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Electronic Contracts and Signatures in Japan



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1. Introduction

Amid the COVID-19 pandemic, more and more companies are realizing the need to telework. In Japan, however, its traditional paper-based business activities and practice of stamping documents with seals, known as *hanko* or *inkan*, have often been blamed for hindering the movement toward working remotely.¹

This article will briefly outline the Japanese civil evidence rules that support the *hanko* culture, introduce the different types of electronic signatures or e-signatures, which can be added to electronic contracts and which have recently been drawing attention as a successor to the *hanko* system, and explain their legal status as evidence in Japan.

2. Functions of the *Hanko*

(1) Presumption of Authenticity

Japanese contract law does not generally require contracts to be in writing. Once they come into litigation, however, it is difficult to prove the existence and contents of orally executed contracts. Therefore,

contracts are usually written in the form of paper documents in Japan.

Under the Code of Civil Procedure of Japan, to offer a paper document as evidence, it must be proven to be of authentic provenance, *i.e.*, prepared by the person who the offeror claims is the preparer.² If the document is a private document, *i.e.*, a document prepared by one or more private persons, then it is presumed to be of authentic provenance if it has been sealed by the alleged preparer(s).³ According to a decision of the Japanese Supreme Court, a seal is presumed to have been “sealed by the alleged preparer” if it has been impressed with his or her own *hanko*.⁴ It is relatively easy to prove that a seal has been impressed with a particular *hanko* especially if the seal has been officially registered. The registered seal is generally called *jitsu-in*, and in fact, all companies and many individuals have their own *jitsu-ins* in Japan.

(2) Creation of Apparent Authority

Another, yet more subtle, function of the *hanko* is to be one of the factors that create apparent authority for an agent to act on behalf of its principal. The Japanese law

1. See Ben Dooley and Makiko Inoue, Japan Needs to Telework. Its Paper-Pushing Offices Make That Hard., The New York Times, April 14, 2020, at <https://www.nytimes.com/2020/04/14/business/japan-coronavirus-telework.html>.

2. Minji soshoho [Code of Civil Procedure], Law No. 109 of June 26, 1996, art. 228(1), as last amended by Law No. 45 of June 2, 2017.

3. *Id.*, art. 228(4).

4. Supreme Court, May 12, 1964, 18-4 Minshu, 597.



of agency makes a principal liable even if the agent (including a company's representative or employee) performs an act exceeding its authority as long as a third party has reasonable grounds to believe that the agent had authority.⁵ Since people usually treat and store their own *jitsu-ins* with care, Japanese courts have often seen the fact that an agent held or used the principal's *jitsu-in* when entering into a contract as one of the factors that make up the counterparty's "reasonable grounds."⁶ Therefore, a party to a contract can diminish to some extent the risk of disaffirmance by the other party by requesting the latter's agent to use the principal's *jitsu-in* to seal the contract.

3. E-Signatures in Japan

(1) Three Types of E-Signatures

What were described in the previous chapter are parts of the legal roles played by the *hanko* that have made the well-known – and sometimes notorious – Japanese *hanko* culture persistent and strongly rooted. A successor to the *hanko* must be able to sufficiently perform these roles to take its place completely.

E-signatures are expected to perform such legal roles and replace the *hanko* in the near future. What are termed "e-signatures" in Japan are generally based on the technique of making digital signatures, which can be signed using the signers' unique private signing keys. The authenticity and integrity of electronic documents can then be certified by electronic certificates issued by certificate authorities ("CAs"), who have verified the identities of the signers. These e-signatures can be categorized into the following three major types:

• Local signatures

– e-signatures signed with the document preparers' own signing keys stored locally on their own devices. Since document preparers must go through the identification processes required by the CAs beforehand and carry their signing keys whenever they need to sign, this type of e-signature entails the most cumbersome process of the three for document preparers.

• Remote signatures

– e-signatures signed with the document preparers' own signing keys stored on service providers' servers. While this type would not require document preparers to carry their signing keys themselves, they would still need to go through the identification processes required by the CAs.

• Service provider-signed signatures

– e-signatures signed with the service providers' signing keys pursuant to the instructions of the document preparers. This type of e-signature would be the easiest-to-use for document preparers because they would not need to obtain or manage their own signing keys.

The following is an analysis of whether each of the three types of e-signatures above has the same functions as the *hanko* with regard to the presumption of authenticity and creation of apparent authority.

(2) Can an Electronic Document with an E-Signature be Presumed to be of Authentic Provenance?

The Act on Electronic Signatures and Certification Business provides that an electronic document with an e-signature is presumed to be of authentic provenance if:

(i) the purpose of the e-signature is to indicate that

5. See, e.g., Minpo [Civil Code], Law No. 89 of April 27, 1896, art. 110, as last amended by Law No. 34 of June 14, 2019. See also Supreme Court, September 22, 1965, 19-6 Minshu, 1656.

6. Hiroki Nakaya, Shinpan Chushaku Minpo (4) [Japanese Civil Law Annotated Vol. 4], Fujio Oho and Masamichi Okuda eds., 2nd ed., Yuhikaku, 2015, p. 267.



the document was prepared by the person who signed it;
 (ii) the e-signature makes it possible to confirm whether the document has been altered;
 (iii) the e-signature can be signed only by the alleged preparer through the appropriate management of codes and properties necessary to sign it; and
 (iv) the e-signature was in fact signed by the alleged preparer.⁷

Local signatures and remote signatures generally meet the first and second requirements.⁸ Local signatures can also meet the third requirement because they can generally be signed only by the alleged preparers if their signing keys or IC cards that contain the signing keys and other “codes and properties” are managed appropriately. Remote signatures can meet the third requirement too, as long as the signing keys stored on the servers of the service providers are sufficiently secured and cannot be accessed by any person other than the alleged preparers.⁹ If the first three requirements are met, then local signatures and remote signatures can invoke the presumption of authenticity just like the *hanko* as long as it is proven that the fourth requirement has also been met using the electronic certificates issued by trusted CAs (e.g., CAs accredited by the Japanese government¹⁰), which indicate that the e-signatures were signed by the alleged preparers.

In contrast, it has been controversial whether an electronic document with a service provider-signed signature can meet the four requirements listed earlier. It was previously unclear whether the third and fourth requirements can be met because the document is signed by the service provider, and not the alleged preparer. However, it has been recently clarified that these requirements can be met if the service provider signed the document based solely on the will of the alleged preparer.¹¹ There are still some other issues though that need to be addressed, including the way the fourth requirement can be proven without the alleged preparer’s own electronic certificate, which obviously cannot be issued in such case. If an offeror of a document with a service provider-signed signature fails to prove that the four requirements have been met, then for evidence purposes, he or she may have to prove the authenticity of its provenance without the benefit of the presumption of authenticity by showing, for example, the emails exchanged with the alleged preparer before and after the document was prepared.¹²

(3) What Factors Create Apparent Authority for an Agent Using an E-Signature?

As to local signatures and remote signatures, once e-signatures become widely used and the importance of appropriate management of signing keys gains much

7. Denshi shomei oyobi ninsho gyomu ni kansuru horitsu [Act on Electronic Signatures and Certification Business], Law No. 102 of May 31, 2000, arts. 2(1) and 3, as last amended by Law No. 69 of June 13, 2014.

8. See Ministry of Justice (MOJ), Ministry of Internal Affairs and Communications (MIC) and Ministry of Economy, Trade and Industry (METI), Ronten ni taisuru kaito [Answers to the questions], May 12, 2020, Kisei Kaikaku Suishin Kaigi [Council for Regulatory Reform], 10th Seicho Senryaku Wakingu Gurupu [Working Group for Growth Strategies], Material No. 1-2, at <https://www8.cao.go.jp/kisei-kaikaku/kisei/meeting/wg/seicho/20200512/200512seicho04.pdf> (in Japanese).

9. See *id.* As to standards of sufficient security of service providers’ servers, the Japan Trust Technology Association has published Rimoto shomei gaidorain [Guidelines for remote signatures], April 30, 2020, at <https://www.jnta.org/result/jt2a/2020/index.html> (in Japanese), which can serve as a useful reference.

10. *Supra* note 7, art. 4(1).

11. See MIC, MOJ and METI, Riyosha no shiji ni motozuki sabisu teikyo jigyoisha jishin no shomeikagi ni yori angokato wo okonau denshi keiyaku sabisu ni kansuru Q&A (denshi shomeiho dai 3 jo kankei) [Q&A on electronic contract services that perform encryptions, etc., using the service providers’ own signing keys in accordance with users’ instructions (regarding Article 3 of the Act on Electronic Signatures and Certification Business)], September 4, 2020, Question Nos. 1 and 2, at <http://www.moj.go.jp/content/001327658.pdf> (in Japanese).

12. See Cabinet Office, MOJ and METI, Oin ni tsuitemo Q&A [Q&A about seals], June 19, 2020, Question No. 6, p. 4, at <http://www.moj.go.jp/content/001322410.pdf> (in Japanese).



recognition, the fact that an agent signs an e-signature with the principal's signing key might work as one of the factors, if not the decisive one, that create apparent authority just like an agent using the principal's *jitsu-in*.

In contrast, service provider-signed signatures would never be able to create the conditions in which an agent signs an e-signature with the principal's signing key because the signing key would not belong to the principal but to the service provider. Instead, the agent would only be able to instruct the service provider to sign a document on behalf of the principal. In this situation, a third party (where the subject document is a contract, including the other party thereto) would not be able to tell from the contents of the instruction alone whether the agent has authority. Therefore, a party to a contract should confirm that the other party's agent has the authority to instruct a

service provider to sign the contract on behalf of the principal by, for example, requesting the agent to show a proxy issued by the principal, or copying the principal or other relevant persons in the e-mails sent to the agent.¹³

4. Conclusion

The interpretation of e-signature laws has been rapidly developing in Japan especially since the novel coronavirus began to spread. It is important for businesses in Japan to stay current with the latest information, and appreciate the pros and cons of introducing electronic contracts and e-signatures into their business activities to overcome the limitations of the *hanko* culture.

13. This does not mean that local signatures and remote signatures will make it unnecessary for a party to a contract to confirm the other party's agent's authority, but the need to do so will just be greater with respect to service provider-signed signatures as opposed to such signatures.

Insurance for Business Interruption Losses



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1. Introduction

There is a wide variety of insurance products that cover the various risks that may arise from the business activities of an enterprise. For example, if its store premises are damaged due to a fire accident, then typically, the insured enterprise would expect to receive indemnification under a fire insurance policy for the damages. However, the losses that may be sustained if an enterprise's assets are damaged due to an accident are not usually limited to such direct losses or damages. In the example above, there may also be indirect losses, such as the loss of operating income during the closure of the business when the enterprise could not use its store premises, and rent, if it had to rent temporary store premises.

What is now known as business interruption insurance is available to provide indemnification for any loss or damage arising from any loss of operating income that could have been realized if the accident had not occurred, or from the bearing of any additional expenses by reason of any interruption of the business activities due to the accident, as in the case of the example above. It is believed that we will see an increase in cases where businesses will have no other choice but to suspend their business activities due to the spread of the new coronavirus (COVID-19) in addition to the ever-increasing number of natural disasters that we have been observing in Japan recently, thereby resulting in the

further rise in the importance of business interruption insurance.

This article will provide an outline of business interruption insurance, which covers business losses that arise from accidents.

2. An Outline of Business Interruption Insurance

Business interruption insurance has traditionally been provided in the form of an endorsement attached to a fire insurance policy. However, recently, insurance products have been made available under labels such as "comprehensive corporate property insurance" (*kigyou zaisan hokatsu hoken*), which comprehensively insures property and business losses sustained by enterprises due to accidents. The outline of business interruption insurance in the following sections is premised on it covering corporate properties in a comprehensive and general manner.

(1) Insured Events

Business interruption insurance covers business losses or damages caused by any suspension or interruption of the business of an insured enterprise due to any damage brought about by any unforeseen and unexpected accident to the buildings, facilities and other business assets of the insured. Unforeseen and unexpected accidents specifically include (i) fire, lightning strikes,



bursts/explosions, etc., (ii) damage caused by violent winds, hail or snow, (iii) water discharge due to an accident involving the water supply and drain equipment, (iv) riots/labor disputes, etc., (v) a vehicle/aircraft crash and the like, (vi) impact by an object coming from the outside of a building and the like, (vii) theft, (viii) flood, (ix) an electrical or mechanical accident, and (x) other unforeseen and unexpected accidents. Depending on the insurance product, some of these incidents are covered by endorsements and not by its general policy conditions.

(2) Categories of Insurance Coverage

The main insurance benefits to be paid under the above insurance can be classified into two major categories, although their names may slightly differ from one insurance product to another: (i) insurance benefits for loss of profits (*rieki hokenkin*) to pay for any lost earnings and increase in cost of working to prevent a reduction in revenue (*shuueki genshou boushi hiyou*), and (ii) insurance benefits for any additional increase in cost of working to pay for business continuity expenses (*eigyō keizoku hiyou hokenkin*).¹

A. Insurance benefits for loss of profits

One of the losses or damages sustained due to any suspension or interruption of business operations is lost earnings, which refer to any operating expenses (e.g., payroll costs or rent) that would have to be incurred continuously regardless of any such suspension or interruption of the business due to the occurrence of the accident, and any operating income that the enterprise was unable to earn as a result of the suspension of the

business and the like.² The amount of the insurance benefit for this is calculated by multiplying the amount of reduced sales or production during the period of indemnification by the insurance percentage contractually agreed on at the time of the execution of the insurance policy.

The “increase in cost of working” to prevent a reduction in revenue pertains to the excess amount of expenses, which are necessary and useful, and usually required to be incurred to prevent a reduction in sales or production due to an accident (such as the expense of renting substitute buildings and/or facilities, and the portion of the cost of the price of any merchandise and/or raw material purchased other than in the regular course of business in excess of the regular price cost). Since the increase in cost of working serves to reduce the lost earnings, while being itself a loss that takes the place of the lost earnings, the coverage for such expenses is available only up to the amount of the lost earnings as reduced by incurring such expenses.³

B. Insurance benefits for the additional increase in cost of working

The “additional increase in cost of working” for purposes of business continuity pertains to extra expenses that are similar to those that prevent a reduction in the revenue of an enterprise. However, the additional increase in cost of working differs from such increase in cost of working in that the former pertains to the extra expenses themselves that are incurred for purposes of business continuity while the latter is treated as a loss that takes the place of the lost earnings.

1. In addition to the insurance benefits mentioned herein, there are cases where under the general policy conditions or the additional endorsement thereto, an insured may be entitled to coverage for losses due to the suspension of its business and the like. The insured can be indemnified in an amount calculated by multiplying a certain amount by the number of days the business was suspended pursuant to the provisions thereof.

2. Toshiyuki Sakai, *Setsumonshiki riei hoken no keisan jitsumu* [Practical Business of the Calculation of Business Interruption Insurance, Q&A Style], Hiraoka Kougyousha, 2002, p. 18.

3. *Id.*, pp. 245-246.



Accordingly, unlike the increase in cost of working to prevent a reduction in the revenue of an enterprise, which is capped at the amount of the lost earnings as reduced by such increase in cost of working, there is no maximum limit to the coverage of the additional increase in cost of working for purposes of business continuity.

3. Insurance for Losses from the Suspension of Business Due to COVID-19

Losses due to infections in buildings and other facilities may be indemnified under a business interruption insurance by adding an “endorsement” to cover business interruptions due to food poisoning/specific communicable diseases. By doing so, the insured may be entitled to indemnification in the event its business operations are suspended or interrupted due to the conduct of any disinfection measures by public health centers and other agencies. However, in the case of business suspension losses resulting from the COVID-19 outbreak, it may be difficult to have them indemnified

since COVID-19 is not usually listed among the infectious diseases subject to indemnification by current policy conditions. Given such circumstances, some insurance companies have taken certain actions such as making goodwill payments to their business insurance policyholders. Moreover, in response to the prolonged COVID-19 pandemic, several insurance companies have announced that they will start offering insurance products that will compensate business suspension losses and include COVID-19 among the covered perils from 2021 onwards.⁴

The importance of business interruption insurance will likely grow in light of the current circumstances where it is hard to predict when the COVID-19 pandemic will end. Now may be a good opportunity for enterprises, including those that have not yet obtained any insurance to cover their potential business suspension losses, to consider reviewing their insurance coverage and paying more attention to risks that may arise from the suspension of corporate business activities.

4. Corona de kyugyo hosho taishou ni MS & AD ga happyou, sonpo kakusha [MS&AD and other non-life insurance companies to announce products to compensate for “Business suspension [loss] due to COVID-19”], The Nihon Keizai Shimbun, June 29, 2020 at <https://www.nikkei.com/article/DGXMZO60922510Z20C20A6EE9000/> (in Japanese). However, the voluntary suspension of a business in response to a request of the government, local authority, etc., that does not involve the conduct of any disinfection measures and the like is excluded from the scope of indemnification under the new insurance products. Readers should note that since the new products publicized so far are designed to mainly offer coverage for business suspension-related losses as mentioned in note 1, there is a possibility that such new products would not provide the business interruption insurance benefits for loss of profits discussed in part 2(2) of this article.

An Overview of Hybrid Virtual Shareholder Meetings in Japan



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1. Introduction

This year, many Japanese joint stock companies or *kabushiki kaishas* (“KFs”) had to change their annual general meeting (“AGM”) plans substantially given the COVID-19 pandemic situation. To mitigate the risk of infection and protect their shareholders’ health, many of them downsized their meetings in terms of their location, meeting time and number of questions to be taken from the shareholders. They also cancelled social gatherings and adopted precautionary measures for such meetings, such as physical distancing and temperature checks of attendees.

Such significant changes have encouraged more KFs to consider hosting virtual meetings. The Ministry of Economy, Trade and Industry (“METI”) also recently released the “Guidelines on Approaches to Hybrid Virtual Shareholder Meetings” (the “Guidelines”),¹ which explain some approaches to hosting shareholder meetings with a combination of virtual and physical measures. This article provides an overview of the Guidelines and describes some cases of hybrid virtual shareholder meetings.

2. AGMs in Japan in General

(1) AGMs under the Companies Act of Japan

Under the Companies Act (the “Act”), KFs must hold a shareholder meeting at least once a year. In calling it, the directors (or in some cases, the shareholders) must decide the date, time and place of such meeting.² The “place” has been interpreted to mean the physical venue, which is one of the reasons why it is unlikely that a fully virtual shareholder meeting can be held under the Act.

(2) Traditional AGMs and recent trends

KFs have hosted physical AGMs for many years based on the regulations under the Act because they consider them not only as official business, but as important opportunities to market their products (*e.g.*, exhibits), offer their shareholders some corporate hospitality (*e.g.*, gifts), and interact with their shareholders (*e.g.*, post-AGM social gatherings attended by executives). These features of AGMs have attracted thousands of shareholders, especially minority individual shareholders, to attend them in person every year.

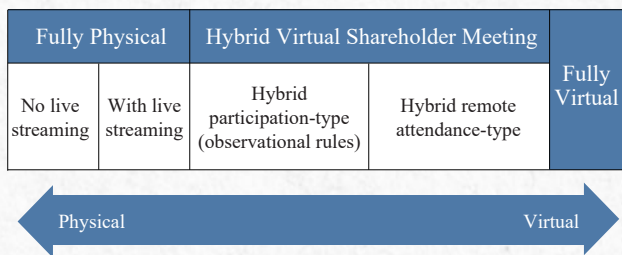
An AGM is also an important venue to have constructive dialogues with investors to achieve

1. See <https://www.meti.go.jp/press/2019/02/20200226001/20200226001-2.pdf> (in Japanese).

2. Kaishaho [the Companies Act], Law No. 86 of 2005, arts. 296(1) and 298(1)(i), as last amended by Law No. 33 of May 29, 2020.

sustainable corporate growth and develop long-term corporate value.³ With the increase of foreign investors and development of IT technologies, shareholders may exercise their voting rights in writing or by electronic means.⁴ Some KJs have offered live streaming of their AGMs for shareholders located in remote places,⁵ which is permitted under the Act as long as the AGMs are physically conducted. However, in recent years, there has been a growing demand for a more interactive environment.

The following chart illustrates the range of methods of holding shareholder meetings in Japan:⁶

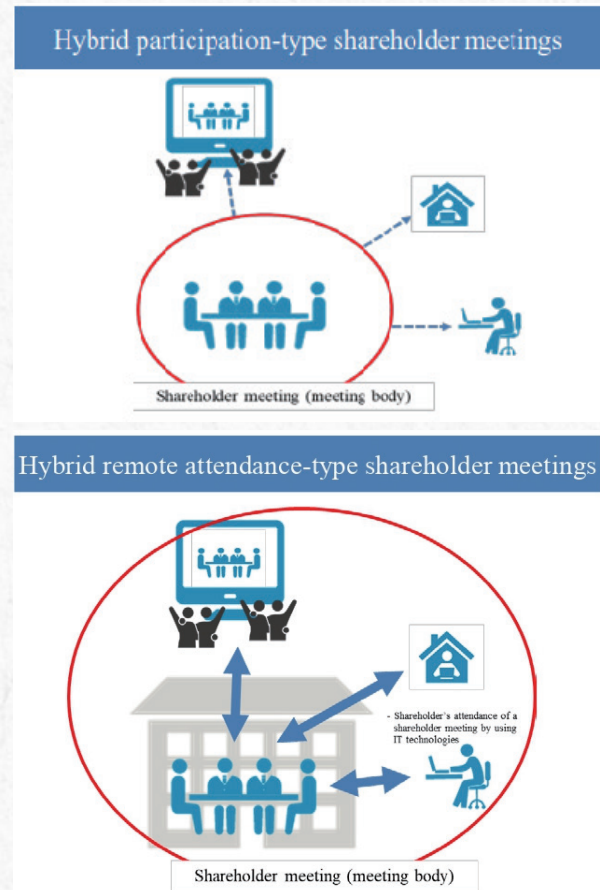


3. Overview of the Guidelines

Based on recent discussions for a more interactive environment, METI released the Guidelines on February 22, 2020. Under the Guidelines, “hybrid virtual shareholder meetings” refer to “[P]hysically-conducted shareholder meetings in which shareholders who are not physically present at the meetings are allowed to virtually participate or attend over the internet or through other methods from remote locations.”⁷ Such meetings are thus based on

physical meetings supplemented by optional virtual methods of participation. Such hybrid method of holding meetings is permitted under the Act.

METI identified the following two types of hybrid virtual shareholder meetings:⁸



The most significant difference between the two types is whether or not the participation of a shareholder in a meeting through the internet or other electronic means constitutes “attendance” under the Act.⁹

3. See https://www.meti.go.jp/english/press/2020/0226_002.html.

4. The Act, arts. 311(1) and 312(1).

5. For example, SoftBank Corp., at https://www.softbank.jp/en/corp/news/info/2020/20200521_01/.

6. See an overview of the Guidelines in English (“Overview of the Guidelines”), at https://www.meti.go.jp/english/press/2020/pdf/0226_002a.pdf, p. 1.

7. *Id.*

8. *Id.*, pp. 2-3.

9. *Id.*, p. 1.

The key differences between the two types can be summarized as follows.

	Hybrid Participation-Type (observational rules)	Hybrid Remote Attendance-Type
Asking questions	No (but comments are permissible)	Yes
Exercising voting rights	No (except via mail or electronic means prior to the AGM or by proxy)	Yes
Voting on motions	No	Yes

In a hybrid participation-type shareholder meeting, shareholders who access it online (e.g., live streaming through the company's website)¹⁰ are only considered "observers," and thus, cannot exercise their shareholder rights thereat, including voting, asking questions, and making or voting on motions.¹¹ Therefore, if observer-shareholders wish to vote on proposals submitted at a meeting, they must do so by mail or electronically before the meeting, or by proxy. KKs must also encourage such shareholders to submit their votes in advance.¹² At the chair's discretion, KKs can also allow observers to send their "comments" to the board members although such comments are not considered "questions" from shareholders under the Act that must be formally addressed by the KKs.¹³

On the other hand, in a hybrid remote attendance-type shareholder meeting, shareholders who access the meeting online are considered formal attendees thereof and may exercise their shareholder rights almost to the

same extent as those attending it at the physical venue.¹⁴ To ensure that remote attendees can do so, KKs must provide a secure IT network environment for them. However, KKs may encounter some IT-related technical difficulties in enabling remote attendees to exercise their shareholder rights as fully as physical attendees, or preventing interferences in the meeting caused by remote attendees abusing their shareholder rights, e.g., sending a large number of questions and motions, or repetitive questions and motions, which could effectively prevent the physical attendees from exercising their shareholder rights. For these reasons, the Guidelines permit KKs to impose detailed limitations on the participation of remote attendees (e.g., prohibiting agents from attending the meeting virtually, limiting the number and type of questions based on length, or privacy, propriety or other concerns, setting earlier deadlines for questions sent online, and limiting motions¹⁵ that may be made by remote attendees). Notice of such limitations must be given to the shareholders before the meeting by mail and/or through the corporate websites.¹⁶

Thus, hosting a hybrid remote attendance-type shareholder meeting is more logistically challenging. The Guidelines also recommend that KKs provide reasonable measures to prevent any IT network or communication failure, and notify shareholders of such possibility before the meeting to avoid the risk of any resolution being annulled because a remote attendee could not vote. Resolutions may still be annulled if

10. For identification purposes, shareholders will be given their own unique IDs and passwords to access the website that is broadcasting the live video of the meeting (Guidelines, p. 9).

11. Guidelines, p. 9; and Overview of the Guidelines, p. 2.

12. *Id.*

13. Overview of the Guidelines, p. 2. See also the Act, art. 314. The Guidelines provide an approach that allows KKs to implement a system of receiving "comments" from remote observers and responding to them during or after the meeting. This system facilitates the disclosure of information to remote observers and an interactive dialogue between the KKs and such remote observers (Guidelines, pp. 9-10).

14. Guidelines pp. 11-12; and Overview of the Guidelines, p. 3.

15. KKs can request remote attendees to abstain from voting on motions made by physical attendees. Thus, shareholders must attend a meeting in person if they wish to make motions therein (Guidelines, pp. 22-23).

16. Guidelines, pp. 16-17 and 20-23; and Overview of the Guidelines, p. 3.

such failure was due to the KK's negligence.¹⁷

Based on the foregoing, from the KKs' side, it would be simpler to hold a hybrid participation-type shareholder meeting because it only requires a system or service that can broadcast a web-based live video of the meeting. There is no need for a secure IT network and complicated system to ensure that remote attendees can exercise their various shareholder rights.

4. Case Studies of Hybrid Virtual Shareholder Meetings

(1) AGM of GREE Inc. ("GREE") (hybrid participation-type)

GREE held a hybrid participation-type AGM on September 25, 2019 with a system for sending messages.¹⁸ GREE has been broadcasting its AGMs live since 2017, using the web-based video streaming services of J-Stream Inc. For identification purposes, GREE sent its shareholders unique IDs and passwords to log into the website where the live video of the meeting will be posted. Shareholders were given a chance to check the condition of their IT networks in advance by accessing the sample video provided in the website.¹⁹ During the AGM, shareholders virtually

attending the meeting as observers were able to send "messages" to GREE with no limit as to length or frequency. GREE then gave some comments and responses after the official Q&A session in the AGM. Other messages were addressed at the company's website after the AGM.²⁰

(2) AGM of FUJI SOFT INCORPORATED ("FUJISOFT") (hybrid remote attendance-type)

FUJISOFT held a hybrid remote attendance-type AGM on March 13, 2020 with 11 remote attendees. For the last seven years, the IT software developer has had its own system for enabling shareholders to vote during the AGM using iPads provided by it, and then counting such votes. In the alternative, FUJISOFT would instruct its shareholders who wish to attend the AGM remotely to install a voting application on their own electric devices. Trained employees are also available to handle phone calls from remote attendees who wish to participate in the Q&A session during the AGM. FUJISOFT's web-based live streaming system is also provided by J-Stream Inc.²¹

With the increasing need to innovate, more KKs are expected to introduce hybrid virtual shareholder meetings in the future.

17. Guidelines, pp. 13-14; and Overview of the Guidelines, p. 3. In Japan, there seems to be no common service or system provider yet that is like Broadridge Financial Solutions, Inc., which offers all the facilities required to host hybrid remote attendance-type shareholder meetings, including remote voting. Please also note that remote attendance has a higher risk of spoofing or impersonation than physical attendance (Guidelines, pp. 16-17).

18. For other hybrid participation-type AGMs held this year, see

<https://contents.xj-storage.jp/xcontents/05997/f408ca9b/ba0b/43da/94a6/bfac40658843/20200318145841651s.pdf> (in Japanese) (V-Cube), and <https://cybozu.co.jp/events/kabunushi/> (in Japanese) (Cybozu, Inc.).

19. Mayumi Matsumura (Senior legal counsel of GREE), Ya-charu kabunushi soukai jisshi heno mitinori – GREE Kabushiki Kaisha [The road to a virtual shareholder meeting – GREE Inc.], 432 Shiryō-ban Shouji Houmu (2020), pp. 43-44 and 48.

20. Kayo Matsumoto, et al., Zadankai haiburiddo va-charu kabunushi soukai no jitsumu taiou – jissigaido wo fumaete [Virtual shareholder meeting practices – based on METI's Guidelines], 2225, Syouji Houmu (2020), pp. 13, 18-19 and 50-51.

21. See https://www.chuokeizai.co.jp/bjh/entry_img/34f2b34242e4b5cfcebd2c303a39dbd275170922.pdf (in Japanese), pp. 67-68.



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