

Newsletter

Overview of Shareholders' Appraisal Rights Procedures in Squeeze-outs of Japanese Listed Companies

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1. General Practice of Squeeze-out Methods in Japan

In Japan, squeeze-outs of listed companies are typically executed through a tender offer followed by a consolidation of shares. An acquirer launches a tender offer for a target company to accumulate sufficient voting rights (at least two-thirds of the voting rights held by shareholders present at a shareholders' meeting) required to pass a resolution for a consolidation of shares. Subsequently, the acquirer causes the target company to convene a shareholders' meeting to approve the consolidation of shares.

A consolidation of shares is a procedure to combine multiple shares into a smaller number of shares (Article 180 of the Companies Act). If fractional shares of less than one full share are created as a result of the share consolidation, cash is paid in lieu of those fractions. By setting the consolidation ratio such that the holdings of all shareholders other than the acquirer become fractional, the acquirer can become the sole shareholder and squeeze out minority shareholders by paying them cash consideration.

Example of Share Consolidation: Assume a scenario where Company K has three shareholders: Shareholder A (holding 70 shares), Shareholder B (20 shares), and Shareholder C (10 shares).

If Company K executes a 70-to-1 share consolidation:

- Shareholder A will hold exactly 1 share.
- Shareholders B and C will hold fractional shares of less than one full share (0.28 shares and 0.14 shares, respectively).

As a result, Shareholder A remains as the sole shareholder, while Shareholders B and C are "squeezed out" from the company K and receive cash compensation in exchange for their fractional interests.

2. Requirements for Exercising Shareholder's Appraisal Rights

When a company resolves to consolidate its shares, a dissenting shareholder is entitled to exercise appraisal rights, demanding that the company purchase the dissenter's shares at a fair price. To exercise the appraisal rights, the shareholder must satisfy all of the following conditions:

- (1) Notice of Dissent and Voting:** (i) The shareholder must notify the company of its dissent to the consolidation of shares prior to the relevant shareholders' meeting and must vote against the resolution at the meeting (Article 182-4, Paragraph 2, Item 1 of the Companies Act). However, (ii) if the shareholder is not entitled to vote at the meeting, it may exercise the rights by satisfying the following requirements without notifying the company as described in (i) above.
- (2) Exercise the Appraisal Rights:** The shareholder must demand that the company repurchase its shares, specifying the number of shares to be purchased during the period from the 20th day prior to the effective date of the share consolidation through the day immediately preceding the effective date (Article 182-4, Paragraph 4 of the Companies Act). Practically speaking, to satisfy this condition, a written notice should reach the company's head office by the end of the day preceding the effective date.
- (3) Individual Shareholder Notice:** The shareholder must request JASDEC (Japan Securities Depository Center) to issue an "Individual Shareholder Notice" to the company to prove its shareholding (Article 154, Paragraph 3 of the Book-Entry Transfer Act). This request is made through a securities company where the shareholder holds its securities account. The shareholder's appraisal rights (item (2) above) must be exercised within four weeks after the Individual Shareholder Notice is issued.
- (4) Transfer of Shares:** The shareholder should apply to its securities company to transfer the subject shares to a "purchase account" designated and publicly announced by the company (Article 155, Paragraph 3 of the Book-Entry Transfer Act). While there is no strict statutory deadline for the completion of the transfer, in practice it should be effectively completed by the effective date due to JASDEC system requirements.

Note:

1. Notice of Dissent (1)(i): The notice of dissent requires only an explicit and definitive expression of intent. Therefore, a shareholder can satisfy this requirement simply by voting against the resolution via mail or electronic voting prior to the meeting.
2. Shareholder without Voting Rights (1)(ii): "A shareholder not entitled to vote at the meeting" is construed to include a person or entity who became a shareholder between the record date of a shareholders' meeting and the date of the meeting, and such shareholder is eligible to the appraisal rights. Conversely, shareholder who acquired shares after the resolution is not eligible. However, since the Supreme Court has not yet established a definitive precedent regarding eligibility of a shareholder who acquired shares after the record date of a shareholders' meeting (but before the resolution), it is advisable to acquire shares in one's own name prior to the record date of the shareholders' meeting and fulfill the requirement under (1)(i) to ensure the validity of the exercise.

3. Post-Exercise Procedures

The Companies Act contemplates a 30-day negotiation period between the company and a shareholder regarding the purchase price, starting from the effective date. If an agreement is not reached within this period, either the shareholder or the company may file a petition with the court for a "determination of the price" within 30 to 60 days from the effective date (Article 182-5, Paragraph 2 of the Companies Act). The venue for the petition will be the district court having jurisdiction over the location of the company's head office.

The company is obligated to pay 3% annual interest on the "fair price" determined by the court, starting from the 61st day after the effective date. To mitigate interest accrual, a target company commonly makes a provisional payment of the amount it deems fair by the 60th day after the effective date. If the court subsequently determines a price higher than the provisional payment, interest will accrue on the shortfall.

4. Standing of Beneficial Owner

Under Japanese law, only a person or entity that holds listed shares in an account at a securities company under their own name (i.e., whose name is registered on the JASDEC book record) is deemed the shareholder and eligible to exercise appraisal and other shareholder rights. Therefore, if shares are held in the name of a custodian (as a nominee), the beneficial owner may lack standing and is likely to be barred from filing a petition for the determination of the price.

Consequently, if a beneficial owner whose name is not registered on the JASDEC book record intends to

exercise its appraisal rights and file a petition for the determination of the price, it is necessary to transfer the shares from the custodian's account to an account under their own name in advance. It is advisable to complete the transfer by the record date for the reasons stated above in Note of Section 2.

Alternatively, it is possible for a beneficial owner to request the custodian (as the shareholder of record) to exercise the appraisal rights and file a petition for the price determination in the custodian's name; however, whether the custodian will accept such a request depends on the terms of the custody agreement and the custodian's policies. If the custodian agrees to exercise these rights, the custodian would typically issue a Power of Attorney (POA) to the beneficial owner's attorneys. Some custodians may also require an indemnification agreement to protect them against the outcomes of the appraisal proceedings. As the issuance of a proxy by a custodian is often time-consuming, it is advisable for beneficial shareholders who do not hold shares in their own names to initiate communication with the custodians promptly regarding the appraisal proceedings.

5. Withdrawal of Exercise of Appraisal Rights

A shareholder who has exercised appraisal rights cannot withdraw the demand without the consent of the company (Article 182-4, Paragraph 6 of the Companies Act). However, if no petition for the determination of the price is filed within 60 days from the effective date, the shareholder may withdraw its demand at any time (Article 182-5, Paragraph 3 of the Companies Act).

Upon withdrawal, the company is obligated to promptly apply for the transfer of the shares from the purchase account back to the shareholder's account (Article 155, Paragraph 5 of the Book-Entry Transfer Act).

6. Case Study: Squeeze-out of Toyota Industries Corporation

The squeeze-out of Toyota Industries Corporation (TIC) by an SPC established by Toyota Motor and Toyota Fudosan is currently underway and is being executed through a tender offer followed by a share consolidation.

According to TIC's official release, the tender offer period ends on March 2, 2026. If the offeror acquires at least 42.01% of TIC shares and the tender offer succeeds, an extraordinary general meeting of shareholders (EGM) for the share consolidation is expected to be held between late April and mid-May. Notably, the record date for voting rights at the EGM is set for March 9, following the conclusion of the tender offer.

To exercise appraisal rights in this case, a shareholder must notify the target company of its dissent to the

share consolidation prior to the EGM and must vote against the resolution at said meeting. Furthermore, the subsequent procedures outlined in Sections 2(2)-(4) must be strictly followed thereafter to ensure the validity of the appraisal claim.

This newsletter is intended to provide general information and is not a substitute for specific legal advice. Please feel free to reach out to the authors for further guidance.