

[This is an English translation of the original text written in Japanese]



April 9, 2019

LIXIL Group Corporation
Yoichiro Ushioda
Director, Representative Executive Officer, Chairman and CEO
(First Section of TSE/NSE, code 5938)
Contact: Kayo Hirano
Senior Manager, Investor Relations Office

**Regarding the Release of the Review Report of Decision-Making Process
for the Change of Representative Executive Officers**

LIXIL Group Corporation (the “Company”) decided that it was necessary, from the perspective of improving corporate governance, to officially review the appropriateness and transparency of the background events and procedures of the change in Representative Executive Officer and other personnel changes including the replacement of the CEO that became effective on November 1, 2018 (the “Personnel Changes”). This is because the Personnel Changes included a change in Representative Executive Officer, CEO and other personnel, which constitutes the most important strategic decision-making for the Company. Therefore, the Company appointed a team of third party lawyers to conduct an investigation (the “Investigation”).

Based on the belief that the results of the Investigation should be disclosed in a format that is easy-to-understand for our stakeholders including our shareholders, the Company decided at the Board of Directors meeting held on February 25, 2019 to announce the content of the results in the format disclosed on the Company’s website on the same day.

Through dialogue with our shareholders and based on a request received from our shareholders, thereafter, the Company concluded that release of the full Report is necessary. Therefore, LGC has decided to release the Report from the third party lawyers as attached. Our measures taken based on the results of the investigation are as disclosed on the Company’s website on February 25, 2019, and those remain unchanged despite today’s announcement.

The Report has been redacted to the minimum extent possible to protect confidential information..

To meet the expectations of our stakeholders as a company that realizes growth over the long term, the Company continue to not only embark on further development of its business but also endeavor to make even greater efforts than before toward strengthening and improving corporate governance and ensuring transparency and thereby improve our corporate value. We appreciate your continuous support.

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INVESTIGATION REPORT

February 18, 2019

To: LIXIL Group Corporation

From: **Nishimura & Asahi**
Kaku Hirao, Attorney
Keita Yasuda, Attorney

Following a request from LIXIL Group Corporation (the “**Company**”), we assisted the audit committee of the Company (the “**Audit Committee**”) by conducting an investigation (the “**Investigation**”) into, among other things, the procedures of the nomination committee of the Company (the “**Nomination Committee**”) and the board of directors of the Company (the “**Board**”) in connection with the personnel change, including the change of the chief executive officer (the “**CEO**”) of the Company, announced on October 31, 2018 (the “**Personnel Change**”).

This report summarizes the results from the investigation and analysis etc. that was considered appropriate and possible within the limited time frame and under the given conditions. If any new facts are discovered after the date of this report, it may change the conclusions set out in this report. This report does not guarantee the outcome of any court proceedings etc.

I. OUTLINE OF THE INVESTIGATION

1. Background

Following discussion in a Board meeting held on November 27, 2018 (the “**November 27 Board Meeting**”), it was agreed that the Audit Committee start an investigation of the Personnel Change. We were appointed to conduct an investigation assisting the Audit Committee.

2. Method

To conduct the Investigation, we reviewed materials relating to the Personnel Change received from the Company, and interviewed all of the Company’s directors.

II. INVESTIGATION RESULTS

1. Authority of the Nomination Committee and the Board

According to article 8 of the Board rules and paragraph 6 of the appendix to those rules, (a) the appointment and dismissal of executive officers, (b) the appointment and dismissal of the representative executive officer (“**REO**”), and (c) matters concerning the relationship between executive officers including the division of duties of executive officers (including the determination of the CEO, chief operating officer (“**COO**”) and chief financial officer) and the decision-making hierarchy are to be determined by the Board.

In the context of the Personnel Change, the Nomination Committee discussed the matters set out above, and then resolved to submit their proposals to the Board. Of course, although the provisions of the Board rules stipulated that these matters were for the Board to determine, this does not preclude the Nomination Committee from resolving on these matters or from submitting proposals to the Board. In practice, after discussion within the Nomination Committee, the resolutions of the Nomination Committee were submitted to the Board as proposals.

2. Background to the Nomination Committee meeting held on October 26, 2018

In our first interview, Mr. Yoichiro Ushioda (“**Mr. Ushioda**”) explained that “during the meal with Mr. Kinya Seto (“**Mr. Seto**”) and our common acquaintance on October 19, 2018 (the “**October 19 Dinner**”), we discussed, among other things, the management policy of the Company (omitted). Following this, my belief that I could not continue to leave the Company’s management to Mr. Seto was strengthened. Thereafter, the Board meeting was held on October 22, 2018 (the “**October 22 Board Meeting**”), and I felt that despite the decline in the Company’s business results, Mr. Seto did not seem to consider special measures to improve it and that the Company would fall into a critical situation if the current circumstances continued, and believed that the Company’s management should no longer be left to Mr. Seto. Following that, after talking with Mr. Hirokazu Yamanashi (“**Mr. Yamanashi**”) and other directors after the October 22 Board Meeting, I decided to convene the Nomination Committee ahead of the Board meeting that was scheduled to be held on October 31, 2018 (the “**October 31 Board Meeting**”), where I proposed replacing the CEO.”

On this point, in our interviews, Mr. Seto stated that “at the October 19 Dinner, we discussed (omitted). I advised him (omitted). I also told him that (omitted). (omitted).” The explanations given by Mr. Ushioda and Mr. Seto are generally consistent in that they discussed, among other things, the Company’s management policy (omitted).

In addition, the October 22 Board Meeting minutes establish that, in the question and answer session at that meeting regarding matters deliberated in the Audit Committee, some directors (a) opined that Mr. Seto had to put more effort into LHT’s business, (b) asked about overseas expansion of the aluminum business, and (c) pointed out that there were issues in the process of the formation of the business plan prepared by Mr. Seto. Mr. Seto responded to these issues at that meeting.

Based on the above, it could be suggested that Mr. Ushioda decided to convene the Nomination Committee before the October 31 Board Meeting to propose replacing the CEO and REO as a result of his belief, formed through the October 19 Dinner and the October 22 Board Meeting, that he could not continue to leave the Company’s management to Mr. Seto, and that Mr. Ushioda sought to replace the CEO and REO through Mr. Ushioda returning as CEO, on the basis of Mr. Seto’s statement that “I will resign if Mr. Ushioda returns to being CEO of the Company.”

Regarding this point, in our second interview, Mr. Ushioda explained that “the actual reason for Mr. Seto’s resignation as CEO was the decline in the Company’s business results,” “the Company did not announce the decline as the reason for Mr. Seto’s resignation only because Mr. Seto’s friend requested that Mr. Seto’s resignation not be attributed to the decline to maintain Mr. Seto’s reputation,” and “I believe the decline was shared with the Nomination Committee as a reason for Mr. Seto’s resignation as CEO.” In addition, in our interviews, some directors mentioned that the replacement of the CEO and REO was done for Mr. Seto to take responsibility for the decline. However, the past Nomination Committee meeting minutes and other records do not indicate that the Nomination Committee discussed requesting Mr. Seto’s resignation or dismissal because of the decline. In addition, in our interviews, no Nomination Committee member recognized that the reason for Mr. Seto’s resignation as CEO was such decline. From the above, although we cannot deny that Mr. Ushioda may have privately intended for Mr. Seto to resign because of the decline in the Company’s business results, we cannot conclude that the Nomination Committee members shared the same perception that such decline was the reason for Mr. Seto’s resignation.

It should be noted that the disagreement over the Company’s management policy between Mr. Ushioda and Mr. Seto was not triggered by the October 19 Dinner; they had been in disagreement

before then. Mr. Seto stated that “I came to oppose Mr. Ushioda’s opinion around July 2017 (omitted)” and another director also stated, “I was informed in a monthly meeting with Mr. Seto that he had conflicting views with Mr. Ushioda.”

In the context of this disagreement, it appears that Mr. Seto sometimes expressed to others his intention to resign as CEO. In our interviews, one director explained that “around late August 2018, Mr. Seto approached me, while appearing to be deep in thought, saying that he ‘would like to leave the company. Can we talk alone tomorrow?’ The next day, while having breakfast, Mr. Seto informed me that he would like to resign as a director, because he had lost his motivation due to the disagreement with Mr. Ushioda about (omitted) Mr. Seto discussed with Mr. Ushioda on the day before the Board meeting. The top of a company resigning is not a topic that can be talked about lightly, so I felt that Mr. Seto had made up his mind. At that time, Mr. Seto mentioned that ‘I would rather resign by myself than be dismissed by the Nomination Committee.’” Additionally, in our interviews, another director explained that “around late September 2018, when talking with him alone in the president’s office, Mr. Seto expressed that ‘things do not go as I expected. I would like to resign. I can quit whenever.’” On this point, in our interviews, Mr. Seto did not deny that he made the above statements, but explained that if he had made such statements, he would have made sure to say “Even in that case I will fulfill my duties until the end” after such statements.

3. Nomination Committee meeting held on October 26, 2018

The Nomination Committee meeting held on October 26, 2018 (the “**October 26 Nomination Committee Meeting**”) was held after the fixing of schedules that started on October 24, 2018.

According to the meeting minutes, at the October 26 Nomination Committee Meeting – which all five Nomination Committee members attended (two by phone) – a proposal was submitted to propose certain matters to the October 31 Board Meeting, including (a) the election of Mr. Ushioda and Mr. Yamanashi as executive officers, (b) the appointment of Mr. Ushioda as REO, Chairman and CEO, and (c) the appointment of Mr. Yamanashi as REO, President and COO, of the Company, in each case to take effect on November 1, 2018.

(omitted) Mr. Ushioda stated that the reasons for the above proposal were Mr. Seto’s statement at the October 19 Dinner that “if Mr. Ushioda becomes the CEO, I will leave my position whenever” and Mr. Ushioda’s belief that Mr. Seto’s business plan was not sufficient in light of the Company’s performance.

In our first interview, Mr. Ushioda explained that “at the October 19 Dinner, I told Mr. Seto that I had indicated before that I would take care of capital policy, but I would like to return to CEO of the Company if the share prices continue to be low. At that time, Mr. Seto said ‘if Mr. Ushioda would return to being CEO, I would even resign tomorrow.’” In contrast, Mr. Seto explained that “at the October 19 Dinner, neither did Mr. Ushioda inform me that he wanted me to stop being CEO, nor did I agree to this.” Therefore, their explanations are inconsistent on whether Mr. Seto’s resignation had been discussed at the October 19 Dinner. On this point, the common acquaintance who attended the October 19 Dinner explained that at the dinner, Mr. Seto said that (i) (omitted) (ii) he would resign if Mr. Ushioda returned to being CEO, and (iii) he intended to continue as CEO if he was given that opportunity.

In light of this, Mr. Seto is likely to have mentioned at the October 19 Dinner that he would resign if Mr. Ushioda returned to being CEO. That said, regarding the intention of this statement, in our first interview, Mr. Ushioda said that he understood that, rather than Mr. Seto having any specific timing in mind, Mr. Seto intended to resign soon if Mr. Ushioda intended to return to being CEO. On the other hand, in our interviews, while Mr. Seto denied that he had made the above statements at the October 19 Dinner, he acknowledged that at other times he had told Mr.

Ushioda that if Mr. Ushioda returned to being CEO, he would even resign immediately, and stated that the intention of that statement was that “those words were merely an expression of my intention not to hold on to the position of CEO as an individual.” Although the explanations of Mr. Ushioda and Mr. Seto are inconsistent as to whether Mr. Seto made the above statements at the October 19 Dinner, Mr. Ushioda also did not perceive Mr. Seto as having expressed a concrete and clear intention to resign at the time of the October 19 Dinner, and so there is no conclusive discrepancy between Mr. Ushioda’s and Mr. Seto’s perception that at the time of the October 19 Dinner, there was nothing to establish that Mr. Seto had a concrete and clear intention to resign.

However, in our interviews, a member of the Nomination Committee stated that Mr. Ushioda told him/her by phone that “as a result of a discussion with Mr. Seto on October 19, 2018, we agreed that Mr. Seto would resign as CEO and I would become CEO.” Another member of the Nomination Committee also stated that “the October 26 Nomination Committee Meeting was convened on very short notice by the administrative office as ‘an urgent matter arose’.” That member stated that “when talking on the phone with Mr. Ushioda on the evening of October 25, 2018, I was surprised by Mr. Ushioda’s words that ‘he was told by Mr. Seto that Mr. Seto would like to resign as CEO during a dinner with Mr. Seto on October 19, 2018,’ ‘Mr. Ushioda said ‘we need to elect Mr. Seto’s successor immediately. The plan was that Mr. Ushioda would be CEO and Mr. Yamanashi would be COO,’ and ‘at the October 26 Nomination Committee Meeting, in response to the question of whether ‘Mr. Ushioda would be remotely involved in management from Singapore,’ Mr Ushioda answered that there are various ways of being so involved, and so I understood that Mr. Ushioda and Mr. Yamanashi would assume their positions as substitutes on a temporary basis.’” Further, in our interviews, Mr. Yamanashi stated that “I received a call from Mr. Ushioda during business hours on October 24 or 25, 2018. Mr. Ushioda informed me that Mr. Seto had agreed to resign as CEO upon Mr. Ushioda’s return to being CEO.”

In light of the above, it is considered that when Mr. Ushioda sought to convene the October 26 Nomination Committee Meeting, he seemed to indicate that Mr. Seto had a concrete and clear intention to resign as CEO, which was inconsistent with Mr. Ushioda’s understanding of Mr. Seto’s intention, and was likely to mislead the Nomination Committee members. In our interviews, a Nomination Committee member explained that “upon hearing Mr. Ushioda’s explanation, I believed that the discussion within the Nomination Committee was based on the premise that Mr. Seto had expressed his intention to resign as CEO.” Another member also explained that “upon hearing Mr. Ushioda’s explanation at the October 26 Nomination Committee Meeting, in particular that Mr. Seto had said ‘if Mr. Ushioda becomes CEO, I will leave the position whenever,’ and also seeing that the proposal to elect Mr. Ushioda as CEO was presented, I thought that Mr. Seto had made up his mind to resign as CEO.”

That said, a Nomination Committee member explained that “at the end of the October 26 Nomination Committee Meeting, as I thought that we needed to double check Mr. Seto’s intention to resign, I opined that we should promptly share with Mr. Seto the contents of the Nomination Committee’s deliberations and confirm his intention. As a result, it was decided that Mr. Ushioda would confirm Mr. Seto’s intention immediately.” In our interviews, another Nomination Committee member explained that he/she felt that the discussion was based on the assumption that Mr. Seto’s intention to resign as CEO was unclear, and that he/she understood that they therefore concluded that the Nomination Committee should confirm Mr. Seto’s intention with him.

At the October 26 Nomination Committee Meeting, following a question and answer session, all of the submitted proposals were passed, but the Nomination Committee minutes recorded that each proposal was passed “on the condition that Mr. Seto expresses his intention to resign as CEO and as an executive officer (REO and President) of the Company.” It is reasonable to consider that this wording was adopted because it was not yet clear whether Mr. Seto had a

concrete and clear intention to resign as REO, President and CEO at the time of the October 26 Nomination Committee Meeting.

In this context, it must be said that at the October 26 Nomination Committee Meeting and in the process of convening that meeting, Mr. Ushioda engaged in behavior giving the false impression that Mr. Seto had a concrete and clear intention to resign as CEO. However, as clearly described in the meeting minutes, the discussion in the October 26 Nomination Committee Meeting was not held completely on the assumption that Mr. Seto had an intention to resign. It is considered that before reaching the resolutions, most of the Nomination Committee members recognized that it was unclear whether Mr. Seto had a concrete and clear intention to resign as CEO and REO.

4. Situation before the Nomination Committee meeting held on October 31, 2018

After Mr. Seto received a call from Mr. Ushioda on October 27, 2018, he contacted some old acquaintances to explain his situation and consult with them about his future actions. No later than October 30, 2018, he told Mr. Ushioda that he would accept being replaced as CEO as of November 1, 2018. At that time, so that Mr. Seto could have a clean exit, Mr. Ushioda and Mr. Seto agreed that Mr. Seto would stay on as REO and President of the Company until the end of March 2019, and also that Mr. Seto would continue to be a director of the Company until the annual general meeting of shareholders to be held in June 2019.

Regarding the above circumstances, in our first interview, Mr. Ushioda explained that “based on the discussion at the October 26 Nomination Committee Meeting, I contacted Mr. Seto by phone on October 27, 2018. At that time, upon explaining that the Nomination Committee had a discussion based on Mr. Seto’s business plan, past achievements and other factors, I stated ‘you said that if I became the CEO, you would resign whenever; I would like you to resign since the time has come’, but I did not tell him that any decision had been made by the Nomination Committee.” On the other hand, in our interviews, Mr. Seto explained that “I objected to resigning as of November 1, 2018, because it would cause confusion if I resigned so soon, but Mr. Ushioda explained that the request for me to resign was a matter determined at the October 26 Nomination Committee Meeting and the consensus of all of the Nomination Committee members. I finally decided to resign as CEO following that explanation from Mr. Ushioda.” These explanations are inconsistent.

Given that an email sent by Mr. Ushioda to Mr. Seto on October 29, 2018 stated that “it is difficult to reverse such a decision made following discussion of various factors” it appears more likely that Mr. Ushioda explained to Mr. Seto that the decision to ask him to resign as CEO etc. had been made by the Nomination Committee and it was difficult to reverse that decision.

However, as described in section II.3, at the October 26 Nomination Committee Meeting it was resolved to propose at the October 31 Board Meeting (a) the election of Mr. Ushioda and Mr. Yamanashi as executive officers, (b) the appointment of Mr. Ushioda as REO, Chairman and CEO, and (c) the appointment of Mr. Yamanashi as REO, President and COO, of the Company, in each case as of November 1, 2018, even though the making of such proposals was contingent on Mr. Seto’s expression of his intention to resign. From this, while it cannot be denied that Mr. Ushioda’s explanation was not entirely forthcoming, and although Mr. Seto was likely to have understood that the Nomination Committee’s decision was unconditional, it cannot be said that Mr. Ushioda’s explanation was completely untrue.

Further, in our interviews, Mr. Seto stated “I didn’t give up my role in the Company’s management for personal reasons such as disagreement with Mr. Ushioda. The reason why I decided to resign is absolutely because Mr. Ushioda told me that a request for my resignation was the consensus of all of the Nomination Committee members, and that since the decision was made by the Nomination Committee, I could not reverse it.” Indeed, other directors stated that

“Mr. Seto is not the type of person who would think of resigning as CEO voluntarily in the middle of the medium-term plan.”

However, it cannot be denied that Mr. Seto’s decision to resign is quite unnatural, in that he, who was energetically involved in the Company’s management, made that decision only for the formalistic reason that the decision had been made by the Nomination Committee in which he was not involved. In addition, at the October 31 Board Meeting, Mr. Seto stated “As you already know, I always – although saying “always” may be an exaggeration, at least several times – had considerable conflicts with Mr. Ushioda at Board meetings in relation to my policies, and we could not reach a consensus. Since I myself came here because of Mr. Ushioda’s offer, although I felt it was unacceptable that he only suggested this four days ago, I promised to try my best to handover my responsibility if Mr. Ushioda became CEO.” Moreover, Mr. Seto made remarks concerning his resignation as CEO to several directors. Although it is uncertain whether the intention behind such remarks remained, it is at least clear that Mr. Seto had difficulties with Mr. Ushioda, and this formed part of Mr. Seto’s thinking when considering whether to resign.

Based on the above, it is possible that Mr. Ushioda’s explanation to Mr. Seto that the Nomination Committee made the decision and it was difficult to reverse that decision became one of the reasons that Mr. Seto decided to resign as CEO etc. However, it was not the only reason for his resignation, and it is reasonable to consider that Mr. Seto resigned because Mr. Ushioda urged him to do so, considering the background of serious disagreement with Mr. Ushioda regarding the Company’s management policy.

Therefore, although Mr. Seto remarked at the November 27 Board Meeting that “My opinion would not have been the same if it was not true that ‘every Nomination Committee member wanted me to resign’”, it is hard to conclude that there were any defects in Mr. Seto’s decision-making process which may invalidate his expression of intent to resign as CEO and REO.

5. Nomination Committee meeting held on October 31, 2018

Since the Company was scheduled to hold a Nomination Committee meeting before the monthly Board meeting, the Nomination Committee meeting held on October 31, 2018 (the “**October 31 Nomination Committee Meeting**”) was held before the October 31 Board Meeting. The October 31 Nomination Committee Meeting was attended by all five members of the Nomination Committee (one by phone).

(omitted) at the October 31 Nomination Committee Meeting, Mr. Ushioda first reported that Mr. Seto had agreed to resign as a result of his confirmation of Mr. Seto’s intention; however, Mr. Seto wished to remain in his position as REO until March 2019. At that time, Mr. Ushioda did not explain to the Nomination Committee what conversation between himself and Mr. Seto led Mr. Seto to agree to resign. At the October 31 Nomination Committee Meeting, it was discussed whether to propose at the October 31 Board Meeting (a) the election of Mr. Ushioda and Mr. Yamanashi as executive officers of the Company as of November 1, 2018, (b) the appointment of Mr. Ushioda as REO, Chairman and CEO of the Company as of November 1, 2018, (c) the appointment of Mr. Yamanashi as REO and COO of the Company as of November 1, 2018, and (d) the appointment of Mr. Yamanashi as REO and President of the Company as of April 1, 2019 (the “**Personnel Change Proposals**”).

In the following question and answer session, some Nomination Committee members shared their opinions that the reason for the CEO change and Mr. Yamanashi’s temporary appointment as COO as of November 1, 2018 should be included in a press release. The members also questioned whether Mr. Yamanashi would assume the position of COO as a substitute on a temporary basis, and opined that if Mr. Yamanashi’s appointment as COO was not temporary, then the background and reasons for his permanent appointment should be shared with the

Nomination Committee. In response to those opinions, Mr. Ushioda explained that the COO would have to summarize officers' and employees' opinions and formulate clear management policy, and he believed that Mr. Yamanashi was appropriate to be COO due to his career, experience and skills.

Following the questions and answer session, the Nomination Committee passed the Personnel Change Proposals unanimously.

6. October 31 Board Meeting

The October 31 Board Meeting was held after the October 31 Nomination Committee Meeting. At the October 31 Board Meeting, Mr. Yamanashi, the chair of the Nomination Committee, proposed the Personnel Change Proposals. These proposals were also deliberated at the October 31 Nomination Committee Meeting, at which it was resolved to submit these proposals to the October 31 Board Meeting, even though the only matter scheduled originally to be discussed was "Implementation of an interim distribution for the 77th period (distribution of surplus based on the end of the second quarter)." One of the 12 directors attended the October 31 Board Meeting by phone.

(omitted) Mr. Ushioda explained before the Board's deliberations that he had told Mr. Seto that he thought that the CEOs of the pure holding company and the operating company should be different and have different management, and that it was necessary to consider the future direction of the entire LIXIL group independently from operations. He had also told Mr. Seto that he wanted to become CEO of the Company while he still had strength to do so. He explained to the Board that Mr. Seto had accepted this.

Following this, Mr. Seto stated "As you already know, I always – although saying "always" may be an exaggeration, at least several times – had considerable conflicts with Mr. Ushioda at Board meetings in relation to my policies, and we could not reach a consensus. Since I myself came here because of Mr. Ushioda's offer, although I felt it was unacceptable that he only suggested this four days ago, I promised to try my best to handover my responsibility if Mr. Ushioda became CEO. Nevertheless, I requested that these kinds of things should be subject to a proper process, such as discussion by the Nomination Committee, and then proper discussion at this Board meeting."

(omitted) in a question and answer session thereafter, questions were raised from multiple directors regarding why the resignation was to be as of November 1, 2018. Mr. Ushioda explained that the decision-making of the operating companies had been becoming less expeditious compared to when he had been CEO of the Company, and customers' voices did not seem to be reflected directly in the operations – he had often heard similar opinions even from customers and sales staff and developed a sense of crisis. Mr. Ushioda added that, for a long time, there were disagreements with Mr. Seto regarding conducting the management of the pure holding company and the operating companies separately, and that in any case a change in personnel always occurs suddenly. In response to this answer, one director shared his/her views, such as "[if the personnel change occurs at a time when] One LIXIL is beginning to gain momentum and the atmosphere of reliance and trust around the CEO is just starting to grow, the employees would likely think 'Oh no, not again.' Not only the employees, but also the clients etc. involved with our entire group would likely feel the same. In the end, I think the Company will appear less reliable and be labeled as an unstable company that doesn't know what it will be in the future;" "if the personnel change occurs at the same time as the interim results announcement, I am sure that rumors that something must be happening would definitely spread. I think this is the most crucial time to avoid causing unnecessary confusion;" and "although the personnel changes in the past were made without prior announcement, they were not events that occurred completely abruptly for the employees... from such a perspective, this is totally different from

the past.” Another director also stated opposing opinions, including “if you look at this situation from the outside, it seems that the replacement of the CEO was done by the chair of the Nomination Committee and one of its members through their taking over of the positions of CEO and COO. Some people would likely think of this personnel change as self-serving. I think some people would feel, ‘Isn’t it the responsibility of the Nomination Committee to nominate successors through a transparent and public process for the stakeholders?’ I mean, those people would likely feel suspicious when the people in such positions happen to assume the positions of CEO and COO;” and “I am saying this again and again, however, I want to ask first, why should we decide the replacement of the top position at today’s meeting, because it seems to have arisen abruptly, and it should instead be determined, involving outside directors, based on a sufficient explanation of this replacement’s merits and how this is a good decision for the Company.”

During the question and answer session, one Nomination Committee member indicated that from his/her point of view, it seemed that considering the replacement of the CEO started when Mr. Seto said “I don’t have to be in my position anymore.” Another Nomination Committee member indicated that if Mr. Ushioda and Mr. Seto had discussed the CEO replacement, and Mr. Seto had agreed to this replacement, nothing could be done from his/her position, so that eventually the matter reached the October 31 Board Meeting. Further, another Nomination Committee member remarked that the CEO replacement was discussed thoroughly at the October 26 Nomination Meeting Committee, and after that, Mr. Ushioda confirmed the replacement with Mr. Seto, so he/she understood that the replacement had been proposed at the October 31 Board Meeting by their mutual consent. One of the directors remarked that, for three years since Mr. Seto became CEO, the sales figures had not increased that much, yet there were hardly any measures to improve results in the next three years; also, Mr. Seto does not know the ideas of customers and staff on-site because he does not visit customers and business sites. Other than his explanation at the beginning, Mr. Seto did not question nor give his opinion regarding the background of his resignation or the appointment of Mr. Ushioda and Mr. Yamanashi as REOs.

After the question and answer session, a vote was held by means of show of hands on the Personnel Change Proposals; the resolution (the “**Board Resolution**”) was passed by a show of hands of seven directors: Mr. Ushioda, Mr. Yoshizumi Kanamori, Mr. Yoshinobu Kikuchi, Mr. Haruo Shirai, Mr. Tsutomu Kawaguchi, Mr. Yamanashi and Mr. Hiroto Yoshimura. In respect of the vote, no arguments such as that the resolution had been forced after blocking a question can be recognized. Mr. Seto, Mr. Keiichiro Ina and Mr. Ryuichi Kawamoto opposed the Board Resolution. After making their statements, Ms. Main Kohda and Lady Barbara Judge left the meeting to attend another meeting (as they had obtained prior permission to do) and did not participate in the vote.

7. Mr. Seto’s submission of his resignation

On October 31, 2018, Mr. Seto submitted his resignation to the effect that he (i) resigned as a director of LIXIL Corporation as of the date of submission, (ii) resigned as CEO of the Company as of the date of submission, and (iii) would resign as an executive officer of the Company as of March 31, 2019.

III. VALIDITY OF THE OCTOBER 31 BOARD MEETING RESOLUTION

The election and dismissal of executive officers are matters to be conducted under the authority and responsibility of the Board, and the election and dismissal of the CEO and REO of the Company are supposed to be conducted under the authority of the Board. Therefore, of issue is the validity of the Board Resolution at the October 31 Board Meeting.

In this respect, it is clear that, even if the information based on which a board resolution was made turned out later to be false or incorrect information, that would not be enough to deny the

validity of the resolution. However, “if an agenda or a proposal to be resolved by the board is passed without explanation or provision of materials objectively necessary for each director to determine rationally, or without adequate deliberation,” the board resolution may be determined as invalid for having a procedural defect.¹

In light of the facts described in section II, it cannot be said that, at the time of the Board Resolution, the attending directors were not given sufficient information or that only inaccurate information was given. In addition, questions were asked by the attending directors, and answers were also provided, and there is no evidence that an attempt was made to block any questions and force a vote.

Mr. Seto alleged that “the information from Mr. Ushioda that my resignation was the consensus of the Nomination Committee and this decision could not be reversed was incorrect given the October 26 Nomination Committee Meeting’s determination that my resignation was not essential; therefore, I agreed to resign based on such incorrect information, and attended the October 31 Board Meeting.” However, given that Mr. Seto himself attended the October 31 Board Meeting and explained the circumstances himself, even if Mr. Seto’s allegation was true, this would not affect the validity of the Board Resolution.

Since there is no other reason to invalidate the Board Resolution, it is reasonable to determine that the Board Resolution is effective and valid.

It should be noted that the October 26 and October 31 Nomination Committee meetings were held before the October 31 Board Meeting, and the Nomination Committee resolved to propose the Personnel Change Proposals at the October 31 Board Meeting (the “**Nomination Committee Resolution**”). The election and dismissal of the CEO and REOs are matters to be conducted under the authority and responsibility of the Board: even if there is a defect in the Nomination Committee Resolution, this would not directly affect the validity of the Board Resolution. In addition, in light of the facts described in section II, there is no evidence that, at the time of the Nomination Committee proceedings, the discussions were conducted under false premises, and it cannot be concluded that there was a defect raising a question in respect of the validity of the Nomination Committee Resolution.

IV. GOVERNANCE ISSUES

As described in section III, it is understood that the Board Resolution at the October 31 Board Meeting is effective and valid. However, in respect of the election and dismissal of the CEO, Supplementary Principle 4.3.2 of the revised Corporate Governance Code which took effect on June 1, 2018 (the “**Governance Code**”) states that “because the appointment / dismissal of the CEO is the most important strategic decision for a company, the board should appoint a qualified CEO through objective, timely, and transparent procedures, deploying sufficient time and resources.” In this context, we consider the appropriateness of the chain of events that led to the Personnel Change from a corporate governance perspective.

The Personnel Change was in the form of Mr. Seto’s resignation and Mr. Ushioda’s assumption of his roles. However, considering that, although conditional, the Nomination Committee Resolution concerning the appointment of Mr. Ushioda as CEO was made before Mr. Seto had announced his intention to resign, Mr. Seto’s resignation and Mr. Ushioda’s appointment should not be considered separately: it is reasonable to consider them as connected events when examining the governance problems.

¹ See the Fukuoka District Court decision dated August 9, 2011 (*Jurist*, No. 1433, p. 30).

1. Objectivity of procedures

The Personnel Change was first proposed at the October 26 Nomination Committee Meeting. Mr. Ushioda, who led the discussions at the meeting, repeatedly emphasized Mr. Seto's statement that he would resign if Mr. Ushioda became CEO. Mr. Ushioda said at that meeting that "If I can receive your approval, I would like to schedule a meeting with Mr. Seto on Tuesday,"² because he will come back on Tuesday morning, to tell him 'As you said you would resign if I return as CEO, now the time has come;'" it seems that Mr. Ushioda considered pushing Mr. Seto to resign based on that statement with the support of the Nomination Committee. What Mr. Ushioda actually said to Mr. Seto in an email dated October 29, 2018 – that the Nomination Committee's decision was an "institutional decision" – can be considered as a manifestation of his intention to push Mr. Seto to resign. Mr. Ushioda's thinking was that Mr. Seto would resign as CEO when Mr. Ushioda decided to assume that position; it is clear that the replacement of the CEO in such a way lacks transparency. However, no doubt was cast on Mr. Ushioda's explanation at the Nomination Committee, and the discussions were had on the premise of Mr. Ushioda's explanation.

Further, the Personnel Change involved appointing Mr. Ushioda – a Nomination Committee member and the only executive director on the Nomination Committee – as the CEO, and Mr. Yamanashi – who, although an outside director, was the chair of the Nomination Committee – as the COO. In other words, the two directors who led the Nomination Committee discussions were appointed as CEO and COO. Nevertheless, the Nomination Committee did not discuss the matter without Mr. Ushioda and Mr. Yamanashi present, and Mr. Ushioda led the Nomination Committee discussions.

From the perspective that only the Board has the authority and responsibility to appoint / dismiss the CEO and REO, if there is any defect in the Nomination Committee Resolution, this would not affect the validity of the Board Resolution directly. Also, there is no evidence that, in the course of the Nomination Committee proceedings, the discussions were conducted under false premises. Therefore, it cannot be said that there was a defect which raises any questions in respect of the validity of the Nomination Committee Resolution. Although the above points are not legal problems, the objectivity and transparency of the Personnel Change were not necessarily in accordance with best practice.

2. Transparency of the procedures

When considering the Personnel Change at the October 26 Nomination Committee Meeting, whether Mr. Seto had the intent to resign as CEO should have been an important point, because it was not confirmed that Mr. Seto had definitely expressed such an intent. Given that (a) Mr. Ushioda and Mr. Seto had had disagreements in respect of management policy of the Company, (b) the Personnel Change was proposed by Mr. Ushioda, and (c) the proposal concerned Mr. Ushioda's appointment as CEO as Mr. Seto's successor, the Nomination Committee should have heard from Mr. Seto directly, and confirmed his intention, in accordance with best practice.

However, because the Nomination Committee did not confirm Mr. Seto's intention, but entrusted such confirmation to Mr. Ushioda, the Personnel Change was conducted in a state where it was uncertain whether Mr. Seto's intention had been confirmed. The confirmation was entrusted to Mr. Ushioda because it was conveyed at the October 26 Nomination Committee Meeting that a successor for Mr. Seto should be proposed at the October 31 Board Meeting, resulting in a tight schedule.

At the November 27 Board Meeting, discrepancies between Mr. Ushioda's and Mr. Seto's recollections of what was said at the October 19 Dinner and after the October 26 Nomination

² It was "Tuesday" October 30, 2018, the day before the October 31 Board Meeting.

Committee Meeting became obvious. This problem arose because, even though the Personnel Change involved Mr. Seto's resignation, the process of Mr. Seto expressing his intention to resign was uncertain.

3. Time spent on election of the CEO

The Personnel Change was first proposed at the October 26 Nomination Committee Meeting.

In relation to Nomination Committee meetings before that date, (omitted) at the Nomination Committee meeting on the same day, discussions were held in respect of (omitted). With respect to the purpose of the Nomination Committee meeting, Mr. Yamanashi explained that "there is an argument that we should start discussing changing the Company's policies in certain circumstances. Therefore, I want to discuss thoroughly the matters to be addressed by the Nomination Committee, such as the future management system and management structure of the entire group, in accordance with the direction of the Company, and of course the discussion would include organization of the executive team and directors." In response to this, Mr. Ushioda commented that "perhaps the performance of the Company reflects the situation where even competition in different industries and different countries is being handled by only one person, which is now exceeding the scope of management that one person can handle. (omitted)." However, discussions were not held in relation to a specific successor candidate assuming the resignation of Mr. Seto or the nomination of Mr. Ushioda and Mr. Yamanashi as CEO or COO.

Moreover, in our interviews, multiple Nomination Committee members said "I think there was no discussion about future personnel matters assuming Mr. Seto's resignation as CEO in past Nomination Committee meetings. I felt that the decision about Mr. Seto's resignation as CEO was an unexpected event," and "I have never discussed directly who would be Mr. Seto's successor. There was a discussion about splitting LHT, and at that time, it was discussed that the LHT CEO should be another person. The proposal regarding this personnel change seemed to have appeared abruptly."

Based on the above, there were few discussions concerning the Personnel Change in the Nomination Committee meetings before the October 26 Nomination Committee Meeting.

Further, given that the Personnel Change was first proposed at the October 26 Nomination Committee Meeting, and was passed officially only five days afterwards at the October 31 Board Meeting, it is difficult to say that sufficient time was spent on the CEO election procedure.

4. Cause and background of the above governance issues

4.1 Directors deferred to Mr. Ushioda

The proponent of the Personnel Change, which involved appointing Mr. Ushioda as CEO of the Company, was Mr. Ushioda. On this point, in our interviews, one of the interviewees explained that "it was a situation where no one could object to Mr. Ushioda, a member of a founding family, saying he will become CEO." In addition, in response to the question of whether the Nomination Committee itself should have confirmed whether Mr. Seto had the intent to resign as CEO, one of the interviewees explained that "given that Mr. Ushioda had said that Mr. Seto had already agreed to the Personnel Change, we did not assume that the Nomination Committee should have confirmed Mr. Seto's intention directly, as if we were suspicious of Mr. Ushioda's statement." Another interviewee explained that "I thought it would have been better to come to a conclusion through sufficient communication between Mr. Ushioda and Mr. Seto, and I was not in a position to intermeddle."

Moreover, even Mr. Seto himself said to Mr. Ushioda that "I became the CEO because of Mr. Ushioda's offer, so if Mr. Ushioda becomes CEO, I will resign as CEO."

In this context, even if there is a difference in degree, many directors, including the outside directors, deferred to some extent to Mr. Ushioda. This is considered one of the causes or part of the background of the situation where the directors could not discuss the personnel changes Mr. Ushioda proposed in a proper manner from a governance perspective.

4.2 Role of Nomination Committee unclear with respect to division of duties of executive officers (including CEO)

The Nomination Committee rules only give the Nomination Committee the authority to (a) decide proposals to submit to general meetings of shareholders concerning the appointment and dismissal of directors, and (b) set the basic policy necessary to decide on such elections and dismissals. There are no rules in respect of the authority and role of the Nomination Committee in connection with the appointment and dismissal of executive officers, election and dismissal of titled executive officers and the division of duties of executive officers such as the CEO and COO. Given that from a legal perspective, these matters in the context of the Personnel Change should be conducted under the authority and responsibility of the Board, the Nomination Committee Resolution was nothing more than an act of making recommendations as the Nomination Committee, without binding the Board.

In addition, because the Nomination Committee rules also do not set any rules regarding procedures when a Nomination Committee member him/herself becomes a candidate for the position of president or CEO as occurred as part of the Personnel Change, the role and involvement of the Nomination Committee in such a situation is unclear. This is arguably one of the causes or part of the background which led to the problems in governance in connection with the Personnel Change.

V. FUTURE MEASURES TO CONSIDER

Based on the governance problems, and the causes and background to such problems, considered in section IV, as well as the Governance Code, the Company should consider implementing appropriate systems and procedures regarding the following issues.

1. Procedures concerning the election of the CEO

Since the Company's corporate governance guidelines set the standards to select executive officers but do not set out specific procedures to elect those officers, the Company should establish procedures appropriate for the Company concerning the election of such officers, including the REO and CEO, given that the Governance Code now stipulates that the Board must select a qualified CEO in accordance with "objective, timely, and transparent procedures" (Supplementary Principle 4.3.2).

Further, the authority and role of the Nomination Committee in that situation must be clear. In particular, the procedures that apply where a Nomination Committee member him/herself becomes a candidate for a position as an executive officer must also be established to *further* secure the objectivity and independence of the Nomination Committee's decision.

2. Standards and procedures concerning the dismissal of the CEO

Since the Company does not have standards and procedures concerning the dismissal of the CEO, the Company should establish such standards and procedures appropriate for the Company, given that the Governance Code now requires "objective, timely, and transparent procedures where a CEO is dismissed" (Supplementary Principle 4.3.3).³

³ For example, regarding a specific procedure for the dismissal of directors, TechnoPro Holdings, Inc. sets

Further, in that connection, the authority and role of the Nomination Committee in that situation must be clear.

3. Electing a chief independent outside director and establishing a meeting of independent outside directors

The Company should consider whether it is appropriate to establish a meeting comprised of *only* the independent outside directors, and elect a chief independent outside director to convene and act as chair of such meeting so that the outside directors can develop their opinions from a *more* independent and objective standpoint, and give their opinions at meetings, such as the Board or Nomination Committee meetings.

out “Underperformance” and “Applicable factors that make a CEO unsuitable to assume the highest ranking management position,” and sets out that “Deliberations and necessary surveys pertaining to the applicability or non-applicability of” factors in respect of the latter requirement “shall be made through meetings held by independent officers comprising all independent outside directors and independent audit and supervisory board members of the company. If the dismissal of the CEO is decided to be appropriate at a meeting of independent officers as a result of deliberations and surveys, the chair (the chief independent outside director) shall submit a proposal for the dismissal of the CEO to the board of directors,” and if “Underperformance” “or any fact considered to be a reason for dismissal without the need for deliberation by a meeting of independent officers is identified, the board of directors shall resolve to dismiss the CEO unconditionally” (see Attachment 2, paragraph 3 of the Corporate Governance Guidelines of TechnoPro Holdings, Inc.).