there were no records that sufficient consideration had been made on the need to acquire (making the companies subsidiaries) in relation to the extremely large impact this might have on the financial foundation of Olympus, given the extremely large sum of 61.379 billion yen as the total maximum amount for the acquisition of shares in those Three Domestic Companies. The prices, moreover, were extremely optimistic and the valuations based on business plans that had not been sufficiently examined the feasibility of attaining the goals were taken on faith; the assessment cannot be made that there was sufficient consideration of the risks involved should the actual results take a downward swing.

It also cannot be said that sufficient consideration was given to the necessity and appropriateness of making an investment accompanied by major risks compared to the relatedness of the business operated by the Three Domestic Companies and the main business of Olympus and the synergy effect between those, even if the creation of new business was an important management issue for Olympus at that time, and at the very least, it is clear that it is difficult to recognize the need to make the companies subsidiaries with such urgency, without having undertaken the requisite investigation and examination, etc. of the points that should be investigated and considered, such as those noted previously.

In light of each of the above circumstances, making the decision to engage in the highly risky transactions involving the purchase of shares in the Three Domestic Companies for huge sums without having conducted the requisite investigation and consideration of each point noted above that should have been investigated and considered must be evaluated as remarkably lacking in reasonableness in terms of the decision making process and its content.

(c) Whether or not there were Violations of the Duty of Due Care of a Prudent Manager on the part of the corporate auditors

As noted above in regard to the acquisition of shares in the Three Domestic Companies, those directors other than the Participants and People Who Knew, who approved the proposal to purchase additional shares in the Three Domestic Companies are found to be in violation of the duty of due care of a prudent manager with respect to the acquisition of shares in the Three Domestic Companies.

In considering here whether or not there were violations of the duty of due care of a prudent manager on the part of the corporate auditors, all of the four corporate auditors at the time (Imai, Komatsu, Shimada, and Nakamura) attended the Board of Directors meeting involved in this incident and participated in the discussion based on the same materials distributed to the directors.

In addition to the fact noted above, the four corporate auditors had received a report from KMPG AZSA LLC at the time of the interim Summary Audit Report for the 139th Term on November 6, 2006, that investment-related problems existed, and they had received specific findings in regard to the large amount of the investment in the Three Domestic Companies in particular, that on top of the share acquisition prices having been based on a business plan that seemed dream-like in quality, detailed examination of the business plans had not been undertaken, and there were problems with the investment valuation process.

Furthermore, they received indications at the time of the interim Summary Audit Report for the 140th Term on November 26, 2007, that the amount invested in the Three Domestic Companies was massive, and a major risk factor, and the corporate auditors also were fully aware of the problems and the need to carefully scrutinize the operating results of the Three Domestic Companies.

Thus, considering that they had received indications on the specific problems from KMPG AZSA LLC in advance, the corporate auditors should have exercised caution in verifying the need to acquire the shares, the appropriateness of the business plans, and the appropriateness of the acquisition prices for the shares, among other factors. However, there was no evidence found that the four corporate auditors noted above expressed dissent at the Board of Directors meeting in question, or having demanded reinvestigation, etc. Also, at that Board of Directors meeting, there was no evidence found that an after-the-fact confirmation had been made of the document from an outside valuation which had been requested.

The four corporate auditors noted above produced audit plans for each fiscal year, and faithfully conducted visiting audits of subsidiaries and held discussions with relevant divisions, etc. They also faithfully undertook the performance of their duties as corporate auditors by producing audit investigation reports and sharing these so that differences between the Standing corporate auditors and Outside corporate auditors did not arise, holding preliminary investigatory meetings as auditor liaison conferences regarding the proposed agenda for Board of Directors meetings, etc.

However it must be said that the exercise of proper authority in auditing operations in regard to violations of the duty of due care of a prudent manager by directors in incidents such as this, and not overlooking illegal acts are precisely the roles expected of corporate auditors, and that these corporate auditors were found lacking from this perspective.

While these corporate auditors were aware of these problems and discussed them in the Board of Corporate Auditors meeting held after the Board of Directors meeting for this incident on the same day, and statements were made that “there have been several such proposals up to this point, but I don’t think they have been analyzed,” “The industries are too different and I wonder if it isn’t the case that the Directors cannot make a judgment on whether it is good or bad,” and “It looks like the risks have not been disclosed. This should be debated, including the risks,” they did not request that another Board of Directors meeting be held, conduct another investigation, or go so far as to consider demanding an injunction against the act of acquisition in this incident, based on the discussion in question.

Therefore, the fact that the four corporate auditors (Imai, Komatsu, Shimada, and Nakamura) overlooked the violation of the duty of due care of a prudent manager by the directors in making the decision should be deemed a violation of the duty of due care of a prudent manager.

VI. Whether or not there were violations of the Duty of Due Care of a Prudent Manager on the part of the corporate auditors regarding the Payment of the FA fee in connection with the Gyrus Acquisition

1. Facts that serve as the premise in determining liability

The settlement scheme using the acquisition of Gyrus was a scheme that used the substantial FA fee paid to the Financial Advisor, Axes America LLC (Hereinafter, “Axes”) to cover the losses, and specifically involved 1) paying the FA fee not only in cash, but in stock options and Warrant Purchase Rights, 2) buying back the Warrant Purchase Rights at a high price, and exchanging the stock options for Dividend Preferred Shares (Hereinafter, “Preferred Shares”), and 3) buying back the Preferred Shares at a high price.

(1) Conclusion of the FA Agreement

A. Olympus concluded the Financial Advisor Agreement (Hereinafter, “FA Agreement”), a summary of the content of which follows, with Axes on June 12, 2006 in preparation for exploring and implementing M&A for purposes of expanding the medical treatment business.

- Nature of Work for Axes
  - ①. Propose M&A targets
  - ②. Form a working group to pursue M&A transactions (consisting of a legal advisor, an independent accountant, an investment banker, etc.), and oversee operation of the working group.
  - ③. Design and propose the optimal structure for transactions.
  - ④. Perform the requisite analysis, valuation, negotiations, and documentation for the transactions and provide requisite related services.
- Compensation
  - ①. Basic Fee
    3 million dollars (approximately 300 million yen). Converted at approximately 100 Yen/1 dollar, regardless of the timing. The same follows below.): Paid at the time the contract is concluded.
  - ②. Completion Fee
    Shall be 1% of the acquisition price, of which 20% will be paid in cash.

The remaining 80% shall be calculated according to the following formula, and paid through share options on 4.9% of the total number of shares outstanding for the local company established for the acquisition (Hereinafter, “Acquisition Vehicle”). The method of calculation for the share option exercise price shall be as follows:

$$(A \times 80\%)/B - C/D, \text{ where}$$

A = Acquisition price
B = Total number of shares outstanding in the acquisition vehicle
C = 1% of the acquisition value x 80%
D = No. of ordinary shares subject to the options (4.9% of the total number of shares outstanding for the Acquisition Vehicle)

Note that the main target for M&A at the time was Company B, a U.S.-based manufacturer of medical devices, and the acquisition price was projected at 600 ~ 700 billion yen.

B. Olympus issued a written authorization for concluding the FA Agreement on May 31, 2006, prior to concluding the FA Agreement. Electronic authorization was not used for this authorization “to make all possible efforts to ensure that information is controlled,” and the decision was made to “take care of the requisite internal paperwork for authorization once the details of the M&A proposal have taken form.”

There is no evidence that the conclusion of the FA Agreement was deliberated by the Board of Directors.

C. On June 16, 2006, Olympus paid 3 million dollars of the basic compensation amount to Axes and paid the remaining 2 million dollars on July 6, 2007, based on the FA Agreement.

(2) Conclusion of the Revised FA Agreement

A. On June 21, 2007, Olympus concluded an agreement with Axes revising the FA Agreement noted above (Hereinafter, “Revised FA Agreement”).

The explanations given in-house for the revision were ① negotiations for the acquisition had run into difficulties and it was necessary to put together a team of experts, and the compensation to be paid to these experts was incorporated, and ② small to medium-sized companies were also added as acquisition targets so this gave rise to the need to stipulate the amount of the fees in accordance with the size of the acquisition. However, the actual intention at the time was because they thought it necessary to increase the amount of the FA fee that could be used to settle losses since the acquisition target had moved from a company of a size that commanded an acquisition price of 600 ~ 700 billion yen to Gyrus, which was 200 billion yen, reducing the scale of acquisition by a large margin and consequently reducing the FA fee as well. Part of that was to add the Warrant Purchase Rights.

The content of the Completion Fee was revised as follows under the Revised FA Agreement.

①. Cash

The percentage noted in the table below will be paid in cash as the cash compensation amount, out of the completion fee calculated based on the percentages noted in the table below.

Acquisition Value	Completion Fee	Cash Compensation Amount	Minimum Cash Compensation Amount	Maximum Cash Compensation Amount
Over 5 billion dollars (approximately 500 billion yen)	2.5%	10.0%	15 million dollars (approximately 1.5 billion yen)	20 million dollars (approximately 2 billion yen)
2.5 billion dollars (approximately 250 billion yen) ~ 5 billion dollars (approximately 500 billion yen)	3.75%	12.5%	12 million dollars (approximately 1.2 billion yen)	15 million dollars (approximately 1.5 billion yen)
1 billion dollars (approximately 100 billion yen)– 2.5 billion dollars (approximately 250 billion yen)	5.0%	15.0%	10 million dollars (approximately 1 billion yen)	12 million dollars (approximately 1.2 billion yen)
Under 1 billion dollars (approximately 100 billion yen)	6.25%	17.5%	5 million dollars (approximately 500 million yen)	10 million dollars (approximately 1 billion yen)

②. Stock Options

- Method of Calculation

  The portion other than the cash compensation amount, out of the completion fee calculated based on the percentages noted in the table above, will be paid as stock options on 9.9% of the total number of shares outstanding for the Acquisition Vehicle.

The method for calculating the exercise price for the stock options shall be as follows:

$X-C/Y$, where

X = 80% of the average share price during the thirty days prior to the acquisition announcement in the event that the company to be acquired is a public company

The amount derived by dividing 70% of the acquisition price by the total number of shares outstanding for the Acquisition Vehicle, in the event that the company to be acquired is a non-public company.

C = The amount derived by subtracting the cash compensation amount from the completion fee

Y = The number of ordinary shares in the Acquisition Vehicle subject to stock options

- Veto Right Article

In regard to the shares issued from the exercise of the stock options, content amounting to a veto right by Axes was stipulated in regard to increases or decreases in capital for the issuing company (and its affiliated companies), the redemption of capital, etc.

③. Warrant Purchase Rights

- Method of Calculation

The right to receive stock acquisition rights (called "Warrant Purchase Rights" in Olympus, and thus called, Hereinafter) in the Acquisition Vehicle with a maximum limit of the lesser of 20% of the total number of shares outstanding in the Acquisition Vehicle or Warrant Purchase Rights equivalent to 200 million dollars (approximately 20 billion yen) of the issue price will be granted.

The exercise period for the rights shall be within six months of the date on which the acquisition is executed.

The method for calculating the exercise price for the Warrant Purchase Rights in question shall be as follows:

- The amount derived by multiplying 80% of the average share price during the thirty days prior to the acquisition announcement by the number of shares acquired in the acquired company, divided by the total number of shares outstanding in the acquisition vehicle in the event that the company acquired is a public company.
- The amount derived by dividing 70% of the acquisition price by the total number of shares outstanding in the acquisition vehicle in the event that the company is a non-public company.

The issue price for the Warrant Purchase Rights will be decided by agreement of the parties in light of the exercise price.

- Veto Right Article
  Content amounting to similar veto right as the share options was also stipulated for shares issued from the exercise of Warrant Purchase Rights.

B. A written authorization regarding the conclusion of the Revised FA Agreement was produced at Olympus on June 21, 2007, the same date on which the Revised FA Agreement was concluded. The reason for concluding the Revised FA Agreement was given as "The Financial Advisor Agreement currently concluded with Axam in the active pursuit of M&A has been revised as follows, and we will propose speeding up the process" (Note that Axes was abbreviated as Axam in the FA Agreement and in the Revised FA Agreement). Axam Investments, Ltd., which will appear later, is a different company from this. Moreover, no explanations were provided for increasing the completion fee from 1% of the acquisition price in the FA Agreement to between 2.5% and 6.25%, and granting new Warrant Purchase Rights.

(3) Resolution by the Board of Directors to approve the conclusion of an agreement with an FA

A. The following proposal to acquire Gyrus was presented at the Board of Directors meeting held on November 19, 2007 and it was unanimously approved by all. The four corporate auditors (Imai, Komatsu, Shimada, and Nakamura) also attended the same Board of Directors meeting and did not express any dissent to the resolution.

① . Acquire 100% of the shares in Gyrus, a company listed on the London Stock Exchange in the UK, making it a subsidiary. The acquisition price will be around 935 million pounds (approximately 215 billion yen (Converted at approximately 230 yen/1 pound. The same follows below). This will be 630 pence per share (approximately 1,500 yen)).

② . Olympus, the main agent in the direct acquisition, will establish a wholly owned subsidiary (Olympus UK Acquisition Limited, Hereinafter, "OUKA") for the purpose of this acquisition.

③ . Capital will be invested or a loan provided of an amount equivalent to the requisite acquisition price.

④ . A bank loan of a maximum of 250 billion yen will be taken out to fund this acquisition.

⑤. An operating agreement will be concluded with Axes and Perella Weinburg Partners UK LLP (Hereinafter, “Perella”) as the investment advisors.

Note that there is no evidence that the already concluded FA Agreement and Revised FA Agreement were presented at this Board of Directors meeting, nor were there any records that an explanation had been given seeking a follow-up confirmation of the agreements that were already concluded.

B. In regard to item ⑤ noted above, the consignees were explained to be the two companies of Axes and Perella (the recipient of the fee was Axes, however); moreover, the explanation offered for the fee was:

> “Five percent of the acquisition price (however, 15% of that will be paid in cash with the remaining 85% in stock options on the subsidiary established for the acquisition), plus the right to buy (Warrant) Purchase Rights of up to 20% of the shares in the subsidiary established for the acquisition will be granted.”

Note that the Warrant Purchase Rights were described as “rights to purchase warrant purchase rights with a maximum limit of 20% of the shares outstanding in OUKA” in the minutes to the Board of Directors meeting on the date in question.

Moreover, unanimous approval by all was given for the President to make the detailed decisions on the conditions for the agreements with the abovementioned financial advisor, the payment procedures, and other factors at his sole discretion.

(4) Payment of cash compensation based on the Revised FA Agreement

On November 26, 2007, the final acquisition price for Gyrus was set at 965 million pounds (approximately 222 billion yen. The increase in the price was due to a change in the number of shares), and Olympus paid Axes 12 million dollars (approximately 1.2 billion yen) as the cash portion of the compensation out of the completion fee, based on the Revised FA Agreement.

(5) Completion of the Gyrus acquisition

The requisite procedures under UK law and payment of compensation to Gyrus shareholders were completed for the acquisition of Gyrus on February 14, 2008, thereby completing the acquisition of Gyrus.

(6) Conclusion of the Call Option Agreement

A. On February 14, 2008, Olympus concluded an agreement detailing the agreement conditions for the stock options stipulated in the Revised FA Agreement (Call Option Agreement. Hereinafter, the “Call Option Agreement”) with Axes. The issuing company for the stock options in the Call Option Agreement should have been the acquisition vehicle, OUKA, according to the Revised FA Agreement, but it was stipulated as Gyrus. The veto right article on stock options were stipulated in the Call Option Agreement as well, based on the FA Agreement.

Note that there is no record of a resolution or report on the conclusion of the Call Option Agreement at a Board of Directors meeting, either before or after the fact.

B. In June 2008, the stock options in Gyrus issued to Axes were assigned along with Warrant Purchase Rights from Axes to Axam Investments, Ltd. (Hereinafter, “Axam”), a Caymans company established by Sagawa on November 19, 2007, for 24 million dollars.

(7) Report to the Board of Directors on the completion of the Gyrus acquisition

The fact that the acquisition of Gyrus had been completed was reported at the Board of Directors meeting held on February 22, 2008.

It was also reported that the FA fee payable to Axes for the acquisition was 5% of the acquisition price, and the cash payment portion of this (15%), or 12 million dollars (approximately 1.2 billion yen) had been paid immediately after the announcement of the acquisition on November 26, 2007, and that the method of payment and other factors regarding the additional options (Warrant Purchase Rights) equivalent to the remaining 85% were being negotiated with Axes.

(8) Capital Restructuring of Gyrus, and mutual agreement on cash settlement of options and mutual agreement regarding warrants

A. Following the completion of the acquisition of Gyrus, consideration of a capital restructuring for Gyrus commenced, and it was determined that the capital restructuring could proceed with the following method as the basic outline.

①. OUKA would transfer the shares it held in Gyrus to Olympus through the method of repayment through capital reduction with compensation.

②. The shares in subsidiaries in each country held by Gyrus would be transferred to Olympus subsidiaries in each country.

③. Gains of the sale generated by Gyrus in conjunction with the transfer in item ②, above, would be transferred to Olympus via capital reduction with compensation

B. Olympus concluded an agreement with Axes on March 1, 2008 (Hereinafter, the "Cash Settlement Agreement") enabling either party to request cash settlement of share options for 11.645 dollars per share (approximately 1,200 yen), concurrently with the consideration and implementation of the capital restructuring of Gyrus.

The Cash Settlement Agreement confirmed the number of shares subject to the stock options granted to Axes based on the Revised FA Agreement to be 15,198,034 shares, and the total amount for all share options to be 176,981,106 dollars (approximately 17.7 billion yen).

An internal corporate document valuing the share options at approximately 177 million dollars (approximately 17.7 billion yen) exists, but the amount of the valuation increased due to an error in the method of calculation on this point (while the valuation of the stock options should have been based on the market value of shares in Gyrus, which became a non-public company after the acquisition, it was erroneously based on the acquisition price of 630 pence per share (where a premium had been added to the average market price before the acquisition), which was the acquisition price at the time Gyrus was acquired (approximately 1,500 yen).

There is no record of this Cash Settlement Agreement having been approved by the Board of Directors.

C. At the Board of Directors meeting held on April 25, 2008, the matter noted in item A-① above was approved, the capital reduction with compensation for OUKA was implemented on June 5 of the same year, Gyrus shares were transferred to Olympus, and Gyrus became a wholly owned subsidiary of Olympus.

D. At the Board of Directors meeting held on July 4, 2008, it was reported that the matter noted above in A-① had been implemented, that there were plans to implement item ② on July 31, and that item ③ would be implemented at the end of September, and on January 31, 2009, and these were approved.

E. On August 11, 2008, Olympus exchanged a Letter of Agreement with Axes, agreeing to amend the timeframe for exercise of the Warrant Purchase Rights from "six months" after completion of the acquisition to "nine months" after completion of the acquisition, and Axes also notified Olympus of the assignment of the Warrant Purchase Rights to Axam in this written agreement. Moreover, there is no record of this letter of agreement having been approved by the Board of Directors.

(9) Receipt of the Summary Audit Report from KMPG AZSA LLC the for the fiscal year ending March 2008

On May 8, 2008, the four corporate auditors (Imai, Komatsu, Shimada, and Nakamura) received the "Summary Audit Report for the 140th Term" from KMPG AZSA LLC (officially received on May 15, 2008). This report described the "amount paid for stock acquisition" of 206.3 billion yen and "ancillary expenses" (FA fee) of approximately 19 billion yen as the breakdown of the price for acquiring Gyrus. The breakdown of the "ancillary expenses" noted above includes approximately 1.3 billion yen for the cash portion of the Completion Fee and 17.7 billion yen for the stock option portion. It is clear that the abovementioned "ancillary expenses" (FA fee) exceed the amount approved for the FA fee by the Board of Directors on November 19, 2007 (Five percent of the acquisition price, or approximately 11 billion yen).

(10) Resolutions approved by the Board of Directors regarding the issue of Preferred Shares and the purchase of Warrant Purchase Rights

A. At the Board of Directors meeting held on September 26, 2008, the payment for the stock options out of the Completion Fee based on the Revised FA Agreement with preferred shares issued by Gyrus (Issue face value of 177 million dollars (approximately 17.7 billion yen)) was unanimously approved by all. The four corporate auditors (Imai, Komatsu, Shimada, and Nakamura) attended this Board of Directors meeting and did not express dissent over the resolution.

The content (structure) of the preferred share rights was explained as:

"Face value at issue of 176,981,106 dollars. No voting rights. Not a candidate for dividends of the 160 billion yen income from gains on the sale of shares generated by Gyrus in conjunction with the current restructuring of the Gyrus Group (capital reduction with compensation). However, they will receive dividends on 85% of the income (after tax) generated from the financial assets remaining after the capital reduction."

It also stated in the minutes of the Board of Directors meeting the same day that:

"No voting rights, face value of 176,981,106 dollars, will receive dividends on the 85% of the after-tax income generated from the financial assets remaining after the capital reduction."

And it noted that the issue of preferred shares was premised on the capital reduction for Gyrus.

Note that there was no record of valuation of the stock options by an external expert, and no record of an explanation of the basis for the face value at issue and the dividend rate at the abovementioned Board of Directors meeting.

B. Moreover, a proposal was made to purchase the Warrant Purchase Rights, which were part of the Completion Fee based on the Revised FA Agreement, for 50 million dollars (approximately 5 billion yen) on September 30, 2008 at the abovementioned Board of Directors meeting; this was unanimously approved by all and the four corporate auditors also did not express dissent. There were also no records of valuation of the Warrant Purchase Rights by an outside expert, nor was there any record of explaining the grounds for the acquisition price at the abovementioned Board of Directors meeting.

The explanation given for the buy-back of the Warrant Purchase Rights at the abovementioned Board of Directors meetings was "because the potential for the relisting of Gyrus disappeared with this stage of restructuring the Gyrus Group."

C. Olympus paid 50 million dollars (approximately 5 billion yen) to Axam for the purchase of the Warrant Purchase Rights on September 30, 2008, after the resolution was approved at the Board of Directors meeting noted above.

(11) Conclusion of a Share Subscription Agreement and revision of the same agreement

A. On September 30, 2008, Olympus, Gyrus, and Axam concluded a share subscription agreement for the granting of preferred shares to Axam and the buy-back of Warrant Purchase Rights from Axam following approval at the Board of Directors meeting on September 26, 2008 (Share Subscription Agreement. Hereinafter, "Share Subscription Agreement").

The following content was stipulated for the preferred shares issued by Gyrus in the Share Subscription Agreement.

- No voting rights.
- The right to receive dividends of 85% of the amount remaining after all expenses and the amount for taxes (28% percent) are deducted from the interest income generated from cash and deposits and internal loans for Gyrus.
- May not be transferred to a third party outside of the Olympus Group without the consent of Gyrus.
- As a general rule, they will have no right to receive dividends on the redemption of capital for Gyrus. However, they will possess the preferential right to receive payment of preferred dividends (including the mid-term calculations up to the redemption date) and amounts paid-in when the net asset

value after redemption is less than 177 million dollars (approximately 17.7 billion yen).

B. Olympus, Gyrus, and Axam concluded a revised agreement for the Share Subscription Agreement on October 3, 2008, which was concluded immediately after the conclusion of the Share Subscription Agreement mentioned above.

This revised agreement stipulated that Gyrus could not engage in the following acts without prior written consent from Axam.

- Make major changes to the content and scope of the business engaged in at the time of the share subscription
- Conclude, revise, or cancel agreements under conditions other than the normal transaction conditions.
- Disposition of assets owned by Gyrus, or granting of option rights or preferred purchase rights on assets owned by Gyrus under conditions other than the normal transaction conditions for the business engaged in at the time of the share subscription.
- Engage in new transactions or revise transactions with Gyrus, the Olympus Group, or officers of the Olympus Group, etc.

The granting of this veto right was not explained at the Board of Directors meetings and, consequently, was not approved.

(12) Board of Directors approval for the buy-back of Preferred Shares (the first time)

At the Board of Directors meeting held on November 28, 2008, a proposal regarding the purchase of preferred shares for between 530 million dollars (approximately 53 billion yen) to 590 million dollars (approximately 59 billion dollars) for the following reasons was presented by Mori, and unanimously approved by all (Hereinafter, the “Initial Purchase Resolution”). The four corporate auditors (Imai, Komatsu, Shimada, and Nakamura) also attended this Board of Directors meeting and did not express dissent to the resolution.

①. Lump sum purchase of all of the preferred shares early on will prevent the future outflow of cash, based on the conditions for dividends on preferred shares.

②. It is difficult to implement financial reforms of the capital structure, etc. of Gyrus and of affiliated companies with liabilities involving Gyrus and will be difficult under conditions where preferred shares are held by shareholders outside of the company, so purchase of the preferred shares will make future restructuring within the group easier.

③. In regard to Olympus’ requests for the buy-back of preferred shares, the current holder (Axam) had made requests for purchase at market price, or approval of assignment to a third party, and we would like to avoid assignment to a third party.

In regard to the grounds for the purchase price, the explanation was given that it had been negotiated based on the valuation calculated from the third party valuation documents (two documents: one from a domestic securities firm, and the other of unknown authorship). Note that there was no record of the granting of the veto right having been explained as a reason for purchase or other circumstance at this Board of Directors meeting.

(13) Problems pointed out by KMPG AZSA LLC

A. In December of 2008, KMPG AZSA LLC, the accounting firm for Olympus, expressed concern to the Olympus Board of Corporate Auditors over whether the FA fee for the acquisition of Gyrus might not be too high.

KMPG AZSA LLC subsequently discussed this with the Board of Corporate Auditors or the corporate auditors a total of five times before the notification in item B, below, was sent by KMPG AZSA LLC on April 23, 2009 (Hereinafter, the "Communication Letter"). The indication by KMPG AZSA LLC was that the accounting firm would perform the audit of accounts, but that operational audits, such as for the appropriateness of the compensation amount, etc. was the duty of the corporate auditors so that they would like for the corporate auditors to conduct an audit on whether the directors had made the business judgment based on economic rationality.

Note that during that time, the Board of Corporate Auditors interviewed people responsible for the accounting twice and interviewed Mori about the FA fee for the acquisition of Gyrus and confirmed the facts of the findings by KMPG AZSA LLC. In the interviews of the Accounting Division it was reported that KMPG AZSA LLC stated to the Accounting Division that they thought the FA fee for the acquisition of Gyrus to be too high and lacking in reasonableness.

B. On April 23, 2009, KMPG AZSA LLC presented the Communication Letter to the Board of Corporate Auditors describing the following two points on which they had specific concerns about the FA fee for the acquisition of Gyrus, as a report concerning matters they thought important regarding the performance of duties by the corporate auditors.

①. Whether there was sufficient consideration within the company about paying such a high fee; in other words, whether there weren't problems with the process of examination, including whether or not checks were performed by an outside expert regarding the process of examining the fact that the fee rate was abnormally high compared to general rates, or the fact that the amount of the fee ultimately increased substantially despite the initial resolution at the Board of Directors meeting held on November 19, 2007 approving 5% of the acquisition price and Warrant Purchase Rights.

②. Whether there was sufficient internal examination of the appropriateness of the payment destination; in other words, whether there weren't problems with the process of examination regarding the process of selection which selected Axes as the party to the agreement when it was a small securities firm with a few employees and the practical work was consigned to another company, or regarding the need to comply with the demand to purchase the preferred shares issued by Axam.

C. In response, the Board of Corporate Auditors decided to commission an investigation report from three outside experts (Hereinafter, the "2009 Committee"), including an attorney and certified public accountants, on May 9 of the same year. The investigation was commissioned on the 11th of the same month, and the report from the 2009 Committee (Hereinafter, the "2009 Committee's Report") was submitted on the 17th of the same month. The 2009 Committee's Report first stated reservations that an independent investigation of the facts, documents, etc. submitted by Olympus was not conducted, that no verification of the facts, etc. had been performed, and that the timeframe for the investigation and the documents, etc. subject to the investigation were limited in scope as the premise for the report, then stated the opinion that the circumstances could not be deemed to warrant a judgment to the extent that there had been violations of the duty of due care of a prudent manager on the part of the directors in regard to actions taken in the acquisition of Gyrus, from the conclusion of the FA Agreement to the substitution of preferred shares for the stock options and the buy-back of the Warrant Purchase Rights. However, the committee held that it could not make an immediate judgment on the valuation of the preferred share price at present since the buy-back of the preferred shares, including whether or not there would be a capital reduction, was still being negotiated with Axam. In regard to the buy-back of the preferred shares at a high price, it was not stated that there was no violation of the duty of due care of a prudent manager on the part of the directors.

   After receiving the 2009 Committee's Report, the Board of Corporate Auditors held deliberations based on this report and submitted a document entitled "Regarding the Report" (Hereinafter, the "Board of Corporate Auditors Report") as the opinion of the Board of Corporate Auditors, detailing the conclusion that "no fraudulent or illegal acts were found in the transactions themselves, and no violation of the duty of due care of a prudent manager or procedural flaw were found on the part of the directors."

D. After the Board of Corporate Auditors submitted the Board of Auditor's Report, an explanation of the 2009 Committee's Report was given at a meeting requested by KMPG AZSA LLC for Imai, KMPG AZSA LLC, and two of the members of the 2009 Committee on May 18, 2009. At that time, KMPG AZSA LLC pointed out to the two members of the 2009 Committee that they shared the recognition that the FA fee for the acquisition of Gyrus was high, and that having a preferred share price higher than 18 billion yen had not been given as a premise in the 2009 Committee's Report, and asked if they might wish to revise the 2009 Committee's Report.

The members of the 2009 Committee stated that the 2009 Committee's Report was produced based on information received up to May 17, 2009 so they would not revise the 2009 Committee's Report. In the face of this, KMPG AZSA LLC requested of Imai that the Board of Corporate Auditors consider whether or not they deemed it necessary to revise the abovementioned Board of Corporate Auditors' Report. In response, Imai reported the results of the meeting noted above to the Board of Corporate Auditors on May 19th of the same year, but the Board of Corporate Auditors did not conduct any additional investigation of note.

E. On May 20, 2009, KMPG AZSA LLC issued to the Board of Corporate Auditors an unqualified clean opinion on both Olympus' non-consolidated and consolidated results of the audit for the fiscal year ending March 2009.

F. On May 21, 2009, Kikukawa told KMPG AZSA LLC that they would be retaining Ernst & Young ShinNihon LLC from the fiscal year ending March 2010 onward and would not be re-appointing KMPG AZSA LLC as the accounting auditor.

G. The financial statements for fiscal year ending March 2009 were approved at the Board of Directors meeting held on May 25, 2009. At that time, Mori and Imai reported that they had encountered a difference of opinion with KMPG AZSA LLC regarding the acquisition price for the Three Domestic Companies and the FA fee for the acquisition of Gyrus, and that the Board of Corporate Auditors had consequently sought an opinion from outside experts, and explained the course of events leading up to the formation of the opinion by the outside experts, etc., as well as the fact that they had stated the opinion that the directors were not found to have violated the duty of due care of a prudent manager. However, their explanation did not extend to the fact that the outside experts had not stated an opinion regarding the buy-back of the preferred shares.

(14) Withdrawal of the resolution to approve the buy-back of Preferred Shares

A. On June 1, 2009, KMPG AZSA LLC conveyed the problematic points should the purchase of the preferred shares be implemented to the Board of Corporate Auditors and to Hironobu Kawamata (Hereinafter, "Kawamata"). Specifically, they stated that the FA fee for the acquisition of Gyrus was high and they felt that there might be a problem with this not being socially acceptable, and that KPMG in the UK (London) was applying the IFRS accounting standards and this would give rise to problems with account settlement for the buy-back of the preferred shares, and that there was a possibility that both Ernst & Young and ShinNihon LLC, who were planning to take over might not approve of taking on the audit with such problems existing, among other things.

Considering the points noted above, KMPG AZSA LLC declared an unqualified clean opinion to the Board of Corporate Auditors on May 20 of the same year, but by June 10 of the same year, stated that they could not submit an official auditor's report unless institutional decisions regarding items ① and ②, below, were made at the Board of Directors meeting or the Management Implementation Committee meeting.

①. Wipe the slate clean on the previous resolution by the Board of Directors to buy back the preferred shares for approximately 60 billion yen.

②. Also consider negotiations on the capital reduction of Gyrus which was viewed at around 80 billion yen, continuation of the suspension of dividend payments, lowering the conditions for dividends, etc.

B. On June 5, 2009, Mori proposed cancelling the initial resolution on buy-back at the Board of Directors meeting, and the cancellation was unanimously approved by all (Hereinafter, the "Resolution to cancel"). The four corporate auditors also attended this Board of Directors meeting (Imai, Komatsu, Shimada, and Nakamura), but they did not explain the findings from KMPG AZSA LLC. The minutes of the Board of Directors meetings and the documentation distributed explain that the negotiations with the purchaser over the amount did not end in an agreement as the reason for the cancellation of the initial resolution to purchase, but the actual reason is surmised to be the exchanges with KMPG AZSA LLC on June 1, 2009.

Note that it was confirmed that negotiations on the buy-back would continue, and the purchase amount would be made close to the book value of the preferred shares (177 million dollars (approximately 17.7 billion yen)), so the contents of the agreement (redemption period, dividend rate, etc.) would be revised, adjustments made and negotiations conducted based on consideration of a capital reduction for Gyrus and revision of the portfolio, etc.

(15) Considering of posting goodwill for the buy-back of the Preferred Shares

A. The transfer of the audit duties for Olympus took place between KMPG AZSA LLC and Ernst & Young ShinNihon LLC on June 11, 2009, and Ernst & Young ShinNihon LLC was appointed as the official audit firm at the regular general meeting of shareholders for Olympus held in June 2009.

Ernst & Young ShinNihon LLC obtained the Summary Audit Report for the

141st Term (fiscal year ended March 2009), dated May 20, 2009, from Olympus, and felt that FA fee of "177 million dollars (17.7 billion yen) for the acquisition of Gyrus posted as long-term borrowings on the consolidated statements seemed odd, unless the amount booked were higher, but if the conclusion had been drawn that the circumstances had not been found sufficient to make the assessment that the directors of Olympus did not exercise caution or that the decision by the directors was remarkably unreasonable, given the course of events leading up to the issue of preferred shares in the 2009 Committee's Report, the resolution was made on November 28, 2008 to buy back the shares within the range of "530 million dollars (approximately 53 billion yen) to 590 million dollars (approximately 59 billion yen)." However, the resolution to buy back the preferred shares had been subsequently cancelled so there was no discussion between Olympus and Ernst & Young ShinNihon LLC regarding the accounting treatment of the FA fee for the acquisition of Gyrus.

B. At the beginning of 2010, Ernst & Young ShinNihon LLC was advised by Yamada and Mori that they were in the process of nailing down the details on the buy-back of the preferred shares, and several discussions were held with the Olympus Accounting Division. Olympus' wish was to take the difference between the book price of 177 million dollars (approximately 17.7 billion yen) and the purchase price when buying back the preferred shares and to post this, not as a one-time loss, but as goodwill and then amortize it over several years. The following two points were the points of debate regarding the accounting treatment in the discussions between the Olympus Accounting Division and Ernst & Young ShinNihon LLC:

- Could the preferred shares posted as long-term liabilities be switched to equity capital at the book value?
- Can the entire amount of the difference between the book value of the preferred shares and the buy-back price be posted as good will?

In regard to the above points of debate, Ernst & Young ShinNihon LLC advised Olympus that the opportunity to switch the preferred shares from long-term liabilities to the equity portion would be on the grounds that dividends had not been paid to Axam, and that Olympus should obtain a supporting legal opinion from an attorney regarding whether or not having paid no dividend would make it possible to convert the preferred shares to ordinary shares under UK law.

In light of this, Mori obtained a memorandum from an attorney on February 19, 2010, the Olympus Management Implementation Committee meeting was subsequently held on March 12, 2010, and he reported the fact that the transfer of the preferred shares from long-term liabilities to the equity portion had been approved at the preparatory investigative meeting of Ernst & Young ShinNihon LLC.

In regard to the timing for the transfer, items ① and ② below were possible according to the opinion of the IFRIC Interpretation Findings from Ernst & Young produced in 2009, but handling this via item ② would no longer be possible from the accounting period (fiscal year ending March 2012) beginning on or after July 2010, so it was ultimately handled according to item ①.

①. Gauge the market value of the liability at the time of reclassification, book the loss or profit, and transfer it to capital at the revalued amount.

②. Transfer at the amount of the book value of the liability at the time of reclassification without revaluation.

The majority opinion of the investigation meeting was that it should be revalued at the market price, but should the use of item ② be asserted in documents from the company up to July 2010, the position of Ernst & Young ShinNihon LLC at that time was that assertion of that use could not be rejected. Wanting to use item ②, Olympus swiftly implemented the buy-back of the preferred shares.

In regard to the abovementioned points of debate, Ernst & Young ShinNihon LLC had considered that the buy-back of the preferred shares was a separate issue apart from the FA fee for the acquisition of Gyrus. When Ernst & Young ShinNihon LLC was retained as the audit firm, the preferred shares had already actually been issued, and the price of the preferred shares was also assumed to be quite high, judging from the nature of the preferred dividends.

For that reason, the issue between Olympus and Ernst & Young ShinNihon LLC in terms of the relationship to the buy-back price for the preferred shares was that the size of the amount itself was not considered a problem, but rather whether or not the difference between the book value and the buy-back price could be entirely booked as goodwill.

(16) Second approval of the Preferred Share buy-back by the Board of Directors

Mori offered the following explanation as a report on the current status of the negotiations on the preferred share buy-back at the Board of Directors meeting held on February 26, 2010.

- Axam will not consent to the request from Olympus for a capital reduction for Gyrus.
- Preferred share dividends have been halted due to Axam's disapproval of the capital reduction for Gyrus (Unpaid dividends as of December 2009 were 27 million dollars (approximately 2.7 billion yen)).

- The accounting treatment in the case the preferred shares are purchased is being coordinated with the accounting firm, Ernst & Young ShinNihon LLC.

After which, the following three points were proposed as measures for the future directed at the buy-back of the preferred shares: ① negotiate with Axam on revising the conditions for the preferred shares, whether the amount of the preferred rights to dividends could be reduced in return for granting voting rights equivalent to the veto right Axam owns, ② conclude negotiations quickly and eliminate the state of breach of contract due to the current suspension of dividend payments and simultaneously switch the preferred shares from long-term liabilities to a minority equity stake, and ③ if possible, buy back the preferred shares by the end of March 2010.

The deliberations by the Board of Directors based on the explanation above by Mori then resulted in the unanimous approval of the buy-back by March 2010 with a maximum limit set at the sum of the amount of the share valuation for Axam's preferred shares plus the amount of the unpaid dividends as the conditions for negotiation. The four corporate auditors (Imai, Komatsu, Shimada, and Nakamura) also attended this Board of Directors meeting and did not express dissent over the resolution.

Note that the conditions (nature of the rights) on the preferred shares were described as "the veto right in regard to changes to important assets and capital structure" in the documentation distributed at this Board of Directors meeting, but a description of the provisions for the veto right in question was not contained in the abovementioned documentation distributed at the previous Board of Directors meeting (The earliest documentation also contained the vague description that "the buy-back would make it easier to carry out restructuring within the group in the future since it would be difficult to implement financial reforms such as the capital restructuring of GGL and affiliates (OCA, OKG, and others) with liabilities from GGL under circumstances where external shareholders held the GGL (Gyrus) dividend preferred shares."). Moreover, there was no record of the veto right itself being seen as a problem at the previous Board of Directors meeting.

(17) Approval by the Board of Directors of the buy-back of the Preferred Shares for 620 Million Dollars

At the Board of Directors meeting held on March 19, 2010, Mori proposed the buy-back of the preferred shares by Olympus Finance UK Ltd. (Hereinafter, "OFUK"), a UK financial subsidiary of Olympus, from Axam for 620 million dollars (approximately 62 billion yen), and it was unanimously approved by everyone. Three of the corporate auditors (Komatsu, Shimada, and Nakamura) attended this Board of Directors meeting and did not express dissent. Note that while Imai was absent from this Board of Directors meeting, he had received an explanation of this proposal from Mori the day prior to the Board of Directors meeting and had approved the content of the proposal.

In regard to the grounds for the buy-back price, it was explained as the median price between the 724 million dollars (approximately 72.4 billion yen) asserted by Axam and the 519 million dollars (approximately 51.9 billion yen) asserted by Olympus and that it was equivalent to 50% of the market value of the consolidated net assets of Gyrus plus a control premium of around 30%.

- Axam's Assertion
  - ①. The market value of Gyrus' assets (corporate value) as of December 31, 2009 was as follows:

    944,995,701 dollars (approximately 94.5 billion yen. The book value of the net assets of 907,298,148 dollars (approximately 90.7 billion yen) + a valuation gain of 37,697,553 dollars (approximately 3.8 billion yen))
  - ②. The assets of Gyrus were mainly cash deposits and loan claims, so the future profits from those would basically equal the cash flow generated from the loan claims, etc. Corporate value is defined as the current value of future income, and the rights owned by preferred shares mean receiving dividends of 85% of the future income so preferred shareholders have the right to demand 85% of the corporate value of Gyrus. That needs to be adjusted, however, because the dividends received by the preferred shares are after taxes (of 28%).

    944,955,701 dollars (approximately 94.5 billion yen) x (100% - 28%) x 85% = 578,337,369 dollars (approximately 57.8 billion yen).
  - ③. Preferred shares do not have voting rights so a non-voting right discount is needed. The National Tax Agency guideline for the non-voting right discount is 5%. Generally speaking, however, preferred shares command a premium over ordinary shares for the precedence in claims on assets, and assuming this premium is 5%, this is offset with the non-voting right discount.
  - ④. Considering the fact that preferred shareholders possess veto right on important matters concerning company management and that they possess the right to demand 85% of the corporate value, a control premium should be added when selling and buying preferred shares. The control premium in M&A is 20 ~ 40%, and a premium of a minimum of is assumed.

578,337,360 dollars (approximately 57.8 billion yen) x 120% = 694,004,832 dollars = 694 million dollars (approximately 69.4 billion yen)

⑤. The dividends for preferred shareholders that were unpaid as of March 31, 2010 is also demanded.

30,214,885 dollars (approximately ¥3 billion)

⑥. Given the above, the purchase price demanded is as follows:

694 million dollars (approximately 69.4 billion yen) + 30 million dollars (approximately 3 billion yen) = 724 million dollars (approximately 72.4 billion yen).

Note that this assertion by Axam exceeded the valuation range of around 530 million dollars (approximately 53 billion yen) to 590 million dollars (approximately 59 billion yen) they themselves had suggested in November 2008.

- Olympus' Assertion

①. The market value of Gyrus' assets (corporate value) as of December 31, 2009 was as follows:

944,995,701 dollars (approximately 94.5 billion yen. The book value of the net assets of 907,298,148 dollars (approximately 90.7 billion yen) + a valuation gain of 37,697,553 dollars (approximately 3.8 billion yen))

②. Preferred shareholders have a veto right on important matters concerning company management so they are assumed to have the right to demand 50% of the corporate value, which can veto ordinary resolutions.

944,995,701 dollars (approximately 94.5 billion yen) x 50% = 472,497,850 dollars (approximately 47.2 billion yen)

③. A control premium of 10% in M&A is accepted.

472,497,850 dollars (approximately 47.2 billion yen) x 1.1 = 519,747,635 dollars (approximately 51.9 billion yen)

④. Given the above, the amount asserted is as follows:

519 million dollars (approximately 51.9 billion yen)

As seen here, the existence of the veto right granted to preferred shareholders was an important element in the grounds for calculating the purchase price, but there is no record that the veto right article itself was seen as a problem in this Board of Directors meeting. Moreover, there is no record that the appropriateness of each of the amounts asserted by Axam and Olympus were verified by outside experts.

(18) Execution of the purchase of the Preferred Shares

On March 22, 2010, OFUK concluded an agreement for the purchase of the preferred shares with Axam based on the resolution passed at the previous Board of Directors meeting, and completed the purchase of the preferred shares by paying Axam 620 million dollars (approximately 62 billion yen) on the 25th of the same month, based on this agreement.

Ernst & Young ShinNihon LLC decided that, if the goodwill could be kept within the scope of the difference between the book value of the preferred shares and the valuation of the surgical business segment run by Gyrus according to the discounted cash flow method (DCF method), the booking of the difference as goodwill would be permissible, and since the goodwill was actually within this scope, the difference between the book value and the purchase price was booked as goodwill (To be precise, 41.2 billion yen of the 41.4 billion yen difference between the 57.9 billion yen buyback price and the 16.5 billion yen book value of the preferred shares was booked as goodwill, and the remaining 200 million yen was booked into the currency translation adjustment account).

The 50 million dollars (approximately 5 billion yen) for the purchase of the Warrant Purchase Rights and the 620 million dollars (approximately 6.2 billion yen) that Olympus and OFUK paid to Axam during the course of the above events was mainly used to settle the separated losses.

2. Whether or not there were violations of the Duty of Due Care of a Prudent Manager

(1) Regarding whether or not there were violations of the duty of due care of a prudent manager on the part of the corporate auditors in regard to the resolution concerning conclusion of an agreement with an FA at the Board of Directors meeting held on November 19, 2007

A. Whether or not there were violations of the Duty of Due Care of a Prudent Manager on the part of the Directors

Directors bear the responsibility to monitor the performance of duties by other directors through the Board of Directors (Article 362, Paragraph 2, Clause 2 of the Companies Act). Therefore, it constitutes a violation of the duty of due care of a prudent manager as a director when directors other than the Participants and People Who Knew agreed (tacitly agreed) or left the matter unattended without taking steps to stop an illegal act by a director who is a Participant or a Person Who Knew, notwithstanding that they knew or could have known of the illegal act.

The true intentions of the directors who were Participants or People Who Knew in regard to this proposal which was presented to the Board of Directors were not made known to the directors who were not Participants or People Who Knew. The directors other than the Participants and People Who Knew were required to make the decision purely as a business judgment of Olympus, and if they were careless errors in the recognition of facts that formed the premise of that judgment or were remarkably unreasonable in the process of inference based on those facts, the directors in question would be judged to have violated the duty of due care of a prudent manager.

The Director Liability Investigation Committee's Report (pages 93–97) maintains that as a result of examining whether or not there was breach of the discretion allowed in business judgment revealed no remarkable unreasonableness in the content and the process of the decision making by the directors who were not Participants or People Who Knew, and denies any violation of the duty of due care of a prudent manager in regard to the resolution on concluding the agreement with a FA at the Board of Directors meeting on November 19, 2007. The content of that is as follows:

(a) Regarding the Gathering and Analysis of Information

a. Regarding the Reasons (Necessity) for Granting Stock Options and Warrant Purchase Rights

There is no record of an explanation or confirmation of the need to grant stock options and Warrant Purchase Rights as compensation based on the agreement with the FA in regard to the resolution by the Board of Directors at the meeting held on November 19, 2007, but we cannot state that it was unreasonable for the directors who were not in charge and did not necessarily have expert knowledge concerning M&A to have thought that there are some instances in M&A where stock options and Warrant Purchase Rights are granted as part of the compensation for the FA.

b. Regarding the Grounds for the Amount of Compensation (Evidence Supporting the Appropriateness)

Since the amount of the FA fee changes depending on the services consigned to the FA, unless the amount could be called obviously high at a glance, this cannot immediately be deemed a violation of the duty of due care of a good manager even if they had trusted that the amount had resulted from negotiations with the FA and no particular investigation was performed. It is also hard to say that the directors other than the Participants and People Who Knew, who couldn't be considered well-versed in the practical aspects of M&A, were capable of recognizing at a glance that the fee of 5% was high. Moreover, while some could have the opinion that they should have secured competing quotes for the selection of a FA in an effort to secure a lower amount of compensation, there is the need to keep in mind there are more than a few cases where competing quotes were not obtained for comparison and consideration for such reasons as maintaining the confidentiality of the M&A transaction.

On the other hand, it is also true that, given the fact that the Warrant Purchase Rights were granted in addition to the 5% of the acquisition price, so that unless the value of the Warrant Purchase Rights were known,the full amount of the FA fee would not be clear, and that this could results in an excessive FA fee being awarded.

According to the documentation distributed at the Board of Directors meeting on November 19, 2007, however, the main topic at this Board of Directors meeting was the Gyrus acquisition for a total acquisition price that amounted to 215 billion yen, and the attendant establishment of a subsidiary for the acquisition, and the procurement of funds for the acquisition; the conclusion of an operating agreement with the FA seems to have been an ancillary topic.

The same documentation also described the warrants as "conferring the right to purchase rights (warrants) enabling the purchase of up to 20% of the shares in the subsidiary established for the acquisition."

It would seem to be inevitable that the directors other than the Participants and People Who Knew who looked at that description would have understood that to mean that this was nothing more than granting to the FA the "right to purchase" warrants, and that the FA would have to pay a considerable compensation at the time of the actual "purchase." At the same time, it would not have been unnatural to think that that compensation was in addition to the 5% handling charge on the acquisition price and that it was not large in comparison to the 5% handling on the acquisition price.

Furthermore, since there was not even a clue that the other directors should have been aware of the fraudulent intent of the Participants and People Who Knew to use the stock options and Warrant Purchase Rights to settle the separated losses, it would be hard to criticize them for having trusted that the FA fee was not excessive and was reasonable and that the conditions for the Warrant Purchase Rights, which were understood to be ancillary as noted above, as they were negotiated by the director in charge.

c. Conditions at the Time

In addition, the review materials for the Board of Directors meeting was distributed on the day of the meeting, and the volume was such that reading through the details within such a short time period would have been difficult, and while an incidental circumstance, when considered together that they were being pressed to make a time-sensitive decision under the premise or circumstances where timely disclosure was scheduled for the London Stock Exchange and the Tokyo Stock Exchange on the evening of November 19, 2011, the day on which the Board of Directors meeting about the acquisition of Gyrus was held, one finds some hesitance in passing the judgment that there were remarkably careless errors in the process of recognizing facts in the directors other than the Participants and People Who Knew deciding to entrust the subsequent negotiation of the operating agreement with the FA to the director in charge and division in charge and to leave the final decision to the president without collecting more detailed information.

(b) Regarding the Process of inference and the Content of the Decision Based on the Recognition of Facts

If the recognition of facts by the directors other than the Participants and People Who Knew was as noted above, with regard to the judgment based on that, it is difficult to make the statement that their judgment to approve the conclusion of the FA Agreement by entrusting the detailed conditions for the amount noted above up to the President was remarkably unreasonable.

B. Whether or not there were violations of the Duty of Due Care of a Prudent Manager on the part of the corporate auditors

Corporate auditors bear the duty to monitor the performance of duties by directors so in the case a director violates the duty of due care of a prudent manager, the issue becomes whether or not overlooking this constitutes a violation of the duty of due care of a prudent manager on the part of the corporate auditors. As stated above, however, as long as there are no special circumstances that would have enabled them to become aware of a violation of the duty of due care of a prudent manager by a director in the process of performing the audits generally required of corporate auditors, this would not be regarded as a neglect of duty on the part of the corporate auditors even if they were unable to discover the violation of the duty of due care of a prudent manager by a director.

The corporate auditors also bear the duty to audit whether or not a violation of the duty of due care of a prudent manager has been committed in business judgments by directors for proposals presented to the Board of Directors, however, in cases where no violation of the duty of due care of a prudent manager was committed by a director for a business judgment, liability would not arise for corporate auditors as long as special circumstances do not exist.

According to the facts found by the abovementioned investigation by This Committee, no special circumstances were found that would have allowed the corporate auditors to become aware of the purpose of Yamada and Mori in using the payment of the FA fee for the acquisition of Gyrus to settle the separated losses.

Also, regarding other judgments by the directors, there were no circumstances that would allow the assessment that there were careless error in the process of recognition of facts, the process of inference for the judgment based on those facts, and the unreasonableness of its content.

Therefore, the four corporate auditors (Imai, Komatsu, Shimada, and Nakamura) did not violate the duty of due care of a prudent manager in regard to auditing the performance of duties by the directors in the resolution to conclude the agreement with the FA passed at the Board of Directors meeting on November 19, 2007.

(2) Regarding whether or not there were violations of the duty of due care of a prudent manager on the part of the corporate auditors in regard to the facts that became known from the Summary Audit Report for the Fiscal Year ending March 2008:

When corporate auditors become aware of facts that cause suspicion of a violation of the duty of due care of a prudent manager by a director, they have the duty to discharge their auditing duties as corporate auditors to report the facts in question to the Board of Directors, or confirming the facts by seeking an explanation from the director in charge, and calling for an injunction or taking other steps if an unlawful act were found.

The corporate auditors received the "Summary Audit Report on the 140th Term" from KMPG AZSA LLC on May 8, 2008 (officially submitted on May 15, 2008). The report notes that approximately 206.3 billion yen was booked as the "amount paid for share acquisition and approximately 19 billion yen as "ancillary expenses" (FA fee) as the breakdown of the acquisition price for Gyrus, but it was clear that the "ancillary expenses" (FA fee) noted above exceeded the amount for the FA fee approved at the Board of Directors meeting on November 19, 2007 (5% of the acquisition price, or around 11 billion yen).

The Board of Directors Decision-Making Standards of Olympus stipulate that proposals must be resubmitted to the Board of Directors when there is a change in amount exceeding 120% of the original resolution for proposals approved by the Board of Directors. No evidence indicating that the revision in the amount was resubmitted to the Board of Directors was found, despite the fact that the "ancillary expenses" clearly exceeded 120% of the 5% of the acquisition price, which was the original decision.

Since the corporate auditors were made aware of the facts that raised the suspicion of a violation of the duty of due care of a prudent manager by directors at the time they received the report via this Report, they consequently had the duty to perform their duties in immediately reporting this to the Board of Directors or in seeking an explanation from the director in charge, etc.

However, since the corporate auditors (Imai, Komatsu, Shimada, and Nakamura) did not exercise their requisite audit authority as corporate auditors, notwithstanding that they came to know the facts above through the Summary Audit Report for the Fiscal Year Ending March 2008, they are in violation of the duty of due care of a prudent manager.

Note that had the corporate auditors demanded an explanation from the director in charge, they would have confirmed that the stock options were 176,981,106 dollars (approximately 17.7 billion yen) in the Mutual Agreement on Cash Settlement dated March 1, 2008. The director in charge might have explained that the "ancillary expenses" were based on this Mutual Agreement on Cash Settlement, but it was clearly unreasonable that the amount of the FA fee had nearly doubled from the 5% of the acquisition price reported at the February 22, 2008 Board of Directors meeting in the short span of one week so the interpretation is made that the situation of the subsequent issue of the preferred shares and the buy-back of these at a high price could have been avoided had the corporate auditors just taken the necessary action.

(3) Regarding whether or not there were violations of the duty of due care of a prudent manager on the part of the corporate auditors in regards to the resolution at the Board of Directors meeting on September 26, 2008 concerning the buy-back of Warrant Purchase Rights and the issuance of Preferred Shares:

A. Whether or not there were violations of the Duty of Due Care of a Prudent Manager on the part of the Directors

According to the Director Liability Investigation Committee's Report (pages 97 ~ 100), a violation of the duty of due care of a prudent manager in light of the so-called business judgment rule was verified for directors other than the Participants and People Who Knew because there was insufficient gathering of information constituting the premise for the resolution in question and insufficient analysis of that information, and the process of inference and content of the decision based on those circumstances was clearly unreasonable. The content of that is as follows:

(a) Regarding the gathering and analysis of information

a. The Need to Acquire the Warrant Purchase Rights and the Need to Issue Preferred Shares in Place of the Stock Options

The documentation for the Board of Directors meeting held on September 26, 2008 explained in regard to the need to acquire the Warrant Purchase Rights and the need to issue preferred shares in place of stock options that it was necessary to make Gyrus a wholly owned subsidiary, including the stock options, from a tax standpoint in the scheme to restructure the Gyrus Group, and the reason (need) for acquiring the Warrant Purchase Rights as well as the reason (need) for issuing preferred shares in place of the stock options were confirmed.

However, the directors other than the Participants and People Who Knew should have recognized that the issue was the granting of stock options and Warrant Purchase Rights for OUKA, not the granting of stock options and Warrant Purchase Rights for Gyrus itself, since the content of the FA Agreement explained at the Board of Directors meeting on November 19, 2007 made it clear that the object of the stock options and Warrant Purchase Rights was the company established for the purpose of acquiring Gyrus (OUKA. The Acquisition Vehicle). Meanwhile, it was reported at the Board of Directors meeting on April 25, 2008 that Gyrus shares had been transferred to Olympus via capital reduction with compensation for OUKA and Gyrus had already become a wholly owned subsidiary of Olympus. There should have been questions raised about the explanation that purchase of the stock options was needed to make Gyrus a wholly owned subsidiary when the company had already been made a wholly owned subsidiary.

Had these points been discussed, it is believed they would have provided clues for revealing the problems with the existence of the Call Option Agreement, the Mutual Agreement on Cash Settlement, and the reasonableness of the Amended FA Agreement.

b. Valuation of the Stock Options, Warrant Purchase Rights, and Preferred Shares

(a) Objective Valuation of Both the Stock Options and the Preferred Shares Issued in their Place

There should have been doubts about the fact that the face value of the preferred shares issued in place of the stock options was set at 177 million dollars (approximately 17.7 billion yen) despite the fact that value of the stock options should have been 8.5 billion yen (= acquisition price of approximately 200 billion yen x 5% x 85%). Moreover, even if the discrepancy in these prices could not have been recognized, verification of the grounds for the pricing and valuation should have been a duty naturally expected of the directors at a minimum, given the issuance of preferred shares with a valuation of as much as 177 million dollars (approximately 17.7 billion yen). Had a valuation by a third-party expert been properly performed, it is highly likely that the valuation would have been lower.

(b) Grounds for Stipulating 50 million dollars (approximately 5 billion yen) as the Price for the Warrant Purchase Rights

The price of the Warrant Purchase Rights was set at as much as 5 billion yen, despite the fact that the Warrant Purchase Rights were granted simply as ancillary compensation to the commission of 5% of the acquisition price (approximately 10 billion yen); so confirming the grounds for this price was a duty naturally expected of the directors, but no such confirmation was performed. Further, the failure to investigate and confirm the price must be called a careless error in the process of recognizing the facts (the gathering of information and its analysis and review), given the fact that the combined value of the stock options and Warrant Purchase Rights of 227 million dollars (approximately 22.7 billion yen) was more than 10% of the acquisition price itself.

(b) Regarding the Process of inference and Content of the Decision Based on the recognition of facts

The directors other than the Participants and People Who Knew who attended the Board of Directors meeting on September 26, 2008 approved the granting of preferred shares that had, or could have, a remarkably high valuation compared to the amount of the initial compensation (approximately 8.5 billion yen) without sufficient verification of the need, and furthermore approved the acquisition of Warrant Purchase Rights for payment of as much as 50 million dollars (approximately 5 billion yen) in cash without performing adequate trial calculations of the value; so both the process of inference and the content of the decision must be judged as remarkably lacking in reasonableness.

B. Violation of the Duty of Due Care of a Prudent Manager on the part of the corporate auditors

Corporate auditors are obligated to attend Board of Directors meetings (Article 383, Paragraph 1 of the Companies Act), and each matter presented to the Board of Directors is naturally subject to audit.

When there has been a violation of the duty of due care of a prudent manager by directors in regard to decisions made at a Board of Directors meeting, corporate auditors have the duty to issue a warning or conduct an investigation of the act in question, and have the duty to exercise their right to seek an injunction against action by directors (Article 385, Paragraph 1) when it could cause the company serious loss or damage. Failure to properly exercise this right when there has been a violation of the duty of due care of a prudent manager by a director constitutes a violation of the duty of due care of a prudent manager by corporate auditors.

According to the facts recognized from the results of the aforementioned investigation by This Committee, the corporate auditors could have known that there were careless errors in the process of inference of the judgment and the process of recognition of facts on which it was based, and the lack of reason in its content in regard to the business judgment by the directors in passing the resolution to buy-back the Warrant Purchase Rights and the issuance of preferred shares at the Board of Directors meeting held on September 26, 2008 since they also had the same awareness of the facts as the directors other than the Participants and People Who Knew. The corporate auditors therefore bore the duty to exercise their audit authority appropriately by confirming the need to issue preferred shares in place of the stock options and acquire Warrant Purchase Rights, seeking valuations of the preferred shares and Warrant Purchase Rights by experts, and demanding an explanation at the Board of Directors regarding the attempt to grant preferred shares having a remarkably high valuation in relation to the initial compensation.

Despite that, not only did the corporate auditors (Imai, Komatsu, Shimada, and Nakamura) fail to express dissent regarding the proposal, they also did not demand any sort of investigation, etc., and this must be called a violation of the duty of due care of a prudent manager.

(4) Regarding whether or not there were violations of the duty of due care of a prudent manager on the part of the corporate auditors in regard to the Board of Directors meeting resolution of March 19, 2010 on the acquisition of Preferred Shares

For the acquisition of the Preferred Shares, the Initial Purchase Resolution was passed on November 28, 2008, and the Resolution to cancel was passed on June 5, 2009 in light of the findings by KMPG AZSA LLC; however, another resolution on the acquisition (Hereinafter, the "Purchase Resolution") was made on March 19, 2010 for 620 million dollars (approximately 62 billion yen), which exceeded the amount of the previous resolution by a substantial amount.

The Initial Purchase Resolution on November 28, 2008 was a resolution to buy back the preferred shares that were granted by the resolution on September 26 of the same year for approximately 177 million dollars (approximately 17.7 billion yen) considered above in item (2) for 530 million dollars (approximately 53 billion yen) or roughly three times that just two months later. While this could constitute a problem with the business judgment made by directors other than the Participants and People Who Knew, the Initial Purchase Resolution on November 28, 2008 was withdrawn by the Resolution to cancel on June 5, 2009, and the subsequent acquisition of preferred shares was executed based on the resolution by the Board of Directors on March 19, 2010 so a direct cause and effect relationship with the Initial Purchase Resolution on November 28, 2008 does not exist. Whether or not there were violations of the duties of corporate auditors in regard to the Initial Purchase Resolution therefore converges with the issue of whether or not there were violations of the duties of corporate auditors at the Board of Directors meeting on March 19, 2010; however, the fact that the Initial Purchase Resolution on November 28, 2008 was remarkably unreasonable is a point that the corporate auditors attending the Board of Directors meeting in question could have known, and constitutes the premise for determining the violation of the duties of an auditor on the part of the corporate auditors at the Board of Directors meeting held on March 19, 2010, which is examined below.

A. Violations of the Duty of Due Care of a Prudent Manager on the part of the Directors

According to the Director Liability Investigation Committee's Report (pages 100 ~ 106), the directors other than the Participants and People Who Knew were judged to have violated the duty of due care of a prudent manager through the insufficient gathering of information and its analysis, forming the premise for the decision, as well as by the remarkable unreasonableness of the process of inference and content of that decision based on the facts in question, in light of the so-called business judgment rule. Its content is as follows:

(A) Regarding the gathering and analysis of information

a. Regarding the reasons (necessity) for purchasing the Preferred Shares

The reasons explained for purchasing the preferred shares at the Board of Directors meetings held on November 28, 2008 and February 26, 2010 were: ① to avoid the outflow of capital, ② to make intra-group restructuring easier, ③ to prevent resale to third parties (the above are from the Board of Directors Meeting Material of November 28, 2008), ④ to implement a capital reduction, ⑤ to resolve the breach of contract due to the non-payment of dividends, and ⑥ posting as goodwill would be possible if the purchase were made during this fiscal year (the above are from the Board of Directors Meeting Material of February 26, 2010). The Purchase Resolution is seen to have been passed based on this explanation.

However, neither of the items ①, ⑤, or ⑥ can be said to be reasonable grounds for purchasing the preferred shares, however. In other words:

In regard to item ①, the outflow of capital through dividends was expected as a matter of course from having issued the preferred shares. If the amount of dividends paid out without a capital reduction is the issue, then all that was needed was to reduce the capital, so this does not constitute a reason.

In regard to item ⑤, paying the dividends would resolve the breach of contract so the state of non-payment of dividends does not constitute a reason (need) for purchasing the preferred shares.

In regard to item ⑥, the benefit of posting goodwill is nothing more than a benefit that influences the decision over the timing of the acquisition when purchasing the preferred shares, and is not a benefit of the acquisition of the preferred shares itself, so the acquisition of preferred shares despite the fact that no other need to acquire the shares exists cannot be deemed a reasonable reason.

In regard to item ③, above, the resale to third parties was prohibited by the Share Subscription Agreement in the first place, and this essentially does not constitute a reason to purchase the preferred shares; the directors other than the Participants and People Who Knew probably could not have been expected to go so far as to confirm the Share Subscription Agreement itself.

Moreover, the reasons in items ② through ④ must be understood to be grounded in the fact that Axam held preferred shares to which the veto right had been granted regarding the capital reduction for Gyrus; but in acquiring a corporation, granting the veto right on important matters involving the corporation to be acquired as the FA fee was clearly unreasonable at a glance. Furthermore, regardless of the fact that a resolution to issue preferred shares to Axam had been passed on the premise of implementing a capital reduction for Gyrus at the Board of Directors meeting held on September 26, 2008, if Axam had been granted the veto right on this capital reduction, then the directors should have had reservations on this point.

In addition, the explanation given for the acquisition price for the preferred shares was that Axam's veto right meant that it held 50% of the corporate value, but the explanation itself is not reasonable, and it is also unreasonable to take this explanation as a given.

Thus the fact that the FA has the veto right and its explanation were both extremely unreasonable, and even directors other than the director in charge should have confirmed whether or not the measure in question was reasonable.

b. Confirmation of the Appropriateness of the Price

(a) Regarding the Reasons for the Large Divergence from the Issue Price

The preferred shares were issued at an issue price of 177 million dollars (approximately 17.7 billion yen), based on the resolution at the Board of Directors meeting held on September 26, 2008.

Despite this, a proposal to "buy back" the preferred shares at an amount (530 million dollars to 590 million dollars: Approximately 53 billion yen to 59 billion yen, which was actually 30% of the Gyrus acquisition price of approximately 200 billion yen) that was more than three times the issue price of the preferred shares in question was made at the Board of Directors meeting held on November 28, 2008, just two months later, and it was approved without particular issue taken by the directors present. Furthermore, the abovementioned purchase proposal was withdrawn on June 5, 2009 and a resolution passed to negotiate for a buy-back for around 177 million dollars (17.7 billion yen) was passed.

The Purchase Resolution was made in an attempt to purchase the preferred shares at a price that was more than 3.5 times the issue price for the preferred shares, and it is clear that the directors from the time the preferred shares were issued who could have known of such an abnormal course of events regarding a transaction for the extremely large sum of 620 million dollars (approximately 62 billion yen) (directors appointed before June 2008) naturally should have confirmed why such an abnormal course of events had occurred and it is clear they needed to confirm the reason (need) for purchasing the preferred shares to the extent of paying a price that differed so much from the issue price (book value).

(b) Regarding the Reasons for the Divergence from the Third-party Valuation

The acquisition price of the preferred shares proposed at the Board of Directors meeting on March 19, 2010 (620 million dollars, approximately 62 billion yen) greatly exceeded the three valuations distributed at the Board of Directors meeting held on November 28, 2008; i.e., both the third-party valuation requested by Olympus (Shinko Securities Co., Ltd.: 557 million dollars, approximately 55.7 billion yen) and the two valuations presented by the Axam side (522 million dollars (approximately 52.2 billion yen) to 536 million dollars (approximately 53.6 billion yen) and 592 million dollars (approximately 59.2 billion yen). However, the authors are unknown). Moreover, the grounds and the logic for both valuations given in the documentation for the Board of Directors meeting held on March 19, 2010 was that the existence of the veto right was an important factor; this differed completely from the method of calculation used in the valuation documentation for the Board of Directors meeting held on November 28, 2008. In particular, Axam asserted a different logic from the valuation they themselves had previously presented, and suggested an amount (724 million dollars, approximately 72.4 billion yen) that exceeded the amount in these valuation documents by 100 million dollars (approximately 10 billion Yen). Therefore, it must be stated that the directors should have investigated the logic of Axam's assertion and the appropriateness of the amount by verification through an outside expert, or other means.

On the other hand, directors who were not aware of the existence of the previous valuation documents should also naturally have confirmed whether or not the assertion from the Axam side was a generally appropriate assertion, since the proposal to the Board of Directors meeting was to attempt a purchase for a "median" price between the assertion by Axam and the assertion by Olympus. In this incident in particular, the difference between the amount asserted by Olympus (519 million dollars, approximately 51.9 billion yen) and the median price (purchase price) between the two exceeded 100 million dollars (approximately 10 billion yen), so simplistically agreeing to the "median" price should never have been allowed, unless the assertion by the AXAM side was found to have been reasonable.

Therefore, in any case, given that a transaction that involved an extremely large amount of 620 million dollars (approximately 62 billion yen) would be undertaken, unthinkingly agreeing to the purchase of the preferred shares without confirming that the assertion of Axam was reasonable must be deemed a careless error in the process of recognizing the facts (the the gathering of information and its analysis and review) on the part of the directors.

c. Regarding the Existence of an Opinion by Attorneys

Incidentally, the possibility cannot be denied that the directors other than the Participants and the People Who Knew believed the judgment of the 2009 Committee's Report that no violation of the duty of due care of a prudent manager existed, including for the acquisition of the preferred shares approved at the Board of Directors meeting held on November 28, 2008.

However, the appropriateness of the purchase price is essentially an item for which the directors should provide a judgment and given the fact of the abnormal course of events noted above and the fact that the purchase price itself was extremely high, the directors should naturally have confirmed with what sort of premise and on what grounds the 2009 Committee's Report made the judgment that there was no violation of the duty of due care of a prudent manager. Since the discrepancy from the third-party valuation is a factor that even a director possessing no legal expertise and no experience in dealing with corporate acquisitions could have been expected to point out, the existence of a legal opinion by attorneys that may have led to a misunderstanding, does not constitute grounds for denying liability.

(b) Regarding the process of inference and Content of the Decision Based on the recognition of facts

The directors who attended the Board of Directors meeting on March 19, 2010 not only made careless errors in the gathering of information and in the process of inference, they also approved the purchase of the preferred shares for an amount that differed substantially from the issue price and would have a serious impact on the financial status of Olympus (620 million dollars, approximately 62 billion yen) without sufficiently verifying the need to acquire those shares. Thus both the process and content of the decision must be deemed remarkably lacking in reasonableness.

B. Violations of the Duty of Due Care of a Prudent Manager on the part of the corporate auditors

Corporate auditors are obligated to attend Board of Directors meetings (Article 383, Paragraph 1 of the Companies Act), and all matters presented to the Board of Directors are naturally subject to audit.

Corporate auditors have the duty to issue a warning or investigate the act in question when there is a violation of the duty of due care of a prudent manager in regard to decisions made by directors, and have the duty to exercise their right to seek an injunction against the act by the directors (Article 385, Paragraph 1) when the danger of serious loss or damage to the company exists. Failing to exercise this authority appropriately when there has been a violation of the duty of due care of a prudent manager by a director constitutes a violation of the duty of due care of a prudent manager by the corporate auditors.

According to the facts that were found by the above-noted investigation by This Committee, the four corporate auditors can be deemed to have been aware of the same facts as the directors other than the Participants and People Who Knew were aware. Imai was absent from the Board of Directors meeting held on March 19, 2010, but received an explanation of the content of the resolution to purchase the preferred shares from Mori in advance, the day prior to the Board of Directors meeting, so he was aware of the facts known to the directors, just as the other three corporate auditors were.

Moreover, since the four corporate auditors had received detailed indications from KMPG AZSA LLC regarding their concerns over the unduly excessive FA fee for the Gyrus acquisition from December 2008 through June 2009, they had a greater awareness of the particular issues than the directors who were not Participants or People Who Knew, and were aware of, or at the very least could have become aware of, the fact that the 2009 Committee's Report did not make a judgment on the valuation of the preferred share price and did not hold that there was no violation of the duty of due care of a prudent manager by directors regarding the buy-back of the preferred shares at a high price.

Therefore, the four corporate auditors could have known that the business judgment by the directors had points that were remarkably unreasonable in terms of the process of inference of the judgment and its content, as well as the process of recognition of the facts on which it was based.

Despite this, the four corporate auditors did not even demand a review of the need to purchase the preferred shares, or a verification of the appropriateness of the price that differed substantially from the issue price, and was deemed to have an extremely large impact on the financial foundation of Olympus.

In regard to the purchase of preferred shares in this incident, moreover, despite the peculiar course of events of the Initial Purchase Resolution to acquire the shares for between 530 million dollars (approximately 53 billion yen) and 590 million dollars (approximately 59 billion yen) on November 28, 2008; on receiving the indication from KMPG AZSA LLC detailing concerns over the unduly excessive FA fee for the Gyrus acquisition on June 1, 2009 following the submission of the 2009 Committee's Report; the Resolution to cancel was passed on June 5, 2009 that retracted the resolution in question, a measure had been presented to purchase the shares for 620 million dollars (approximately 62 billion yen), an amount greatly exceeding the amount of the previous resolution, so this was a measure that should have been meticulously audited by the corporate auditors in regard to whether the concerns found by KMPG AZSA LLC had been resolved.

Despite that, the three corporate auditors (Komatsu, Shimada, and Nakamura) unthinkingly allowed the resolution to be approved at the Board of Directors meeting without harboring any doubts about the explanation by the presenters, without demanding any sort of explanation or investigation, without even expressing any dissent, and without exercising their audit authority, such as seeking an injunction against unlawful acts by the directors as necessary.

Moreover, Imai, who was absent from the Board of Directors meeting, had received an explanation of the resolution from Mori the day prior to the Board of Directors meeting, and did not point out any of these problems nor exercise his audit authority appropriately, such as seeking an injunction against unlawful acts, despite the fact that he had the same knowledge of the facts as the other corporate auditors.

Therefore, the four corporate auditors (Imai, Komatsu, Shimada, and Nakamura) must be said to have violated the duty of due care of a prudent manager.

VII. Whether or not there were violations of the duty of due care of a prudent manager on the part of the corporate auditors in their response to Woodford's suspicions

1 Facts that serve as the premise in determining liability

(1) Woodford took office as an executive officer of Olympus in June 2008, became president and executive officer in April 2011 and in June 2011 became representative director and executive officer and COO. On July 31, 2011, however, Woodford obtained from a friend a translated article from the August edition of FACTA (published July 20) entitled "Olympus's 'Reckless M&A' Mystery of Enormous Losses" and based on this, became suspicious of the acquisition price for the Three Domestic Companies and the FA fee relating to the Gyrus acquisition.

Woodford decided as representative director that he needed to get a full explanation, including the sequence of events involved, so he asked Kikukawa and Mori about the true state of affairs relating to the FACTA article, but he did not receive the answers he had hoped for. Thereafter, on September 20, the October issue of FACTA was published with the title, "Olympus's 'Tail' is the J Bridge – Investigative Report Exposing the Darkness of Enormously Costly M&A, Part 2." After Woodford found out about this, he put questions to Mori and Kikukawa, asking them to submit documents, regarding the suspicions about M&A deals that were pointed out, making these inquiries from England over the period from September 23 through September 28, and either Mori or Kikukawa would reply by e-mail. In addition, either on his own or through Mori or others, Woodford sent these email exchanges to other officers as CC, while at the same time, he also sent them to Ernst & Young ShinNihon LLC as well as to the offices of Ernst & Young in Europe and the United States.

Woodford came to Japan on September 29 and, after meeting with Kikukawa and Mori, attended the Board of Directors meeting held on September 30.

At this Board of Directors meeting, Kikukawa proposed that ① Woodford be appointed as CEO effective October 1st (and that Kikukawa continue to serve as chairman of the board), ② Woodford be granted authority to make proposals to the Board of Directors concerning human resources changes regarding 1st Level and 2nd Level employees and ③ Kikukawa would not attend Management Implementation Committee Meetings after October 1. These resolutions were passed unanimously.

(2) On October 3, Woodford handed the documents received from Mori to Pricewaterhouse-Coopers Legal LLP (hereinafter, "PwC") and asked them to conduct an investigation.

An interim report dated October 11 was received from PwC, that stated: “Based on the review we have implemented thus far, we cannot be certain that inappropriate actions were taken. However, when we take into consideration the total amount of compensation paid and several instances of uncommon decision-making that have occurred up to this point, at this stage, we cannot exclude the possibility that inappropriate actions were taken.” “The important thing for Olympus is to conduct a full investigation and take appropriate steps to understand the Gyrus acquisition and the agreements made between Olympus and AXES/AXAM and so on—for example, whether there were wide scale breaches of regulations such as money laundering, and if so, what sorts of actions and corrective steps should be taken. In addition, when we consider the Bribery Act of 2010, Olympus should consider the potential impact of this law. The reason for this is that although the Gyrus acquisition was made back in 2008, Olympus’s handling of the transactions at issue may raise questions regarding Olympus’s risk management and procedures, and this may lead to investigations by related regulatory offices or the prosecutor’s office.” “In addition, there is also the possibility of inappropriate accounting treatment or financial advice as well as other illegal acts including breach of director fiduciary duty.”

Having received PwC’s interim report, Woodford wrote statements such as the following to Kikukawa in a letter dated October 11: “As is clear from the PwC report on the Gyrus acquisition, there were very many disastrous mistakes and exceedingly inferior judgments, and the acquisition of the Three Domestic Companies resulted in a loss to the shareholders in the shocking amount of 1.3 billion yen. This closely resembles the recent UBS scandal which resulted in enormous losses due to a dishonest trader. In my opinion, the fact that this problem, wherein the company purchased companies such as Gyrus that have substantially no value, was brought about not by lower-level Olympus employees but by the top-level managers makes the situation worse.” “It is clear that the present situation has become indefensible, and in order for the company to proceed in a forward-looking manner it is necessary for the two of you (Kikukawa and Mori) to resign from the Board of Directors. Under this approach, it will be possible to carefully handle present measures and minimize the harm to the reputations of both Olympus and the two of you. If you have no intention of resigning, it will be my duty as representative director to bring my basic concerns regarding the Company's governance to the proper organization." and "I am returning to Japan tomorrow, but since I am going to the Tohoku region, I would like to meet with you and Mr. Mori on [Friday] (October 14] and discuss specific measures for the future." Woodford sent this letter and PwC's interim report by email to all officers including Kikukawa, Ernst & Young ShinNihon LLC as well as to the offices of Ernst & Young in Europe and the United States.

On October 13, after it was communicated to all officers that a meeting of the Board of Directors would be held the next day, Yamada contacted Nakamura by telephone to state that "At tomorrow's meeting of the Board of Directors, Woodford will be removed from the president's position."

(3) An extraordinary meeting of the Board of Directors was held on October 14, with all corporate auditors (Yamada, Imai, Shimada and Nakamura) present.

The agenda included in the notification of the Board of Directors meeting was "Regarding Past Cases of Olympus Acquisitions," but on that day, Chairman Kikukawa introduced four agenda items: "Cancellation of the Company's Agreement (Service Agreement) with Woodford," "Removal of Woodford from the Positions of Representative Director and President and Executive Officer/CEO," "Appointment of Kikukawa to the Positions of Representative Director and President and Executive Officer/CEO" and "Dismissal of Woodford from the Positions of Officer at Subsidiaries and Affiliates." These items were unanimously approved without statements or objections by the directors and corporate auditors in attendance, with the exception of Woodford, who was a party of special interest, and the amount of time required for these matters was less than five minutes.

(4) Woodford returned to England, asked England's Serious Fraud Office (i.e., the investigative office for financial crimes) to investigate the Gyrus case, consulted the investigative agencies of various countries and publicized suspicions regarding the M&A matters to the mass media.

Woodford made various public comments not only about the events relating to his removal as representative director, and garnered much public attention. Gradually, public criticism of Olympus increased, the company's share price dropped sharply and questions and criticism from shareholders and the news media stepped up.

2 Regarding the liability of corporate auditors who were Participants and People Who Knew

(1) Together with Kikukawa, Mori and Nakatsuka, Yamada knew about the loss deferral at issue.

One of the duties of due care of a prudent manager borne by corporate auditors where there are suspicions of unlawful acts is to investigate. If such suspicions are confirmed through investigation, the corporate auditors have a duty to report to the Board of Directors and otherwise appropriately exercise their authority as corporate auditors. However, to begin with, officers who know of illegal acts are understood to have a duty to resolve such illegal acts without concealing them.

(2) However, even in response to the suspicions pointed out by Woodford in September 2011, Yamada, together with Kikukawa, Mori and Nakatsuka did not seek to bring up or discuss the matter at the Board of Director meetings. Rather, they concealed the fact of the loss deferral from directors who were not aware of the loss deferral and continued false explanations to the effect that there were no problems with the Gyrus or the Three Domestic Companies M&A such that could be labeled illegal. In addition, they criticized Woodford to other corporate auditors and urged them to approve his removal, encouraged corporate auditors who were not aware of the loss deferral not to have suspicions and sought to avoid the discovery of the illegal acts.

(3) Based on the above, it is clear that there was a breach of the duty to resolve illegal acts without concealing them and Yamada can be found to have committed violations of the duty of due care of a prudent manager.

Note that since Yamada resigned as a Director in June 2011 and took up the post of corporate auditor, he is the subject of this Committee's finding of liability; however, as set forth above, because the illegal acts of which Yamada was aware were mainly those from the time when he was a Director, his liability has been found by the Director Liability Investigation Committee. Thus, this Committee will exclude Yamada from its pursuit of liability.

3 Regarding the liability of the Other corporate auditors (Imai, Shimada and Nakamura)

(1) The three corporate auditors who were not aware of the loss deferral at issue at the time Woodford pointed out his suspicions (Imai, Shimada and Nakamura) believed the explanations of Kikukawa and others, did not have any sense of discomfort at the removal of

Woodford and did not voice any particular objection or opinion regarding the agenda items relating to his removal.

(2) The reason that the three corporate auditors who were not aware of the loss deferral did not voice any opinions was that, whether their awareness was right or wrong, they did not have any sense of discomfort at the explanations of Kikukawa and others, doubted whether Woodford was appropriate as president and held the view that they wanted the executive side to respond in a proper fashion to the suspicions that had been pointed out.

Thereafter, the Board of Directors announced the formation of the Third Party Committee on October 21, 2011, established the Third Party Committee on November 1, 2011 and publicized the loss deferral on November 8, 2011, taking the stance of investigating and disclosing the suspicions. Even based on the findings of this Committee's investigation, because Woodford retained his position as a director even though he had been removed as a Representative Director, and his removal did not directly lead to concealment, the assertion by the above three corporate auditors, that they considered Woodford's pointing out of his suspicions to be completely separate from the issue of his removal from the position of representative director, cannot be found unreasonable.

Accordingly, the actions taken by the three corporate auditors who were not aware of the loss deferral (Imai, Shimada and Nakamura) after Woodford pointed out of his suspicions are not found to be violations of the duty of due care of a prudent manager as corporate auditors (the duty to investigate in a case where the suspicion of an illegal act has been pointed out).

VIII. Whether or not there were violations of the duty of due care of a prudent manager on the part of the corporate auditors relating to surplus dividends and other distributions which were implemented subsequent to April 2007

1 Whether or not there were violations of the duty of due care of a prudent manager on the part of the corporate auditors

(1) Facts that serve as the premise in determining liability

A. The true and correct distributable amount from the fiscal year ending March 2007 to the fiscal year ending March 2011

Since April 1, 2007, Olympus has implemented dividend distributions of surplus funds based on distributable amounts based on accounting treatment premised on the deferred posting of losses. However, because of the discovery of the loss separation and settlement scheme, Olympus has decided to revise the financial statements of past fiscal years, including the recognition of off-balance sheet losses, the recognition of Fund operating costs as well as the cancelling of the FA fee relating to the Gyrus acquisition and the amortization of goodwill and impairment loss of the Three Domestic Companies. On December 14, 2011, Olympus submitted revised securities reports to the Kanto Regional Finance Bureau regarding the time from the fiscal year ending March 2007 (139th Term) to the fiscal year ending March 2011 (143rd Term). At the same time, the company carried out revision of the non-consolidated balance sheets included within the securities reports. As a result, while the distribution, etc. of surplus funds had been done within the distributable amount calculated based on the pre-correction non-consolidated balance sheets, the distributable amount for each period calculated based on the post-correction non-consolidated balance sheets are all negative numbers, as set forth in Exhibit ①.

Accordingly, the dividend distributions of surplus funds carried out as term-end distributions and interim distributions, as well as the acquisitions of treasury stock pursuant to the company's Articles of Incorporation (Exhibit ②) that Olympus made after April 1, 2007 are all found to have been made in excess of the distributable amount.

B. The Application of Law

Since the Companies Act took effect on May 1, 2006, the issue is whether the Commercial Code or the Companies Act applies with respect to the liability of Directors concerning dividend distributions of surplus funds based on balance sheets for the fiscal year ending March 2007 that include the period from April 1, 2006 to May 1, 2006, which was before the enforcement of the Companies Act. On this point, Article 100 of the Act on the Development of Related Acts Associated with the Enforcement of the Companies Act provides that "dividend distributions of surplus funds relating to accounting periods before the immediately preceding accounting period shall continue to be governed by existing precedents," and "immediately preceding accounting period" is defined in Article 99 of the same Act as "the final accounting period to occur before the enforcement date" (of the Companies Act).” Consequently, because the immediately preceding accounting period at Olympus was the fiscal year ending March 2006, dividend distributions of surplus funds relating to accounting periods before the relevant accounting period and the liability relating thereto “shall continue to be governed by existing precedents,” but dividend distributions of surplus funds relating to accounting periods after the relevant accounting period and the liability relating thereto shall be in accordance with the provisions of the Companies Act.

Accordingly, the liability of Directors for dividend distributions of surplus funds carried out by Olympus after April 1, 2007 shall be judged in accordance with the provisions of the Companies Act.

The Companies Act prescribes that in a case where dividend distributions of surplus funds are made in excess of the distributable amount, Executing Persons who performed duties relating to dividend distributions of surplus funds shall be jointly and severally liable, with a duty to pay the entire amount of money distributed (Article 462, Paragraph 1 of the Companies Act). The Act also prescribes the liability of directors who are liable for dividend distributions of surplus funds and the acquisition of treasury stock.

However, there is no particular prescription regarding corporate auditors. The interpretation is that if a violation of the duty of due care of a prudent manager is found with respect to dividend distributions of surplus funds made in excess of the distributable amount or the acquisition of treasury stock pursuant to the company’s Articles of Incorporation, corporate auditors are obligated to indemnify damages arising from that (Article 423, Paragraph 1 of the Companies Act).

Accordingly, the interpretation is that corporate auditors must exercise proper auditing authority, such as demanding that Directors report on the calculation of the distributable amount, in a case where the corporate auditors knew or could have known either that balance sheets serving as the basis for the distributable amount were incorrect or facts that give rise to suspicion regarding the appropriateness of such balance sheets.

(2) The liability of corporate auditors for illegal dividend distributions of surplus funds

We will review whether there were violations of the duty of due care of a prudent manager on the part of the corporate auditors who were in office during the fiscal year ending March of 2007 (Amemiya, Imai, Shimada and Nakamura) and the corporate auditors who were in office from the fiscal year ending March 2008 through the fiscal year ending March 2011 (Imai, Komatsu, Shimada and Nakamura) with respect to dividend distributions of surplus funds in excess of the distributable amount or the acquisition of treasury stock pursuant to the company’s Articles of Incorporation.

A. The fiscal year ending March of 2007 and the fiscal year ending March 2008

At a company with corporate auditors such as Olympus, if an unqualified clean opinion by accounting auditors is issued with respect to financial statements prepared by the company, it is considered permissible to rely on that judgment so long as there are no circumstances causing suspicion that the method or result of such audit is unreasonable and no circumstances whereby corporate auditors knew or could have known either that balance sheets serving as the basis for the calculation of the distributable amount were incorrect or facts that give rise to suspicion regarding the appropriateness of such balance sheets.

Incidentally, because the corporate auditors who were in office during the fiscal year ending March 2007 (Amemiya, Imai, Shimada and Nakamura) had no awareness of the Loss Separation Scheme, they are found not to have known and could not have known either that balance sheets serving as the basis for the distributable amount were incorrect or facts that give rise to suspicion regarding the appropriateness of such balance sheets.

Consequently, no violations of the duty of due care of a prudent manager are found with respect to the corporate auditors in question.

B. The period from the fiscal year ending March 2008 through the fiscal year ending March 2011

As for the corporate auditors who were in office from the fiscal year ending March 2008 through the fiscal year ending March 2011 (Imai, Komatsu, Shimada and Nakamura), because the price for acquiring shares in the Three Domestic Companies and the price paid for purchasing the warrant purchase rights and the Preferred Shares that was paid as the FA fee relating to the Gyrus acquisition were excessive, and violations of the duty of due care of a prudent manager can be found with respect to the passing of resolutions approving such acquisitions, an issue arises as to whether violations of the duty of due care of a prudent manager occur when such corporate auditors do not exercise auditing authority, such as by demanding that Directors report on the calculation of the distributable amount with respect to dividend distributions of surplus funds in excess of the distributable amount or the acquisition of treasury stock occurring thereafter.

Given this, we will review what impact is caused by this very fact—that the price for acquiring shares in the Three Domestic Companies and the FA fee relating to the Gyrus acquisition were excessive – on the determination of the duty of due care of a prudent manager regarding dividend distributions of surplus funds made in excess of the distributable amount or the acquisition of treasury stock pursuant to the company’s Articles of Incorporation.

The reason that Olympus’s securities reports etc. were corrected is because it was discovered that the price for acquiring shares in the Three Domestic Companies and the FA fee relating to the Gyrus acquisition were used to settle unrealized losses, unrealized losses on financial assets were posted dating back to the fiscal year ending March 2007 and the goodwill amortization relating to the price for acquiring shares in the Three Domestic Companies and the FA fee relating to the Gyrus acquisition were retroactively cancelled. That is, it is not simply that the securities reports etc. were corrected because the price for acquiring shares in the Three Domestic Companies and the FA fee relating to the Gyrus acquisition were excessive. That is, the reason that the goodwill amortization relating to the price for acquiring shares in the Three Domestic Companies and the FA fee relating to the Gyrus acquisition were not recognized is that these were not essentially a stock acquisition price and an FA fee.

Accordingly, the interpretation is that in order to be able to say that there were circumstances in which the corporate auditors knew or could have known either that the balance sheets serving as the basis for the calculation of the distributable amount were incorrect or facts that give rise to suspicion regarding the appropriateness of such balance sheets, it is insufficient to simply say that the price for acquiring shares in the Three Domestic Companies and the FA fee relating to the Gyrus acquisition were high. Rather, it is necessary to find that the posting of goodwill was impermissible or some other accounting treatment that was actually taken was inappropriate and that the corporate auditors could have known that the statements in the balance sheets included within the securities reports were improper.

Incidentally, impairment losses were recognized regarding the price for acquiring shares in the Three Domestic Companies and the fee relating to the Gyrus acquisition respectively in the fiscal year ending March 2009, when the goodwill amortization was posted. The auditing firm KPMG AZSA LLC issued an unqualified clean opinion regarding the financial statements in which those treatments occurred. As successor to KPMG AZSA LLC, Ernst & Young ShinNihon LLC, upon recognizing the items pointed out by KPMG AZSA LLC regarding the fiscal year ending March 2009, issued the opinion that the purchase of the Preferred Shares issued as the FA fee relating to the Gyrus acquisition and the accounting method of posting its goodwill were proper, and this opinion was issued before the meeting of the Board of Directors that approved these moves. Ernst & Young ShinNihon LLC also issued an unqualified clean opinion on the financial statements that Olympus prepared regarding the fiscal year ending March 2010 and the fiscal year ending March 2011 that included such accounting treatment. When we take into consideration the fact that the accounting auditors respectively issued unqualified clean opinions on the accounting methods Olympus employed regarding the price for acquiring shares in the Three Domestic Companies and the purchase of the Preferred Shares in the Gyrus acquisition, it was unavoidable that corporate auditors who lacked specialized knowledge of accounting believed the accounting methods used to have been proper.

Accordingly, since it cannot be said that such corporate auditors could have found out that the statements in the balance sheets included within the securities reports in and after the fiscal year ending March 2008 were improper, these corporate auditors are not found to have committed violations of the duty of due care of a prudent manager.

2 Whether or not there were violations of the duty of due care of a prudent manager on the part of the accounting auditors

With respect to audits pursuant to Article 396, Paragraph 1 of the Companies Act, the content of the accounting audit report is prescribed in Article 126, Paragraph 1 of the Company Accounting Ordinance. However, it is only prescribed in Article 126, Paragraph 1, Item 1 of the same Ordinance that the "direction and content of the audit by accounting auditors" is to be reported and there is no particular prescription regarding the audit standards.

That said, accounting auditors are required to be certified public accountants or auditing firms (Article 337, Paragraph 1 of the Companies Act), and in order to be auditing firms they must register with the Japanese Institute of Certified Public Accountants. (Certified Public Accountants Act, Article 46, paragraph 2).

Since in carrying out audits, auditing firms are bound by the committee reports prescribed by the Japanese Institute of Certified Public Accountants (Certified Public Accountants Act, Article 46, paragraph 3), they must comply with the prescriptions of Paragraph 6 of the Accounting Standards Committee Report No. 24, "Audit Reports": "If there are applicable laws and regulations, auditors must comply with such and conduct audits in compliance with auditing standards. Auditing standards include the auditing standards applicable at the time the audit is performed, the guidelines of the Japanese Institute of Certified Public Accountants and generally accepted auditing practices." Consequently, the general rule is to conduct audits in accordance with auditing standards identical to the Financial Instruments and Exchange Act.

Thus, the matter of violations of the duty of due care of a prudent manager by the accounting auditors KPMG AZSA LLC and Ernst & Young ShinNihon LLC concerning illegal dividend distributions of surplus funds is as set forth in "Section IX, Whether or not There Were Violations of the Duty of Due Care of a Prudent Manager, etc. on the part of the Auditing Firms regarding Misrepresentations in Securities Reports etc."

IX. Whether or not there were violations of the duty of due care of a prudent manager on the part of the auditing firms regarding misrepresentations in the securities reports etc.

1 Facts that serve as the premise in determining liability

Due to the discovery of the Series of Problems in this case, on December 14, 2011 Olympus submitted revised securities reports to the Kanto Regional Finance Bureau regarding the time from the fiscal year ending March 2007 (139th Term) to the fiscal year ending March 2011 (143rd Term) and quarterly reports for the time from the third quarter of the fiscal year ending March 2009 (141st Term) until the first quarter of the fiscal year ending March 2012 (144th Term) (hereinafter, the securities reports and quarterly financial reports shall be collectively referred to as “securities reports etc.”. (In addition, Olympus submitted reports with additional revisions on December 26, 2011.)

That is, since the 1990s, Olympus had huge losses relating to securities investments, derivative trading and the like. In order to defer the posting of losses, in and after March 2000, Olympus caused Funds, which were not consolidated with Olympus, to purchase financial assets that had unrealized losses for amounts equal to book value and separated these financial assets that had unrealized losses from the consolidated balance sheet of Olympus. On this occasion, in order to enable the Receiver Funds to purchase the relevant financial assets for amounts equal to book value, Olympus had banks make loans to the relevant Receiver Funds or the Pass-Through Funds with Olympus’s deposits, etc. as collateral, established a Business Investment Fund within Olympus and invested in that Business Investment Fund and supplied funds by means of loans or investments from the relevant Business Investment Fund to the Receiver Funds or the Pass-Through Funds (hereinafter, the deposits, etc. used to supply funds to the Receiver Funds and investment funds put into the Business Investment Fund shall be referred to as “Specified Assets”). In substance, because it was discovered that Olympus was bearing such losses, Olympus corrected the contents of its financial statements to recognize as Olympus’s losses for past years the unrealized losses of financial assets that had been separated from Olympus in order to defer the posting of losses.

Specifically, Olympus determined that it substantially controlled the Receiver Funds and the Pass-Through Funds and made the corrections below.

① By consolidating the Receiver Funds and the Pass-Through Funds, the loan money and unrealized losses of the Receiver Funds and the Pass-Through Funds that had previously not been included in the consolidated financial statements will be reflected in the consolidated financial statements.

② A portion of the Specified Assets of Olympus that had up to now been posted to the consolidated balance sheet will be deleted from consolidation, and in its place, the operating assets of the Receiver Funds and the Pass-Through Funds that had been given off-balance sheet treatment will be reflected in the consolidated balance sheet.

③ Because funds were caused to back-flow to the Receiver Funds and the acquisition amount of the Three Domestic Companies and the FA fee and repurchase funds of the Preferred Shares in connection with the Gyrus acquisition that were used to make up for losses had heretofore been posted as goodwill amortization on the consolidated balance sheet, the relevant goodwill amortization will be cancelled and the write-off cost of goodwill amortization and the impairment loss of goodwill amortization will also be cancelled.

④ Since the operating assets of the Receiver Funds and the Pass-Through Funds, unlike ordinary investments, were operated together pursuant to the scheme of deferred posting of losses, these will be stated in the consolidated balance sheet together as "Fund Operating Assets."

Accordingly, at a minimum it is clear that there were misrepresentations in the securities reports from the fiscal year ending March 2007 (139th Term) to the fiscal year ending March 2011 (143rd Term) and quarterly reports for the time from the third quarter of the fiscal year ending March 2009 (141st Term) until the first quarter of the fiscal year ending March 2012 (144th Term) for which revised reports were submitted.

However, KPMG AZSA LLC and Ernst & Young ShinNihon LLC, respectively, issued unqualified clean opinions with respect to all of the securities reports from (KPMG AZSA LLC) the fiscal year ending March 2007 (139th Term) to the fiscal year ending March 2009 (141st Term) and the quarterly report from the third quarter of the fiscal year ending March 2009 (141st Term), and (Ernst & Young ShinNihon LLC) the fiscal year ending March 2010 (142nd Term) and the fiscal year ending March 2011 (143rd Term) as well as the quarterly reports from the first quarter of the fiscal year ending March 2010 (142nd Term) through the first quarter of the fiscal year ending March 2012 (144^{th} Term).

2 Liability of auditors

(1) Content of the duty of due care of auditors

The misrepresentations in securities reports etc. in connection with the Series of Problems constitute fraudulent conduct that some of the management at Olympus carried out in collusion with collaborators outside the company, and the auditors issued unqualified clean opinions that overlooked such fraudulent conduct which was concealed by some persons positioned in the hub of management at the level of president and below.

The function of the auditors is to audit whether the financial statements of the company are legally and properly prepared and to state their opinions (Article 193, paragraph 2 of the Financial Instruments and Exchange Act, Article 396 of the Companies Act); the discovery of fraudulent conduct is not their direct purpose.

However, if auditors do not confirm whether there is any fraud or error that might have a material effect on the propriety of financial statements, their statements of opinion concerning propriety will become meaningless. Therefore, auditors should accurately verify the audit risks of the company audited, and if there are any unnatural indications in the company's financial statements, should conduct the audit carefully, considering the risk of fraudulent conduct.

Auditors have the duty to carry out "audit procedures that ordinarily should be performed" with the duty of due care of a prudent manager and in accordance with auditing standards, the guidelines of the Japanese Institute of Certified Public Accountants and generally accepted auditing practices. If auditors issue an audit opinion to the effect that a company's financial statements are legal and proper although they contain undiscoverable misrepresentations due to insufficient auditing procedures, and as a result the auditors make an unreasonable warranty that the financial statements contain no fraudulent conduct or errors, they should not be able to avoid liability.

The term "audit procedures that ordinarily should be performed" means audit procedures that a professional auditor who meets auditing standards and the eligibility standards of the general standards would perform as that auditor finds necessary based on his or her capabilities and practical experience and with proper care in order to obtain sufficient audit evidence. Auditors are understood to be under a duty of due care to conduct audits in accordance with "audit procedures that ordinarily should be performed" based on the situation of the individual company audited, by devising an audit plan, obtaining various audit evidence and carrying out audit procedures considered necessary and sufficient according to the main points of the audit.

In determining whether measures can be considered "audit procedures that ordinarily should be performed," the Risk Approach was proper at the time the Series of Problems was carried out (see the decision of the Osaka District Court of April 18, 2008). Under this approach, the auditors are required to accurately verify the inherent risks and internal control system risks from the standpoint of audit efficiency, focus audit resources on high-risk areas in order to minimize audit risk, and form a reasonable audit opinion of the accuracy of the statements in the financial statements. To that end, the auditors need to accurately assess the inherent risks and internal control system risks of the individual company audited, minimize audit risk, develop an audit plan in accordance with the risks of the main points of the audit, distinguish which main points of the audit should be intensively checked and for which audit requirements they should depend on the internal control system, collect necessary and sufficient audit evidence, and form an impression so as to issue a reasonable audit opinion.

However, with some exceptions, this Committee has been unable to obtain disclosure from the subjects of this investigation, KPMG AZSA LLC and Ernst & Young ShinNihon LLC, of their internal documents such as audit plans, audit work papers, etc. Because of this, the Committee must base its work on the documents and reports received from both auditing firms with respect to the specific content of the investigation by both auditing firms of Olympus and their perceptions and assessments of the facts that were obtained. The Committee reviewed whether the contents of the relevant reports and documents were reasonable in light of Olympus's internal documents and the results of interviews with those who were involved and then studied their reasonableness based on facts and perceptions we assessed as not unreasonable.

(2) Review of whether or not there were violations of the duty of due care

Given this, the Committee will review whether there were violations of the duty of due care in the auditing firm issuing unqualified clean opinions with respect to the revised securities reports from the fiscal year ending March 2007 (139th Term) to the fiscal year ending March 2011 (143rd Term) and the quarterly report from the third quarter of the fiscal year ending March 2009 (141st Term) through the first quarter of the fiscal year ending March 2012 (144th Term) as well as whether there were violations of the duty of due care in the audit of the auditing firm after the fiscal year ending March 1998, when the Formulation of the Loss Separation Scheme, which was the source of these misrepresentations, commenced.

Specifically, the issues were: ① whether there were violations of the duty of due care in not recognizing formulation and maintenance of the Loss Separation Scheme that transferred unrealized loss on the consolidated accounting of Olympus to the Receiver Funds, which was substantially under Olympus's control, and ② whether there were violations of the duty of due care in disregarding the implementation of the loss settlement scheme, which took on the guise of the price for acquiring shares in the Three Domestic Companies and the FA fee relating to the Gyrus acquisition, or in overlooking the violations of the duty of due care of a prudent manager on the part of the directors in implementing these transactions and in allowing the posting of an enormous amount of goodwill amortization without recognizing the fraudulent conduct involved, with respect to the price for acquiring shares in the Three Domestic Companies and the FA fee relating to the Gyrus acquisition.

3 Whether or not there were violations of the duty of due care relating to the formulation and maintenance of the Loss Separation Scheme

KPMG AZSA LLC was in the position of auditor for Olympus (i.e., the accounting auditor pursuant to the Financial Instruments and Exchange Act and the Companies Act) from November 1974, before the implementation of the Loss Separation Scheme, until June 2009.

However, KPMG AZSA LLC was not able to recognize any of the Loss Separation Schemes in the Europe Route (which used LGT Bank in Liechtenstein AG), the Singapore Route (which used the Commerzbank International Trust Ltd. and Societe Generale as well as SG Bond), or the Domestic Route (which used GCNVV).

Given this, we will review whether there were violations of the duty of due care on the part of KPMG AZSA LLC. The facts below and contents of audits are based on explanations by KPMG AZSA LLC and the Third Party Committee's Investigation Report, and the investigation by this Committee found no facts that contradict these.

(1) The sequence of events and content of audits

A. Discovery of the "tobashi" of September 1999

In its summary audit report, KPMG AZSA LLC described the outline of the Specified Fund Trust, which had an enormous amount of unrealized losses, and pointed out the need to treat these systematically.

- Fiscal year ending March 1998:
  Balance (book value): 41.594 billion yen
  Unrealized losses: 13 billion yen
- End of September 1998:
  Balance (book value): 29.343 billion yen
  Unrealized losses: 9.896 billion yen
- End of March 1999
  Balance (book value): 45.938 billion yen
  Unrealized losses: 6.916 billion yen

Because it received a report of Olympus's "tobashi" on September 30, 1999, KPMG AZSA LLC conducted a detailed investigation and discovered the facts of the "tobashi".

Thereupon, KPMG AZSA LLC urged that Olympus cancel the transactions that it had discovered to be "tobashi" and cancel the Specified Fund Trust and all currency and interest rate swap transactions, which made fraudulent transactions easy to carry out. In addition, the auditing firm urged that Olympus change from the basket type cost method to the basket type lower of cost or market method of accounting treatment in order to prevent fraudulent concealment.

Olympus accepted these requests, and posted extraordinary losses in the total amount of 16.812 billion yen as the valuation loss of the Specified Fund Trust and swap contracts in the mid-year end closing of September 1999. In the fiscal year ending March 2000, Olympus cancelled the Specified Fund Trust and all swap contracts, posted their total losses (approximately 17 billion yen) and made the change of accounting treatment set forth above.

B. Approval of the Financial Asset Portfolio

(a) Management Meeting Held on January 28, 2000

After the treatment of "tobashi" as extraordinary loss in September 1999, at the Management Meeting (and Board of Directors meeting) held on January 28, 2000, Kikukawa proposed the agenda item of "Division of Liquidity on Hand by Purpose and Investment Methods," and the basic portfolio of financial assets was approved. The detailed contents decided at this meeting and the explanation thereof are as set forth below.

① Purchase 40 billion yen of GIM, the class Fund established by LGT, as investment securities.

There is a plan for business collaboration with LGT, and taking into consideration the relationship with LGT, the class Fund GIM, the product that LGT proposed, will be purchased. Because this Fund is not sold within Japan, it is difficult for Olympus to directly hold shares, so a financial company will be established in Europe for holding the shares. This Fund operated the same portfolio as investments by the Lichtenstein royal family, and LGT is a foundation that invests the assets of the Lichtenstein royal family, which heads the Principality of Lichtenstein. The amount of assets held by this financial group is said to be about three trillion yen, about on par with the British royal family. It has an investment performance record of high income and maintained a high rating.

② 30 billion yen Investment in GCNVV, the Business Investment Fund

In order to separate and render independent funds aimed at the search for (new) enterprise creation and support as well as the securing of investment revenue in addition to promoting the flexibility and improved speediness of investments, 30 billion yen will be held in funds in a completely separate form and will utilize outside experts.

③ Cash and Deposits will be 68 billion yen

In order to hold financial assets of low risk and high liquidity until the demand for funds consistent with their purpose of use arises, Olympus would ensure that the majority of the 135 billion yen in financial assets it held would be deposits with priority on liquidity and risk minimization.

④ Strengthening of investment management and the reporting system

Note that these agenda items were proposed with the involvement of Yamada and Mori. The true purposes of items ① and ② were to have money flow from each Fund into the Receiver Funds as part of the Loss Separation Scheme (the investment funds to GIM specified in ① was for the Europe Route and the investment funds to GCNVV specified in ② was for the Domestic Route). The true purpose of item ③ was to have funds flow into the Receiver Funds via loans using the account as collateral as part of the Loss Separation Scheme (the deposits into LGT Bank in Liechtenstein AG was for the Europe Route and the deposits into Commerzbank International Trust Ltd. and Societe Generale were for the Singapore Route).

(b) Strengthening of the Risk Management System of Financial Assets

Based on the results of the above-referenced Management Meeting, at the Management Meeting (and Board of Directors meeting) held on March 31, 2000, revisions were made to the liquidity on hand investment plan and the Asset Management Standards of the fiscal year ending March 2001 (133rd Term).

The liquidity on hand investment plan for the 133rd Term called for the establishment of a portfolio that increased the ratio of deposits and government bonds (i.e., a ratio or 75% or higher) on the premise of securing risk minimization and cash convertibility and made the mid-term average 74.4 billion yen in cash deposits (no maximum) and 40 billion yen in government bonds (maximum of 50 billion yen).

The outline of the revised Asset Management Standards is as set forth below.

① Decision-making Procedure

Persons with decision-making authority will be determined in stages, for holding and investment of surplus funds, based on the basic financial asset portfolio, the half-yearly action plan, individual proposals and the like.

② Reports and Administrative Management System

Financial income and expenditures, portfolio and profit and loss from financial asset investments will be reported monthly to the Board of Managing Directors, the Management Meeting and the head of the Accounting Department. The Sales Execution (front office) Department and the Administration Department (back office) will be operated as separate groups within the General Affairs and Finance Department with the aim of strengthening management.

③ Limitation of Products Sold

Upper holding limits for each product will be decided for each business plan and regulations will be established for each asset.

④ Investment Framework

The execution of trading and management of financial instruments will be allocated to separate supervisory divisions. Specifically, the persons in charge of trading will be in the Financial Planning Group and the persons in charge of management will be in the Finance Group.

⑤ Measurement and Assessment of Risk

The department in charge of management will mark the transaction value to market at each month-end and conduct simplified valuation each week. In addition to verifying the assessment results, the department in charge of management can recommend the suspension or revision of transactions to the unit in charge of trading.

C. KPMG AZSA LLC's Audits of the Europe Route

(a) Audit of LGT Bank

a. Deposits, etc. into LGT Bank

Olympus had commenced transactions with LGT Bank before the "Division of Liquidity on Hand by Purpose and Investment Methods" basic plan was approved. From April 1998 until September 1998, Olympus had deposited about 21 billion yen in Japanese government bonds with this bank. Thereafter, the amount of the deposit increased, and by the fiscal year ending March 2000, the amount came to 35 billion yen. Thereafter, during the period from the fiscal year ending March 2001 until the fiscal year ending March 2004, Olympus switched to short-term government securities, and starting in the fiscal year ending March 2005, the company opted for foreign currency deposits. KPMG AZSA LLC received from Olympus the explanation that the reason for holding a large quantity of foreign currency deposits was the need to carry out transactions with major domestic and foreign financial institutions in order to expand business around the world.

b. Audit by KPMG AZSA LLC

During the period from the fiscal year ending March 2001 to the fiscal year ending March 2008, KPMG AZSA LLC sent a balance confirmation form containing a column stating whether there existed any security interests with respect to the short-term government securities and deposits of Olympus deposited in the account at LGT Bank. In response, LGT Bank sent back not the form specified by KPMG AZSA LLC but a balance confirmation form of its own, which only stated the balance.

Because the deposits in LGT Bank in Liechtenstein AG were switched to Olympus's deposit account at Sumitomo Mitsui Banking Corporation around June 2008, the deposit balance of the fiscal year ending March 2009 at LGT Bank was zero.

Further, starting with the fiscal year ending March 2004, KPMG AZSA LLC changed the form of its confirmation form for overseas financial institutions to match that of KPMG. The result was that the column asking for a response regarding security interests and other restrictive conditions on deposits was removed from the response column. Instead, the form asked for comments if there were any special items of note.

Yamada and Mori and others also entered into agreements with LGT Bank to establish comprehensive floating security interests in cash, securities and other assets that had been deposited with the bank in the name of Olympus in order to secure present and future claims of LGT Bank against CFC; however, they did not obtain a Board of Directors' meeting resolution or follow other approval procedures, so KPMG AZSA LLC was not able to discover this.

(b) Audits of GIM

a. Investment in GIM

On March 17, 2000, Olympus and OAM, its wholly owned subsidiary, invested in GIM through the accounts they each had established at LGT Bank (Olympus for 15 billion yen and OAM for 20 billion yen).

GIM purchased corporate bonds that TEAO, a Pass-Through Fund, issued on March 21, 2000 and transferred 31 billion yen to TEAO.

b. Audit by KPMG AZSA LLC

Concerning the investment status of GIM, KPMG AZSA LLC obtained and audited documents relating to the breakdown by currency of investment assets and the breakdown of constituent property for the end of March, once per year (starting the fiscal year ending March 2007, twice per year, once in each half-year period), and documents relating to current market value, once per month. However, because details of the individual securities, etc. comprising the investment assets were not provided based on the laws of the Principality of Liechtenstein and the policy of LGT Bank, which had accepted entrustment of the investments, KPMG AZSA LLC asked the managers of GIM to provide detailed information.

As a result, the shares of the main investment assets were disclosed in the fiscal year ending March 2007, so KPMG AZSA LLC reviewed the ratings, etc. of individual investment assets and found that the valuation by GIM was not unreasonable. Even after the disclosure of the investment status report, there were nothing in the content that suggested the existence of off-the-book funds or the like such as TEAO.

d. KPMG AZSA LLC's Audits of the Singapore Route

(a) Audits of Commerzbank International Trust Ltd. and Societe Generale

a. Time Deposits at Commerzbank and SG Bank

The time deposits that Olympus had deposited at Commerzbank amounted to 30.6 billion yen as of March 31, 2000 and 45.6 billion yen as of September 30, 2000. Thereafter, the time deposits were moved to SG Bank in 2001 in connection with the job change of Chan, a collaborator, to SG Bank. Thereafter, the balance of the deposits was increased, and by September 2004, the balance of the time deposits at SG Bank came to 55 billion yen.

Yamada and Mori had each bank make loans to Hillmore and Easterside, which respectively were Pass-Through Funds, with the time deposits at Commerzbank and SG Bank as collateral.

b. Audit by KPMG AZSA LLC

From the fiscal year ending March 2001 to the fiscal year ending March 2004, KPMG AZSA LLC carried out procedures for balance confirmation toward Commerzbank and SG Bank that were identical to those carried out toward LGT Bank. In response, Commerzbank and SG Bank sent back not the response form specified by KPMG AZSA LLC but a balance confirmation form of their own, which only stated the balance. Further, just as with LGT Bank, KPMG AZSA LLC was not able to discover the deposit security interest agreement.

(b) Audit of SG Bond

a. Change of the Scheme toward investment in SG Bond

In February 2005, Olympus invested 60 billion yen in SG Bond, as a fund equivalent to government bonds. This was done pursuant to the asset investment regulations and within the framework of the action plan for investment reported to the meeting of the Board of Directors. SG Bond is a Fund that Chan created.

Thereafter, SG Bond used the 60 billion yen in funds invested by Olympus to invest in bonds worth about 60 billion yen on the market and loaned those bonds to Easterside.

b. Audit by KPMG AZSA LLC

In the summary audit report for the fiscal year ending March 2005 and the fiscal year ending March 2006, KPMG AZSA LLC mentioned the investment in SG Bond.

The firm went on to state to the effect that SG Bond was an investment trust that mainly invested in public and corporate bonds in accordance with the policy of Olympus to earn stable revenue and then pointed out the need to obtain detailed information on the names of the specific investments, etc. and to accurately ascertain the investment status.

KPMG AZSA LLC received disclosure from investment managers of the acquisition price and current market value for each specific security type in the investment assets for the fiscal year ending March 2007 and confirmed that the funds were being invested in highly rated bonds as stated in Olympus's plan.

Until the fiscal year ending March 2008, KPMG AZSA LLC sent balance confirmation forms only to the Fund operators of SG Bond. However, in the fiscal year ending March 2009, KPMG AZSA LLC sent balance confirmation forms to the custodian of SG Bond in addition to the Fund operators of SG Bond because it had become aware of the risk of fraudulent conduct regarding investment valuation. The balance confirmation form did not contain any mention of whether there existed any pledging or loaning of bonds.

e. KPMG AZSA LLC's Audits of the Domestic Route

(a) Investment in GCNVV

Regarding GCNVV, the decision was made based on the authorization document dated February 24, 2000 to purchase 30 billion yen with GCI Cayman as the operator and manager and to establish a Board to Review Business Investments within the company.

On March 1, 2000, an agreement to establish the GCNVV Business Investment Fund was concluded, with Olympus and GV as limited partners and GCI Cayman as the general partner. On March 14, Olympus invested 30 billion yen in GCNVV.

GCNVV transferred about 30 billion yen to QP, a Receiver Fund, for the purpose of short-term money management during the period from 2000 to 2006. Those funds were transferred to another Fund that had a different accounting period, and the funds were repeatedly transferred back by the end of the given year.

(b) Audit by KPMG AZSA LLC

The Board of Business Investment reported the investment status of GCNVV to the management meeting every three or six months and KPMG AZSA LLC confirmed this. Another auditing firm carried out audits of the financial statements of GCNVV that were sent by GC. Those audited financial statements only stated the transfers of money between GCNVV and QP as the end-of-period balance of deposits and the like.

Starting from the fiscal year ending March 2004, KPMG AZSA LLC became aware of the risk of incorrect valuation of the investment targets by GCNVV. Thereupon, they sent audit questionnaires to the auditor of GCNVV and ascertained the outline of the audit done by the other auditor. However, the report from the other auditors stated that they had received the explanation from KPMG AZSA LLC to the effect that KPMG AZSA LLC had not been able to receive any report with respect to facts suggesting the transfer of money from GCNVV to QP.

(2) Review of whether there is liability

A. Audits from the discovery of the “tobashi” until the fiscal year ending March 2000.

Because KPMG AZSA LLC had discovered “tobashi” in the Specified Fund Trust at a time when it was closely following Specified Fund Trusts as risk factors in the first place, it judged that Olympus presented a high risk of engaging in fraudulent transactions. Thereupon, they not only urged Olympus to cancel the Specified Fund Trust but urged the company to cancel currency and interest rate swap transactions, which made fraudulent transactions easy to carry out and urged the company to change its method of accounting settlement. Olympus accepted these requests, cancelled these financial assets and posted an aggregate amount of approximately 17 billion yen in extraordinary losses in the fiscal year ending March 2000, and made the change of settlement methods set forth above.

KPMG AZSA LLC recognized indications of fraudulent conduct due to this “tobashi”. However, at this time KPMG AZSA LLC performed a detailed examination to determine whether there were other, similar “tobashi”, had Olympus post losses for all items it discovered and had Olympus cancel all contracts for Tokkin and swaps that were the cause. Still, it was unavoidable that KPMG AZSA LLC was unable to discover the Loss Separation Scheme despite all this.

B. Audits of LGT Bank, Commerzbank and SG Bank

The amounts that Olympus deposited – the deposits to LGT Bank, the 35 billion yen in government bonds, the 15 billion yen to 45 billion yen in foreign currency deposits in Commerzbank or SG Bank—were all large amounts, but they remained consistent with the basic financial asset portfolio based on the “Division of Liquidity on Hand by Purpose and Investment Methods” approved at the management meeting held on January 28, 2000. Further, KPMG AZSA LLC had received from Olympus the explanation that there was the need to carry out transactions with major domestic and foreign financial institutions in order to expand business around the world, and this explanation could not be termed particularly unreasonable.

Moreover, although KPMG AZSA LLC conducted balance confirmation by sending LGT Bank, Commerzbank and SG Bank each response forms that included a column for stating whether there were any security interests, the banks sent back not the response form specified by KPMG AZSA LLC but balance confirmation forms of their own, which only stated the balance. Those balance confirmation forms did not contain any statements about security interests or the like.

KPMG AZSA LLC interpreted this to mean that no security interests had been established, and did not make any follow-up inquiries. However, no events were found that warranted particular attention. For example, at that time, Olympus had funding power and investments were being made as uses of surplus funds pursuant to plans determined according to the company's corporate decisions. Moreover, it was not unusual for foreign financial institutions to respond using their own forms. In addition, it was unavoidable for KPMG AZSA LLC to believe that a financial institution would ordinarily declare any security interests on the relevant assets, if such existed, when responding to a balance confirmation from an auditing firm.

In addition, since these deposit security establishment agreements with these banks were not brought before the Board of Directors and Olympus was not in a condition whereby it needed funds such as through borrowing based on providing security, it was unavoidable for KPMG AZSA LLC to be unable to learn of the existence of the security establishment agreements.

Consequently, even if KPMG AZSA LLC was unable to discover that security interests had been established in the deposits, etc. that Olympus had deposited with LGT Bank, Commerzbank and SG Bank, no violation of the duty of due care can be found in this.

C. Investment in GIM

The investment of 30 billion yen in GIM Fund involved a large investment amount, but this investment was consistent with Asset Management Standards that were decided pursuant to the Management Meeting (and Board of Directors meeting) held on January 28, 2000 and that were revised thereafter. Thus, internal controls were carried out to an appropriate degree.

However, KPMG AZSA LLC was aware that because the amount involved was large, it was necessary to manage this so that judgment regarding the recognition of impairment loss and the like could be appropriately made. In addition, concerning the investment status of GIM, KPMG AZSA LLC obtained and audited documents relating to breakdown of the investment assets by currency and by constituent assets for the end of March, once per year (starting the fiscal year ending March 2007, twice per year, once each half-year) and documents relating to current market value, once per month. However, because details of the individual securities, etc. in the investment assets were not provided based on the laws of the Principality of Liechtenstein and the policy of LGT Bank, which had accepted entrustment of the investments, KPMG AZSA LLC asked for disclosure of detailed information.

As a result, since the percentages of the main investment assets were disclosed in the fiscal year ending March 2007, KPMG AZSA LLC reviewed the ratings, etc. of individual investment assets and found that the assessment of GIM was not unreasonable. Because no statement of the funds invested in TEAO could be found in the investment report, KPMG AZSA LLC could not find out that GIM was having money flow into a Receiver Fund via TEAO.

As set forth above, KPMG AZSA LLC requested the disclosure of necessary information from the operators in order to ascertain the investment status of GIM, which was not covered in the consolidated accounts and involved inherent limits to investigation. It is unavoidable that KPMG AZSA LLC could not discover the Loss Separation Scheme even though it had carried out audit procedures ordinarily considered necessary.

D. Investment in SG Bond

KPMG AZSA LLC, while being aware that SG Bond was an investment trust invested mainly in public and corporate bonds in accordance with the policy of Olympus to earn stable revenue, judged that because the investment amount of 60 billion yen was a large amount, it was a risk factor. Thereupon, KPMG AZSA LLC conducted confirmation of the investment status but was unable to obtain detailed information on the investment securities, etc. in the fiscal year ending March 2005 or the fiscal year ending March 2006. In the fiscal year ending March 2007, the auditing firm received disclosure from investment managers of the acquisition price and current market value for each investment security, etc. in the investment assets for the fiscal year ending March 2007 and confirmed that the funds were being invested in highly rated bonds as stated in Olympus's plan, but the firm was unable to receive any reply regarding whether bonds were being loaned.

Moreover, up until the fiscal year ending March 2008, KPMG AZSA LLC had been receiving balance confirmation forms only from the Fund operators of SG Bond. However, because it had become aware of the risk of fraudulent conduct regarding investment valuation, KPMG AZSA LLC widened the scope of its audit procedures in the fiscal year ending March 2009 to send balance confirmation forms to the custodian of SG Bond in addition to the Fund operators of SG Bond. That said, neither balance confirmation form contained any mention of whether there existed any pledging or loaning of bonds. Because of this, KPMG

AZSA LLC was unable to learn that bonds were being loaned out from SG Bond to Easterside.

As set forth above, in the same way as in the audit of GIM, KPMG AZSA LLC requested the disclosure of necessary information from SG Bond in order to ascertain the investment status of SG Bond, which was not covered in the consolidated accounts and involved inherent limits to investigation. It is unavoidable that KPMG AZSA LLC could not discover the Loss Separation Scheme even though it had carried out audit procedures ordinarily considered necessary.

E. Audits of GCNVV until around the fiscal year ending March 2005

The Board of Business Investment reported the investment status of GCNVV to the management meeting every three to six months and KPMG AZSA LLC confirmed this. Another auditing firm carried out audits of the financial statements of GCNVV that were sent by GC. Those audited financial statements only stated the transfers of money between GCNVV and QP as the end-of-period balance of deposits and the like.

Starting from the fiscal year ending March 2004, KPMG AZSA LLC became aware of the risk of errors in the valuation of investment targets by GCNVV. Thereupon, they sent audit questionnaires to the auditor of GCNVV and ascertained the outline of the audit done by the other auditor. However, KPMG AZSA LLC provided the explanation to the effect the report from that auditor did not cover any facts suggesting the transfer of money from GCNVV to QP.

GCNVV is a Fund which was not covered in the consolidated accounts, and the management company had the right to decide on investments. Even so, on the premise that Olympus would be the investor with an investment ratio of over two thirds, the setup of GCNVV was that the investor who held an investment ratio of over two thirds would have a preferred proposal right for investment projects and a veto right for projects chosen by the management company in proportion to its investment amount. Thus, the approval of Olympus was required with respect to major investments.

In addition, since the Board of Business Investment reported to the management meeting on the investment status of the Business Investment Fund even though GCNVV was not covered in the consolidated accounts, there was a framework for approval and reporting by Olympus.

As set forth above, it is unavoidable that KPMG AZSA LLC could not discover the Loss Separation Scheme even though it had carried out audit procedures ordinarily considered necessary toward GCNVV, which was not covered in the consolidated accounts and involved inherent limits to investigation.

(3) Conclusion

No violation of the duty of due care can be found in the inability of KPMG AZSA LLC to discover the formulation and maintenance of the Loss Separation Scheme.

4 The Execution of the Loss Separation Scheme

(1) March 2007 settlement

A. The Execution of the Settlement Scheme

In the fiscal year ending March 2007, Olympus committed the following acts regarding the acquisition of shares in the Three Domestic Companies and the FA fee relating to the Gyrus acquisition.

(a) The acquisition of shares in the Three Domestic Companies

Although GCNVV acquired shares in the Three Domestic Companies in March 2006 for the total sum of 10.8 billion yen, at the time of acquisition, GCNVV was not covered in the consolidated accounts by Olympus. However, starting with the fiscal year ending March 2007, accounting standards were amended[2] and the equity method was applied with April 1, 2006 as the deemed acquisition date. Consequently, a total sum of approximately 8.6 billion yen in goodwill from the Three Domestic Companies was recognized in the mid-year end closing of September 2006 (and a total sum of 7.6 billion yen in the fiscal year ending March 2007).

(b) FA fee relating to the Gyrus Acquisition

Olympus paid AXES 3,000,000 dollars in basic compensation on June 16, 2006 pursuant to the FA Agreement, expensing the amount as consignment of operations cost.

B. Whether there were Violations of the Duty of Due Care

We will now review whether violations of the duty of due care can be found in the fact that, in the above circumstances, KPMG AZSA LLC did not find indications of fraudulent conduct, allowed the posting of goodwill in connection with the acquisition of shares in the Three Domestic Companies and issued an unqualified clean opinion.

[2] Accounting Standards Board of Japan Practical Solutions Report No. 20, “Practical Treatment Concerning the Application of Control Standards and Influence Standards to Investment Business Partnerships”

(a) The acquisition of shares in the Three Domestic Companies

a. Status of Audits by KPMG AZSA LLC

KPMG AZSA LLC explained that, based on its awareness of high future impairment loss risk due to the fact that the acquisition of shares in the Three Domestic Companies by GCNVV involved a large investment amount and was premised on high growth, it recognized risk that required a special review of the investment valuation and carried out an audit that included the side-by-side comparison of business plan against performance, interviews with the departments in charge and the like. The facts gathered in the investigation by This Committee also were not inconsistent with this explanation, and the summary audit report that KPMG AZSA LLC prepared regarding that time was also consistent with this explanation: "in conducting future valuation of investments or investment elimination difference amounts (an amount equal to goodwill), it is necessary to pay attention to the progress of the business plan."

b. Review

GCNVV acquired the shares of the Three Domestic Companies at a time before it came to be included within the consolidated reporting of Olympus. There is a limit to the document collection, etc. possible in an audit of the propriety of investment judgment of an unconsolidated Fund. Moreover, even during the fiscal year ending March 2007, when it became subject to application of the equity method, Olympus's shareholding in the Three Domestic Companies ranged only from 28.76 percent to 33.24 percent. Because even at this stage Olympus did not have management control, there were inherent limits to auditing tools such as document collection. In these circumstances, the Board to Review Business Investments was established and the investment status of GCNVV was regularly reported to the Board of Directors.

Further, because the acquisition of shares in the Three Domestic Companies was a new business investment for Olympus, the company's judgment with respect to the possibility of realizing the business plan and the reasonableness of the investment judgment should be basically respected.

In addition to these circumstances, as stated above, taking into consideration the fact that, in view of the large size of the investment, KPMG AZSA LLC identified special risk and carried out an audit that included interviews with the departments in charge, progress management of the business plan and the like, we cannot find it unreasonable that KPMG AZSA LLC did not find any particular fraudulent conduct and found the accounting treatment, including the posting of the investment amount in the Three Domestic Companies to goodwill, to be appropriate.

(b) FA fee relating to the Gyrus Acquisition

In addition to the fact that the compensation under the FA Agreement between Olympus and AXES could not in itself necessarily be considered a large sum, since the acquisition that was the premise of the success bonus was itself not realized and the basic compensation was treated as a cost and not posted as goodwill, the fact that KPMG AZSA LLC did not consider the FA fee to be a particular problem at this stage cannot be considered a circumstance that should be judged to be unreasonable.

c. Summary

Accordingly, no violation of the duty of due care can be found in the fact that KPMG AZSA LLC did not find indications of fraudulent conduct and issued an unqualified clean opinion.

(2) March 2008 settlement

A. The Execution of the Settlement Scheme

In the fiscal year ending March 2008, Olympus committed the following acts regarding the acquisition of shares in the Three Domestic Companies and the FA fee relating to the Gyrus acquisition.

(a) The acquisition of shares in the Three Domestic Companies

In August 2007, Olympus cancelled the agreement with GCNVV and settled it in September 2007. At that time, Olympus took over at book value the 11 billion yen in shares of the Three Domestic Companies that GCNVV had held.

In addition, on March 26, 2008, Olympus acquired the shares of the Three Domestic Companies for a total of 47.1 billion yen pursuant to the Board of Directors' meeting resolution passed on February 22, 2008. Because GCNVV transitioned from an affiliated company subject to the equity method to a consolidated subsidiary in line with the increase in Olympus's shareholding percentage due to this, a total of 54.5 billion yen in goodwill was posted for the Three Domestic Companies.

In addition, OFH, a wholly owned subsidiary of Olympus, acquired shares of the Three Domestic Companies on April 26, 2008 pursuant to the Board of Directors' meeting resolution mentioned above for 13.7 billion yen. We think that KPMG AZSA LLC became aware of this share acquisition during the settlement audit of the fiscal year ending March 2008.

(b) FA fee relating to the Gyrus Acquisition

On June 18, 2007, Olympus paid AXES 2,000,000 dollars as basic compensation pursuant to the FA Agreement. In addition, pursuant to the Revised FA Agreement dated June 21, 2007, Olympus granted AXES Gyrus share options and Warrant Purchase Rights and paid 12 million dollars as the cash portion of the Completion Fee on November 26, 2007. Based on this, Olympus expensed the 2,000,000 dollars of basic compensation as consignment of operations cost, and as for the 12 million dollars of the Completion Fee and share options with appraised value of 177 million dollars (total of 19.9 billion yen), these were posted as a provisional investment account in the non-consolidated settlement and as goodwill in the consolidated settlement.

According to page 61 of the Third Party Committee's Investigation Report, Olympus calculated the current market value of Gyrus shares as one dollar and 630 pence (the acquisition price at the time of acquisition) in the price calculation of the share options. However, it was pointed out that the current market value of the Gyrus shares, which became a non-public company after acquisition, should have been properly calculated.

B. Whether or not there were Violations of the Duty of Due Care

We will now review whether violations of the duty of due care can be found in the fact that, in the above circumstances, KPMG AZSA LLC did not find indications of fraudulent conduct, allowed the posting of a large sum of goodwill in connection with the acquisition of shares in the Three Domestic Companies and issued an unqualified clean opinion with respect to the granting of a large amount of share options and Warrant Purchase Rights to AXES, which was an FA.

(a) The acquisition of shares in the Three Domestic Companies

a. Status of Audit Procedures by KPMG AZSA LLC

We received the following explanation from KPMG AZSA LLC regarding the audit regarding the Three Domestic Companies at the time.

That is, as the result of reviewing the minutes of the meeting of the Board of Directors and authorization documents in the first part of April 2008, during the fiscal year-end settlement audit of the fiscal year ending March 2008, KPMG AZSA LLC learned that Olympus had acquired the Three Domestic Companies for a large amount in comparison with unit price in past acquisitions.

In response to this, while understanding that the investment decision and execution were matters of the company's business judgment, KPMG AZSA LLC carried out the following audit procedures in order to verify the propriety of the acquisition price from the viewpoint of the propriety of accounting treatment such as whether it included matters that should have been posted to other account categories.

① First of all, KPMG AZSA LLC received the submission of documents such as the company outline, business content, status of business progress, business plans of each of the Three Domestic Companies as well as an explanation of the content of those plans from the persons in charge of investment at Olympus. In addition, KPMG AZSA LLC confirmed regarding the relevant business plans items that were conditions precedent to the development of the plans—the market size, types of customers targeted, the shares to be acquired, the sales price and cost ratio—and confirmed that the business plans were developed under certain assumptions.

② Over the course of April and May 2008, KPMG AZSA LLC conducted visiting audits of the headquarters and plants of the Three Domestic Companies and conducted multiple interviews with Kikukawa, Mori, Kawamata and others regarding the purpose and import of the conversion to subsidiary status by means of acquisition of the shares of the Three Domestic Companies, whether there was any capital relationship with the assignor, the acquisition price determination method, the business prospects and the like. In response, Kikukawa and others stated that Olympus had come to view new enterprise creation as an important subject and judged that the Three Domestic Companies were promising because they were new businesses that were particularly closely related to Olympus and were in touch with the current of the times; that the conversion of these companies to subsidiary status was in order to send more staff and build up their businesses because Olympus had come to understand the viability of their businesses; that there was no capital relationship with the assignor, and precisely because there was no such tie the deal had become an acquisition for a large sum rather than a takeover from GCNVV, which was a 100% invested fund; that in this sense, the premise was different from the takeover from GCNVV in the half-year period ending September 2007; and that although it was expensive, they did not feel that it was a particularly strange sum of money.

③ In addition, KPMG AZSA LLC also confirmed that Olympus had established a Management Headquarters for New Business-Related Companies under this policy and was dealing with the acquisition from an organizational point of view.

As the result of investigation by this Committee on each of the above matters by means of internal documents, interviews with persons in charge of accounting and others, we did not find any facts inconsistent with the above.

b. Review

We can see that KPMG AZSA LLC had confirmed at the latest by the fiscal year ending March 2007, when GCNVV was subject to consolidation, that the business performance of the Three Domestic Companies deviated greatly from the plan.

However, investment decisions and execution as well as the review of the business plans that are their prerequisites are generally left to the business judgment of the Board of Directors.

KPMG AZSA LLC confirmed that there was nothing unreasonable in the process of decision-making procedures by confirming the minutes of the meeting of the Board of Directors, etc. As set forth above, KPMG AZSA LLC received from Kikukawa and others, the top managers at the time, the explanation that the acquisition at that time had the special feature of being new businesses for Olympus and that they had the aim of forming a subsidiary, bringing in important staff and ramping up enterprise creation. When we presume that KPMG AZSA LLC carried out the audit procedures such as set forth above, with respect to the judgment of KPMG AZSA LLC to believe for the time being Olympus's business judgment to greatly increase the performance of the Three Domestic Companies over their previous records and allow the posting of the goodwill amortization and thereafter, carefully observe the deviation of their performances from the plans and at the appropriate time have Olympus carry out recognition of impairment loss of the goodwill, when we take into consideration that we cannot find that KPMG AZSA LLC was aware of particular circumstances sufficient to overturn the decision-making of the Board of Directors, such as being aware of the intent of Kikukawa, Yamada, Mori to carry out loss settlement while the Three Domestic Companies had not yet produced any results at all after conversion to subsidiary status and as will be set forth below, even after the fiscal year ending March 2009, KPMG AZSA LLC continued to carry out careful review with suspicion characteristic of their profession regarding the investment judgment with respect to the Three Domestic Companies, we cannot go so far as to say that it was unreasonable for KPMG AZSA LLC to issue an unqualified clean opinion on the accounting treatment of the Three Domestic Companies.

(b) FA fee relating to the Gyrus Acquisition

a. Status of Audit Procedures by KPMG AZSA LLC

We received the following explanation from KPMG AZSA LLC regarding the audit regarding the FA fee relating to the Gyrus acquisition during that same Term.

That is, KPMG AZSA LLC was conscious that because the Revised FA Agreement called for 15 percent of the acquisition fee to be paid in cash and 85 percent to be paid in Gyrus stock options, the calculation of the valuation of the options was an audit point. As a result of obtaining documentation of the option price calculation from Olympus, the amount turned out to be 177 million dollars. As for the results of the calculation of the stock option price done by Olympus, KPMG AZSA LLC utilized an option valuation model to verify Olympus's results and confirmed its reasonableness. With respect to designating the current market value of Gyrus shares to be the most recent acquisition unit price in performing the value calculation, KPMG AZSA LLC was cognizant that the use of the most recent acquisition unit price was a reasonable means of calculating value.

The result of this verification was that the value of the stock options was appraised as 177 million dollars, and this amount exceeded five percent of the purchase price. However, because under the agreement, an exercise price corresponding to current market value was originally supposed to be calculated and the issuance of stock options was based on a Board of Directors' meeting resolution of Olympus held on November 19, 2007 and the relevant resolution left the decision as to details of the contractual conditions to the company president, and at the meeting of the Board of Directors held on February 22, 2008 it was reported that negotiations were ongoing as to the method of payment for additional options, although the compensation (including the appraised value of the options) exceeded five percent, KPMG AZSA LLC was not aware that a discrepancy with the matters decided at the meeting of the Board of Directors had arisen.

In overseas acquisition cases, there are some cases in which stock derivatives such as warrants and options are incorporated into the acquisition consideration. The stock options in this case were a transaction in which these were incorporated into the overall acquisition framework.

Given this, the overall acquisition price, including incidental costs, and the choice of acquisition scheme being left to the business judgment, KPMG AZSA LLC did not have the impression to form an audit opinion regarding the amount of the acquisition fee at the stage where the entirety of the acquisition transaction amount, etc. was not final. Because settlement of the employee options of Gyrus had not been completed in the fiscal year ending March 2008 and they had received from Olympus the explanation that negotiations were ongoing as to part of the price and the payment method of the FA fee, KPMG AZSA LLC thought the entirety of the acquisition transaction amount, etc. would not be finalized until these payment amounts were finalized and then applied temporary processing and made
disclosure by including a remark in the consolidated financial statements of the securities report[3].

[3] Accounting Standards, No. 21, "Accounting Standards for Business Combinations," p. 28

As the result of investigation by this Committee on each of the above matters by means of internal documents such as agreements, interviews with persons in charge of accounting and others, we did not find any facts inconsistent with the above.

B. Review

KPMG AZSA LLC was at least aware that the amount of the FA fee relating to the Gyrus acquisition was in excess of the maximum amount of FA fee of five percent or less of the acquisition price approved by the Board of Directors.

On this point, we cannot say that these amount to unreasonable judgments for an accounting audit: the fact that, on confirming that there was nothing unreasonable in the decision-making process of Olympus in the stock option issuance procedures, KPMG AZSA LLC judged that the overall acquisition price, including incidental costs such as acquisition fees, and the choice of acquisition scheme were left to the business judgment and in addition, and KPMG AZSA LLC's judgment that they did not have the impression to form an audit opinion because the entirety of the acquisition transaction amount, etc. of Gyrus was not final but was temporary.

In addition, the fact that KPMG AZSA LLC allowed Olympus's valuation calculation which found the value of the stock options to be 177 million dollars cannot be declared unreasonable when it is presumed that KPMG AZSA LLC conducted independent verification including the calculation process.

C. Summary

Accordingly, no violation of the duty of due care can be found in the fact that KPMG AZSA LLC allowed the posting of goodwill and did not find indications of fraudulent conduct but issued an unqualified clean opinion with respect to the Three Domestic Companies and the FA fee regarding the Gyrus acquisition.

(3) March 2009 settlement

A. The Details of the Execution of the Loss Settlement Scheme

In the fiscal year ending March 2009, Olympus committed the following acts regarding the acquisition of shares in the Three Domestic Companies and the FA fee relating to the Gyrus acquisition.

(a) The acquisition of shares in the Three Domestic Companies

Wholly owned Olympus subsidiary OFH acquired shares of the Three Domestic Companies for a total of 13.7 billion yen on April 26, 2008 pursuant to a Board of Directors' meeting resolution of Olympus held on February 22 of the same year (thereafter, Olympus acquired the shares from OFH on September 25 of that year).

(b) FA fee relating to the Gyrus Acquisition

On September 30, 2008, Olympus purchased Warrant Purchase Rights from AXAM for 50 million dollars (5.3 billion yen) and issued preferred shares of Gyrus to AXAM in place of the stock options. At the meeting of the Board of Directors of Olympus held on November 28 of that year, a resolution was passed to purchase the relevant shares for prices within a range of from 530 million dollars to 590 million dollars (however, the purchase based on this resolution was not executed, and the resolution to purchase was cancelled at the meeting of the Board of Directors held on June 5, 2009).

B. Status of Audit by KPMG AZSA LLC

As the result of investigation this Committee finds the following facts regarding the content of the audit conducted by KPMG AZSA LLC for that Term.

(a) Overview of Investigation

a. The acquisition of shares in the Three Domestic Companies

In response to Olympus's intention to post the entire amount of the goodwill arising from the acquisition of the Three Domestic Companies, KPMG AZSA LLC, which was aware of the need for impairment loss because the business performance of each of the Three Domestic Companies deviated greatly from business plans and was also cognizant that the acquisition prices were unusually high, conducted multiple interviews with Kikukawa, Yamada, Mori and others during the period from around December 2008 until the submission of the audit report in May 2009. On these occasions, KPMG AZSA LLC asked about matters such as the reason for the large deviation between business plans and performance, the status of review of the business plans from the time of acquisition, the reason the acquisition price became extremely high and the affiliation of the seller, which was an overseas fund.

In addition, KPMG AZSA LLC requested a business appraisal from a reliable third party for the purpose of impairment loss with respect to the business plans that Olympus had newly prepared and obtained from Olympus a written assessment of the securities company's business strategy regarding the Three Domestic Companies and a business valuation computation report from a business consulting firm. However, upon conducting interviews with the business consulting firms that drafted these appraisal reports, KPMG AZSA LLC confirmed that these appraisal reports had not been premised on impairment loss accounting.

In addition, KPMG AZSA LLC conducted visiting audits with respect to the Three Domestic Companies.

b. FA fee relating to the Gyrus Acquisition

KPMG AZSA LLC noticed that the FA fee relating to the Gyrus Acquisition was too large and conducted multiple interviews with Kikukawa, Mori and others during the period from around December 2008 until the submission of the audit report in May 2009. In these interviews, KPMG AZSA LLC asked about matters such as the content of the services provided by AXES, which was the FA, the reasons why the initial FA Agreement was revised and the percentage of the completion fee increased, the status of the legal review of the possibility that the value of the stock options would exceed five percent and the review of the valuation, the response within Olympus when it was discovered that the value of the stock options would exceed five percent and the status of negotiations with the FA, the history of the negotiations whereby the Warrant Purchase Rights came to be five billion yen, the status of the legal review of the issuance of the Preferred Shares and the valuation, the relationship between AXES and AXAM, the relationship between AXES and Axes (Japan) Securities Co., Ltd., the history of investment in Axes Investment Advisors and the history of Sagawa.

In addition, KPMG AZSA LLC projected that the current market value of the Preferred Shares would easily exceed the value of the stock options, confirmed the history of these options and asked about the status of negotiations for the purchase of the Preferred Shares. Thereupon, they received a response from Mori and others to the effect that they had agreed with AXES that when the Preferred Shares were issued, the capital would be reduced; that they were cognizant that the Preferred Shares were of equal value with the book value of the stock options; that regarding the purchase of the Preferred Shares, the Initial Purchase Resolution only established a framework; and in fact they were in negotiations to make the purchase for an amount that was about half of that of the framework.

(b) Communication with Corporate auditors and Request for Operational Audit

Starting around December 2008, KPMG AZSA LLC communicated with the corporate auditors and the Board of Corporate Auditors at Olympus that the acquisition price of the Three Domestic Companies and the FA fee relating to the Gyrus acquisition were exceedingly high and that they had doubts as to the reasonableness of the price; they reported each time on the status of questioning of the management and persons in charge of accounting and requests for documents and conveyed that they were aware of the threat of violations of the duty of due care of a prudent manager on the part of the directors in the decision-making process; and they called on the corporate auditors to exercise their authority for an operational audit.

(c) Delivery of the Communication Letter

On April 10, 2009, KPMG AZSA LLC wrote to Imai and Komatsu regarding the fact that the acquisition price of the Three Domestic Companies and the FA fee relating to the Gyrus acquisition were very high, informing them: although the investigation was proceeding, they were aware that there were still problems; that since the management had nevertheless not moved to take appropriate recognition of impairment loss, there was the possibility of the auditors stepping down if adjustments found acceptable from the viewpoint of economic rationality were not taken; that even if the financial statements became clear, it was possible that an opinion would not be issued; that in some cases, pursuant to Article 193, paragraph 3 of the Financial Instruments and Exchange Act4, it is possible for outside auditors to be required to ask corporate auditors to take corrective measures and report the matter to the prime minister. KPMG AZSA LLC also informed them that they would submit written questions to the corporate auditors.

Thereafter, KPMG AZSA LLC delivered the Communication Letter dated April 23, 2009 to the Board of Corporate Auditors. In this Communication Letter, KPMG AZSA LLC pointed out the following as matters among those they judged and discovered during the audit that KPMG AZSA LLC judged particularly important in connection with the

[4] Article 193-3 of the Financial Instruments and Exchange Act (Treatment of Discovery of Violations, etc. of Laws and Regulations)

1 If a Certified Public Accountant or Audit Firm discovers, in performing the audit certification prescribed in Paragraph 1 of the preceding article, a violation of laws and regulations or other fact that is likely to have an effect on the maintenance of propriety of statements of finance and accounting (in Item 1 of the next paragraph, "fact of violation of laws and regulations, etc."), he or she shall notify the relevant Specified Issuer without delay, as prescribed by Cabinet Order, of the content of such fact and of the need to rectify the violation and take other appropriate measures.

2 In a case where a Certified Public Accountant or Audit Firm who has given the notice prescribed in the preceding paragraph finds that all of the particulars stated below exist even after the passage of the period prescribed by Cabinet Order after the day on which the relevant notice was given, if the Certified Public Accountant or Audit Firm finds it necessary to prevent the material effect prescribed in Item 1, he or she shall notify the Prime Minister of his or her opinion on the relevant particulars as prescribed by Cabinet Order. In this case, the relevant Certified Public Accountant or Audit Firm shall give the Specified Issuer prior written notice that he or she will notify the Prime Minister.

(i) The fact of violation of laws and regulations, etc. is likely to have a material effect on the maintenance of propriety of the Specified Issuer's statements of finance and accounting; and

(ii) The Specified Issuer who received the notice prescribed in the preceding paragraph will not take appropriate measures prescribed therein.

performance of duties of Non-Director Management: ① concerning the Three Domestic Companies, a review of the propriety of the acquisition price and a review of the performance of the acquired companies and the propriety of the recipients of payments, etc., and ② concerning the FA fee relating to the Gyrus acquisition, an internal review of the payment of a large amount of advisory compensation and a review of the propriety of the recipients of payments. KPMG AZSA LLC also called on the corporate auditors to exercise their operational audit authority.

(d) Basic Agreement on Recognition of Impairment Loss

On May 7, 2009, KPMG AZSA LLC met with Kikukawa, Yamada, Mori, Kawamata and others, while confirming that Olympus planned to post impairment losses of 83 percent with respect to Altis and 100 percent with respect to Humalabo and News Chef respectively, KPMG AZSA LLC also confirmed that Olympus intended to expense the FA fee relating to the Gyrus acquisition of about 15.5 billion yen, which exceeded five percent. On this occasion, KPMG AZSA LLC also requested that a Third Party Committee that included lawyers and accountants be established regarding the Communication Letter.

(e) Submission of the 2009 Committee's Report and the Board of Corporate Auditors' Report

a Submission of the 2009 Committee's Report

The Board of Corporate Auditors, after confirming the intention of KPMG AZSA LLC, received referrals from Mori and others of attorneys-at-law and certified public accountants who would become candidate commissioners of the Third Party Committee, and on May 11th and 12th of 2009, made a request to the commissioners and others of said committee for an investigation on whether or not there were illegalities or fraud, in addition to whether or not there were errors in the business judgment on the part of the directors, with respect to the acquisition of shares in the Three Domestic Companies and the payment of the FA fee concerning the Gyrus acquisition.

On the 17th of the same month, the 2009 Committee submitted a report (the 2009 Committee's Report) to the Board of Corporate Auditors to the effect that circumstances could not be confirmed to an extent that would enable them to pass the judgment that there had been illegalities or fraud or violations of the duty of due care of a prudent manager on the part of the directors with respect to either the acquisition of shares in the Three Domestic Companies or the payment of the FA fee concerning the Gyrus acquisition, which was based only on the facts and documents that were presented by Olympus and KPMG AZSA LLC, without having verified the accuracy of their contents or having assessed the evidence, and premised on the fact that not only were they unable to comprehensively examine the disclosed documents, but also that the interviews were insufficient.

b Submission of the Board of Corporate Auditors' Report

The Board of Corporate Auditors had received a draft of the 2009 Committee's Report prior to May 17th of the same year, and based on having reviewed its content in advance, after receiving the 2009 Committee's Report dated May 17th, on the same date, it submitted to KPMG AZSA LLC a report (the Board of Corporate Auditors' Report) which stated that as a result of the Board of Corporate Auditors having carefully reviewed and deliberated the contents of the 2009 Committee's Report, the Board of Corporate Auditors also could not find any illegalities or fraud in the transactions themselves, and that violations of the duty of due care of a prudent manager and procedural errors on the part of the directors could not be acknowledged.

c KPMG AZSA LLC's Meeting with the 2009 Committee and the Board of Corporate Auditors

On May 18, 2009, KPMG AZSA LLC received explanations on the content of the 2009 Committee's Report and the Board of Corporate Auditors' Report from the 2009 Committee commissioners and Imai. On that occasion, KPMG AZSA LLC made confirmations concerning the Three Domestic Companies on Olympus' relationship with LGT and GC, and whether or not there had been knowledge of such items as the attributes of the Cayman Funds (NEO, ITV), which were the assignors of the shares of stock that would make a large amount of profit over a short period of time, or that the Isaka CPA Office had not assessed the business plans, while it also made confirmations concerning the Preferred Shares as the FA fee concerning the Gyrus acquisition on the relationship with the payee, and whether or not there had been knowledge of such items as that in order for the Preferred Shares and the stock options to become equal in value, such would be premised on a capital reduction of Gyrus, but that a mutual agreement on a capital reduction had not been put in writing, and that without being premised on a capital reduction, the value of the Preferred Shares would become far higher, and urged said commissioners and Imai, who had not known about these circumstances, to consider whether it would be necessary to revise the reports.

d KPMG AZSA LLC's Issuance of an Unqualified Clean Opinion

With respect to the Three Domestic Companies, purporting that their excess earning power could no longer be expected due to a worsening economic environment etc., with the exception of the 4.8 billion yen for Altis, Olympus posted a valuation loss on the shares of the affiliated companies in the amount of 68.6 billion yen in its non-consolidated accounting, and performed a one-time amortization of goodwill in the amount of 55.7 billion yen in its consolidated accounting. Also, with respect to the FA fee concerning the Gyrus acquisition as well, it made an impairment loss treatment as losses from prior-term adjustments with respect to the 15.5 billion yen that exceeded the 5 percent of the acquisition price set forth in the Revised FA Agreement.

In response, this led to KPMG AZSA LLC issuing an unqualified clean opinion on the 20th of the same month to the Board of Corporate Auditors on both the non-consolidated and consolidated accounting of Olympus in the audit results for the fiscal year ending March 2009.

Note that KPMG AZSA LLC made a request to outside attorneys-at-law for a second opinion concerning the 2009 Committee's Report, and reportedly, it obtained the viewpoint from said attorneys-at-law that the non-issuance of an audit opinion could not be justified while a reason could not be established for being unable to issue an audit opinion, or a reasonable basis and evidence could not be shown, and that the risks could not be denied of an action being brought against said firm from the company and its shareholders, and that it was not under the obligation of Article 193, paragraph 3 of the Financial Instruments and Exchange Act.

e Change of auditors

On the 21st of the same month, the day following the issuance of an unqualified clean opinion by KPMG AZSA LLC, Kikukawa told KPMG AZSA LLC that its agreement would not be renewed in the following fiscal year.

f Recommendation for the Resolution to cancel

On June 1, 2009, KPMG AZSA LLC, in a meeting with the corporate auditors, stated, "We believe that paying 60 billion yen in fees for a 200 billion yen acquisition is not socially acceptable, and that perhaps there are problems. KPMG in the U.K. is saying that it had not heard of the matter of the Preferred Shares' dividends. The U.K. applies the IFRS accounting standards, and under those standards, Preferred Shares are marked to market as debt. In other words, while GGL has 18 billion yen in debt from AXES, Olympus had made the assessment that 50 billion yen would be required for the repurchase, so that would mean posting extraordinary losses of approximately 30 billion yen, the difference with the Preferred Shares worth 18 billion yen, in the non-consolidated financial statements of GGL. As for KPMG AZSA LLC, we also believe that such treatment must be avoided, but if extraordinary losses of as much as 30 billion yen were actually to be posted, there is the possibility that the problem would become one of the transaction itself, rather than in the accounting. We think there is the also possibility that neither E&Y nor Ernst & Young ShinNihon LLC would consent to taking over the account while such issues remained. Even if they were to take over, it could be anticipated that a re-examination of the 141st Term would be requested, and would lead to a situation in which both the company and KPMG AZSA LLC would have no choice but to respond to amendment requests, but we believe that this should be mutually avoided by all means," and proposed to Olympus to wipe the slate clean on the resolution to purchase the Preferred Shares, and to resolve at a Board of Directors' meeting considerations for the capital reduction of Gyrus, a continuation of the suspension of dividend distributions on the Preferred Shares, and negotiations for a reduction in the dividend distribution terms, and on the 5th of the same month, a resolution was passed for the Resolution to cancel.

C. Whether or Not There Were Violations of the Duty of Due Care

Considering the above facts, as KPMG AZSA LLC alluded to a notification based on Article 193, paragraph 3 of the Financial Instruments and Exchange Act, it is speculated that it was aware of the signs of fraud concerning the acquisitions of the Three Domestic Companies and the FA fee concerning the Gyrus acquisition.

Regardless of the same, in the end, it did not make a notification based on Article 193, paragraph 3 of the Financial Instruments and Exchange Act, and issued an unqualified clean opinion on the financial statements of Olympus; we will review whether or not such acts were a violation of the duty of due care as an auditor.

(A) Regarding the Fact that KPMG AZSA LLC Issued an Unqualified Clean Opinion

a Regarding the Appropriateness of the Accounting Treatments

First, regarding the accounting treatments, a one-time impairment loss treatment was done respectively on the greater portion of the goodwill exceeding the actual performance of the Three Domestic Companies and their reasonable profitability, as well as on the portion of goodwill exceeding 5 percent of the acquisition price with respect to the FA fee concerning the Gyrus acquisition, which was the upper limit under the Revised FA Agreement, and no unreasonable points can be acknowledged in particular in having assessed the company's accounting treatments as being appropriate.

b Regarding the Handling of Fraudulent or Illegal Acts

Of course, KPMG AZSA LLC knew that there were signs of material misstatements being made through fraud, based on the fact that the acquisition price of the Three Domestic Companies and the FA fee concerning the Gyrus acquisition were both transactions at abnormally high prices, and performed the audits such as those mentioned above after having recognized the high audit risks.

Such handling on the part of KPMG AZSA LLC can basically be said to be reasonable that were in accordance with the Auditing Standards Committee Statements.[5]

[5] Refer to each of the Auditing Standards Committee Statement No. 11, "Illegal Acts," said Statement No. 25, "Auditor's Communication with the Corporate Statutory Auditor, the Board of Corporate Statutory Auditors or the Audit Committee," and said Statement No. 35, "The Auditor's Responsibility to Consider Fraud in an Audit of Financial Statements."

Of course, KPMG AZSA LLC was completely aware that the 2009 Committee's Report contained extensive preconditions as mentioned above, and that said report had been prepared over an extremely short period of time, and in addition, it knew at the time it met with the 2009 Committee commissioners on May 18, 2009 after receiving said report, that there was the possibility that said commissioners had not conducted a sufficient investigation of the facts. This point can also be seen from the fact that KPMG AZSA LLC urged the Resolution to cancel.

The issue becomes whether or not it was appropriate that KPMG AZSA LLC issued an unqualified clean opinion while such situation remained.

On this point, the 2009 Committee commissioners were made up of attorneys-at-law and certified public accountants who had no vested interest in Olympus, and no outward circumstances can be acknowledged to suspect the fairness of the substance of their opinion. In addition, circumstances can be acknowledged that notwithstanding that KPMG AZSA LLC urged that the need for a re-investigation be considered when it met with said commissioners, neither the commissioners or the corporate auditors expressed any special intentions.

Under such conditions, regardless of the fact that the 2009 Committee, who were independent experts, and the corporate auditors, whose duty is to audit illegalities, had reached the legal judgment that there were no illegal acts on the part of the directors, if KPMG AZSA LLC were not to issue an opinion on the basis that such judgment was unreasonable, or if it were to issue a qualified opinion, as a result, it would bear the risk of being pursued in its liability for default from Olympus, and in some cases, be pursued in its liability from the shareholders and creditors as well. However, the interpretation cannot be made that the law has such expectations as to demand the discovery of fraudulent or illegal acts to an extent where such risks are borne by an auditing firm, whose duty is to perform accounting audits.

Note that with respect to the point as well that KPMG AZSA LLC had made a request to Olympus for a withdrawal of the Initial Purchase Resolution concerning the Preferred Shares, from the fact that it had been reported in the 2009 Committee's Report and in the Board of Corporate Auditors' Report that there were no illegalities to an extent that included the act of issuing the Preferred Shares, and that even though the framework had been set in the Initial Purchase Resolution to purchase the Preferred Shares in a range from 530 million dollars to 590 million dollars, it had received explanations from the company that negotiations were being held to actually purchase them for a lower amount, the interpretation can be made under said facts as well that there would not have been an impact on the conclusion.

Therefore, the violation of the duty of due care cannot be acknowledged on the part of KPMG AZSA LLC, which issued an unqualified clean opinion with respect to the settlement of accounts for the fiscal year ending March 2009.

(B) Regarding the Fact that a Notification Based on Article 193, paragraph 3 of the Financial Instruments and Exchange Act Was Not Made

When an auditing firm, in the course of making an auditing certification, discovers in specific issuers "facts that are in violation of the law and other facts that have the risk of impacting the securement of the appropriateness of documents concerning financial statements," it must demand that a written notification be made of the content of such facts and that it would take corrective and other appropriate measures of the violation of law concerning said facts, and in cases in which the specific issuer has not made corrections after a certain period of time has passed, or in cases in which there is the possibility that the facts of said violation of law would have a material impact on the securement of the appropriateness of the specific issuer's financial statements, it must report the same to the Prime Minister (Article 193, paragraph 3 of the Financial Instruments and Exchange Act).

The interpretation can be made that "facts that are in violation of the law and other facts that have the risk of impacting the securement of the appropriateness of documents concerning financial statements" refers to facts that would generate misrepresentations of material matters etc. in cases in which the auditor was unable to take any measures whatsoever, and said financial statements were submitted in a state in which said facts had remained neglected (Law and Regulation Committee Research Report No. 9 "Q&A on the Response to the Discovery of Facts of Violations of the Law Etc." Q4).

In the matter in question, the intention in which KPMG AZSA LLC alluded to a notification based on said Article traces back to the fact that Olympus had in the first place asserted that it would post the entire amount of the acquisition price of the Three Domestic Companies and the high FA fee concerning the Gyrus acquisition as goodwill, and the conflict of opinions grew deeper with KPMG AZSA LLC, which had doubts on its reasonableness.

However, with respect to the Three Domestic Companies, Olympus subsequently decided to post a valuation loss on the shares of the affiliated companies in the amount of 68.6 billion yen in its non-consolidated accounting at the end of the fiscal year ending March 2009 with the exception of the 4.8 billion yen for Altis, and to perform a one-time amortization of goodwill in the amount of 55.7 billion yen in its consolidated accounting, and with respect to the Gyrus FA fee as well, it decided to make an impairment loss treatment as losses from prior-term adjustments with respect to the 15.5 billion yen that exceeded the 5 percent of the acquisition price set forth in the Revised FA Agreement, so it can be said that the risks of having a material impact on the securement of the appropriateness of the financial statements were significantly reduced.

In addition, with respect to the high acquisition price concerning the Three Domestic Companies and the high FA fee concerning the Gyrus acquisition, while it is speculated that they were aware of the signs of fraud in the reasonableness of the prices or in the obscurity of the payee, it cannot be acknowledged that they had discovered the facts of the Loss Separation Scheme in its entirety of partially.

Furthermore, with respect to the acquisition of the Three Domestic Companies and the FA fee concerning the Gyrus acquisition, both the selection of the counterparties and the reasonableness of the prices fall under the business judgment rule, and the problem is originally one in which the Board of Directors were given broad discretion, in addition to which, the 2009 Committee made up of outside experts including an attorney-at-law, while it attached certain preconditions, stated the opinion that there had been no violations of the duty of due care of a prudent manager, and the Board of Corporate Auditors, charged with the duty of operational audits, submitted the Board of Corporate Auditors' Report in which it, too, judged that violations of the law could not be acknowledged, and although they made confirmations in a subsequent meeting on whether or not there was a requirement for an additional investigation, the content of the reports were not amended.

Also, premised on the facts mentioned above, KPMG AZSA LLC made an independent inquiry for the opinion of an attorney-at-law on whether or not there was a requirement for a notification based on said Article, and obtained the viewpoint that there was no such need.

As discussed above, the interpretation can be made that compared to the time in which KPMG AZSA LLC originally alluded to a notification based on said Article, the risks of having a material impact on the securement of the appropriateness of the financial statements had been significantly reduced, and that in addition, there is no requirement under the law to the extent in which an auditor, which is not a legal expert, should determine that there was fraud and make a notification based on said Article regardless of the fact that a legal expert who had no vested interest in Olympus had made the judgment that it was legal.

Therefore, that KPMG AZSA LLC did not make a notification based on said Article is not a violation of the duty of due care as an auditor.

(4) March 2010 settlement

A Substance of the Execution of the Loss Separation Scheme

Olympus, in the instance of its having purchased the Preferred Shares from AXAM, did so based on the Board of Directors' meeting resolution after receiving the advice of Ernst & Young ShinNihon LLC that it could post the same as goodwill if it was within the range of excess earning power, and on February 26, 2010, it purchased the Preferred Shares for 62 billion yen, and posted goodwill in the amount of 41.2 billion yen at the end of the fiscal year ending March 2010.

B Whether or Not There Were Violations of the Duty of Due Care

At the end of the fiscal year ending March 2009, KPMG AZSA LLC made an impairment loss treatment of the 15.5 billion yen that exceeded the 5 percent of the acquisition price set forth in the Revised FA Agreement, with the understanding that the Preferred Shares were a part of the FA fee concerning the Gyrus acquisition. Also, it had made a request to Kawamata and the corporate auditors and others to withdraw the Initial Purchase Resolution from facts such as that if Olympus purchased the Preferred Shares for a price as high as 53 billion yen to 59 billion yen, the acquisition fee would amount to over 60 billion yen in total, and that it would not be typical as a fee on the acquisition of 200 billion yen; that if the Preferred Shares were purchased within the range of the Initial Purchase Resolution, it would post approximately 30 billion yen in extraordinary losses; and that it had received explanations from management that there was no policy to respond to a purchase in the amount that AXAM was demanding.

Regardless of the above, the fact that Ernst & Young ShinNihon LLC had acknowledged the posting of goodwill with respect to the acquisition of the Preferred Shares based on the understanding that they were not a part of the FA fee, while also perceiving the Preferred Shares to have held a value of nearly 60 billion yen from the beginning, resulted in giving momentum to propel the Loss Separation Scheme forward.

With respect to whether or not there were violations of the duty of due care on the part of Ernst & Young ShinNihon LLC in its acknowledgement of the posting of goodwill in the amount of 41.2 billion yen accompanying the acquisition of the Preferred Shares, and in its issuance of an unqualified clean opinion, we will make a review from the perspectives of ① whether or not the succession was properly conducted, and ② whether or not there were problems in Ernst & Young ShinNihon LLC having accepted the posting of goodwill without having recognized an anomaly in the transaction concerning the purchase of the Preferred Shares.

(A) Whether the Succession Was Properly Conducted

a The Substance of the Succession of KPMG AZSA LLC and Ernst & Young ShinNihon LLC

KPMG AZSA LLC and Ernst & Young ShinNihon LLC conducted a succession, which in summary was as follows.

(a) The Meeting Between Both Auditing Firms Towards the Succession of the Agreement

On June 11, 2009, KPMG AZSA LLC and Ernst & Young ShinNihon LLC conducted their first meeting for the purpose of succession, and in summary, the following questions were asked.

Questions (Ernst & Young ShinNihon LLC)	Responses (KPMG AZSA LLC)
Whether or not there were doubts regarding the integrity of the managers.	In the intermediate stage, there was a transaction that could not be said to be typical. The substance was the background and assessment of an investment in which a large amount of losses had been posted, and a transaction involving a business combination in which a large amount of losses from prior-term adjustments had been posted. With respect to these, we conducted an audit with a reasonable amount of skepticism, and although there were differences of opinion with the company in the review stage, in the end, an accounting treatment was performed that the company itself considered to be correct, and we acknowledged the company's treatment to be reasonable, so we believe that there are no doubts.
Whether or not there was pressure that would threaten independence in the issuance of opinions, such as that requests had been made from the managers for specific report content.	We believe that none exist in particular.
The viewpoint of the former auditor concerning the reason for the change of auditors.	It is as has been stated in the extraordinary report and the timely disclosures, and we do not have any opinions in particular.
Whether or not there were signs that an audit opinion was being sought that was favorable to the company being audited.	There had been exchanges at the level of an exchange of opinions regarding the accounting treatment, but we believe that such an inclination did not exist.
Whether or not there were important differences of opinion with the company being audited concerning the accounting treatment, issuance, and audit procedures.	(From the fact that an audit of the securities report has not been completed) we believe that none exist at the present time.

Whether or not there was any fraud on the part of the managers or material fraud on the part of the employees in existence, or any signs of the same.	During the audit of OCA, the acquisition fee concerning the Gyrus acquisition became a problem for the auditor KPMG. Based on this, KPMG AZSA LLC obtained the opinion of an attorney-at-law and the opinion of the auditors, and implemented a follow-up. As a result, we submitted an audit report under an unqualified clean opinion.
Whether or not there were any important illegal acts in existence, or that the possibility was high that such existed.	We believe that none exist in particular.
Whether or not it was involved in important litigation cases, or that the possibility was high that such existed.	We believe that none exist in particular.
Whether or not there were important defects in the internal controls concerning financial reporting.	We believe that none exist.
Whether or not there were any problems in existence related to the going-concern assumption.	We believe that none exist.
Whether or not the possibility was high that cooperation could not be obtained in the audit work, such as that the documents necessary to perform an audit would not be provided.	We believe that is not the case, but there are instances in which obtaining documents requires time.
Whether or not it knew of any information or circumstances concerning any material misrepresentation in the financial statements at the present time that could possibly have an important impact on the audit opinion.	We believe that none exist.

(b) Succession of audit work

On July 6, 2009 and on the 7th of the same month, KPMG AZSA LLC and Ernst & Young ShinNihon LLC conducted the succession at the offices of KPMG AZSA LLC by browsing the audit statements, etc.

On both days, from around 9:30 a.m. to 6 p.m., Ernst & Young ShinNihon LLC made confirmations on whether or not there were any problem points in terms of performing an audit, and the succession was conducted from the perspectives of obtaining useful information in performing an audit, and of obtaining proper audit evidence with respect to such items as whether or not material misrepresentations had been included in the opening balance at the beginning of the fiscal year, whether the closing balance of the previous fiscal year had been properly carried over, and the continued application of accounting policy.

KPMG AZSA LLC made adequate explanations to Ernst & Young ShinNihon LLC with respect to the accounting treatment adopted by Olympus and the audit procedures of cash and deposits as well as inventories, but it did not respond to questions concerning valuations or estimates concerning the items of judgment of the auditors including the valuation of the Preferred Shares or the reasonableness of the acquisition amounts, and similarly refused the browsing of any audit work papers concerning these.

Because of this, Ernst & Young ShinNihon LLC could not receive any explanations from KPMG AZSA LLC concerning the valuation of the Preferred Shares beyond what was stated in the Communication Letter, the 2009 Committee’s Report, and the summary audit reports, etc.

Also, KPMG AZSA LLC did not convey to Ernst & Young ShinNihon LLC the fact that it had made reference to Article 193, paragraph 3 of the Financial Instruments and Exchange Act to the corporate auditors and others, and of the fact that it had proposed to the corporate auditors and others on June 1, 2009 that the purchase resolution of the Preferred Shares be withdrawn.

b Appropriateness of the Succession

The succession between KPMG AZSA LLC and Ernst & Young ShinNihon LLC was conducted in accordance with the Auditing Standards Committee Statement No. 33, “Change of Auditors.” KPMG AZSA LLC refused an explanation or disclosure of documents with respect to the valuation of the Preferred Shares or the reasonableness of the acquisition amounts, but on this point as well, it cannot be said to be improper, because the interpretation can be made that they fall under items concerning “the decision process in forming a final opinion,” which are stated to be exempt from succession under Paragraph 16 of said Statement.

However, the issue becomes whether the fact that it had made reference to Article 193, paragraph 3 of the Financial Instruments and Exchange Act, or the fact that it had proposed that the Initial Purchase Resolution be withdrawn, that were not included in the succession, should have been included in the succession as items falling under “circumstances or conditions concerning material misrepresentations in financial statements” under Paragraph 5 of said Statement, or “illegal acts” under the Auditing Standards Committee Statement No. 11.

First, with respect to the notification based on Article 193, paragraph 3 of the Financial Instruments and Exchange Act, as has already been mentioned, due to such facts as that Olympus had made a loss treatment in a certain amount including the recognition of impairment losses, and that the 2009 Committee's Report had been submitted and the Board of Corporate Auditors had judged that there had not been any violations of the duty of due care of a prudent manager on the part of the directors, the understanding of KPMG AZSA LLC was that the circumstances that required a notification based on said Act had been settled, so it cannot be said that the failure to convey said facts was unreasonable.

Also, while KPMG AZSA LLC did not convey the fact that it had proposed the Resolution to cancel, Ernst & Young ShinNihon LLC could have easily confirmed the fact that the Resolution to cancel had been effected from the Board of Directors' meeting minutes, and the facts that served as its premise had been stated in the Communication Letter, the 2009 Committee's Report, and the summary audit reports, etc.; with respect to the fact that it refrained from making particular conveyance of the valuation on the basis that it was an item falling under "the decision process in forming a final opinion" and decided to leave the matter to the professional decision of the succeeding auditor, the statement cannot be made to the extent that such was unreasonable from the perspective of auditing.

Therefore, with respect to the succession between KPMG AZSA LLC and Ernst & Young ShinNihon LLC, the statement cannot be made to the extent that there were violations of the duty of due care on the part of both parties.

(B) Whether it was a Problem For Ernst & Young ShinNihon LLC to Have Accepted the Posting of Goodwill Regarding the Purchase of the Preferred Shares While They Remained Unaware of an Anomaly in the Transaction

Ernst & Young ShinNihon LLC understood the issuance of the Preferred Shares to be a separate transaction from the FA fee concerning the Gyrus acquisition, and without having acknowledged any exceptional anomalies in the purchase of the Preferred Shares, it accepted the posting of a large amount of goodwill in the amount of 41.2 billion yen that accompanied the purchase, and issued an unqualified clean opinion; we will review whether or not there was a violation of the duty of due care on this point.

a Regarding Their Perception of the Value of the Preferred Shares

When Gyrus issued the Preferred Shares, Gyrus had already become a financial subsidiary that only held loan notes, and said Preferred Shares were designed to be able to permanently receive fixed yields on loan notes. When premised on the quality of assets at the time of the issuance without considering a capital reduction, Ernst & Young ShinNihon LLC perceived that its value would roughly amount to almost 60 billion yen. Said perception does not differ largely from the valuation document of Shinko

Securities, which estimated the value of the Preferred Shares at 557 million dollars at the time of the Initial Purchase Resolution, or the estimated amount from the AXAM side, and cannot be said to be unreasonable even in light of the content of the Initial Purchase Resolution.

Note that while Olympus passed a resolution in the Board of Directors' meeting held on September 26, 2008 for the issuance of the Preferred Shares that would receive dividend distributions of 85 percent of the earnings (after taxes) generated from the remaining financial assets after a capital reduction, because the Preferred Shares that were actually issued had been granted the provision of veto rights, Ernst & Young ShinNihon LLC perceived that the feasibility of a capital reduction was poor.

b Regarding the Background Etc. of the Issuance of the Preferred Shares

Ernst & Young ShinNihon LLC had received the following explanations from Mori and others regarding the background of the issuance of the Preferred Shares. ① Gyrus was anticipated to be re-listed at the time of the acquisition, and with respect to the FA fee concerning a successful acquisition of said company, Olympus would reduce cash-outs and in conjunction, have the FA become a shareholder (joint investor) that owned voting rights on 9.9 percent of the total number of shares outstanding by granting it stock options, and decided on a fee structure in which the FA would also be able to recover the same by selling these after a re-listing in the future; as a result, the stock options were issued to the FA. ② Subsequently, however, after the Gyrus acquisition, Olympus discovered that it could achieve an early realization of synergistic effects beyond what was anticipated, and in conjunction, the necessity arose to turn Gyrus into a 100 percent-owned subsidiary in order to minimize tax costs. ③ For that reason, while the stock options had a book value price of 177 million dollars, its true value had become higher than its book value price, and it became necessary to issue preferred shares with sufficient content to make AXAM give up any expectations of capital gains through a re-listing of Gyrus. Ernst & Young ShinNihon LLC was also provided with review documents of business synergies that conformed to said explanations, as well as review documents etc. of the tax costs.

c Regarding the Legality of the Procedures for the Issuance of the Preferred Shares

In all of the meeting minutes with respect to Olympus' Board of Directors' meeting resolution concerning the issuance the Preferred Shares, the Initial Purchase Resolution, and the Resolution to cancel, there are statements of their being a part of the fee or investment advisory fee; in addition, in the summary audit report of KPMG AZSA LLC as well, there are statements that "As a part of the fee, the Preferred Shares in Gyrus Group Limited with the following content were issued dated September 30, 2008 to Axam Investment Ltd.," and "In the event that the Preferred Shares were actually repurchased, it would be necessary to carefully determine the nature of the transaction and its accounting treatment as well as the content of disclosure." Also, Ernst & Young ShinNihon LLC had received an explanation from the management and during its succession from KPMG AZSA LLC as well that with respect to the course of events that led to the issuance of the Preferred Shares, it had become a problem during the fiscal year.

On the other hand, regarding the legality of the issuance of the Preferred Shares, it was reported in the 2009 Committee's Report that circumstances could not be acknowledged that there were violations of the duty of due care of a prudent manager on the part of the directors, and in conjunction, based on this, the Board of Corporate Auditors' Report was issued which purported that illegal acts could not be acknowledged on the part of the directors, and on that premise, KPMG AZSA LLC issued an unqualified clean opinion regarding the non-consolidated and consolidated financial statements for the fiscal year ending March 2009. Ernst & Young ShinNihon LLC had made confirmations regarding all of these, in addition to which, on the occasion of its succession from KPMG AZSA LLC, with respect to the Preferred Shares, it was not specifically explained as a problem that should be included in the succession.

(C) Review

Considering each of the above facts, it can be said that regardless of whether or not Ernst & Young ShinNihon LLC knew that the Preferred Shares were a part of the FA fee, if Olympus were to purchase the Preferred Shares for 62 billion yen, it could have found out that as a result, a large amount of payment would have been made to the FA.

However, with respect to the background that led to the issuance of the Preferred Shares, it at least received an explanation from Mori and others for that cannot be called entirely unnatural, and additionally, opinions had been issued in the 2009 Committee's Report and in the Board of Corporate Auditors' Report that there were no illegalities with respect to the procedures for its issuance, and based on this, KPMG AZSA LLC also issued an unqualified clean opinion; from this, it can be said that it was unavoidable for there to have been no recognition of an anomaly in the transaction of the issuance of the Preferred Shares.

Also, while the decision for the purchase of shares of stock falls under items of business judgment including the determination of its price, the determination had been made in a Board of Directors' meeting resolution, and there are no procedural problems that can be acknowledged on that point, in addition to which, because Ernst & Young ShinNihon LLC had perceived the value of the Preferred Shares to be nearly 60 billion yen from the beginning, it did not perceive the acquisition amount to the extent of being an abnormally high amount, and the statement cannot be made to the extent that it was unreasonable for it to have perceived that the matter fell under business judgment as an amount that was decided upon in the course of negotiations with a third party. Furthermore, unlike corporate auditors, whose duty is to audit illegalities, auditors have the duty to perform accounting audits, so unless there are exceptional circumstances such as that it had recognized signs of fraud, from the fact that it is not in a position to audit whether or not there were violations in the business judgment rule, the statement cannot be made to the extent that there were careless errors with respect to the fact that Ernst & Young ShinNihon LLC did not perceive the Purchase Resolution to be an unreasonable one that deviated from business judgment.

With respect to the fact that it had newly acknowledged the posting of goodwill in the amount of 41.2 billion yen that accompanied the purchase of the Preferred Shares as well, as mentioned above, Ernst & Young ShinNihon LLC did not recognize an anomaly in the transaction of the purchase of the Preferred Shares, and based on the observation that the statement cannot be made to the extent that there were careless errors on that point, neither can the fact that it acknowledged the posting of goodwill within the range of the excess earning power of Olympus' surgery business through the Gyrus acquisition be said to be unreasonable in terms of an accounting treatment.

Note that the actual purchase amount of the Preferred Shares had increased to 620 million dollars, which was in excess of the range between 530 million dollars and 590 million dollars that was approved at the time of the Initial Purchase Resolution, but from the fact that it remained within the excess earning power of Olympus' surgery business through the Gyrus acquisition even at 620 million dollars, it does not have an impact on the conclusion mentioned above.

Also, hypothetically, even if Ernst & Young ShinNihon LLC knew that the Preferred Shares were the FA fee, as long as the Preferred Shares were acknowledged to have a value of 620 million dollars, and it remained within the range of excess earning power, the interpretation can be made that the posting of goodwill is permitted in terms of an accounting treatment as an expense for which the acquisition's consideration can be acknowledged, out of the expense amounts that were directly required in the business combination, so on this point as well, it cannot be said that the judgment of Ernst & Young ShinNihon LLC was unreasonable.

Therefore, with respect to Ernst & Young ShinNihon LLC having acknowledged the posting of goodwill in the amount of 41.2 billion yen, which is an amount corresponding to consideration for the acquisition, without having recognized an anomaly in the transaction of the purchase of the Preferred Shares, it cannot be acknowledged that there was a violation of the duty of due care on the part of Ernst & Young ShinNihon LLC.

(D) Conclusion

With respect to Ernst & Young ShinNihon LLC having acknowledged the posting of goodwill of 41.2 billion yen that accompanied the purchase of the Preferred Shares, and having issued an unqualified clean opinion, it should be said that violations of the duty of due care cannot be acknowledged on the part of either KPMG AZSA LLC or Ernst & Young ShinNihon LLC.

X. Regarding the liability of executive officers

As a result of this Committee having conducted an investigation and review of the aforementioned commissioned work, while the duty of good faith as employees existed on the part of the executive officers, concerning the Series of Problems, none of them could be acknowledged to have committed any fraudulent or improper actions in their performance of duties.

Therefore, with the exception of Nakatsuka, no liability could be acknowledged against the executive officers (Ichikawa, Kojima, Kuribayashi, Gomi, Yokoo, Saito, Karaki, Ueda, Saito, Kawada, Masakawa, Kawamata, Sasa, Nishikawa, Yoda, Gumz, Nakajima, Kubota, Takeuchi, Koga, Hayashi, Taguchi, Ogawa, and Bang).

Note that with respect to Nakatsuka, he concurrently served as a director, and because he has been included in the investigation by the Director Investigation Committee, he was not included in the investigation by this Committee.

XI. Violations of the duty of due care of a prudent manager on the part of the corporate auditors etc. and damages

1 Facts That Serve as the Premise in Damages

(1) Damages relating to the formulation and maintenance of the Loss Separation Scheme

Olympus incurred unrealized losses of approximately 95 billion yen in the financial assets that it held around the year 1998.

Olympus learned that the accounting standards would be changed from the fiscal year ending March 2001, and assigned their financial assets that had incurred unrealized losses to Receiver Funds (CFC and QP) at amounts corresponding to their book value, and decided to continue having the Receiver Funds hold them; it borrowed funds from banks by providing third-party collateral of assets such as deposits and government bonds that Olympus held and injected those funds into the Receiver Funds (through multiple Pass-Through Funds), or injected the capital that Olympus invested in its Exposed Funds (LGT-GIM, SG Bond, GCNVV) into the Receiver Funds, and afterwards, it made said injected funds flow back to Olympus as the book-value assignment proceeds of their financial assets (in this way, assets such as the deposits provided as third-party collateral and the invested capital in the Exposed Funds would remain with Olympus).

While the State of Loss Separation was being maintained, interest and management fees were paid to banks and the managers of the Exposed Funds and Pass-Through Funds.

A The Interest

In order to procure the funds with which the Receiver Funds would acquire by transfer Olympus' held financial assets that had incurred unrealized losses at amounts corresponding to their book value as well as to maintain the State of Loss Separation, the Receiver Funds and Pass-Through Funds borrowed funds from financial institutions such as LGT Bank and Commerzbank (after having received provisions of third-party collateral from Olympus with respect to the deposits and government bonds etc.), and paid the interest accompanying the same. The currently known amounts of the interest paid to each financial institution in each fiscal year from April 2001 through March 2005 are as shown in Exhibit ③.

B The Fund Management Fees Etc.

(A) The Management Fees for LGT

In order to procure the funds with which the Receiver Funds would acquire by transfer Olympus' held financial assets that had incurred unrealized losses at amounts corresponding to their book value, Olympus and its wholly owned subsidiary, OAM, purchased investment equity in LGT-GIM (the purchase amounts were 15 billion yen on the part of Olympus, and 20.3 billion yen on the part of OAM).

Due to this, Olympus and OAM paid 1.61 percent per annum in relation to the managed amounts as fund management fees to LGT Capital Management, which was the manager of said Fund (hereinafter referred to as the “Management Fees for LGT”). The currently known amounts of the Management Fees for LGT paid to LGT Capital Management in each fiscal year from April 2001 through March 2005 are as listed in Exhibit ④.

(B) The Management Fees for SG Bond

In order to maintain the State of Loss Separation that was formulated by means of the Receiver Funds having acquired by transfer Olympus’ held financial assets that had incurred unrealized losses at amounts corresponding to their book value, Olympus made an investment in February 2005 of 60 billion yen in SG Bond, a Fund for investment purposes set up by Chan.

Due to this, Olympus paid 0.2 percent per annum in relation to the managed amount as fund management fees to Strategic Growth Asset Management, which was the investment manager of said Fund (hereinafter referred to as the “Management Fees for SG Bond”). However, the currently known amounts of the Management Fees for SG Bond paid to Strategic Growth Asset Management have not been generated from April 2001 through March 2005, as listed in Exhibit ④.

(C) The Management Fees for NEO

In order to maintain the State of Loss Separation that was formulated by means of the Receiver Funds having acquired by transfer Olympus’ held financial assets that had incurred unrealized losses at amounts corresponding to their book value, fund management fees (management fees) were paid from assets held by NEO, a Pass-Through Fund, to GCI Cayman, which was NEO’s General Manager.

NEO obtained TEAO funds (31 billion yen) from LGT-GIM, and injected a portion of it (19.4 billion yen) into a Receiver Fund (QP) in order to be used in the loss separation and its maintenance, but the surplus money that was not used in the loss separation and its maintenance (approximately 10.1 billion yen) was used for the acquisition of shares in ITX Corporation etc. through ITV. Of the fees obtained by NEO, the portion concerning the money used by QP for the purpose of the loss separation and its maintenance is acknowledged to be the damages based on the loss separation and its maintenance. To accurately determine that ratio is not necessarily easy, but of the fees etc. that were paid to NEO, at the very least, a ratio corresponding to 194/295, in which a deduction was made of the 10.1 billion yen-equivalent that was invested in ITV from NEO's held assets, is believed to have been used for the maintenance of loss separation. The specific amounts currently known of the management fees for NEO that are acknowledged to be damages in each fiscal year from April 2001 through March 2005 are as listed in Exhibit ④.

(D) The Loss Separation Portion of the Management Fees Etc. for GCNVV

Olympus established GCNVV, a Business Investment Fund, on March 1, 2000 (the invested amounts were 30 billion yen on the part of Olympus, and 5 billion yen on the part of GV).

Based on this, the following fees were each paid to GCI Cayman, the General Partner.

① 525 million yen as an initial management fee

② 0.25 percent of the net asset value on the record date at 4 times per year as the management fee

③ 1,124,780,000 yen as the completion fee and 537,270,010 yen as the midterm termination fee at the time of the termination of GCNVV

The purpose for the establishment of GCNVV was centered on its use in the loss separation and its maintenance, but it can be acknowledged that incidental purposes such as the creation of new businesses also existed. Therefore, of the fees paid to GCI Cayman, the portion concerning the management of money used by GCNVV for the purpose of the loss separation and its maintenance is acknowledged to be the damages based on the loss separation and its maintenance. To accurately determine that ratio is not necessarily easy, but of the 35 billion yen of money invested in GCNVV throughout most of the period immediately following the establishment of GCNVV until its termination, at the very least, a level of approximately 24 billion yen was transferred to QP, a Receiver Fund, and of the fees etc. that were paid for the maintenance etc. of GCNVV, at the very least, a ratio corresponding to 240/350 is believed to have been used for the maintenance of loss separation. Therefore, of the management fees, completion fees, and midterm termination fees that were paid to GCI Cayman from April 2001 until GCNVV was terminated in August 2007, an amount corresponding to 240/350 (hereinafter referred to as the "Loss Separation Portion of the Management Fees Etc. for GCNVV") is acknowledged to be the damages based on the loss separation and its maintenance. The specific amounts currently known of the management fees for GCNVV that are acknowledged to be damages in each fiscal year from April 2001 through March 2005 are as listed in Exhibit ④.

(2) Damages concerning the settlement of the Loss Separation Scheme

In order to settle the situation in which the State of Loss Separation was being maintained, Olympus injected into the Receiver Funds, by way of the Pass-Through Funds, the money for the acquisition of shares in the Three Domestic Companies as well as the money for the purchase of the Warrant Purchase Rights and the Preferred Shares of the FA fee concerning the Gyrus acquisition, and using said injected capital, repaid the debt of the Receiver Funds from the financial institutions and had the provided third-party collateral settled with respect to Olympus' assets such as the deposits and government bonds, while it also had repayments etc. be made of the invested capital to the Exposed Funds etc. in which Olympus made investments.

In the settlement etc. of the State of Loss Separation, fees were paid to the collaborators (the persons in charge at banks and the managers of Pass-Through Funds) etc. regarding the Loss Separation and its Maintenance.

A The 1,259,250,000 Yen Paid to Gurdon Overseas S.A in September 2008

Gurdon Overseas S.A appears to be a Fund that involves Walch, who assisted in raising capital through the route of LGT Bank, and in September 2008, 1,259 million yen was paid from NEO. The LGT route was settled with such money as the 31.9 billion yen paid to NEO and the 15.2 billion yen transferred to NEO after making payment to ITV as the money to purchase shares in the Three Domestic Companies that Olympus purchased on March 26, 2008 based on the resolution of the Board of Directors' meeting held on February 22nd of the same year; said payment is believed to have been made using such funds as the aforementioned 31.9 billion yen paid to NEO.

B The 950,000,000 Yen Paid to Nayland Overseas S.A in December 2008

Accompanying the settlement of the LGT Bank route, 950 million yen was paid from Teao to Nayland Overseas S.A, which is similarly believed to be a Fund that involves Walch.The LGT route was settled with such monies as the 31.9 billion yen paid to NEO and the 15.2 billion yen paid to ITV as the money to purchase shares in the Three Domestic Companies that Olympus purchased on March 26, 2008 based on the resolution of the Board of Directors' meeting held on February 22nd of the same year, and the 9.6 billion yen paid to DD and the 4 billion yen paid to GT as the fund to purchase shares in the Three Domestic Companies that were purchased on April 25th of the same year by OFH; said fee is believed to have been made using a portion of the aforementioned money that was transferred to TEAO, a Receiver Fund, in the settlement.

C The 1,080,066,963 Yen Paid to Nakagawa in April 2010

Nakagawa was a director of GPAI, a Pass-Through Fund; in accordance with the termination of GPAI and the settlement of the Singapore Route (the return of SG Fund) with such monies as the 620 million dollars paid to AXAM as the money to purchase the Preferred Shares in Gyrus that Olympus purchased from AXAM on March 25, 2010 based on the resolution of the Board of Directors' meeting held on March 19th of the same year, after April 16, 2010, said person received as a fee the cash balance that was remaining in said Fund of 11,481,524 dollars (1,080,066,963 yen when converted to yen under the rate at that time of 1 dollar = 94.07 yen).

Note that the 620 million dollars that Olympus paid to AXAM as the money to purchase the aforementioned Preferred Shares was transferred to GPAI from AXAM.

D The 1,367,442,825 Yen Paid to Chan in June 2010

Chan was a collaborator in the Singapore Route; similar to the aforementioned C, in accordance with the settlement of the Singapore route (the return of SG Fund) with such monies as the money to purchase the Preferred Shares in Gyrus that Olympus purchased from AXAM on March 25, 2010, in June of the same year, 1,367,442,825 yen was paid to Chan as "Professional fees" from Easterside, a Pass-Through Fund.

Note that the entirety or a portion of the 620 million dollars that Olympus paid to AXAM as the money to purchase the aforementioned Preferred Shares was transferred from AXAM to Easterside through the Pass-Through Funds, GPAI and Creative Dragon SPC ("hereinafter referred to as "CD").

2 Damages based on Ota's violation of the duty of due care of a prudent manager

With respect to Ota, who knew or could have found out about the series of actions concerning the loss separation and maintenance of Olympus' financial instruments, the damages based on the violation of the duty of due care of a prudent manager as a corporate auditor can be acknowledged as follows.

As previously mentioned, Ota was appointed as a corporate auditor in June 2001, and until he retired in June 2004, regardless of the fact that he knew, or that he at least could have found out that the state of capital injection and the State of Loss Separation were being maintained, he violated the duty of due care of a prudent manager and left said states neglected.

As a result, after July 2001, it can be acknowledged that the interest and the fund management fees etc. on the matter in question were being paid for the maintenance of the State of Loss Separation until the State of Loss Separation had been completely settled; after July 2004 when Ota had retired as a corporate auditor, because he no longer had the legal authority to settle the maintenance of losses by exercising his audit authority, of the interest and the fund management fees etc. on the matter in question that had been incurred after July 2001 until the State of Loss Separation had been completely settled, at the very least, the 3,725,561,170 yen amount that had been incurred during his tenure can be acknowledged to be the damages having legally sufficient cause with respect to Ota's violation of the duty of due care of a prudent manager (Exhibits ⑤⑥).

3 Damages based on the corporate auditors (Imai, Komatsu, Shimada, and Nakamura) violations of the duty of due care of a prudent manager

(1) Regarding the Damages Due to the acquisition of shares in the Three Domestic Companies based on the resolution of the Board of Directors' meeting of February 22, 2008

In the Board of Directors' meeting held on February 22, 2008, a resolution was passed that approved the purchase of shares in the Three Domestic Companies for a maximum total amount of 61.379 billion yen, and as a result of the violations of the duty of due care of a prudent manager on the part of the corporate auditors who participated in the Board of Directors' meeting in failing to exercise their proper audit authority, it led to Olympus paying a total of 60.795 billion yen to the Funds as the money for shares in the Three Domestic Companies.

As a result of this, as long as money for which there was originally no requirement to pay flowed out of Olympus, at that point in time, it can be acknowledged that damages were incurred by Olympus corresponding to the total amount of 60.795 billion yen that was paid in the name of the money for shares in the Three Domestic Companies. However, a portion of the money paid to the Funds was made to flow back to the Exposed Funds through the Pass-Through Funds, and had been returned to Olympus in the form of a return of investment capital, and on this corresponding amount alone, it would mean that damages had been recovered. Although it is not clear how much was returned to Olympus, at the very least, it is clear that the total amount of 2,209,250,000 yen consisting of the following had not been returned to Olympus.

- The 1,259,250,000 yen paid from NEO to Gurdon Overseas S.A in September 2008
- The 950 million yen paid from TEAO to Nayland Overseas S.A in December 2008

Note that because Olympus came to own the shares in the Three Domestic Companies as consideration for having paid the total amount of 60.795 billion yen as the money for shares in the Three Domestic Companies, in the calculation of the amount of damages incurred by Olympus, in theory, it is believed to be necessary to deduct an amount corresponding to the value of the shares in the Three Domestic Companies from the total of 60.795 billion yen. However, based on the course of events etc. of said stock acquisition, on the occasion of submitting its 2nd Quarter Report for the fiscal year ending March 2012 (submitted on December 14, 2012), Olympus assessed the book value of said shares to be zero, so it is believed to be unnecessary to give particular consideration to the amount corresponding to the value of the shares in the Three Domestic Companies in the calculation of damages.

Therefore, it can be acknowledged that Olympus incurred damages of at least 2,209,250,000 yen as a result of the violations of the duty of due care of a prudent manager on the part of the corporate auditors (Imai, Komatsu, Shimada, and Nakamura) who attended the Board of Directors' meeting held on February 22, 2008.

(2) Regarding the damages due to the Issuance of the Preferred Shares in Gyrus based on the resolution of the Board of Directors' meeting held on September 26, 2008 and the acquisition of the Preferred Shares in Gyrus based on the resolution of the Board of Directors' meeting held On March 19, 2010

① The corporate auditors (Imai, Komatsu, Shimada, and Nakamura) who participated in the Board of Directors' meeting held on September 26, 2008, in which a resolution was passed approving the Preferred Shares to be issued, violated their duty of due care of a prudent manager, and

② The corporate auditors (Komatsu, Shimada, and Nakamura) who participated in the Board of Directors' meeting held on March 19, 2010, in which a resolution was passed approving the Preferred Shares in Gyrus to be purchased for 620 million dollars, and the corporate auditor (Imai) who was absent in this but acknowledged the same on the previous day, violated their duty of due care of a prudent manager, and failed to exercise the proper audit authority

As a result, it led to Olympus paying 620 million dollars to AXAM as the money to purchase the Preferred Shares. As long as money for which there was originally no requirement to pay flowed out of Olympus, at that point in time, it can be acknowledged that damages were incurred by Olympus corresponding to the amount of 620 million dollars, which is the amount corresponding to the amount for the purchase of the Preferred Shares.

However, a portion of the money paid to the Funds was made to flow back to the Exposed Funds through the Pass-Through Funds, and had been returned to Olympus in the form of a return of investment capital, and on this corresponding amount alone, it would mean that damages had been recovered. Of the amount that was paid from Olympus as the money to purchase the Preferred Shares in Gyrus based on the Board of Directors' meeting held on March 19, 2010, it is unclear how much was returned to Olympus; however, at the very least, it is clear that the total amount of 2,447,509,788 yen consisting of the following had not been returned to Olympus.

- The 1,080,066,963 yen paid from GPAI to Nakagawa in April 2010
- The 1,367,442,825 yen paid from Easterside to Chan in June 2010

Therefore, it can be acknowledged that Olympus incurred damages of at least 2,447,509,788 yen due to the actions in violation of the duty of due care of a prudent manager on the part of the corporate auditors (Imai, Komatsu, Shimada, and Nakamura) who attended the Board of Directors' meeting held on September 26, 2008, and on the part of the corporate auditors (Komatsu, Shimada, and Nakamura) who attended the Board of Directors' meeting held on March 19, 2010 as well as the corporate auditor (Imai) who was absent in this but acknowledged the same on the previous day (Exhibit ⑦).

Note that if the corporate auditors had fulfilled their audit duty concerning the facts they learned through the summary audit report for the fiscal year ending March 2008, they could have prevented the situation of the issuance of the Preferred Shares based on the resolution of the Board of Directors' meeting held on September 26, 2008, and the purchase of the Preferred Shares in Gyrus based on the resolution of the Board of Directors' meeting held on March 19, 2010 from arising, and it can be said that they could have prevented the abovementioned damages due to the same from arising as well. Therefore, the interpretation can be made that the damages based on the violations of the duty of due care of a prudent manager concerning an audit of the facts learned through the summary audit report for the fiscal year ending March 2008 are also included in the amount corresponding to the abovementioned 2,447,509,788 yen in total damages.

From the above, the damages having legally sufficient cause with respect to the violations of the duty of due care of a prudent manager on the part of the corporate auditors (Imai, Komatsu, Shimada, and Nakamura) total at least 4,656,759,788 yen (2,209,250,000 yen + 2,447,509,788 yen) (joint-and-several liability) (Exhibit ⑦).

4 Summary of damages based on the liability of each corporate auditor

As described above, the damages based on the liability of each corporate auditor is as follows.

(1) Damages based on the violation of the duty of due care of a prudent manager on the part of Ota

Amount of 3,725,561,170 yen

(2) Damages based on the violations of the duty of due care of a prudent manager on the part of the corporate auditors (Imai, Komatsu, Shimada, and Nakamura)

Total of 4,656,759,788 yen (joint-and-several liability)

XII. Conclusions

1 The Liability of the corporate auditors and whether or not it would be appropriate to pursue liability of the corporate auditors

(1) Regarding the formulation and maintenance of the Loss Separation Scheme

During the period from the year 1990 to May 2001 when Ota held the position of the Head of the Accounting Department, regardless of the fact that he was completely aware that there was a large amount of unrealized losses within Olympus that had not been made public, he continued to tacitly approve the same after June 2001 when he was appointed as a corporate auditor without making a report at Board of Directors' meetings or general shareholders' meetings; with respect to having enabled the maintenance of the Loss Separation Scheme by such means, violations of the duty of due care of a prudent manager as a corporate auditor can be acknowledged.

(2) Regarding the acquisition of shares in the Three Domestic Companies

With respect to having passed a resolution to purchase shares in the Three Domestic Companies for a massive amount at the Board of Directors' meeting held on February 22, 2008, Imai, Komatsu, Shimada, and Nakamura can be acknowledged to have violated their duty of due care of a prudent manager in having overlooked the violations of the duty of due care of a prudent manager on the part of the directors.

(3) Regarding the FA fee connected to the acquisition of Gyrus

A With respect to having passed a resolution to purchase for a large amount the Warrant Purchase Rights that were issued as the FA fee concerning the Gyrus acquisition, along with having passed a resolution to exchange stock options for the Preferred Shares at the Board of Directors' meeting held on September 26, 2008, Imai, Komatsu, Shimada, and Nakamura can be acknowledged to have violated their duty of due care of a prudent manager in having overlooked the violations of the duty of due care of a prudent manager on the part of the directors.

B With respect to having passed a resolution to purchase the Gyrus-issued Preferred Shares from AXAM for a massive amount at the Board of Directors' meeting held on March 19, 2010, Imai, Komatsu, Shimada, and Nakamura can be acknowledged to have violated their duty of due care of a prudent manager in having overlooked the violations of the duty of due care of a prudent manager on the part of the directors.

(4) Regarding the handling of matters after Woodford indicated his suspicions

Yamada was involved in the Series of Problems concerning Olympus' deferred posting of losses, and while he had the duty to settle the matter in relation to the suspicions pointed out by Woodford without concealing the same, on the point of not having done so, he can be acknowledged to have violated the duty of due care of a prudent manager as a corporate auditor.

However, because Yamada's liability in said matter has been acknowledged in the Director Liability Investigation Committee, we judge that it would be proper to exclude him from the pursuit of liability covered in this Committee.

(5) Regarding the other corporate auditors

No violations of the duty of due care of a prudent manager concerning the Series of Problems could be acknowledged with respect to the other corporate auditors (Ikoma, Komata, Kawashima, Kunihisa, Amemiya).

2 Liability of the auditing firms and whether or not it would be appropriate to pursue their liability

For KPMG AZSA LLC and Ernst & Young ShinNihon LLC, the issue becomes one of a violation of the duty of due care with respect to misrepresentations in the securities reports etc. or the illegal dividend distributions of surplus money etc. accompanying the Series of Problems, but violations of the duty of due care could not be acknowledged with respect to either.

3 Liability of the executive officers and whether or not It would be appropriate to pursue their liability

As to the executive officers (Ichikawa, Kojima, Kuribayashi, Gomi, Yokoo, Saito, Karaki, Ueda, Saito, Kawada, Masakawa, Kawamata, Sasa, Nishikawa, Yoda, Gumz, Nakajima, Kubota, Takeuchi, Koga, Hayashi, Taguchi, Ogawa, and Bang), none of them could be acknowledged to have committed any fraudulent or improper actions concerning the Series of Problems in their performance of duties.

Therefore, no liability could be acknowledged against the above-mentioned executive officers.

4 Conclusion

In the matter in question, the written opinions of experts or the investigation reports have each become important factors in judging the liability of Non-Director Management concerning the acquisition of shares in the Three Domestic Companies and the exchanging of stock options into the Preferred Shares as the FA fee concerning the Gyrus acquisition. However, in the 2009 Committee's Report and the business value calculation reports of the Isaka CPA Office, both were prepared with unusual premises that were extremely limited.

That the people involved at the time did not fully understand such preconditions and placed an emphasis on its conclusion may be viewed as being careless or imprudent as an after-the-fact judgment of a legal expert, but for the corporate auditors and accounting auditors who were not experts in the field, the judgment cannot be immediately made that they violated the duty of due care from the fact that they had not given thought to its unnaturalness. In other words, it can be said the masterminds of the matter in question concealed the illegal acts by cleverly manipulating the opinions of experts and the investigation reports.

End

Exhibit ①

Distributable amounts in revised financial statements

Unit: million yen

	FYE3/07	FYE3/08		FYE3/09			FYE3/10		FYE3/11		
	Year-end dividend	Interim dividend	Year-end dividend	Acquisition of Treasury stock	Interim dividend	Year-end dividend	Interim dividend	Year-end dividend	Acquisition of Treasury stock	Interim dividend	Year-end dividend
Item / Formula / Effective date	6/29/2007	12/7/2007	6/30/2008	5/9/2008–6/20/2008	12/5/2008	3/31/2009 *1	12/4/2009	6/30/2010	11/8/2010–12/8/2010	12/3/2010	6/30/2011
Distributable amount	−26,276	−32,956	−17,305	−7,288	−22,881	−82,454	−42,710	−11,553	−15,605	−21,316	−20,684
Dividend of surplus or acquisition of Treasury stock	6,488	5,405	5,405	9,997	5,34	No dividend	4,050	4,049	9,995	4,050	4,004

*1: The distributable amount in FYE3/09 (year-end dividend) shows the distributable amount as of March 31, 2009, because no dividend was paid.

Process of calculating the distributable amount (only items of impact)

		Formula	FYE3/07 Year-end dividend	FYE3/08 Interim dividend	FYE3/08 Year-end dividend	FYE3/09 Acquisition of Treasury stock	FYE3/09 Interim dividend	FYE3/09 Year-end dividend	FYE3/10 Interim dividend	FYE3/10 Year-end dividend	FYE3/11 Acquisition of Treasury stock	FYE3/11 Interim dividend	FYE3/11 Year-end dividend
<Calculation of surplus amount>													
Sum of other capital surplus and earned surplus in the final fiscal year		a=a1+a2	−23,916	−23,916	−4,647	−4,647	−4,647	−78,942	−78,942	−7,416	−7,416	−7,416	−9,536
Other capital surplus in the final fiscal year		a1	22	22	22	22	22	22	22	32,139	32,139	32,139	31,761
Other earned surplus in the final fiscal year		a2	−23,938	−23,938	−4,669	−4,669	−4,669	−78,964	−78,964	−39,555	−39,555	−39,555	−41,297
Increase/decrease in surplus after the end of the final fiscal year		b=b1+b2−b3	−	−6,488	−	−	−5,405	−	46,442	−	−4,049	−4,049	−
Gain/loss on disposition of Treasury stock after end of final fiscal yr.	*2	b1	−	−	−	−	−	−	−3,558	−	−	−	−
Gain on reduction of reserves after the end of the final fiscal year (excluding amounts added to capital)	*3	b2	−	−	−	−	−	−	50,000	−	−	−	−
Dividends of surplus after the end of the final fiscal year		b3	−	6,488	−		5,405	−	−	−	4,049	4,049	−
Amount of surplus		A=a+b	−23,916	−30,404	−4,647	−4,647	−10,052	−78,942	−32,500	−7,416	−11,465	−11,465	−9,536
<Calculation of distributable amount>													
Amount of surplus (as of the effective date of the distribution)		A	−23,916	−30,404	−4,647	−4,647	−10,052	−78,942	−32,500	−7,416	−11,465	−11,465	−9,536
Dividend restrictions based on goodwill, etc.		e	−	−	−	−	−	−	−	−	−	−	−
Book value of Treasury stock (as of the effective date of the distribution)		f=f1+f2+f3−f4	2,360	2,552	12,658	2,641	12,829	2,634	4,131	4,137	4,140	9,851	11,148
Balance at the end of the final fiscal year		f1	2,264	2,264	2,634	2,634	2,634	2,634	12,874	4,136	4,136	4,136	11,097
Increase by purchase of fractional shares	*4	f2	96	288	27	7	198	−	16	1	4	4	51
Increase by means other than purchase of fractional shares	*5, 6	f3	−	−	9,997	−	9,997	−	−	−	−	5,711	−
Decrease	*7	f4	−	−	−	−	−	−	8,759	−	−	−	−
Value of Treasury stock disposed after the end of the final fiscal year	*7	g	−	−	−	−	−	−	5,201	−	−	−	−
Valuation difference on other securities – balance		h	−	−	−	−	−	878	878	−	−	−	−
Total		B=e+f+g+h	2,360	2,552	12,658	2,641	12,829	3,512	10,210	4,137	4,140	9,851	11,148
Distributable amount		A−B	−26,276	−32,956	−17,305	−7,288	−22,881	−82,454	−42,710	−11,553	−15,605	−21,316	−20,684

*2: The gain on disposition of Treasury stock in FYE3/2010 (interim dividend) is due to the exchange with Iwaken shares on June 1, 2009.

*3: The gain on reduction of reserves in FYE3/2010 (interim dividend) is due to transferring capital reserves to surplus pursuant to a resolution at the general shareholders meeting on June 26, 2009.

*4: For the increase in Treasury stock due to the purchase of fractional shares, except for year-end dividends, the increase up to just before the end of the month in which the effective date falls is shown for the sake of simplicity.

*5: The increases in Treasury stock in FYE3/2008 (year-end dividend) and FYE3/2009 (interim dividend) are due to the paid acquisition of Treasury stock from May 9, 2008 to June 20, 2008.

*6: The increase in Treasury stock in FYE3/2011 (interim dividend) is due to the paid acquisition of Treasury stock from November 8, 2010 to December 3, 2010 (dividend effective date).

*7: The decrease in Treasury stock and the value of disposed Treasury stock in FYE3/2010 (interim dividend) are due to the exchange with Iwaken shares on June 1, 2009.

Exhibit ②

Dividends of surplus

	139th term (FYE3/07)	140th term (FYE3/08)	141st term (FYE3/09)	142nd term (FYE3/10)	143rd term (FYE3/11)
Year-end dividend	6,487,732,272	5,404,783,360	0	4,049,527,545	4,004,019,900
Interim dividend	5,405,454,740	5,344,557,880	4,049,555,925	4,049,509,830	

Acquisition of Treasury stock

				Resolution on May 8, 2008, to acquire Treasury stock		Resolution on Nov. 5, 2011, to acquire Treasury stock
Details of resolution to acquire Treasury stock	Total number of shares to be acquired	–	–	3.5 million shares (maximum)	–	5.0 million shares (maximum)
	Total acquisition amount	–	–	10 billion yen (maximum)	–	10 billion yen (maximum)
	Acquisition period	–	–	From May 9, 2008 to June 20, 2008	–	From Nov. 8, 2010 to Dec. 20, 2010
Actual acquisition of Treasury stock	Number of shares acquired	–	–	1,397,000	–	2,302,100
	Total acquisition amount (yen)	–	–	9,997,730,000	–	9,995,227,400

Exhibit ③

The Interest

	2001.4.1 ~ 2002.3.31	2002.4.1 ~ 2003.1.31	2003.2.1 ~ 2003.3.31	2003.4.1 ~ 2004.3.31	2004.4.1 ~ 2005.3.31
LGT Bank	262,430,004	214,442,804	42,888,561	251,632,884	258,231,124
Commerzbank or SG Bank	120,892,500	100,743,750	20,148,750	120,892,500	120,892,500
Total	383,322,504	315,186,554	63,037,311	372,525,384	379,123,624

Exhibit ④

The Fund Management Fees, Etc.

(1) GIM, SG Bond Portion

	2001.4.1 ~ 2002.3.31	2002.4.1 ~ 2003.1.31	2003.2.1 ~ 2003.3.31	2003.4.1 ~ 2004.3.31	2004.4.1 ~ 2005.3.31
LGT-GIM (OT)	243,403,020	204,948,975	41,271,143	247,626,855	248,988,915
GIM (OAM-OFH)	327,313,000	272,760,833	54,552,167	327,313,000	327,313,000
SG Bond	0	0	0	0	0
Total	570,716,020	477,709,808	95,823,310	574,939,855	576,301,915

(2) NEO Portion

	2001.4.1 ~ 2002.3.31	2002.4.1 ~ 2003.1.31	2003.2.1 ~ 2003.3.31	2003.4.1 ~ 2004.3.31	2004.4.1 ~ 2005.3.31
NEO's management fee, etc.	79,680,930	59,760,697	19,920,232	168,841,342	86,877,724
QP portion of NEO's management fee, etc.	52,400,340	39,300,254	13,100,084	111,034,645	57,133,147

*For NEO, the QP portion of the management fee, etc. in said fund

(3) GCNVV Portion

	2001.4.1 ~ 2001.12.31	2002.1.1 ~ 2002.12.31	2003.1.1 ~ 2003.12.31	2004.1.1 ~ 2004.12.31
GCNVV's management fee, etc.	271,725,559	322,501,703	303,270,603	296,382,155
Loss separation portion of GCNVV's management fee, etc.	186,326,098	221,144,025	207,956,985	203,233,478

*For GCNVV, the loss separation portion of the management fee, etc. in said fund.
*The portion from 4/1/2001 to 12/31/2001 was calculated at 9/12 of the annualized fee (¥362,300,745)

Exhibit ⑤

Damages by Ota

1. Interest (July 2001–June 2004)

383,322,504×9/12＋315,186,554＋63,037,311＋372,525,384＋379,123,624×3/12

= ¥1,133,022,033

* Interest for the period from April 1, 2001 to March 31, 2002 is calculated for the nine months after the auditor took office

* Interest for the period from April 1, 2004 to March 31, 2005 is calculated for the three months before the auditor took office

2. Fund management fees, etc. (July 2001–June 2004)

① GIM, SG Bond Portion

570,716,020×9/12+477,709,808+95,823,310+574,939,855+576,301,915×3/12

= ¥1,720,585,466

* The portion for the period from April 1, 2001 to March 31, 2002 is calculated for the nine months after the auditor took office

* The portion for the period from April 1, 2004 to March 31, 2005 is calculated for the three months before the auditor took office

② NEO Portion (July 2001–June 2004)

52,400,340×9/12+39,300,254+13,100,084+111,034,645+57,133,147×3/12

＝217,018,524

* The portion for the period from April 1, 2001 to March 31, 2002 is calculated for the nine months after the auditor took office

* The portion for the period from April 1, 2004 to March 31, 2005 is calculated for the three months before the auditor took office

③ GCNVV Portion (July 2001–June 2004)

186,326,098×6/9+221,144,025+207,956,985+203,233,478×6/12

= ¥654,935,147

* The portion for the period from April 1, 2001 to December 31, 2001 is calculated for the six months after the auditor took office

* The portion for the period from April 1, 2004 to December 31, 2004 is calculated for the six months before the auditor took office

④ Total of ①–③ above

¥2,765,770,191

3. Grand total

¥3,725,561,170

Exhibit ⑥

Liability of Minoru Ota as Auditor

Number	Cause of liability, etc.	Amount of damages, etc.	Remarks
1	Breach of the duty of due care of a prudent manager regarding the maintenance of the state of loss separation	3,725,561,170 yen	Interest and fund fees, etc. during the term of service as auditor
	Total	3,725,561,170 yen	

Exhibit ⑦

Liability of Tadao Imai, Katsuo Komatsu, Makoto Shimada, and Yasuo Nakamura as Corporate auditors

Number	Cause of liability, etc.	Amount of damages, etc.	Remarks
1	Breach of the duty of due care of a prudent manager regarding the audit of the acquisition of three domestic companies pursuant to the resolution at the Board of Directors meeting held on February 22, 2008	2,209,250,000 yen	Total of 1,259,250,000 yen paid from Neo to Gurdon Overseas S.A. in September 2008, and 950,000,000 yen paid from Teao to Nayland Overseas S.A. in December 2008
2	Breach of the duty of due care of a prudent manager with regard to auditing the summary audit report for FYE3/2008, the issuance of preferred shares pursuant to the resolution at the Board of Directors meeting held on September 26, 2008, and the acquisition of preferred shares pursuant to the resolution at the Board of Directors meeting held on March 19, 2010	2,447,509,788 yen	Total of 1,080,066,963 yen paid from GPAI to Nakagawa in April 2010 and 1,367,442,825 yen paid from Easterside to Chan in June 2010
	Total	4,656,759,788 yen	

*For Makoto Shimada and Yasuo Nakamura, because liability limit agreements were signed, liability may be limited to the amounts specified in said agreements.

Exhibit ⑧

List of Corporate auditors Not Found Liable

Number	Name
1	Tadahiko Amemiya
2	Seiya Ikoma
3	Hitoshi Komata
4	Hiroshi Kawashima
5	Yoshio Kunihisa

* We decided that the pursuit of liability for Hideo Yamada, as a former director, should be entrusted to the Director Liability Investigation Committee.

List of Auditing Firms Not Found Liable

Number	
1	KPMG AZSA LLC
2	Ernst & Young ShinNihon LLC

List of Executive Officers Not Recognized as Liable

Number	Name
1	Kazuo Ichikawa
2	Yusuke Kojima
3	Masao Kuribayashi
4	Toshiaki Gomi
5	Akinobu Yokoo
6	Takashi Saito
7	Koichi Karaki
8	Yasuhiro Ueda
9	Norio Saito
10	Hitoshi Kawada
11	Yoshihiko Masakawa
12	Naohiko Kawamata
13	Hiroyuki Sasa
14	Atsushi Nishikawa
15	Yasuo Yoda
16	F. Mark Gumz
17	Masanori Nakajima
18	Akira Kubota
19	Yasuo Takeuchi
20	Nobuyuki Koga
21	Shigeo Hayashi
22	Akihiro Taguchi
23	Haruo Ogawa
24	Il-Seok Bang