PROXY PAPER

TOSHIBA CORPORATION

GLASS LEWIS

Tokyo Stock Exchange: **6502**

ISIN: **JP3592200004**

MEETING DATE: 28 JUNE 2017

RECORD DATE: 31 MARCH 2017

PUBLISH DATE: 06 JUNE 2017

COMPANY DESCRIPTION

Toshiba Corporation, together with its subsidiaries, manufactures and markets electronic and electrical products and systems worldwide.

INDEX MEMBERSHIP: DJSI WORLD; TOPIX 500; NIKKEI 225; TOPIX 100; DJSI AP; JAPAN TOPIX

SECTOR: INDUSTRIALS

INDUSTRY: INDUSTRIAL CONGLOMERATES

COUNTRY OF TRADE: JAPAN

COUNTRY OF INCORPORATION: JAPAN

VOTING IMPEDIMENT: NONE

DISCLOSURES: REFER TO APPENDIX REGARDING INSUFFICIENT INFORMATION

OWNERSHIP | COMPANY PROFILE | ESG PROFILE | PREVIOUS BOARD | VOTE RESULTS | APPENDIX

2017 ANNUAL MEETING

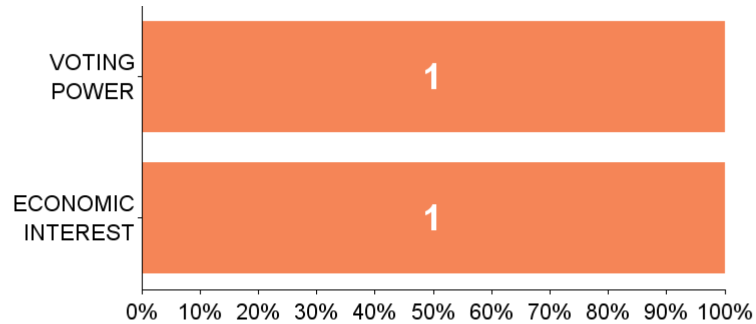
PROPOSAL	ISSUE	BOARD	GLASS LEWIS	CONCERNS
1.00	Election of Directors	FOR	**AGAINST**	• **Other governance issue** • **Other audit issues** • **Other committee issues**
1.01	Elect Satoshi Tsunakawa	FOR	**AGAINST**	• **Other governance issue**
1.02	Elect Yasuo Naruke	FOR	**AGAINST**	• **Other governance issue**
1.03	Elect Masayoshi Hirata	FOR	**AGAINST**	• **Other governance issue**
1.04	Elect Teruko Noda	FOR	**AGAINST**	• **Other audit issues**
1.05	Elect Kohichi Ikeda	FOR	**AGAINST**	• **Other committee issues**
1.06	Elect Yuki Furuta	FOR	**AGAINST**	• **Other audit issues**
1.07	Elect Yoshimitsu Kobayashi	FOR	**AGAINST**	• **Other committee issues**
1.08	Elect Ryohji Satoh	FOR	**AGAINST**	• **Other committee issues** • **Other audit issues**
1.09	Elect Shinzoh Maeda	FOR	**AGAINST**	• **Other committee issues**
2.00	Absorption-Type Company Split	FOR	**FOR**	

SHARE OWNERSHIP PROFILE

SHARE BREAKDOWN

	1
SHARE CLASS	Common Stock
SHARES OUTSTANDING	4,234.0 M
VOTES PER SHARE	0.001
INSIDE OWNERSHIP	0.00%
STRATEGIC OWNERS**	13.00%
FREE FLOAT	86.90%

SOURCE CAPITAL IQ AND GLASS LEWIS. AS OF 06-JUN-2017



TOP 20 SHAREHOLDERS

	HOLDER	OWNED*	COUNTRY	INVESTOR TYPE
1.	Effissimo Capital Management Pte Ltd.	9.85%	Singapore	Hedge Fund Manager/CTA
2.	Capital Research and Management Company	7.11%	United States	Traditional Investment Manager
3.	BlackRock, Inc.	5.04%	United States	Traditional Investment Manager
4.	Sumitomo Mitsui Trust Asset Management Co., Ltd.	4.00%	Japan	Traditional Investment Manager
5.	Toshiba Corporation., Shareholding Association	3.07%	Japan	Private Company
6.	The Dai-Ichi Life Insurance Company, Limited, Asset Management Arm	2.72%	Japan	Insurance Company
7.	Nissay Asset Management Corporation	2.61%	Japan	Traditional Investment Manager
8.	Asset Management One Co., Ltd.	2.56%	Japan	Traditional Investment Manager
9.	Mitsubishi UFJ Kokusai Asset Management Co., Ltd.	2.55%	Japan	Traditional Investment Manager
10.	The Vanguard Group, Inc.	1.95%	United States	Traditional Investment Manager
11.	Mizuho Financial Group, Inc., Asset Management Arm	1.55%	Japan	Bank/Investment Bank
12.	Franklin Resources, Inc.	1.44%	United States	Traditional Investment Manager
13.	Nomura Asset Management Co., Ltd.	1.40%	Japan	Traditional Investment Manager
14.	Norges Bank Investment Management	0.84%	Norway	Government Pension Plan Sponsor
15.	The Bank of Tokyo-Mitsubishi UFJ, Ltd,Investment Banking Arm	0.73%	Japan	Bank/Investment Bank
16.	Daiwa Asset Management Co. Ltd.	0.71%	Japan	Traditional Investment Manager
17.	Eastspring Investments (Singapore) Limited	0.55%	Singapore	Traditional Investment Manager
18.	Nikko Asset Management Co., Ltd.	0.49%	Japan	Traditional Investment Manager
19.	Canada Pension Plan Investment Board	0.33%	Canada	Government Pension Plan Sponsor
20.	Mitsubishi UFJ Morgan Stanley Securities Co., Ltd., Securities & Investments Arm	0.26%	Japan	Traditional Investment Manager

**COMMON STOCK EQUIVALENTS (AGGREGATE ECONOMIC INTEREST) SOURCE: CAPITAL IQ. AS OF 06-JUN-2017*
***CAPITAL IQ DEFINES STRATEGIC SHAREHOLDER AS A PUBLIC OR PRIVATE CORPORATION, INDIVIDUAL/INSIDER, COMPANY CONTROLLED FOUNDATION, ESOP OR STATE OWNED SHARES OR ANY HEDGE FUND MANAGERS, VC/PE FIRMS OR SOVEREIGN WEALTH FUNDS WITH A STAKE GREATER THAN 5%.*

SHAREHOLDER RIGHTS

	MARKET THRESHOLD	COMPANY THRESHOLD[1]
VOTING POWER REQUIRED TO CALL A SPECIAL MEETING	3.0%	3.0%
VOTING POWER REQUIRED TO ADD AGENDA ITEM	1.0%[2]	1.0%[2]

[1]N/A INDICATES THAT THE COMPANY DOES NOT PROVIDE THE CORRESPONDING SHAREHOLDER RIGHT.
[2]SHAREHOLDERS MUST OWN THE CORRESPONDING PERCENTAGE OR 300 VOTING RIGHTS FOR AT LEAST SIX MONTHS.

COMPANY PROFILE

FINANCIALS

	1 YR ROE	3 YR ROE AVG.	5 YR ROE AVG.
6502	*N/A*	*N/A*	*N/A*
	1 YR TSR	**3 YR TSR AVG.**	**5 YR TSR AVG.**
6502	*-56.3%*	*-21.5%*	*-10.1%*
FTSE Japan Index	*-6.3%*	*4.7%*	*4.6%*

MARKET CAPITALIZATION (MM JPY)	927,256
ENTERPRISE VALUE (MM JPY)	1,751,837
REVENUES (MM JPY)	5,668,688

ANNUALIZED RETURN ON EQUITY. FIGURES AS OF 31-MAR-2016. SOURCE: CAPITAL IQ

GENERAL MEETING

EARLY DISCLOSURE (28 DAYS BEFORE MEETING)	*No*
MEETING HELD DURING END OF JUNE MEETING PERIOD	*Yes*

BOARD & MANAGEMENT

BOARD TYPE	*One-Tier, 3 Committees*	**COMBINED CHAIRMAN/CEO**	*No*
ELECTION METHOD	*Majority*	**INDIVIDUAL ATTENDANCE DISCLOSURE FOR INSIDE DIRECTORS**	*Yes*
STAGGERED BOARD	*No*	**CONTROLLED WITHIN PAST YEAR**	*No*

ANTI-TAKEOVER MEASURES

TAKEOVER DEFENSE	*No*
APPROVED BY SHAREHOLDERS/EXPIRATION DATE	*N/A; N/A*

CURRENT AS OF JUN 06, 2017

ENVIRONMENTAL, SOCIAL & GOVERNANCE PROFILE

OVERALL ESG SCORE

Leader

Comparative Industry: **Industrial Conglomerates**

Board oversight for ESG Issues: **No**

All data and ratings provided by:

SUSTAINALYTICS

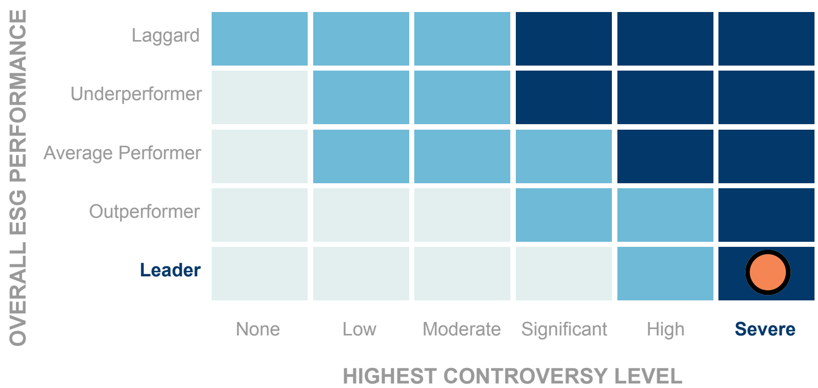
Last Update: **May 31, 2017**

ANALYST COMMENTARY

Toshiba Corp. operates in six business segments: Energy and Infrastructure (27.5 % of sales), Electronic Devices and Components (24.3%), Community Solutions (19.4%), Lifestyle Products and Services (16%), and Healthcare Systems and Services (5.7%) and Others (7.3%). The company sees social and environmental issues as a key element of its business in the long-term. Sustainalytics identified E&S Impact of Products and Services and Emissions, Effluents and Waste as key ESG issues the company faces. Toshiba exhibits comprehensive programmes and policies, which are significant points in its performance. However, in September 2015, following an internal investigation, the company announced that it would write-down its profits by 13% for the period FY2006/2007 and FY2012/2013. The profit overstatements were caused by defective bookkeeping and management's push to make the company appear more profitable. As a result, several shareholders sued the company, and in December 2015, the Financial Services Agency imposed USD 61 million fine on Toshiba. The senior management's involvement and the designation of Toshiba's stock as "security on alert" illustrate the severity of the company's wrongdoing which had a high impact on shareholders. Toshiba plans to restructure its business and sell its Medical Systems and its Home appliance units to raise funds. Given the discrepancy between its performance on environmental and social issues, and business ethics, we have a neutral view of Toshiba.

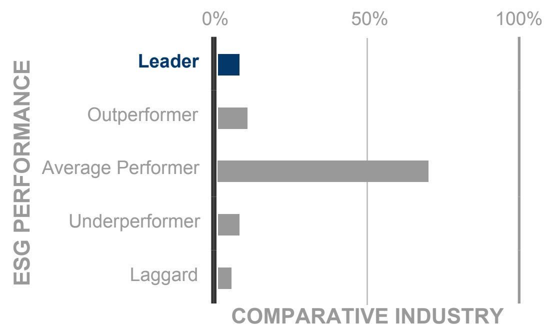
ESG RISK PROFILE

The graph below compares the Company's ESG performance to its involvement in controversies in order to provide an assessment of the Company's ESG risk profile.



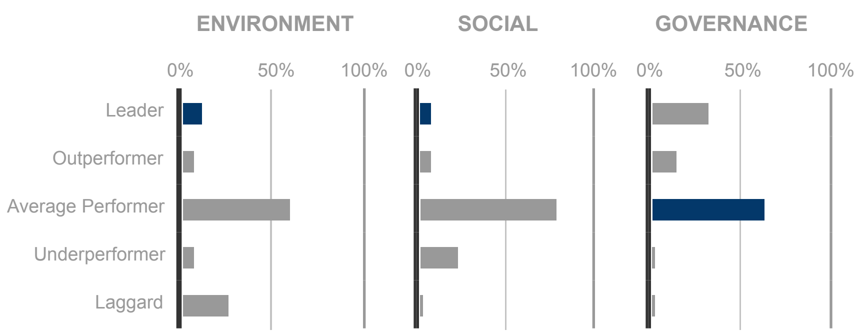
OVERALL ESG PERFORMANCE

The graph below indicates the percentage of companies in the comparative industry that fall within each ESG performance category.



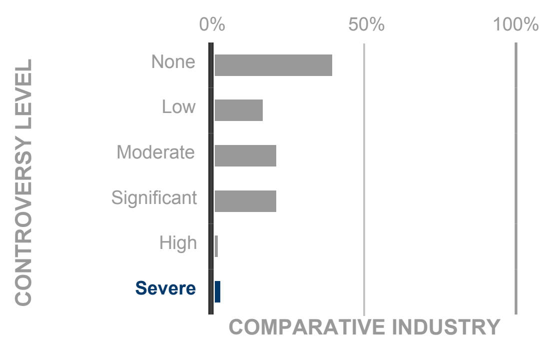
ESG PILLAR PERFORMANCE

For each pillar, the graph below indicates the percentage of companies in the comparative industry that fall within each ESG performance category. The governance pillar shown below is measured by Sustainalytics based on the Company's governance of sustainability issues.



HIGHEST CONTROVERSY LEVEL

The graph below indicates the percentage of companies in the comparative industry that fall within each controversy level.



Rows and categories shown in dark blue or bold represent the Company's category for the relevant assessment.

NOTEWORTHY CONTROVERSIES

SEVERE

Severe controversies are the most serious controversy level. They have the greatest negative impact on stakeholders and generate the greatest risk to a company's financial performance. Such controversies are highly exceptional. They indicate egregious practices and generally reflect a pattern of gross negligence, with the Company refusing to address the issue and/or concealing its involvement.

Business Ethics Incidents:

- **Accounting and Taxation**

HIGH

High-impact controversies are those that have major negative sustainability impacts and typically generate significant business risk to the Company. Such controversies are generally exceptions within an industry. They typically involve a pattern of negative events or impacts and indicate a lack of company preparedness to properly manage key sustainability issues.

No high controversies

SIGNIFICANT

Significant controversies have notable negative sustainability impacts and may generate business risk to the Company. Such controversies may be isolated or they may suggest a pattern, but they are generally not exceptional within an industry. However, they raise questions about whether a company's management systems are being implemented effectively and are able to address the issue in a satisfactory manner.

Customer Incidents:

- **Anti-Competitive Practices**

NO PRODUCT INVOLVEMENT

DISCLAIMER

Please refer to the FAQ for further details about this page.

All data and ratings provided by:

SUSTAINALYTICS

1.00: ELECTION OF DIRECTORS

AGAINST

PROPOSAL REQUEST: Election of nine directors

ELECTION METHOD: Majority

RECOMMENDATIONS & CONCERNS:

AGAINST-	**Satoshi Tsunakawa**	Other governance issue
	Yasuo Naruke	Other governance issue
	Masayoshi Hirata	Other governance issue
	Teruko Noda	Other audit issues
	Kohichi Ikeda	Other nominating/governance committee issues
	Yuki Furuta	Other audit issues
	Yoshimitsu Kobayashi	Other nominating/governance committee issues
	Ryohji Satoh	Other audit issues, Other nominating/governance committee issues
	Shinzoh Maeda	Other nominating/governance committee issues
NOT UP-	**None**	

This proposal seeks shareholder approval of the election of the nine incumbent directors, whose term will expire at the conclusion of the extraordinary general meeting of shareholders, which is slated to be convened at a later date within a year (the "2017 EGM"). As discussed in further details below, the Company's independent auditor has not been able to complete its audit process for the Company's financial results for fiscal year 2017 due to the massive write-down recorded at the Company's US nuclear business during the third quarter and its related investigation. As a result, the Company has delayed the submission of its financial statements and audit reports for the fiscal year ended March 31, 2017. The Company believes that it is appropriate for shareholders to vote on the composition of the board at the EGM together with the finalized financial statements and audit reports.

BOARD OF DIRECTORS: ONE-TIER WITH THREE COMMITTEES

	UP	NAME	AGE	GENDER	GLASS LEWIS CLASSIFICATION	COMPANY CLASSIFICATION	OWNERSHIP**	COMMITTEES AUDIT	COMMITTEES COMP	COMMITTEES NOM	TERM START	TERM END	YEARS ON BOARD
⊟	✔	Masayoshi Hirata*	59	M	Insider 1	Insider	Yes				2015	2017	2
⊟	✔	Yasuo Naruke*	62	M	Insider 2	Insider	Yes				2016	2017	1
⊟	✔	Satoshi Tsunakawa* ·CEO	62	M	Insider 3	Insider	Yes				2015	2017	2
⊟	✔	Yuki Furuta	75	M	Independent	Independent	Yes	✔	C		2015	2017	2
⊟	✔	Kohichi Ikeda	77	M	Independent	Independent	N/D		✔	✔	2015	2017	2
⊟	✔	Yoshimitsu Kobayashi	71	M	Independent	Independent	N/D		✔	C	2015	2017	2
⊟	✔	Shinzoh Maeda ·Chair	70	M	Independent 4	Independent	N/D		✔	✔	2015	2017	2
⊟	✔	Teruko Noda	78	F	Independent 5	Independent	Yes	✔	✔		2015	2017	2
⊟	✔	Ryohji Satoh	71	M	Independent	Independent	Yes	C		✔	2015	2017	2

C = Chair, * = Public Company Executive, ⊟ = Withhold or Against Recommendation

1. Representative director and CFO of the Company. Former managing director of Toshiba TEC Corporation (until September 2015) and former inside director with executive position of Westinghouse Electric Company (until June 2012).
2. Representative director and vice president of the Company. Representative director and president of Toshiba Memory, a subsidiary of the Company.
3. Representative director and president of the Company. Former representative director and president (until June 2014) of Toshiba Medical Systems Corporation, a former subsidiary of the Company.
4. Independent chair of the board.
5. Former employee of the Company (until August 1963).

***Percentages displayed for ownership above 10%, when available*

NAME	ATTENDED AT LEAST 75% OF MEETINGS	PUBLIC COMPANY EXECUTIVE	ADDITIONAL PUBLIC COMPANY DIRECTORSHIPS
Masayoshi Hirata	Yes	Yes	None
Yasuo Naruke	Yes	Yes	None
Satoshi Tsunakawa	Yes	Yes	None
Yuki Furuta	Yes	No	None
Kohichi Ikeda	Yes	No	(1) Sumitomo Chemical Co Limited
Yoshimitsu Kobayashi	Yes	No	(1) Mitsubishi Chemical Holdings Corporation
Shinzoh Maeda	Yes	No	(1) Yuasa Trading Company
Teruko Noda	Yes	No	None
Ryohji Satoh	Yes	No	None

BOARD SKILLS

The Corporate Governance Code (“Code”) recommends that listed companies have boards of directors whose membership is diverse in knowledge, experience and skills. The Code also recommends for the boards of listed companies to establish and disclose their policies and procedures regarding the nomination of its directors.

We have reviewed the current mix of skills and experience represented by the outside directors currently on the board, as follows:

NAME	CORE INDUSTRY	SENIOR EXEC	FINANCE/ CAPITAL MARKETS	AUDIT/ ACCTING	LEGAL	REGULATORY/ PUB. POLICY	INTERNATIONAL MARKETS	STRATEGY/ RISK MGMT	GOVERNANCE	MARKETING/ COMMS	TECHNOLOGY/ IT
Teruko Noda	v			v		v			v		
Kohichi Ikeda		v				v		v	v		
Yuki Furuta					v				v		
Yoshimitsu Kobayashi		v				v		v	v		
Ryohji Satoh		v	v	v			v	v	v		
Shinzoh Maeda		v				v		v	v		

MARKET PRACTICE

INDEPENDENCE AND COMPOSITION	6502*	REQUIREMENT	BEST PRACTICE
Independent Chair	Yes	N/A[1]	N/A[1]
Board Independence	67%	One external director (comply or explain)[2]	Two independent directors[5]
Audit Committee Independence	100% ; Independent Chair	Majority external directors[3]	N/A[1]
Compensation Committee Independence	100% ; Independent Chair	Majority external directors[4]	N/A[1]
Nominating Committee Independence	100% ; Independent Chair	Majority external directors[4]	N/A[1]
Percentage of women on board	11%	N/A[1]	N/A[1]
Directors' biographies	2017 Notice of Meeting		

** Based on Glass Lewis Classification*

1. *N/A*
2. *Companies Act (only applicable for two-tier board structures)*
3. *Companies Act (only applicable for one-tier with three committee board structures and one-tier with one committee board structures)*
4. *Companies Act (only applicable for one-tier with three committee board structures)*
5. *Japan’s Corporate Governance Code*

The 2003 amendments to the Commercial Code introduced a U.S.-style one-tier board structure to Japan, consisting of a board of directors with audit, nomination and compensation committees. The Companies Act, which came into effect in 2006, stipulates that each of these committees should consist of at least majority of outside directors.

Pursuant to the partial amendment to the Companies Act, which came into effect on May 1, 2015, the eligibility of outside directors have been amended. An individual who has not been an executive director, executive officer or employee in the last 10 years prior to his or her appointment will be eligible to qualify as an outside director. However, an individual who controls the company, or a director, executive officer or employee of the parent company or its affiliates will no longer qualify as an outside director.

We believe that a board with three committees should consist of at least one-third independent outside directors. The Companies Act stipulates that, where the Company has adopted this board system, each of the audit, nomination and compensation committees should be made up of three or more directors, with a majority of the members external to the Company. As such, we believe that a majority of each of the committees should consist of independent outside directors free of any material, financial, familial or other affiliations that may cause conflicts of interest.

GLASS LEWIS ANALYSIS

We believe shareholders should be mindful of the following:

BID-RIGGING AND PRICE-FIXING

As discussed in previous proxy papers, the Company has come under scrutiny for bid-rigging activities in the past several years relating to a number of its products, including liquid crystal display panels, disk drives, gas insulated switchgears, cathode-ray tubes and lithium-ion battery components.

For further details, please refer to the write-up in Proposal 1.01.

ACCOUNTING IRREGULARITIES

REVELATION OF IMPROPER ACCOUNTING

As discussed in our previous proxy paper, the Company has been involved in a number of serious accounting scandals. In April 2015, the Company announced that it was investigating possible irregularities in its accounting, the second such investigation within a two-year period. The Company stated that infrastructure projects that began in April 2013 may have had underreported costs, and that the Company may have inadequately accounted for those costs and spread them over time. In October 2013, the Company had found that its subsidiary, Toshiba Medical Information Systems Corporation, had overstated its results by ¥9.9 billion from fiscal years 2007 through 2013 (" Toshiba Shares Fall After Accounting Probe Launched ." Reuters. April 6, 2015; "Discovery of Consolidated Subsidiary's Misstatement of its Financial Statements." *Company Press Release*. October 30, 2013).

In May 2015, the Company withdrew its forecasted results for its previous fiscal year because of the irregularities examined by the investigation. The Company stated that it had found cases where expenses may not have been booked or for which were otherwise inappropriately accounted (Takashi Mochizuki. "Toshiba to Restate Profits Because of Accounting Irregularities." *Wall Street Journal*. May 13, 2015). In response to these findings, the Company set up an independent committee of four external experts to expand its investigation (the "Independent Committee"). The Independent Committee, which was chaired by a former prosecutor, was established to determine whether the Company's accounting issues were intentional or caused by structural problems (Reiji Murai. "Toshiba Sets Up New Panel to Expand Accounting Probe." *Reuters*. May 15, 2015).

FINDINGS OF INVESTIGATION REPORT

On July 20, 2015, the Company announced that it had obtained the Independent Committee's report and its recommendations (the "Report"). According to the Report, the Toshiba Group had fabricated its financial results, including overstating its profits by ¥156.2 billion, consisting of the Independent Committee's findings of ¥151.8 billion and the Company's findings of ¥4.4 billion, over a seven-year period from 2008 to 2014. The Report concluded that, with the involvement of top management, including the president, CFO and Group CEOs, the inappropriate accounting practices were conducted simultaneously and systematically in many divisions as a management decision. The Group had inflated its income in the following areas: (i) the percentage-of-completion method to manage the profitability of long-term projects; (ii) the parts transactions of the visual products business and the PC business; (iii) the recording of operating expenses of the visual products business and the PC business; and (iv) the valuation of inventory of the semiconductor business ("Notice on Receiving Report from Independent Investigation Committee, and Action to be Taken by Toshiba for Corrections Identified for Past Financial Results." *Company Press Release*. July 20, 2015).

The Report identified the Company's practice of imposing "challenges" as one of the direct causes of the inappropriate accounting treatment. At the CEO's monthly meetings, the Company's presidents were reported to have placed pressure on each of the divisional presidents to achieve "challenges," or "excessive targets" by the end of that quarter. The divisional presidents were often forced to use certain inappropriate accounting methods to overstate profits and to achieve these "challenges."

In addition, the Report stated that under the Company's accounting practices, approval from a senior personnel was required prior to developing a formal accounting process. Contrary to the written rules, a provision for losses was not recorded by the decision of the person in charge of the applicable department. Additionally, for some infrastructure projects, the percentage-of-completion method was not properly applied because the requests from the divisional directors were rejected by top management. The Report also found that certain members of top management did not have sufficient knowledge of accounting standards or did not have an awareness about appropriate accounting treatments.

The Independent Committee pointed to the combination of the foregoing and an egregious lack of internal controls and management oversight, which created the ideal environment for improper accounting and financial reporting practices to take place.

On November 26, 2015, The Committee for Rating Third Party Committee Reports, an independent organization that investigates problems and ranks investigation reports issued by third-party committees established by companies that faced scandals, announced its findings related to the Report. Its investigation results pointed out that the Company's Independent Committee did not set the scope of the investigation and limited the investigation to the realms assigned by the Company, that the Report stipulates that "the investigation was conducted only for the sake of Toshiba," and that it lacks the fact finding and evaluation processes on the motives of the three former CEOs involved in the accounting fraud. As a result, on the whole, the investigation received a low rating ("[Toshiba's Third-Party Committee Report, Rating Committee Assessed Low.]" *Reuters*. November 26, 2015).

CORRECTION OF SECURITIES REPORTS AND FINANCIAL STATEMENTS

After another postponement, on September 7, 2015, the Company submitted its annual securities report for fiscal year 2015 as well as the restatements of the annual securities reports and quarterly reports for the period from the first quarter of fiscal year 2011 to the third quarter of fiscal year 2015 to the Kanto Local Finance Bureau. The Company also released its financial statements for fiscal year 2015 and restated past financial statements for the period in question.

Due to the aforementioned accounting fraud, the Company's income before tax and net income for the period in question were restated downward by ¥224.8 billion and ¥155.2 billion, respectively ("Notice on Restatement of Past Financial Results, Outline of FY2014 Consolidated Business Results, Submission of 176th Annual Securities Report and Outline of Recurrence Prevention Measures, etc." *Company Press Release*. September 7, 2015; "Toshiba Announces Consolidated Results for the First Quarter of the Fiscal Year Ending March 2016." *Company Press Release*. September 14, 2015). The Company ultimately recorded net losses of ¥37.8 billion for fiscal year 2015 and ¥483.2 billion for fiscal year 2016.

COMPANY RESPONSE – PERSONNEL REVISIONS

After receiving the Report, half of the Company's 16 board members resigned. Of those that resigned were the three most recent presidents, Messrs. Atsutoshi Nishida, Norio Sasaki and Hisao Tanaka. However, one of the representative directors, Mr. Keizoh Maeda, remained in the Company as an executive officer. On July 22, 2015, inside chair Masashi Muromachi assumed both the positions of representative director and president ("Notice on Appointment of Representative Executive Officers." *Company Press Release*. July 21, 2015).

On August 25, it was reported that one of the resigned vice presidents, Mr. Kiyoshi Kobayashi, who was responsible for the fraudulent accounting at the Company's semiconductor business, remained in the Company as a semiconductor adviser without official announcement. Similarly, on September 18, 2015, media reported that Mr. Keizoh Maeda was appointed as a finance advisor of the Company despite being responsible for accounting irregularities during his tenure as CFO of the Company ("[Inexplicable Toshiba, Resigned Vice President Still Working Full-Time.]" *Toyo Keizai Online*. August 28, 2015; Nobutaka Hirooka. "Toshiba, CFO Responsible During Period of Improper Accounting Appointed Finance Advisor." *Nikkei Business*. September 18, 2015).

In response to the accounting scandal, the Company also established the management revitalization committee (the "MRC"), which was comprised of the Company's four outside directors, a certified public accountant and an attorney, to lead the Company through a substantial overhaul in its internal controls and corporate governance ("Notice on Action to be Taken by Toshiba in Response to the Results of the Investigation Report by the Independent Investigation Committee." *Company Press Release*. July 29, 2015). On August 18, 2015, after consultation with the MRC and several other observers, the Company announced the director candidates and reform measures of the Company's governance structure ("Notice on Toshiba's New Management Team and Measures to Reform of Governance Structure, and Outline of

Correction of Past Financial Statements and Financial Forecast." *Company Press Release*. August 18, 2015).

In May 2016, the Company nominated the former head of its medical division, Satoshi Tsunakawa, who was not involved in the accounting scandal, to be the Company's CEO. This appointment was approved by shareholders at the annual general meeting of shareholders on June 22, 2016 ("2016 AGM") (Makiko Yamazaki. "Toshiba Nominates New CEO in Bid to Put Accounting Scandal Behind It." *Reuters*. May 6, 2016; Takashi Mochizuki. Atsuko Fukase. "Toshiba Announces New Chief Executive After Accounting Scandal." *The Wall Street Journal*. May 6, 2016).

At a press conference held on February 2016, the Company explained its decision to abolish its advisers to the board system after criticism for their unclear role and responsibilities over board decisions. However, the Company also announced its intention to establish a new "honorary adviser" position and to appoint Messrs. Nishimuro and Okamura, incumbent advisers of the Company, to the position (" Toshiba to Create New Honorary Posts Even as Thousands of Lower Positions Cut." *The Mainichi Newspapers*. March 15, 2016).

COMPANY RESPONSE – TOSHIBA REBUILDING INITIATIVE AND REORGANIZATION

In December 2015, the Company announced a "Toshiba Revitalization Action Plan" (later renamed to "Toshiba Rebuilding Initiative") to "[re]gain the trust of all stakeholders, and achieve a strong corporate constitution." The plan involves (i) decisive action on business structural reform; (ii) strengthening internal controls and reforming the corporate culture; (iii) reviewing the business portfolio and operational structure; and (iv) reforming the financial base ("'Toshiba Revitalization Action Plan' and FY2015 Forecast." *Company Presentation*. December 21, 2015).

In March 2016, the Company gave a progress update on the Rebuilding Initiative, including the sale of Toshiba Medical Systems Corp. for approximately ¥665.5 billion, progress towards selling its home appliance business, and continued reform of its PC business, among other things ("FY2016 Business Plan." *Company Presentation*. March 18, 2016). As part of this update, the Company also released an Improvement Plan and Situation Report further detailing its efforts to promote "management with integrity based on compliance" and measures to prevent recurrence of another accounting scandal ("Toshiba Releases 'Improvement Plan and Situation Report." *Company Press Release*. March 15, 2016). One of the measures taken by the Company was putting in place an accounting compliance committee that would be "charged with strengthening internal control and handling financial and accounting risk factors, including whistleblowing, and improving information sharing." The committee is chaired by the representative director and president ("Progress in Implementing of the Preventive Measures in Accounting Issues." *Company Press Release*. March 15, 2016).

On June 30, while the Japan Fair Trade Commission ("JFTC") approved the purchase of Toshiba Medical by Canon Inc. ("Toshiba Medical Acquisition"), it issued a warning against Canon over its acquisition scheme involving a third-party special purpose vehicle and share options which allowed Canon to make the payment to the Company without the submission of advance notice to the JFTC. The JFTC stated that in the future, it would not accept the same method and also told the Company not to engage in similar actions ("[JFTC Approves Canon's Toshiba Medical Acquisition While Issuing Warning on its Method .]" *Nikkei*. June 30, 2016).

The Company has transferred multiple operations and businesses to its consolidated subsidiaries by a company split, including: (i) transfer of the Company's PC business to Toshiba Client Solution Co., Ltd., on April 1, 2016; (ii) transfer of a part of the system large-scale integration ("LSI") business at the Company's Oita operations to Japan Semiconductor Corporation on April 1, 2016; and (iii) transfer of visual products business of Toshiba Lifestyle Products and Services Corporation ("TLSC") to Toshiba Visual Solutions Corporation on June 30, 2016 which led to exclusion of TLSC and its subsidiaries from the Company's consolidated shares as 80.1% of TLSC shares held by the Company were sold to Midea Group Co., Ltd. for ¥53.7 billion; and (iv) transfer of industrial video camera system business, including video cameras for medical equipment to Toshiba Medical Systems Corporation ("TMSC") as part of Canon's Toshiba Medical Acquisition for a consideration of ¥12.7 billion on October 1, 2016.

In August 2016, the Company sold 9,668,000 shares (9.9% of the voting rights) of its consolidated subsidiary, Toshiba Plant Systems and Services Corporation ("TSPC") for ¥15,710 million while retaining TSPC as a consolidated subsidiary. After the transaction, the Company's interest reduced to 51.5% of outstanding ordinary shares of TSPC ("Regarding the Sale of Certain Shares of Toshiba's Consolidated Subsidiary Held by Toshiba." *Company Press Release*. August 24, 2016).

ADDITIONAL FINDINGS AND UPDATES

In March 2016, the Company reported the findings of its investigation of additional inappropriate accounting and provided an overview of the seven new cases, noting that the impacts totaling ¥5.8 billion were accounted for in its financial statements for the second and third quarters of fiscal year 2015. The Company explained that it did not immediately announce the findings to the public because the amount was smaller than the threshold set by regulators (Makiko Yamazaki. "Toshiba Finds More Accounting Errors, Promises Improvement." *Reuters*. March 15, 2016).

On November 11, 2016, the Company reported another finding of overstatement of sales amounting to ¥520 million by an employee of its subsidiary Toshiba EI Control System Co., Ltd. The Company stated that to reflect this matter, it had corrected its consolidated financial results of the second quarter of 2016 ("[Notice Regarding Overstatement of Sales at a Subsidiary (Toshiba EI Control System Co., Ltd.)]" *Company Press Release*. November 11, 2016).

The Company recorded a write-down in relation to its Indian subsidiary Toshiba JSW Power Systems Private Limited ("Toshiba JSW") of ¥15.8 billion in total in its non-consolidated financial results for the first and second quarters of fiscal year 2017. Toshiba JSW operates a factory in southeast India where flooding caused suspension of its operations in mid-November to December 2015. The suspension, in conjunction with declining profitability caused by severe operating environments, led to a capital deficit being posted at the end of fiscal year 2016 ("Notice on Recording Write-down of Shares Held by Toshiba in an Indian Affiliate Company." *Company Press Release*. October 28, 2016).

On January 23, 2017, it came to light that an employee of the Company failed to perform the necessary tests on hydraulic power facilities delivered to a contracting third party. The Company stated that this was not an organizational action but rather a problem of the employee that made out as if all tests had been completed. The relevant employee has been disciplined and the Company is taking measures to prevent recurrence ("Responsible Toshiba Employee Disciplined for Failing to Test Hydraulic Power Facilities." *Nikkei*. January 23, 2017).

In March 2017, it was reported that the Company is facing a potential ¥1 trillion loss from its LNG business due to difficulty securing sales partners. Under its contract, the Company purchases approximately 2,200,000 tonnes of LNG from its American partner. If the Company cannot sell the LNG, it must begin recording losses from the 2019 fiscal year which would be devastating to the already struggling financial status of the Company ("Toshiba Runs Risk of ¥1 Trillion Loss From LNG Business, Troubles Finding Sales Partners." *The Mainichi Newspapers*. March 8, 2017).

CHANGE OF AUDITOR TO PWC AARATA

In the fall of 2015, the Company announced its intention to carefully review its independent auditor Ernst & Young ShinNihon, which failed to detect the company-wide irregularities in the course of its accounting audit ("[Financial Services Agency to Investigate Ernst & Young ShinNihon for Toshiba's Profit Inflation.]" *Sankei Shimbun*. September 7, 2015). Critics who question the responsibility of the audit firm argued that Ernst & Young ShinNihon had served as the Company's independent auditor since 1951, for more than half a century. In response to criticism, the Company stated that it would consider the introduction of a system in which it regularly rotates its auditor ("[Toshiba: Studies Rotation of Auditors to Improve Transparency.]" The *Mainichi Newspapers*. August 27, 2015).

In December 2015, the Financial Services Agency ("FSA") fined Ernst & Young ShinNihon ¥2.1 billion ($17.4 million) for failing to spot the Company's accounting irregularities, characterizing the lapse as "a grave breach of duty." The FSA also suspended the accounting firm from taking on new business contracts for three months and demanded the firm submit a business improvement plan. According to the FSA, the fine is equivalent to two years of auditing fees paid to the firm by the Company. Following the announcement of this fine, Ernst & Young ShinNihon announced the resignation of its chair and CEO in response to this scandal (" Japan Fines Ernst & Young Affiliate $17.4 Million Over Toshiba Audit." *Reuters*. December 22, 2015).

Ernst & Young ShinNihon notified the Company in December 2015 stated that it would not renew its contract with the Company for fiscal year 2017. At the 2016 AGM, the shareholders approved PricewaterhouseCoopers Aarata ("PwC Aarata") as the Company's independent auditor.

On September 20, 2016, an individual shareholder filed a derivative suit against Ernst & Young ShinNihon for failing to identify accounting irregularities in the Company's financial statements in relation to its PC business. The suit seeks compensation of ¥10.5 billion to be paid to the Company from Ernst & Young ShinNihon ("[Compensation of ¥10.5 Billion to Toshiba, Individual Shareholder Files Law Suit Against Independent Auditor.]" *Nikkei*. September 20, 2016).

Further, on May 17, 2017, the Government Pension Investment Fund (the "GPIF") through the Japan Trustee Services Bank, Ltd. that manages domestic stocks on behalf of the GPIF filed a lawsuit against Ernst & Young ShinNihon for damages totalling ¥3.5 billion in relation to Toshiba's accounting irregularities. In the court claim, the GPIF accused Ernst & Young ShinNihon for the failure to exercise the due care and expressing an unqualified opiniion on Toshiba's securities reports despite the false statements. It is the first time for the GPIF to file an accounting corporation ("[GPIF Filed Suit Against Ernst & Young ShinNihon.]" *Reuters*. June 2, 2017).

PENALTIES

On September 14, 2015, the Tokyo Stock Exchange ("TSE") and the Nagoya Stock Exchange ("NSE") announced their decision to designate Toshiba as a "security on alert" effective from September 15. Further, the TSE and NSE ordered Toshiba to pay ¥91.2 million and ¥17.4 million, respectively, in listing agreement violation penalties ("[TSE and NSE, Designate Toshiba as Security on Alert and Impose ¥10 million Penalties.]" *Tokyo Shimbun*. September 15, 2015). The

Company acknowledged that, as of December 19, 2016, its shares remain classed as "security on alert" and that it needs to take further action to ensure compliance with certain laws. On March 15, 2017, on the last day of the 18-month period from the initial designation date, the Company submitted the Written Confirmation of Internal Management System to the TSE and NSE. After their review of the documents, if the exchanges determine that Toshiba failed to improve its internal management system, the Company's shares will be delisted from both exchanges ("Toshiba Resubmits Documents on Internal Management System to Tokyo and Nagoya Stock Exchanges." *Company Press Release*. March 15, 2017).

Further, on December 25, 2015, the FSA imposed a record fine of ¥7.37 billion on the Company and gave the Company until February 25, 2016 to pay the amount ("Toshiba Fined Record ¥7.3 Billion Over Accounting Scandal." *Japan Times*. December 25, 2015). The Company announced in January 2016 that the fine had been paid ("Notice on Petition for Increase in Amount Sought in Action for Compensatory Damages Against Former Company Executives on the Grounds of Toshiba's Payment of Administrative Monetary Penalty, Etc." *Company Press Release*. January 27, 2016).

LAWSUITS

On July 29, 2015, the Company announced that a class-action lawsuit had been filed by security owners in California under the U.S. securities laws. However, the Company argues that the securities in question are American Depositary Receipts ("ADRs") and the U.S. securities laws do not apply to the securities that the Company does not issue ("Notice on Action to be Taken by Toshiba in Response to the Results of the Investigation Report by the Independent Investigation Committee." *Company Press Release*. July 29, 2015). On May 20, 2016, the U.S. District Court for the Central District of California rejected the claim and ruled in favor of the Company. The plaintiff has appealed the case, and it is currently before the Court of Appeals ("Notice of an Appeal Against Toshiba in a US District Court." *Company Press Release*. July 28, 2016).

On September 8, 2015, an individual shareholder sent a written request to the Company's audit committee to file a lawsuit against 28 former and current executives including Mr. Muromachi for damages totaling ¥1 billion. The shareholder plans to file a shareholder derivative suit if the Company fails to file the lawsuit within 60 days from the request ("[Toshiba Accounting Fraud: Individual Shareholder Demands ¥1 Billion Lawsuit.]" *The Mainichi Newspapers*. September 9, 2015).

Later that month, the Company received from certain shareholders a demand to file an action to enforce the liability of executives under Article 847(1) of the Companies Act. In response, the Company formed an executive liability investigation committee to investigate, which found that five of the investigated executives had been negligent. As a result, the Company sued those five former executives, including three former CEOs, for mismanagement in connection with the accounting scandal. The lawsuit, which initially sought ¥300 million in total damages, alleges the five defendants breached their duty of care ("Notice on Receipt of Investigation Report from Executive Liability Investigation Committee, Filing of Action for Compensatory Damages Against Former Company Executives, an Action Filed in the U.S., and Other Matters." *Company Press Release*. November 7, 2015). However, following the fine levied on the Company by the Financial Services Agency and further payment of auditor fees, the Company determined to seek additional damages from the defendants, adjusting total damages sought to ¥3.2 billion ("Notice on Petition for Increase in Amount Sought in Action for Compensatory Damages Against Former Company Executives on the Grounds of Toshiba's Payment of Administrative Monetary Penalty, Etc." *Company Press Release*. January 27, 2016).

In March 2016, the Company also received a written demand from another shareholder to file an action to enforce the liability of 23 individuals who were directors or executive officers of the Company from 2008 to 2014. However, the Company announced that it will not file such action as it found "no circumstances exist that are sufficient to find liability" against these individuals ("Notice on Demand by Shareholder for Filing an Action and Notification by the Audit Committee of Reasons for Not Filing an Action." *Company Press Release*. April 7, 2016).

Further, in May 2016, another shareholder in Osaka Prefecture filed a derivative suit against 11 former and current executives including Mr. Muromachi for damages totaling ¥2.7 billion at the Tokyo District Court. The 11 defendants were not included in the Company's suit seeking damages of ¥3.2 billion as the Company did not find their regal responsibilities ("[Accounting Fraud: Shareholder Derivative Suit Filed for ¥2.7 Billion in Damages Against Former Executives]." *The Mainichi Newspapers*. May 20, 2016).

As of April 20, 2017, 21 discrete lawsuits have been filed against the Company in relation to accounting irregularities which collectively are worth approximately ¥64.3 billion ("[Regarding Damage Claims lawsuits Filed Against the Company.]" *Company Press Release*. April 21, 2017). These suits which continue to be assessed by the relevant courts are including:

- Two lawsuits filed by the GPIF through the Japan Trustee Services Bank, Ltd. ("JTSB") that holds the Company's shares on behalf of the GPIF for approximately ¥1.3 billion and ¥12.0 billion reported in October 2016;
- A lawsuit filed by 45 foreign institutional investors, including Allianz Global Investors, at the Tokyo District Court for ¥16.7 billion announced on October 13, 2016;

- Two lawsuits filed by 11 trust banks, including Sumitomo Mitsui Trust Bank, Limited and Mitsubishi UFJ Trust and Banking Corporation ("MUTB"), through four asset management banks, including JTSB and The Master Trust Bank of Japan, Ltd., at the Tokyo District Court for approximately ¥5.1 billion and ¥13.1 billion on March 28, 2017; and
- A lawsuit filed by five trust banks, including Trust & Custody Services Bank, Ltd. and MUTB, at the Tokyo District Court for approximately ¥14.1 billion on March 31, 2017.

US NUCLEAR BUSINESS ISSUES AND ASSET DEFICIENCY

INITIAL ACCOUNTING CONCERNS

The Company currently holds a 90% stake in Westinghouse Electric Company ("Westinghouse"), a U.S.-based nuclear power company. The Company acquired Westinghouse in 2006 under its selection and concentration strategy where the Company selected to concentrate on the semiconductor and nuclear power businesses. Amidst the accounting probe, media outlets reported that the Company was considering selling Westinghouse shares, which the Company promptly denied ("Amid Accounting Probe, Toshiba May Sell Westinghouse Shares." *Reuters*. July 9, 2015; "Notice on Media Coverage of Investigation on Appropriateness of Toshiba's Accounting." *Company Press Release*. July 9, 2015). Investors have long held concerns that the value of assets and goodwill related to the Company's stake in Westinghouse were overstated. The Company initially dismissed such criticisms, stating that in July 2015 that its Westinghouse nuclear business was more profitable than when it was acquired ("Toshiba Says Westinghouse has Grown More Profitable Since Acquisition." *Reuters*. July 21, 2015). The next month, however, the Company announced that it would not have to take a significant loss on goodwill from its acquisition of Westinghouse, stating "the fair value of goodwill has always exceeded the book value since the acquisition." ("Toshiba Shares Rise 9% on Financial Update." *Nikkei Asian Review*. August 20, 2015; Anya Litvak; "Toshiba: Westinghouse Worth More Than Book Value." *Pittsburgh Post-Gazette*. August 21, 2015).

In the Report published on July 20, 2015, the Independent Committee reported Westinghouse's inappropriate accounting treatments as a part of its findings. According to the Report, in the second and third quarters of financial year 2013, without sufficient grounds, the Company understated the Westinghouse's reported losses of $385 million and $401 million over a power plant building project as $69 million and $293 million, respectively ("Notice on Receiving Report from Independent Investigation Committee, and Action to be Taken by Toshiba for Corrections Identified for Past Financial Results." *Company Press Release*. July 20, 2015).

In November 2015, it was reported that Westinghouse booked write-downs of about $930 million in its automatic reactor control systems and new construction businesses in 2012 and about $390 million in new construction in 2013. However, the Company's consolidated results treat Westinghouse as a single entity, and the Company stated that since it expected Westinghouse to remain profitable, there is no need to write down past or present results ("Westinghouse Write-Downs Cast Doubt on Transparency." *Nikkei Asian Review*. November 13, 2015). The Company confirmed the reported figures, stating the write-downs reflected sluggish demand for new nuclear power plants. However, the Company noted that Westinghouse has posted a profit of $200 million to $300 million on average annually since the acquisition ("UPDATE 1-Toshiba Says Westinghouse Unit Suffered Losses in 2012, 2013." *Reuters*. November 12, 2015).

The Westinghouse announcement caused the Company's shares to fall 6% for the day and raised further concerns about the Company's accounting practices (Takashi Mochizuki. "Toshiba Shares Dive as Westinghouse Disclosure Spooks Investors." *The Wall Street Journal*. November 13, 2015). Following this announcement, the Tokyo Stock Exchange told the Company that its failure to disclose the past losses at Westinghouse had violated exchange requirements, as the 2012 charges were significant enough to be disclosed at the time ("Tokyo Bourse Says Westinghouse Loss Disclosures Violate Rules: Toshiba." *Reuters*. November 17, 2015). In response, the Company apologized for failing to disclose the Westinghouse losses in a timely manner and stated that it will "more actively disclose information" to regain trust (Kazuaki Nagata. "Toshiba Claims Ignorance in Westinghouse Scandal." *Japan Times*. November 27, 2015).

In November 2015, the Company disclosed Westinghouse's financial performance for the first time, which showed an accumulated operating loss of $290 million since 2006 (Takashi Mochizuki. "Toshiba Reveals Westinghouse Operating Losses." *MarketWatch*. November 27, 2015). Further, Company officials outlined a revised business plan for Westinghouse that relies heavily on its fuel and service business lines, as well as 64 new nuclear reactor orders over the next 15 years (Anya Litvak. "Toshiba Pulls Back the Curtain on Westinghouse's Finances." *Pittsburgh Post-Gazette*. December 7, 2015).

In March 2016, Bloomberg reported that the Company had come under investigation by the U.S. Department of Justice ("DOJ") and the SEC over allegations that it hid its Westinghouse losses (Tom Schoenberg. Matt Robinson. "Toshiba Shares Plunge as U.S. Unit Faces Accounting Probe." *Bloomberg*. March 16, 2016). However, in response, Westinghouse's president and CEO issued a statement noting that the firm's "financial reporting is not under investigation" and criticized the Bloomberg article as being "factually inaccurate and reckless." Westinghouse also emphasized that the independent investigation committee's report found no irregularities in Westinghouse's accounting (Westinghouse Electric Company. "Westinghouse CEO Refutes Bloomberg Report." *Press Release*. March 17, 2016). The Company also issued a statement stating that certain of its U.S. subsidiaries "received information requests from the DOJ and SEC in respect of Toshiba's accounting practices, and they are cooperating with the investigation" ("Notice on Media Coverage of Probe by Authorities Over US Subsidiary of Toshiba." *Company Press Release*. March 18, 2016).

In March 2016, it was reported that the Company was considering a ¥200 billion write-down on account of Westinghouse. The Company stated that while its last stress test found no need for a write-down, the Company's lower credit ratings and weaker ability to procure funds prompted a new test (Makiko Yamazaki. Ritsuko Ando. "Toshiba Says it May Write Down Nuclear Business, U.S. Units Probed." *Reuters*. March 18, 2016). On April 26, 2016, the Company announced that it would write down the goodwill value of its nuclear power plant business — including Westinghouse — by ¥260 billion (Takashi Mochizuki. "Toshiba to Take $2.3 Billion Write-Down on Nuclear Business." *The Wall Street Journal*. April 26, 2016).

ASSET DEFICIENCY DUE TO MASSIVE LOSSES

On December 27, 2016, the Company announced that during the evaluation of the asset value of CB & I Stone & Webster ("S&W"), Westinghouse's subsidiary acquired from Chicago Bridge & Iron in January 2016, Westinghouse found that the asset value of S&W was significantly lower than its initial assumption. The Company explained that due to a significant increase in project cost, the carrying amount of goodwill which was initially estimated at approximately US$87 million would possibly be changed to several billion dollars (several hundred billion yen) ("Possibility of Recognition of Goodwill and Loss Related to Westinghouse's Acquisition of CB&I Stone & Webster." *Company Press Release*. December 27, 2016).

On February 14, 2017, while it provided the unaudited financial results, the Company announced that it would delay the official announcement of its third-quarter financial results for fiscal year 2017 due to alleged inadequate internal controls over the purchase price allocation process for the acquisition of S&W by Westinghouse. The Company stated that it received multiple internal reports in January and decided to conduct an extended investigation on the alleged matter before finalizing the financial results ("Notice of Submission of Application for Approval of Extension of the Deadline for Submission of the 178th Third Quarter Securities Report (October 1, 2016 to December 31, 2016)." *Company Press Release*. February 14, 2017).

In the unaudited financial results of the first to third quarters of fiscal year 2017, it was revealed that losses due to impairment of goodwill in the nuclear power business in the United States totaled ¥712.5 billion ($6.3 billion), the expected net loss for the first nine months of fiscal year 2017 is ¥499.9 billion, and the expected annual net loss for fiscal year 2017 is ¥390.0 billion. Based on this expected loss, the Company's equity at the end of December 2016 was negative ¥191.2 billion, meaning its debts exceeded its assets. As a result, the Company would have a net capital deficiency of ¥150.0 billion at the end of the fiscal year ("Provisional Outlook for FY2016 3Q Business Results and FY2016 Forecast, and Outline of Loss in Nuclear Power Business and Countermeasures." *Company Press Release*. February 14, 2017).

On December 28, 2016, rating agencies downgraded the Company's credit rating reflecting the incurred losses of the Company. As a result, the Company became in breach of financial covenants in outstanding syndicated loans of ¥283.5 billion arranged by the Company's main banks out of a total loan of ¥1,389.0 billion as of December 31, 2016. The Company was able to enter into agreements with the financial institutions to extend continuous support for these loans and not to call them until March 31, 2017. However, as they are now overdue, these loans are callable at any time by the transacting financial institutions.

In addition, the Company's financial status poses the risk of an extremely negative impact on certain internal businesses that can only be operational if the Company is able to renew its Special Construction Business License before its expiration date in December 2017. To obtain the Special Construction Business License, which is issued by the Japanese government, the Company must meet certain financial criteria ("Convocation Notice of the Ordinary General Meeting of Shareholders for the 178th Fiscal Year." *Toshiba Corporation*. June 1, 2017).

On February 14, 2017, the Company also announced that in light of issues revealed at its US nuclear business, Shigenori Shiga, the chair of Toshiba, would resign from the board effective February 15, 2017, and Mr. Danny Roderick, president and CEO of Energy System Solutions Company of Toshiba and chair of Westinghouse, was dismissed from his positions at the Company effective February 14, 2017.

On February 16, 2017, the Company received a notice that IHI Corporation ("IHI") would exercise a right to transfer all shares it holds (3%) in Westinghouse to the Company (the "Put Option"). The Company's purchase price is approximately ¥18.9 billion and the date of payment for acquisition is May 17, 2017 ("Notice on Acquisition of IHI Corporation's Stake in Westinghouse." *Company Press Release*. February 17, 2017).

On April 4, 2017, the Company announced its intention to acquire shares of UK based nuclear energy management company NuGeneration Limited ("NuGen") from its joint investment partner ENGIE. The transaction will be for acquisition of all shares (approximately 40%) that ENGIE holds in NuGen for a total of ¥153 billion. Although NuGen will become a subsidiary of the Company upon completion of the transaction, the Company has indicated intention to withdraw from the foreign nuclear market and that it is negotiating potential sale of NuGen to a public Korean electricity company ("Toshiba to Acquire Shares in UK based Nuclear Management Company from French Joint Investment Partner." *Nikkei Asian Review*. April 4, 2017).

On May 3, 2017, it was announced that Southern Company is seeking assurance from the Company for $3.7 billion in order to complete the Vogtle nuclear power plant in Georgia that was being built by the defunct Westinghouse unit (Carl Surran. "Southern Seeking $3.7B from Toshiba to Complete Georgia Nuclear Plant." *Seeking Alpha*. May 3, 2017).

On March 29, 2017, Westinghouse filed for Chapter 11 bankruptcy protection in the federal bankruptcy court for the Southern District of New York as the Company made moves to offload the subsidiary. Westinghouse stated that it had secured $800 million in debtor-in-possession financing from a third-party lender that will be used to support the operation of the nuclear power plants that it owns while restructuring. The Company states that Westinghouse holds a total debt of $9.8 billion and recalculated its expected annual net loss for fiscal year 2017 from ¥390.0 billion to over ¥1 trillion mainly due to the coverage of the parent company guarantee amounting approximately ¥650 billion as well as the allowance for doubtful accounts of ¥175.6 billion (Kana Inagaki. " Westinghouse Files for Chapter 11 Bankruptcy Protection." *The Financial Times*. March 29, 2017; Diane Cardwell. Jonathan Soble. "Westinghouse Files for Bankruptcy, in Blow to Nuclear Power." *The New York Times*. March 29, 2017).

On February 24, 2017, in an effort to improve its financial platform, the Company announced to sell Miike Power Plant, a coal-fired power generation plant, operated by its subsidiary Sigma Power Ariake Corporation to an investment fund for ¥22 billion. The transaction was carried out on March 31 through a share transfer of a newly established company after conducting an incorporation-type company split to transfer the related business to the new company ("Notice of Incorporation-Type Company Split of Group Company and Conclusion of Share Transfer Agreement." *Company Press Release*. February 24, 2017).

On April 24, 2017, the Company confirmed the spin-off of four of its departments in order to increase oversight. On May 30, the Company announced conclusion of three of the four absorption-type company split agreements (the "Company Split Agreements") that will become effective as of July 1. Pursuant to the Company Split Agreements, the Company will split and transfer its three in-house companies, namely (a) Infrastructure Systems and Solutions Company ("ISS"); (b) Storage & Electronic Devices Solutions Company ("SDS"); and (c) Industrial ICT Solutions Company (excluding Information Systems Division and the R&D, "INS"), to its wholly-owned subsidiaries as follows: (A) Toshiba Electric Service Corporation ("TDS"); (B) Toshiba Electronic Devices and Storage Corporation ("TDSC"); and (C) Toshiba Solutions Corporation ("TSOL"), respectively. The remaining company split of Energy Systems & Solutions Company and the Nuclear Energy Systems & Solutions Division ("ESS") requires shareholder approval and is proposed in Proposal 2. The move came as there was increasing pressure for the Company to restructure its capital in order to meet certain capital requirements for securing renewal of a government permit to undertake large-scale construction projects ("[Toshiba Crisis: Spin-Off of 4 Departments of Toshiba Officially Confirmed, 20,000 Employees to be Transferred to Spin-Off Companies .]" *Sankei Shimbun*. April 24, 2017; "Notice on Conclusion of Absorption-type Company Split Agreements in Respect of In-house Companies." *Company Press Release*. May 30, 2017).

On May 31, 2017, it was revealed that the former chair of Westinghouse, Mr. Daniel Roderick received ¥2.1 billion in compensation in the one year prior to his retirement. Controversy has mounted in relation to this value as Westinghouse root cause of the approximate ¥1 trillion debt that the Company currently holds ("[Former WH Chair Roderick's Yearly Remuneration Totals ¥2.1 billion Prior to WH Bankruptcy.]" *Nikkei*. May 21, 2017).

DISCLAIMER OF OPINION AND CONFLICTS WITH PWC AARATA

On April 11, 2017, after twice delaying its release, the Company submitted the financial statement for the third quarter of fiscal year 2017 to the Kanto Local Finance Bureau without the endorsement of its auditor PwC Aarata. PwC Aarata disclaimed an opinion on the Company's results as it believes further investigation is necessary to probe whether accounting fraud occurred in relation to acquisitions made by Westinghouse (Fortune Editors. "The Chances of Toshiba Being Delisted are Rising." *Fortune Tech*. April 11, 2017). Based on the submitted financial statements, the total net loss for the period and shareholders' equity as of December 31, 2016 were ¥532.5 billion and negative ¥225.7 billion, respectively.

In April 2017, it was reported that the Company solidified planned to appoint a new independent auditor in place of PwC Aarata, as it has unresolvable conflicts on the view over the financials of its nuclear businesses in the United States. PwC Aarata's disclaimer of opinion on the Company's financial statements for the third fiscal year 2017 falls short of the TSE listing standards and would be a reason to designate a company as a "security on alert." While the Company had already been designated as a "security on alert," the TSE launched an investigation into the reasons the auditor was forced to withhold its opinion and to decide whether it is appropriate for the Company's shares to remain listed on the exchange (Taiga Uranaka. Taro Fuse. "Toshiba Plans to Replace Auditor PwC After Earnings Impasse." *Reuters*. April 26, 2017).

On April 28, 2017, Grant Thornton, Taiyoh Audit Company ("Grant Thornton") was named as a potential candidate for appointment as the Company's independent auditor. After significant controversy as a result of the Company's replacement of its current independent auditor, on May 10, it was reported that the Company has decided to relinquish its plan and that it would retain PwC Aarata to audit its financials for fiscal year 2017 ("[Toshiba, Abandoned an Attempt to Change Auditor = No Successor Found.]" *Jiji Press*. May 10, 2017).

On May 15, the Company released the unaudited financial results for fiscal year ended March 31 on a projection basis as the Company and PwC Aarata still disagreed on the investigation into major losses accumulated due to issues at Westinghouse. There is also growing concern that the Company will be unable to submit its securities report, which contains the financial results to the Kanto Local Finance Bureau by the end of June, when it is officially due. According to the unaudited financial results, losses accumulated by the Company for the period amount to ¥950 billion, the worst loss recorded in the Japanese domestic manufacturing industry, and shareholders' equity as of March 31 was negative ¥540 billion. Based on the Tokyo Stock Exchange listing rules, if the Company records excess debts again at the end of fiscal year 2018, delisting protocols will apply. In order to secure revenue into the future, it is essential that sale of the flash memory/semiconductor unit, worth an estimated ¥3 trillion, is secured, as described below ("[Unusual Temporary Results, June Reporting Delayed = CEO States They Will 'Do Their Best' to Settle Accounts.]" *Jiji Press*. May 15, 2017).

SALE OF SEMICONDUCTOR BUSINESS

In order to make up for the massive losses accumulated due to the improper accounting practicing at Westinghouse, the Company's has announced its intention to sell its flash memory/semiconductor unit (the "Memory Business") as early as January 2017. The Memory Business makes up the major revenue base of the Company and its president, Tsunakawa, has stated it is believed to be worth at least ¥2 trillion. Major technology companies worldwide, including Google and Apple have been named as potential bidders for the technology. After the deadline for the first phase of bidding at the end of March, it was widely reported that Taiwan's Hon Hai Precision Industry Co., Ltd. ("Foxconn") has made a bid of ¥3 trillion.

The government of Japan has shown its concern over the possible leakage of the specific technologies used in the Memory Business to another market. In addition to the significant impact on the revenue base of the Company and the Japanese economy, selling the Company's semiconductor business to a foreign entity is said to be a security concern as the technology can be diverted to military use. On April 11, the chief cabinet secretary stated the sale would be subject to the preliminary notification with appraisal based on the Foreign Exchange and Foreign Trade Control Act and a strict examination from the view point of national security ("[Chief Cabinet Secretary "Will Conduct Strict Examination" on Sale of Semiconductor Business.]" *The Mainichi Newspapers*. April 11, 2017).

The joint management partner of the Company's semiconductor factory, Western Digital Corporation ("WD"), has also expressed its concerns regarding the Company's sale of shares in the Memory Business. In early April, CEO of WD, Steven D. Milligan, has stated that sale of the Memory Business to a third party is major breach of contract and has taken the step to interfere with sale of business. This has led to delays in the in the process of selling the semiconductor unit. In response, the Company wrote to WD that it had misinterpreted the merger contract and warned WD to execute the terms of the merger contract ("[Toshiba Objects and Warns WD on its Interference of Semiconductor Unit Sale.]" *Reuters*. May 9, 2017).

On May 15, 2017, WD filed an arbitration suit with the International Court of Arbitration (the "Arbitration Court") on the basis of a breach of contract. The arbitration request and legal process that follows may take more than one year to process and is likely to significantly impact the Company's planned sale of the Memory Business. In order to facilitate sale of the Memory Business, the Company transferred its interest in the Memory Business to a new subsidiary Toshiba Memory Corporation ("TMC") without the consent of WD. It is believed that WD is attempting to use its position as joint venture partner to place itself as the preferred bidder against rivals (Tim Bradshaw. Kana Inagaki. " Western Digital takes Toshiba to Arbitration." *The Financial Times*. May 15, 2017).

On June 1, 2017, it was confirmed that the Company would transfer shares that it moved to the Memory Business back to the Company. In doing so, the Company would invalidate the basis of WD's claims of breach of contract. The Company took this counter-measure in order to avoid an arbitration lawsuit that could delay sale of the Memory Business for several years. Furthermore, if the Company was to sell before finalization of the suit there would be the risk of the sale being cancelled if the Arbitration Court favored WD. In response, WD stated that it is not claiming to return shares to Toshiba, but claiming that selling shares to a third party without consent is a breach of contract. WD also define its position clear that it would not be withdrawing the arbitration suit ("[Sale of Memory Business Up in the Air, Counter-Measures Against WD.]" *The Mainichi Newspapers*. June 1. 2017).

In early May, it was reported that KKR & Co. ("KKR") was in advanced talks with the Company about a preemptive bid for the Memory Business. KKR is likely to partner with the semi-government Japanese organization Innovation Network Corporation of Japan ("INCJ") and has indicated it would pay ¥1.8 trillion to ¥2.1 trillion. WD has yet to decide whether it will partner with the Company and KKR (Takao Taniguchi. Alex Sherman. " KKR in Talks with Toshiba for Preemptive Chips Unit Bid: Sources." *Bloomberg Technology*. May 8, 2017).

After the deadline of the second phase of bidding on May 19, it was reported that INCJ and Government-owned financial institution Development Bank of Japan Inc. ("DBJ") have both expressed their intention to participate in bidding. Besides INCJ and DBJ, Foxconn, Broadcom Ltd. (United States) and SK Hynix Inc. (South Korea) are also making bids. Similar to KKR and INCJ, other bidders are believe to be teaming up with other entities, including U.S. private equity firms such as Silver Lake Partners and Bain Capital ("[INCJ Intends to Participate in Toshiba Semiconductor Bidding, Broadcom and Hon Hai Also Bid.]" *Reuters*. May 19, 2017).

Toshiba is aiming to complete the sale by March 2018.

LAWSUITS

There have been several cases of individuals making claims against the Company on the basis of losses accumulated. An employee of Westinghouse has filed a lawsuit against the Company seeking ¥450 million for damages incurred by the irregular accounting practices of the Company. Details of the lawsuit have not been disclosed by the Company. ("[WH Employee Files Lawsuit in Relation to Accounting Irregularities.]" *Nikkei*. February 23, 2017).

CONCLUSION

The repeated revelations of the accounting irregularities at both the Company and subsidiary levels have cast significant doubt over the effectiveness of the Group's internal controls, as well as the internal financial reporting procedures and auditing systems in place to avoid the kind of problems that have occurred. We note that the Company's shares dropped in value by approximately 16.6% and 41.6% when the Company announced that it would withdraw its earnings forecast in May 2015 and that it would book a several-billion-dollar write-down in December 2016, respectively. The Company’s shares which were previously traded at ¥512.4 on April 3, 2015 have fallen approximately 50.1% to ¥255.6 on June 5, 2017.

At the 2016 AGM, the Company has completed a total overhaul of the board. Further, the Report did not find direct involvement of any nominees in the accounting scandal at the Company. In addition, the Company has taken proactive steps to improve its internal and infrastructural systems. As the fallout from the accounting and finance scandals has and may continue to have material long-term repercussions to both the Group and its shareholders, the new and improved control systems in place may prevent similar issues from reoccurring in the future, prevent further loss to shareholder value and mend the relationship between shareholders and the Company.

However, in this case, despite the steps taken by the Company, we are concerned that several of the systems that it has implemented and/or improved upon are not functioning properly, resulting in the Company and its board failing to be transparent, expeditious and thorough in its response to many of its still-outstanding issues, including its response to the findings of Westinghouse losses.

Moreover, as mentioned above, due to the disagreement between the Company and PwC Aarata on the necessity of a further investigation into issues at Westinghouse, the Company has yet to release its business report, consolidated financial statements, financial statements, independent auditor's report and audit committee's report for fiscal year 2017 (the "Proxy Materials"), and therefore will be unable to present such reports to shareholders at its forthcoming annual general meeting (the "2017 AGM"). The Company states that the Proxy Materials will be presented to shareholders at an extraordinary meeting (the "2017 EGM") which will be held at a later date after the completion of the audit by PwC Aarata.

Although their proposed term is until the conclusion of the 2017 EGM, given the foregoing, we cannot confidently support the nomination of Messrs. **Satoh**, **Noda**, **Furuta**, **Hirata**, **Naruke** and **Tsunakawa**, who — as the chair and members of the audit committee as well as the CFO and other top executives of the Company — should have taken greater steps in performing its oversight responsibilities in the financial reporting processes and practices of the Group.

In addition, we believe the failure to provide adequate financial information to the independent auditor is preventing shareholders from being able to conduct a meaningful review of the Company's financial statements. As such, we feel that the audit committee failed to perform its oversight responsibilities in this regard as well.

Moreover, as discussed in our previous proxy papers, we are troubled that nominee **Tsunakawa** served as the representative director and president of Toshiba Medical Systems Corporation, the parent company of Toshiba Medical Information Systems Corporation, when the accounting irregularity at the former subsidiary took place. In our view, his seniority within Toshiba Medical Systems Corporation is of sufficient concern that, in our opinion, Mr. **Tsunakawa** does not have the proper oversight to protect shareholder concerns at this Company as well. In addition, taking into account his and the Group's performance this year, we are not convinced that we need to revise our opinion and believe that his election proposal does not warrant shareholder support.

Further, we also cannot confidently support the nomination of Messrs. **Kobayashi**, **Ikeda**, **Satoh** and **Maeda**, the chair and members of the nominating committee, as we are not satisfied with the committee's decision at the 2016 AGM to nominate Messrs. Tsunakawa and Shiga as the president and chair of the Company and to maintain the honorary adviser and special adviser positions, in addition to its decision to continue to nominate Mr. Tsunakawa as the president at the 2017 AGM. As we noted in our 2016 Proxy Paper, Mr. Shiga served as chair, president and CEO of Westinghouse between July 2010 to January 2014, during which time inappropriate accounting practices at the subsidiary initially took place. Moreover, he resigned from the board in light of the revelation of additional issues at Westinghouse in February 2017.

We recommend that shareholders vote **AGAINST** all nominees.

BID-RIGGING AND PRICE-FIXING

As discussed in previous proxy papers and Proposal 1.0, the Company has come under scrutiny for bid-rigging activities in the past several years relating to a number of its products, including liquid crystal display panels, disk drives, gas insulated switchgears, cathode-ray tubes and lithium-ion battery components as follows:

Liquid Crystal Display Panels

- In March 2010, Dell Inc. ("Dell") filed a lawsuit against five technology companies, including the Company, concerning allegations of price-fixing and overcharging for the products that these companies manufactured. Dell alleged that the Company's actions had violated antitrust laws and that they had inflated prices of products containing thin film transistor-liquid crystal display ("LCD") panels. Dell claimed the violations and price inflations had been occurring since January 1996 (Andrew Morse. "Dell Sues Firms in Japan, Taiwan Over Alleged Cartel." *Wall Street Journal*. March 15, 2010).
- Nokia Corporation ("Nokia") also filed a similar suit against the Company and seven other electronics manufacturers in December 2009 (Matti Huuht Annen. "Nokia Sues Top LCD, CRT Display Makers." *The Associated Press*. December 1, 2009). Nokia dropped the charges in 2012 after it made a deal with the Company (Kurt Orzeck. "Nokia Gets OK to End Samsung LCD Price-Fixing Case." *Law360*. April 5, 2013).
- In July 2012, the Company was found liable for $87 million in damages in a class action lawsuit brought on behalf of customers that alleged the Company had conspired to fix prices in the LCD market; however, the Company denied any wrongdoing in this matter (Dan Levine. "Toshiba Hit with $87 Million Verdict on LCD Prices." *Reuters*. July 3, 2012). However, the Company, AU Optronics Corp., and LG Display Co., Ltd. ultimately agreed to pay $543.5 million as well as $27.5 million in civil penalties in order to settle this case. The Company reportedly paid $21 million as a result of this settlement (Karen Gullo. "AUO, LG Display, Toshiba Will Settle LCD Case, Lawyer Say." *Bloomberg*. July 11, 2012).
- In September 2012, the Company also agreed to pay $30 million to settle similar claims by digital signage makers, office networking companies and other direct purchasers that alleged the Company had been overcharging for their products as a result of price-fixing (Karen Gullo. "AUO, Toshiba Settle Panel Price Case for $68 Million." *Bloomberg*. November 30, 2012).
- In May 2015, the Company reached an agreement regarding the State of Washington's accusation that nine LCD manufacturers, including the Company, fixed prices for a range of electronic products. The lawsuit claimed that the defendants' actions occurred between 1999 and 2006 and may have increased customer prices by as much as 20%. The nine defendants paid a total of $63 million to the state in the settlement (Martha Bellisle. "State Reaches $63 Million Agreement with LCD Manufacturers." *Belleville News-Democrat*. May 15, 2015). Following the settlement, the Washington State Attorney General's Office allowed consumers who purchased LCD screens between 1999 and 2006 to file for refunds until September 30, 2016 (Aaron Allen. "WA Consumers Have Until This Friday To File For Refund in Price-Fixing Scheme." *Seattle Medium*. September 28, 2016).

Disk Drives

- In October 2009, Toshiba-Samsung Storage Technology Corporation, a joint venture firm of the Company and Samsung Electronics Co., Ltd., received a subpoena from the U.S. Justice Department as a result of an investigation into the Company's optical disk drive business activities ("Toshiba Corporation's Joint Venture Receives Subpoena from U.S. Justice Department-Dow Jones." *Reuters News Release*. December 23, 2009).
- In February 2010, Prisco Electronic Co., Inc. sought injunctions against five technology companies, including the Company, and their subsidiaries for price-fixing activities, including "fixing, raising, maintaining and stabilizing the price of Optical Disk Drive Products sold in the United States" (Phil Muncaster. "Electronics Giants Accused of Price Fixing." *V3.co.uk*. February 27, 2010).
- In May 2013, computer maker Dell again filed a complaint in U.S. federal court against the Company and five other optical disk drive manufacturers for price-fixing. Dell alleged that it had to pay inflated prices and that the Company was in breach of contract and that it had committed violations of U.S. antitrust law (Karen Gullo. "Dell Accuses Hitachi in Suit of Price-Fixing Conspiracy." *Bloomberg*. May 13, 2013).
- In May 2014, the Ninth Circuit revived a putative consumer class action lawsuit first filed in 2011 against a joint venture including the Company. The case was dismissed in 2012 under the judge's finding that the plaintiff's claims were time-barred. However, there were alleged ongoing violations. The revived case alleges that companies including the Company tried to limit competition in the secure disk memory card market via patent licensing

restrictions (Jeff Sistrunk. "Panasonic, Toshiba Will Face SD Card Antitrust Class Anew." *Law360*. May 14, 2014).

- In October 2015, the EU fined the Company's joint venture with Samsung €41.3 million for fixing the prices of CD and DVD drives ("EU Slaps DVD Drive-Makers with €116 Fine." *Bloomberg*. October 22, 2015).
- In late 2015, General Wireless Operations Inc. ("RadioShack"), operator of the RadioShack brand, filed a lawsuit against the Company and other firms alleging that a six-year price-fixing conspiracy from 2004 to 2010 resulted in higher disk drive prices and caused RadioShack to lose millions of dollars (Christopher Zara. "RadioShack Antitrust Lawsuit: Sony, Samsung, Toshiba and Others Accused of Illegal Price-Fixing Conspiracy." *International Business Times*. December 31, 2015).
- In April 2016, a case brought against the Company and several other firms regarding price-fixing optical disk drives was settled for $37 million. The settlement class includes those who directly purchased disk drives or computers containing disk drives from 2004-2008. The Company's joint venture with Samsung was fined $9.2 million (Nicholas Iovino. "$37M Deal Ends Disk Drive Price-Fixing Case." *Court House News*. April 14, 2016).

Gas Insulated Switchgears

- In January 2007, the European Commission levied a fine of €90.9 million on the Company for its alleged participation in an international cartel formed by 10 Japanese and European firms for gas insulated switchgears between 1988 and 2004 ("EU Fines Japanese, European Firms 750 M. Euros over Cartel." *Jiji Press*. January 24, 2007). In December 2009, the Company filed a lawsuit in the European General Court to ask for cancellation of the earlier decision of the European Commission ("Toshiba Corporation Files Lawsuit Against Decision of European Commission." *Reuters News Release*. December 23, 2009).
- The prior penalty of €90.9 million was overturned as a result of a finding that the Company and Mitsubishi Electric Corporation ("Mitsubishi Electric") were punished more harshly than their European competitors. However, in June 2012, the Company was again fined €56.8 million by the European Union in a price-fixing investigation over gas insulated switchgears. The Company and Mitsubishi Electric were also jointly fined €4.7 million (Aoife White. "Mitsubishi Electric, Toshiba Fined Again by EU for Power Cartel." *Bloomberg*. June 27, 2012).
- In January 2016, the Company received the judgment of the General Court of the European Union concerning its gas insulated switchgear case and a judgment from the EU Court of Justice concerning its power transformers case. In both cases, the respective courts upheld the fines imposed on the Company for violation of EU competition law ("Judgment of the General Court of the European Union in the Gas Insulated Switchgear (GIS) Case and Judgment of the Court of Justice of the European Union in the Power Transformers Case." *Company Press Release*. January 21, 2016). However, in March 2016, the Company announced that it filed an appeal on the case involving its gas insulated switchgears ("Regarding an Appeal to the Court of Justice of the European Union in the Gas Insulated Switchgear (GIS) Case." *Company Press Release*. March 30, 2016).

Cathode-Ray Tubes

- In December 2012, the European Commission fined the Company €28.04 million for fixing prices on cathode-ray tubes. The Company was among six companies that were fined a total of €1.47 billion as a result of these allegations, making it, at the time, the largest antitrust penalty in history (" EU Fines Toshiba, Panasonic, Four Others for Cathode Ray Tube Cartel." *The Japan Times*. December 7, 2012).
- However, in September 2015, the European Union General Court canceled the €28.04 million fine imposed on the Company. The Court also reduced fines imposed on Panasonic Corporation ("Panasonic") and the joint venture between the Company and Panasonic while upholding fines for four other companies ("[EU Reduces Fines on Toshiba and Panasonic for Cathode-Ray Tube Cartel.]" *Nikkei*. September 10, 2015).
- In January 2017, the Company lost its court appeal challenging the fine on its joint venture with Panasonic when the European Court of Justice confirmed the fine of €82 million (Waverly Colville. "Toshiba Loses Court Appeal Against EU Cartel Fine on Joint Venture." *Reuters*. January 18, 2016).
- In April 2015, the Company reached an undisclosed settlement agreement with Sears Holdings Corp. regarding claims that the Company took part in a conspiracy to fix the prices of cathode-ray tubes in televisions (Y. Peter Kang. "Toshiba Settles With Sears, Kmart in CRT Price-Fixing MDL." *Law360*. April 21, 2015).
- In July 2015, the Company agreed to pay $30 million as its portion of a $528 million settlement for a class-action suit that alleged the Company and three firms fixed prices for cathode-ray tubes (Melissa Lipman. "Philips, Others Pay $528M to Settle CRT Price-Fixing Claims." *Law360*. June 1, 2015).
- In March 2016, California Attorney General Kamala Harris announced a preliminary approval of settlements resolving allegations that the Company and four other firms fixed prices of cathode-ray tubes from 1995 to 2007, which caused damage to California consumers and government entities. The settlements require all five firms to pay a total of $4.95 million and also required each firm to, among other things, engage in firm-wide antitrust compliance training and reporting (" Attorney General Kamala D. Harris Announces Settlements Totaling $4.95 Million with LG, Hitachi, Panasonic, Toshiba and Samsung Over Price-Fixing Scheme." *State of California Department of Justice Office of the Attorney General*. March 30, 2016).

- In May 2016, Best Buy Co., Inc. dropped charges against the Company and four other firms for price-fixing cathode-ray tubes in televisions. The claims were dismissed with prejudice, meaning that they cannot be refiled later (Matthew Bultman. "Best Buy to Drop CRT Claims Against LG, Toshiba, Others." *Law360*. May 9, 2016).
- In January 2017, the Company made a settlement with Sharp Electronics Corporation ("Sharp Electronics"). Sharp Electronics dropped its claims against the Company for alleged price-fixing of cathode-ray tubes as part of multidistrict litigation over the product. As noted above, direct purchaser plaintiffs settled the suit in 2015 resulting in the Company paying $30 million (Eric Koh. " Sharp, Toshiba Settle CRT Price-Fix Claims." *Law360*. January 30, 2017; Jeff Zalesin. "Indirect Buyers get $577M CRT Settlement Plan Approved." *Law360*. July 8, 2016).
- Also in January 2017, two Dutch consumer groups brought a lawsuit against the Company and five other television makers for price-fixing of cathode-ray tubes. The consumer groups claim that the European Commission's 2012 fine imposed on the companies (noted above) did not include compensation for consumers of the televisions and is suggesting a reimbursement of €100 per screen ("Consumers to Sue Philips for Cathode Ray Cartel Compensation." *Dutch News*. January 17, 2017).
- In March 2017, Brazil's antitrust watchdog, the Administrative Council for Economic Defense ("CADE"), accused the Company and three other firms of participating in a cartel for the manufacture and sale of cathode-ray tube. CADE alleges that the firms participated in a cathode-ray tube market cartel from 1995-2007. The case has been passed onto CADE's court (Fola Akinnibi. "Brazil Accuses Toshiba, Others of Fixing CRT Prices." *Law360*. March 14, 2017).

Lithium-Ion Batteries

- The Company has been subject to multidistrict litigation in California regarding price-fixing of the components relating to lithium-ion batteries. In 2015, Dell joined other computer manufacturers in suing several companies, including the Company, for artificially inflating the prices of lithium ion battery bells and lithium ion battery backs into which lithium ion battery cells are incorporated. (Daniel Siegal. " Dell Enters Battery Price-Fixing Fray Against Sony, LG." *Law360*. June 26, 2015). In June 2016, the Company filed a motion to dismiss the case involving Dell, but it was rejected (Cara Bayles. "Toshiba Churning Motions in Dell Battery MDL, Judge Says." *Law360*. September 27, 2016).
- In relation to the lithium-ion battery litigation in California, in March 2017, the Company along with Panasonic and Hitachi Maxell, Ltd. agreed to pay a $50 million settlement to direct purchasers of lithium-ion batteries, of which the Company was responsible for $2.9 million. The direct purchasers alleged that the companies colluded with other electronic manufacturers to fix battery prices. The settlement adds to the $19 million deal that Sony Corporation previously made with direct purchasers (Eric Koh. "Electronics Giants to Pay $49M to Settle Battery Antitrust Suit." *Law360*. March 20, 2017).
- In May 2017, a California judge decided not to toss out a lawsuit added to multidistrict litigation over battery price-fixing in California. The suit was filed against the Company and three other firms for price-fixing lithium-ion batteries. The Company and other defendants argued that the defendant's claim was made to late, but the judge sided with the plaintiff (Flextronics International USA) that there are "relevant questions about the alleged conspiracy and if the statute of limitations was tolled" (Eric Kroh. "Flextronics Price-Fix Claims Proceed in Battery MDL." *Law360.* May 15, 2017).

Other Products

- In October 2008, the Japan Fair Trade Commission ("JFTC") ordered eight companies to pay surcharges totaling ¥425.3 million for their involvement in rigging bids for public construction projects. Although the Company was involved in the scandal, it escaped punishment because it admitted violating the law before a JFTC search of its premises ("4 Sapporo Officials Rigged Bids." *The Daily Yomiuri*. October 31, 2008).
- In May 2010, the EU fined nine chipmakers, including the Company, a total of €331 million (of which the Company was fined €17.64 million) as a result of accusations that they had violated EU antitrust laws on price-fixing of DRAM (dynamic random access memory) chips. This case marked the first European Commission case in which the accused companies admitted to taking part in the cartel and resulted in a 10% cut in fines levied against them (Foo Yun Chee. "UPDATE 1-EU Fines Samsung Elec, Others for Chip Price-Fixing." *Reuters. May 19*, 2010).

2.00: ABSORPTION-TYPE COMPANY SPLIT

FOR

PROPOSAL REQUEST:	Approval of shift to holding company	**RECOMMENDATIONS & CONCERNS:**	
BINDING/ADVISORY:	Binding	**FOR-**	No material concerns
REQUIRED TO APPROVE:	67%		

SUMMARY

This proposal seeks shareholder approval for an absorption-type company split (the "Split") by which the rights and obligations for the business conducted by the Energy Systems & Solution Company (excluding the business conducted by Landis+Gyr Division and Power and Industrial Systems Research and Development Center) as well as the business conducted by the Nuclear Energy System & Solutions Division (excluding the business conducted by Westinghouse Electric Company Division) (the "Transferred Business") will be transferred to Toshiba Energy Systems and Solutions Corporation (the "Succeeding Company"), a wholly-owned subsidiary of the Company. Pursuant to this proposal, the Succeeding Company will issue 9,995,000 common shares to the Company in exchange for the Transferred Business. Upon the completion of the split, the Succeeding Company's stated capital and capital legal reserve will be increased to ¥9.95 billion and ¥2.5 billion, respectively. If approved by shareholders, the Split will become effective on October 1, 2017.

RATIONALE

The board states that in response to the severe conditions that the Company is currently facing, it has decided to have its in-house companies succeeded to by wholly-owned subsidiaries in order to strengthen collaboration within the Toshiba Group and also promoting the development and expansion of new businesses to maximise shareholder value. The Company wishes to have these business units operate as autonomous business entities with strong management structures while also allowing for continuity of maintaining their licenses, including the Special Construction Business Licence discussed in Proposal 1. The Company also aims to develop businesses that allow for rapid decision-making in changing business environments while also maximising the corporate value of Toshiba Group. On April 1, 2017, the Company split its Storage and Electronics Devices Solutions Company to Toshiba Memory Corporation ("TMC") as a part of the ongoing efforts of the Group to enhance its operations.

GLASS LEWIS ANALYSIS

Glass Lewis believes that the management of businesses and the decisions associated with business operations are best left to management and the board, absent a showing of egregious or illegal conduct that might threaten shareholder value. We believe that board members can be held accountable on these issues when they face reelection. It is our opinion that management and the board are in the best position to determine what operational decisions are best in the context of the business.

In this case, we note this proposal functions as part of a larger restructuring effort to cover up the capital deficiency caused by the ¥712.5 billion write-down in the nuclear power business as discussed in Proposal 1. Specifically, the Company has announced the spin-off of four of its departments, including the Transferred Business, to secure renewal of a Special Construction Business Licence necessary to undertake large-scale construction projects, which is expiring in December 2017. In order to obtain the Special Construction Business Licence, which is issued by the Japanese government, a company needs to meet certain financial criteria, including a minimum equity capital of ¥40 million. The Company has announced conclusion of the other three absorption-type company split agreements (the "Company Split Agreements") which do not require a shareholder approval. Pursuant to the Company Split Agreements, the Company will split and transfer its three in-house companies, namely (a) Infrastructure Systems and Solutions Company ("ISS"); (b) Storage & Electronic Devices Solutions Company ("SDS"); and (c) Industrial ICT Solutions Company (excluding Information Systems Division and the R&D, "INS"), to its wholly-owned subsidiaries as follows: (A) Toshiba Electric Service Corporation ("TDS"); (B) Toshiba Electronic Devices and Storage Corporation ("TDSC"); and (C) Toshiba Solutions Corporation ("TSOL"), respectively.

We understand securing renewal of the Special Construction Business Licence at this time is critical for the Company to continue as a going concern. In addition, we generally believe that group restructuring can provide a number of benefits for companies. These include, among others, a more efficient management structure, cost savings and simplified capital structures.

Further, we note that the Split, taken alone, is strictly a change in the legal and management structure of the Company. There will be no direct effect on consolidated business results as a result of this reorganization, as the Succeeding Company is 100% owned by the Company. As such, the proposed transaction alone will have no economic impact on shareholders.

Based on these factors, we believe that the proposed company split warrants shareholder support at this time.

We recommend that shareholders vote **FOR** this proposal.

VOTE RESULTS FROM LAST ANNUAL MEETING JUNE 22, 2016

Source: Governance Vision

RESULTS

NO.	PROPOSAL	FOR	AGAINST	ABSTAIN	OTHER/ WITHHELD	GLC REC
1.0	Authority to Reduce Stated Capital	99.01%	0.79%	0.20%	0.00%	For
2.0	Amendments to Articles	99.18%	0.62%	0.20%	0.00%	For
3.1	Elect Satoshi Tsunakawa	87.58%	12.22%	0.20%	0.00%	Against
3.2	Elect Masayoshi Hirata	98.72%	1.08%	0.20%	0.00%	For
3.3	Elect Teruko Noda	98.17%	1.63%	0.20%	0.00%	Against
3.4	Elect Kohichi Ikeda	98.13%	1.67%	0.20%	0.00%	Against
3.5	Elect Yuki Furuta	98.18%	1.62%	0.20%	0.00%	Against
3.6	Elect Yoshimitsu Kobayashi	98.03%	1.77%	0.20%	0.00%	Against
3.7	Elect Ryohji Satoh	98.20%	1.60%	0.20%	0.00%	Against
3.8	Elect Shinzoh Maeda	98.17%	1.63%	0.20%	0.00%	Against
3.9	Elect Shigenori Shiga	97.95%	1.85%	0.20%	0.00%	Against
3.10	Elect Yasuo Naruke	98.66%	1.13%	0.20%	0.00%	For
4.0	Appointment of Auditor	99.08%	0.71%	0.20%	0.00%	For

Voting ratios displayed above are calculated based on the votes officially counted by the Company.

APPENDIX

Questions or comments about this report, GL policies, methodologies or data? Contact your client service representative or go to www.glasslewis.com/issuer/ for information and contact directions.

NOTE

The Company's ROE data is not available in the Company Profile page due to insufficient disclosure of financial information for the past fiscal year.

DISCLOSURES

This report is intended to provide research, data and analysis of proxy voting issues and, therefore, should not be relied upon as investment advice. Glass Lewis analyzes the issues presented for shareholder vote and makes recommendations as to how Glass Lewis believes institutional shareholders should vote their proxies, without commenting on the investment merits of the securities issued by the subject companies. Therefore, none of Glass Lewis’ proxy vote recommendations should be construed as a recommendation to invest in, purchase, or sell any securities or other property. Moreover, Glass Lewis’ proxy vote recommendations must be construed solely as statements of opinion, and not as statements of fact, and may be revised based on additional information or any other reason at any time.

The information contained in this report is based on publicly available information. While Glass Lewis exercises reasonable care to ensure that all information included in this report is accurate and is obtained from sources believed to be reliable, no representations or warranties express or implied, are made as to the accuracy or completeness of any information included herein. In addition, Glass Lewis shall not be liable for any losses or damages arising from or in connection with the information contained herein or the use or inability to use any such information.

Glass Lewis expects its subscribers possess sufficient experience and knowledge to make their own decisions entirely independent of any information contained in this report. Subscribers are ultimately and solely responsible for making their own voting decisions. This Glass Lewis report is intended to serve as a complementary source of information and analysis for subscribers in making their own voting decisions and therefore should not be relied on by subscribers as the sole determinant in making voting decisions.

DOW JONES SUSTAINABILITY INDEX
The Dow Jones Sustainability World Index, Dow Jones Sustainability North America Index, Dow Jones Sustainability Europe Index and Dow Jones Sustainability Asia Pacific Index are a joint product of S&P Dow Jones Indices LLC and/or its affiliates and SAM Sustainable Asset Management AG (“SAM”). Dow Jones® and DJ® are trademarks of Dow Jones Trademark Holdings LLC. UBS® is a registered trademark of UBS AG. S&P® is a registered trademark of Standard & Poor’s Financial Services LLC. All content of the DJSI World © S&P Dow Jones Indices LLC or its affiliates and SAM Sustainable Asset Management AG.

Glass Lewis recommends all clients carefully and periodically evaluate, among other things, Glass Lewis' research philosophy, approach, methodologies and conflict management, avoidance and disclosure policies and procedures. For information on Glass Lewis’ policies and procedures including treatment of conflicts of interest, please visit: http://www.glasslewis.com/.

LEAD ANALYSTS

Governance:

Shigemichi Yoshizu