



<TRANSLATION>

March 27, 2019

Company Name	Nissan Motor Co., Ltd.
Code No.	7201
Inquiry	IR Department (TEL 045-523-5523)

Nissan's board receives governance improvement recommendations

The Company has announced "Nissan's board receives governance improvement recommendations" as attached.

- END -

NISSAN MOTOR CORPORATION



## **Nissan's board receives governance improvement recommendations**

**YOKOHAMA, Japan** (March 27, 2019) – Nissan's board of directors has received the report from the Special Committee for Improving Governance, which was established following the discovery of management misconduct led by the company's former chairman. The report summarizes the committee's proposals for governance improvements and recommends a framework for the best governance as a foundation for Nissan business operations in the future.

The company's board of directors will review the committee's proposals with the greatest attention as soon as possible and will proceed with plans to improve the governance structure.

To view the full report in PDF, please click [here](#).

End

(Translation)

***NISSAN MOTOR CO., LTD.***  
**Special Committee for Improving Governance**  
**Report**

Committee  
Co-Chair  
Seiichiro Nishioka  
(signature)  

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Committee  
Co-Chair  
Sadayuki Sakakibara  
(signature)  

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Committee  
Member  
Rieko Sato  
(signature)  

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Committee  
Member  
Fumio Naito  
(signature)  

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Committee  
Member  
Masakazu Toyoda  
(signature)  

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Committee  
Member  
Keiko Ihara  
(signature)  

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Committee  
Member  
Jean-Baptiste Duzan  
(signature)  

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March 27, 2019

To: Board of Directors  
Nissan Motor Co., Ltd.

Special Committee for Improving Governance  
Nissan Motor Co., Ltd.

## Report

### **CHAPTER 1 PURPOSE OF SCIG's FORMATION**

#### **PART 1 PURPOSE**

NISSAN MOTOR CO., LTD. ("Nissan") has resolved to form a "Special Committee for Improving Governance" at its Board of Directors Meeting on December 17, 2018.

The Special Committee for Improving Governance ("SCIG") was formed for the following purposes: (i) to ascertain the root causes behind Nissan's governance issues which led to the misstatements in Nissan's Annual Securities Reports, etc.; (ii) to provide recommendations for the improvement of Nissan's governance commencing with Nissan's approval process for determining director compensation, and (iii) to provide recommendations for Nissan to create a healthy state of governance as a foundation for sustainable business as a world-leading company (the recommendations in (ii) and (iii), the "Recommendations"). The purposes of SCIG do not include assigning any criminal or other legal responsibility to any individual or corporation.

#### **PART 2 STRUCTURE**

SCIG consists of the following seven members:

Seiichiro Nishioka	Committee Co-Chair	(Independent Third Party)
Sadayuki Sakakibara	Committee Co-Chair	(Independent Third Party)
Rieko Sato	Committee member	(Independent Third Party)
Fumio Naito	Committee member	(Independent Third Party)
Masakazu Toyoda	Committee member	(Independent Outside Director)
Keiko Ihara	Committee member	(Independent Outside Director)
Jean-Baptiste Duzan	Committee member	(Independent Outside Director)

SCIG is comprised of four independent third parties as well as three Nissan Independent Outside Directors. The Committee Co-Chairs of SCIG are independent third parties. The three Nissan Independent Outside Directors who were commissioned by Nissan’s Board of Directors unanimously decided upon the foregoing committee structure rather than a structure following the “Guidelines on Third Party Committees into Corporate Misconduct” of the Japan Federation of Bar Associations, based on the determination that, for the purposes of swiftly providing recommendations with assured independence, objectivity and expertise, and in a manner giving regard to the responsibilities entrusted to them by the shareholders while also taking into account the partnership with RENAULT S.A. (Renault S.A. and its subsidiaries and affiliates, hereinafter, “Renault”. For avoidance of doubt, Nissan is not included in this definition.) and MITSUBISHI MOTORS CORPORATION (“Mitsubishi Motors”), it would be appropriate for SCIG to have a structure where the independent outside directors would personally work together with the third party independent specialists.

### **PART 3      MATTERS CONSIDERED**

SCIG received the investigation report concerning the results of the internal investigations dated February 1, 2019 (the “Investigation Report”) from Nissan, reviewed it and received explanations regarding the subject, methods and results of the internal investigation from the person in charge of Nissan’s internal investigation. SCIG also conducted interviews with seven persons involved with Nissan including the current CEO, Director and Statutory Auditor, and analyzed and took into consideration many materials and data such as the records of statements of other persons involved with Nissan and interview reports with them, Nissan’s articles of incorporation and other internal rules (including regulations for delegation of authority, regulations regarding control processes and organizations), past minutes, and records of audits (explanations, interviews, materials and data which SCIG considered shall collectively be called “Considered Materials”). After SCIG reviewed the Considered Materials, SCIG found that the contents of the Investigation Report are not unreasonable. In addition, SCIG considered the opinions of domestic and foreign institutional investors, in order to ensure that the Recommendations are sufficient to regain the trust of domestic and foreign stakeholders in Nissan’s governance. SCIG also conducted discussions with the following international advisors having international knowledge of governance. The Recommendations consider the opinions of the above domestic and foreign institutional investors and international advisors.

Name	Title / Company etc.	Notes
Colin Melvin	Founder & Managing Partner, Arkadiko Partners	Former global head of stewardship division, Hermes Investment Management. Has more than 20 years’ experience in corporate governance, sustainability, responsible investment. Experiences in board member and chair of UN Principles for Responsible Investment.

Lord Paul Myners, CBE	Member of the House of Lords, Partner of Cevian Capital	Former Treasury Minister. Served as directors and chairman for UK's Land Securities Group plc, Marks & Spencer plc etc. Issued "Myners Report" in 2001, which initiated the establishment of the Stewardship Code.
Stephen Davis, Ph.D.	Senior Fellow, Law School, Harvard University	Associate Director of the Harvard Law School corporate governance program. Has been a Senior Fellow, Brookings Institution and Member of U.S. Securities and Exchange Commission Investor Advisory Committee.

## **CHAPTER 2 DEVELOPMENTS LEADING TO SCIG'S FORMATION**

### **PART 1 INTERNAL INVESTIGATIONS**

Around the summer of 2018, Nissan's Statutory Auditor received a whistleblower report regarding alleged misconduct by Mr. Carlos Ghosn ("Mr. Ghosn"), who was Nissan's Chairman at the time. This Statutory Auditor conducted an internal investigation into whether the whistleblower report was reliable, using internal and external resources. Around October 2018, the Statutory Auditor shared the results of the internal investigation obtained up to that point with the current CEO, and the compliance function took over the internal investigation from the Statutory Auditor. Nissan conducted face-to-face interviews etc. with persons involved with Nissan, investigated documents, copies of information recovered from PCs and emails and electronic files on servers that they could reach, avoiding the leakage of the fact of investigation. As the result of these internal investigations, Nissan concluded that significant misconduct was committed by Mr. Ghosn and Mr. Greg Kelly ("Mr. Kelly").

### **PART 2 BACKGROUND FACTS**

The facts which serve as the premise of SCIG's considerations are as described below.

#### **1. Relationship with Renault**

- Renault bailed out Nissan, which had run into financial difficulty, by making investments such as obtaining 36.8% of Nissan's shares in 1999, which made Renault the largest shareholder of Nissan. Currently, Renault has 43.4% stake of Nissan and is able to exercise its voting rights against Nissan. Nissan on the other hand has 15% stake of Renault indirectly through a subsidiary, but according to the French laws, since Renault holds in excess of 40% of Nissan's shares, Nissan is not able to exercise its voting rights against Renault.
- Nissan and Renault are both listed companies, and both list common shares, Nissan at the Tokyo Stock Exchange, Inc. ("Tokyo Stock Exchange") and Renault at Euronext Paris. For Nissan, Renault is a company accounted for using the equity method. Nissan is also an equity method affiliate of Renault.

## 2. Mr. Ghosn's past positions

- In 1999, Mr. Ghosn who was Renault's Executive Vice President was dispatched from Renault to Nissan as COO (Chief Operating Officer).
- After this, Mr. Ghosn took office as Nissan's President and CEO (Chief Executive Officer) in 2001, Co-Chairman of the Board of Directors, President and CEO in 2003, Chairman of the Board of Directors, President and CEO in 2008, and Chairman of the Board of Directors in 2017 until November 2018.
- Mr. Ghosn had concurrent positions as Chairman and President of Renault-Nissan B.V. (50:50 JV of Renault and Nissan; "RNBV") in 2005, Chairman of the Board of Directors and CEO of Renault in 2009, Chairman of the Board of Directors of Mitsubishi Motors in 2016, and Chairman and CEO of Nissan-Mitsubishi B.V. (50:50 JV of Nissan and Mitsubishi Motors; "NMBV") in 2017.

Year of Assumption	Renault	Nissan	Others
1996	Executive Vice President		
1999		Director and COO/ Appointed as Representative Director	
2000		President and COO	
2001		President and CEO	
2002			<RNBV> Director and Vice President
2003		Co-Chairman, President and CEO	
2005	President and CEO		<RNBV> Chairman and President
2008		Chairman, President and CEO	
2009	Chairman and CEO <sup>1</sup>		
2016			<Mitsubishi Motors> Chairman/ Appointed as Representative Director
2017		Chairman	<RNBV> Chairman and CEO <sup>2</sup> <NMBV> Chairman and CEO <sup>3</sup>

<sup>1</sup> Resigned in January 2019.

<sup>2</sup> Dismissed Chairman and CEO and resigned director in February 2019.

<sup>3</sup> Dismissed in March 2019.

2018		Director (Discharged as Representative Director in November 2018) Discharged as Chairman	<Mitsubishi Motors> Director (Discharged as Representative Director in November 2018) Discharged as Chairman
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### 3. Mr. Kelly's past positions at Nissan

- Mr. Kelly was in charge of Human Resources and Organization Development in Nissan North America Inc. In 2008, he took office as Nissan's Corporate Vice President. Thereafter, he took office as Nissan's Senior Vice President in 2009. Representative Director and Senior Vice President in 2012, and Representative Director in 2015.

Year of Assumption	Office
2008	Corporate Vice President
2009	Senior Vice President
2012	Senior Vice President/Appointed as Representative Director
2015	Representative Director
2018	Director (Discharged as Representative Director in November 2018)

### 4. Nissan's past Representative Directors and CEOs from the point of Mr. Ghosn's appointment as its Director to the present

- Nissan's past Representative Directors from the point of Mr. Ghosn's appointment as its Director to the present are as follows.

1999	Yoshikazu Hanawa, Carlos Ghosn (from June 1999)
2000	Yoshikazu Hanawa, Carlos Ghosn
2001	Yoshikazu Hanawa, Carlos Ghosn
2002	Yoshikazu Hanawa, Carlos Ghosn
2003	Yoshikazu Hanawa (until June 2003), Carlos Ghosn, Itaru Koeda (from June 2003)
2004	Carlos Ghosn, Itaru Koeda
2005	Carlos Ghosn, Itaru Koeda, Toshiyuki Shiga (from June 2005)
2006	Carlos Ghosn, Itaru Koeda, Toshiyuki Shiga
2007	Carlos Ghosn, Itaru Koeda, Toshiyuki Shiga
2008	Carlos Ghosn, Itaru Koeda (until June 2008), Toshiyuki Shiga
2009	Carlos Ghosn, Toshiyuki Shiga
2010	Carlos Ghosn, Toshiyuki Shiga
2011	Carlos Ghosn, Toshiyuki Shiga, Hiroto Saikawa (from June 2011)
2012	Carlos Ghosn, Toshiyuki Shiga, Hiroto Saikawa, Greg Kelly (from June 2012)

2013	Carlos Ghosn, Toshiyuki Shiga, Hiroto Saikawa, Greg Kelly
2014	Carlos Ghosn, Toshiyuki Shiga, Hiroto Saikawa, Greg Kelly
2015	Carlos Ghosn, Toshiyuki Shiga (until June 2015), Hiroto Saikawa, Greg Kelly
2016	Carlos Ghosn, Hiroto Saikawa, Greg Kelly
2017	Carlos Ghosn, Hiroto Saikawa, Greg Kelly
2018	Carlos Ghosn (until November 2018), Hiroto Saikawa, Greg Kelly (until November 2018)

- Nissan's past CEOs from the point of Mr. Ghosn's appointment as its CEO to the present are as follows.

2001-2017	Carlos Ghosn
2017-present	Hiroto Saikawa

#### 5. Amendment to the disclosure rules under Financial Instruments and Exchange Act

- Beginning with the Annual Securities Report filed for the fiscal year ended March 31, 2010, the disclosure rules under the Financial Instruments and Exchange Act was revised to require listed companies to disclose individual director compensation of JPY 100 million or more paid by the listed company and its consolidated subsidiaries.

#### 6. Disclosure of Mr. Ghosn's compensation

- Mr. Ghosn's disclosed amounts of compensation, from the fiscal year ended March 2010 (in which year it became obligatory to disclose the compensation of individual directors) onwards are as follows.

Fiscal year ended March 2010	JPY 891 million
Fiscal year ended March 2011	JPY 982 million
Fiscal year ended March 2012	JPY 987 million
Fiscal year ended March 2013	JPY 988 million
Fiscal year ended March 2014	JPY 995 million
Fiscal year ended March 2015	JPY 1,035 million
Fiscal year ended March 2016	JPY 1,071 million
Fiscal year ended March 2017	JPY 1,098 million
Fiscal year ended March 2018	JPY 735 million

#### 7. The arrest and indictment of Mr. Ghosn and Mr. Kelly

- On November 19, 2018, the Tokyo District Public Prosecutors Office arrested Mr. Ghosn and Mr. Kelly on the charges of the violation of the Financial Instruments

and Exchange Act (filing of falsified Annual Securities Report), on suspicion of underreporting Mr. Ghosn's compensation by approximately 4.9 billion yen in Annual Securities Reports from the fiscal year ended March 2011 up to those for the fiscal year ended March 2015<sup>4</sup>.

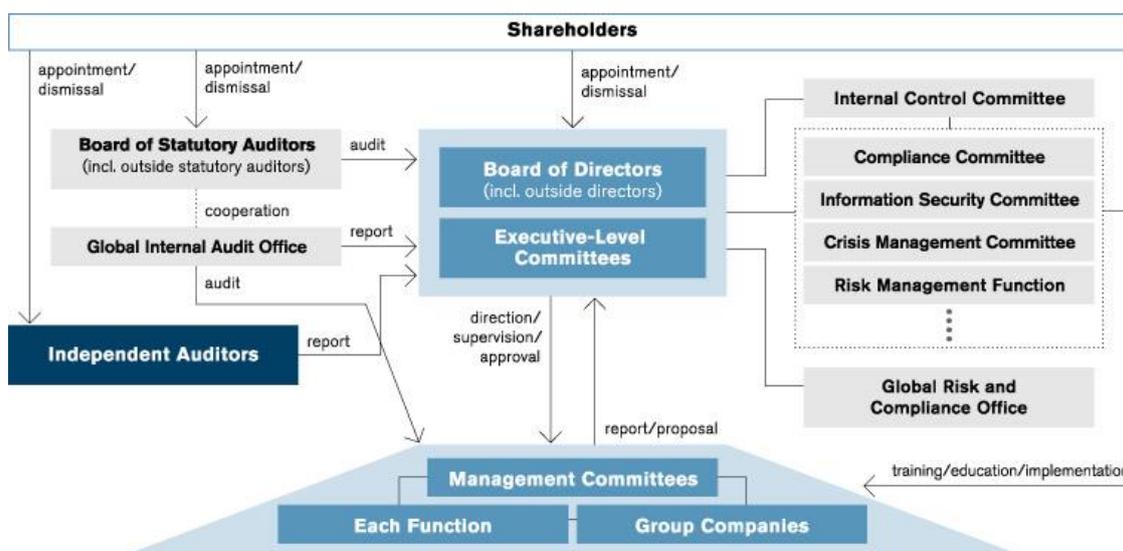
- On December 10, 2018, the Tokyo District Public Prosecutors Office indicted Mr. Ghosn, Mr. Kelly and Nissan (as a corporate entity) on the charges of the violation of the Financial Instruments and Exchange Act (filing of falsified Annual Securities Report).
- On December 10, 2018, the Tokyo District Public Prosecutors Office rearrested Mr. Ghosn and Mr. Kelly on the charges of the violation of the Financial Instruments and Exchange Act (filing of falsified Annual Securities Report), on suspicion of underreporting Mr. Ghosn's compensation by approximately 4.2 billion yen in Annual Securities Reports from the fiscal year ending March 2016 up to those for the fiscal year ending March 2018.
- On January 11, 2019, the Tokyo District Public Prosecutors Office made a supplementary indictment against Mr. Ghosn, Mr. Kelly and Nissan (as a corporate entity) on additional charges of the violation of the Financial Instruments and Exchange Act (filing of falsified Annual Securities Report).
- On December 21, 2018, the Tokyo District Public Prosecutors Office rearrested Mr. Ghosn on the charges of the violation of the Companies Act (aggravated breach of trust) for damaging Nissan by pursuing the benefits of himself and a third party.
- On January 11, 2019, the Tokyo District Public Prosecutors Office made a supplementary indictment against Mr. Ghosn on additional charges of the violation of the Companies Act (aggravated breach of trust).
- On February 12, 2019, Nissan disclosed that they had included the director compensation in its financial statements for the consolidated cumulative third quarter ending March 2019 regarding falsified statements regarding Mr. Ghosn's director compensation in the Annual Securities Report, according to the internal investigation and indictment by the prosecution. On February 14, 2019, Nissan filed the Quarterly Securities Report which contains the above financial statements with the Kanto Local Finance Bureau.

## 8. Corporate governance structure of Nissan

- The diagram below sets forth Nissan's current governance structure.

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<sup>4</sup> Annual Securities Reports for the fiscal year ended March 2010 was not subject to the suspicion.



- Among the governance structures available under the Companies Act, Nissan has in place the company with a board of statutory auditors structure.
- There is no voluntary nomination committee or compensation committee to the Board of Directors.
- There are currently 9 Directors, among which: 8 are male and 1 is female; and 5 are Japanese and 4 are non-Japanese. Nissan has filed with the Tokyo Stock Exchange that it has 3 (Outside Directors) independent officers among its 9 Directors.
- There are currently 4 Statutory Auditors among which: 4 are male all of whom are Japanese. Nissan has filed with the Tokyo Stock Exchange that it has 3 (Outside Statutory Auditors) independent officers among its 4 Statutory Auditors.

## CHAPTER 3 GOVERNANCE ISSUES OF NISSAN AND ROOT CAUSES

### PART 1 GOVERNANCE ISSUES OF NISSAN

The primary findings of fact made by SCIG in evaluating Nissan's governance issues are as follows.

1. Consideration of director compensation and cash payment after retirement to Mr. Ghosn
  - Mr. Ghosn was delegated by the resolution of Nissan's Board of Directors to determine the compensations of the Directors and top line managements (including

Executive Vice Presidents, Senior Vice Presidents, Corporate Vice Presidents, and Vice Presidents etc.), including determination of his own compensation.

- Mr. Ghosn substantially determined the amounts of compensations for individual Directors and top line managements all on his own. The secretariat function of Nissan (“Secretariat”) was in charge of paying individual compensations which he determined, and no information on the amounts of individual Directors' and top line managements' compensations was shared with other departments.
- In 2009, Mr. Kelly became an SVP (Senior Vice President) representing the Office of the CEO, Alliance CEO Office, Legal Department, Secretariat and Global Human Resources. He was known as one of Mr. Ghosn’s most reliable surroundings in Nissan and had the right to determine the compensation and human affairs for almost all staff except the top line managements, and with contracts and other legal matters being within his purview he was in the position of the highest level of responsibility. Also, Mr. Kelly served as the liaison officer of the management side toward Statutory Auditors. When Mr. Kelly received questions or requests from the Statutory Auditors, Internal Audit Office, Accounting Department etc., he limited the response to the minimum and refused any further questions and pursuits by explaining that it was determined by the CEO.
- Mr. Ghosn concentrated the authority of so-called administrative departments in Mr. Kelly at the top and a few particular persons. This led to a structure to retain certain information within a few limited persons and not to disclose it to other departments.
- In order to reduce the disclosed amount of his director compensations, Mr. Ghosn avoided disclosing some part of director compensations which he had granted to himself (the “Postponed Compensations”) by, among other things, deferring the time of their payment after his retirement. As a result, Mr. Ghosn’s total disclosed amount of compensation had been underreported from the fiscal year ended March 2010 to the fiscal year ended March 2018.
- From the fiscal year ended March 2010, a few particular persons including Mr. Kelly had had various discussions on how to pay the Postponed Compensations without disclosing. In addition, payment of Mr. Ghosn’s compensation after his retirement was studied as one of the payment method for the amount equivalent to the Postponed Compensations, or as a separate compensation after his retirement. There are documents remaining which were created in relation to the above discussions, some of which have affixed the signatures of Mr. Ghosn.
- Regarding the post retirement treatment of Mr. Ghosn, Mr. Ghosn, through Mr. Kelly as the person responsible for Global Human Resources and Legal, obtained documents signed by the current CEO.
- Documents were falsified in order to increase the amount paid to Mr. Ghosn as the final payment of retirement allowance for directors approved by the general meeting of shareholders in 2007.
- Documents were falsified and the details of compensations were manipulated in order to circumvent the disclosure of stock-price-linked incentive compensation.

- Mr. Ghosn obtained compensation etc. from NMBV without going through the prescribed appropriate procedure.
- Mr. Ghosn did not relinquish any decision-making authority regarding Nissan's human affairs and compensation even after retiring as CEO in 2017 and thereby continued holding significant authority as de-facto CEO during the period until Mr. Ghosn was arrested on the charge of violation of the Financial Instruments and Exchange Act on November 19, 2018 or until Nissan's Board of Directors revoked the delegation of the authority to determine compensation on December 17, 2018.

## 2. Private use of company funds and expenses by Mr. Ghosn

- In 2010, Nissan's Executive Committee approved establishment of Zi-A Capital B.V., a wholly-owned subsidiary in Holland ("ZiA") for investment purposes as proposed by Mr. Kelly. ZiA was an unconsolidated subsidiary. By utilizing ZiA, residences in Rio de Janeiro and Beirut were purchased for Mr. Ghosn and the renovation costs for them were paid as well.
- Nissan paid advisory fees to Mr. Ghosn's older sister for a long time. No one in Nissan, except a few particular persons, was aware of this fact. There found no deliverables offered as consideration for these advisory fees.
- Mr. Ghosn used Nissan's corporate jet airplane and charter jet airplanes for the private uses of himself and his family.
- Mr. Ghosn caused Nissan to take on his derivative transactions with Shinsei Bank, Limited. Although Nissan suffered actual loss, the amount of actual loss was paid to Nissan by Mr. Ghosn. The detail of these transactions was not disclosed to the Board of Directors.

## 3. Spending using CEO Reserve

- A budget item called "CEO Reserve" which enabled expenditures outside of the framework of the budget of each department was established around 2009, for the management of Nissan's budget. This CEO Reserve had been utilized for the spending on so-called "CEO matters" in a way which was not easy to detect by other departments. CEO Reserve had the premise of having been already approved by the CEO, after which disbursement procedures according to the prescribed method would be conducted by each department. Therefore, it was practically difficult to raise questions on the properness of disbursement, although some of the departments were involved in disbursement procedures.

## 4. Director compensation of Mr. Kelly

- The amount of director compensation of Mr. Kelly from Nissan for each year from the fiscal year ended March 2013 to the fiscal year ended March 2018 had exceeded JPY 100 million. However, Mr. Kelly did not disclose his compensation by using several methods.

## 5. Submission of written pledges regarding compliance by Mr. Ghosn and Mr. Kelly

- Nissan implements training at a global level, so that Directors, officers and employees are able to securely understand and respect measures regarding compliance and the contents of its code of conduct. Directors and Corporate Officers are also required to take this training, and they are required to submit written pledges thereafter. Mr. Ghosn and Mr. Kelly have both submitted this pledge after taking the training course.

#### 6. The state of deliberations at meetings of the Board of Directors

- Until June 2018 when 2 Independent Outside Directors were newly appointed, the average duration of meetings of the Board of Directors was less than 20 minutes.
- Mr. Ghosn disliked having questions and/or opinions raised at meetings of the Board of Directors. He sometimes summoned Directors or Statutory Auditors who stated opinions etc. to his office after meetings and he did not reelect so-called “fastidious Statutory Auditors.” One of the staff was told by Mr. Ghosn to look for Statutory Auditors who do not state opinions. Eventually, meetings of the Board of Directors were not an environment for robust debate.

#### 7. Corporate culture in which no one can make any objections to Mr. Ghosn

- Mr. Ghosn was in a way deified within Nissan as a savior who had redeemed Nissan from collapse, and his activities were deemed impenetrable territory within the company. In addition, Mr. Ghosn was respected and trusted as a person who would protect Nissan from, if any, interferences of the French government, the largest shareholder of Renault, with Nissan’s operations. On the other hand, Mr. Ghosn and Mr. Kelly would transfer or drive into resignations Directors, officers and employees who would object, raise questions or not follow directions. In practice, Mr. Ghosn was the only person with the right to determine the human affairs regarding top line management, and some Directors, officers and employees were suggested that they would be removed if they expressed dissenting views. Accordingly, even though some people had doubts about the instructions from Mr. Ghosn and Mr. Kelly, they were unable to object or report their doubts to anyone else.

Based on the above major findings of fact, SCIG has found that there are facts sufficient to suspect violations of laws and regulations, violation of internal rules and private use of company funds and expenses etc. by Mr. Ghosn and Mr. Kelly and also facts demonstrating their lack of ethics as a manager (collectively, the “Misconduct”). It is clear that there are issues requiring improvement with respect to Nissan’s governance as it could not prevent the Misconduct.

Moreover, SCIG does not deny any facts which are not listed as the Misconduct. The facts which SCIG considered are limited to those learned from the Considered Materials. SCIG has not conducted any interview with Mr. Ghosn or Mr. Kelly, and there may be other materials which were not considered by SCIG even though they may be related to the Misconduct. Also the facts described by SCIG are those within the scope of the facts learned from the Considered Materials deemed necessary for the Recommendations and

do not describe all of the facts that SCIG has become aware of.

## **PART 2      ROOT CAUSES**

The Misconduct was, to put it in a single phrase, “typical management misconduct”. Moreover, the management pursued private benefits and therefore it is fundamentally different from the past misconduct by the management of listed companies (accounting fraud or illegitimate accounting) who had the excuse of having acted “for the company”.

SCIG has found that the primary root cause of the Misconduct was the concentration of all authority in Mr. Ghosn, including those regarding human affairs and compensation issues. Mr. Ghosn made the certain administrative departments which would be able to discover management misconduct opaque by concentrating authority in such departments in a few particular persons including Mr. Kelly, and thereby created a situation in which it would be difficult to detect Mr. Ghosn’s demands for his personal gain. As a result, the checks and balances function of certain administrative departments did not necessarily function effectively with respect to the problem concerning Mr. Ghosn’s demands for his personal gain.

The following are the items on which SCIG has made findings with respect to the root causes of the Misconduct.

### **1.          Concentration of authority in one Director (in particular with respect to human affairs and compensation)**

In the context of his contributions to the reconstruction of Nissan, personality cult of Mr. Ghosn developed and then a tendency to regard his activities as an impenetrable territory was established in Nissan. The tendency was further strengthened after Mr. Ghosn started to concurrently act as the top of the major shareholder. Mr. Ghosn realized the concentration of authority in himself by substantially gaining authority regarding human affairs and compensation issues. SCIG has heard several witnesses that people making any objections against Mr. Ghosn’s opinions were transferred or dismissed under his unjust and opaque personnel policy. The system whereby Mr. Ghosn was the CEO lasted for a long time, and because Mr. Ghosn had set the performance targets substantially by himself, this resulted in excessively “top-down” approach in setting performance targets and a tendency to put too much emphasis on short-term results and efficiency. As a result, the corporate culture in which no one can make any objections or say “no” to the performance targets set in a top-down manner has been created.

### **2.          Making certain administration departments opaque**

Mr. Ghosn concentrated in a few particular persons including Mr. Kelly the positions as the responsible persons in the Human Resources Division, Office of the CEO, Secretariat, Legal Department and Internal Audit Office, and limited the persons who would be involved in his compensation and his personal use of the company’s

funds and expenses. When the responsible persons were questioned by other departments regarding the issues with payment of compensation and the personal use of funds and expenses, they refused to provide detailed explanations, such as by simply responding that it was a “CEO matter”. In this way Mr. Ghosn succeeded in making certain administrative departments opaque. Through these responsible persons and departments, Mr. Ghosn’s compensations and other issues are discussed and his personal use of the company’s funds and expenses were implemented. Accordingly, Mr. Ghosn was able to prevent Statutory Auditors and other departments (such as the Accounting Department) from learning about the Misconduct.

### **3. Partial failure of the supervisory function of the Board of Directors**

Mr. Ghosn requested the Board of Directors to complete its meetings as quickly as possible, thereby creating an atmosphere where it was not possible to ask questions about or give opinions on the agenda at the meetings. As a result, the Board of Directors Meeting of Nissan was constantly far shorter than other listed companies until 2 Independent Outside Directors were newly appointed in 2018. Further, Mr. Ghosn did not disclose the necessary facts with respect to the transactions for his personal gain requiring approval at a meeting of the Board of Directors as a conflict of interest transaction. The Directors who attended meetings of the Board of Directors were not able to detect the unnaturalness proposals made at such meetings of the Board of Directors and the Statutory Auditors were also unable to rectify such situations at meetings of the Board of Directors.

### **4. Partial failure of the monitoring/audit functions of other organizations within the company**

Under the Companies Act it is expected that the abuse of a director’s authority will be prevented from happening not only through supervision by the Board of Directors but also through the monitoring/audit by other organizations within a company. However, with respect to the Misconduct, for example, in light of the fact that the level of monitor/audit of non-consolidated subsidiaries was less than that of consolidated subsidiaries, ZiA which was treated as a non-consolidated subsidiary was used. Further, although the Statutory Auditors had doubts about the state of such non-consolidated subsidiaries, they were not able to discover the realities of the situation due to the existence of departments that were made opaque by Mr. Ghosn and a few particular persons including Mr. Kelly.

### **5. Partial failure of the checks and balances functions of each internal department**

Besides the Secretariat and the Office of the CEO which were deeply involved in the compensation payments and private use of funds by Mr. Ghosn, other departments such as the Legal Department, Internal Audit Office and Accounting Department had at least some degree of opportunity to see some part of such payments and private use of funds. However, these other departments were not able to detect the problems as these amounts were relatively small compared to the standard in business operations of Nissan. Even when the Legal Department or Internal Audit Office

detected a problem, they could not pursue it further because Mr. Ghosn had appointed the responsible persons of such departments from a concentrated few particular persons including Mr. Kelly and had thereby created an appearance that the responsible persons of such departments accepted the requests. On the other hand, even when the Accounting Department detected a problem, it could not pursue it further due to the existence of departments made opaque by Mr. Ghosn and a few particular persons including Mr. Kelly, even though the Accounting Department was not under the control of Mr. Kelly or other similar ones.

SCIG submits this Report to the Board of Directors of Nissan and gives Recommendations described from Chapter 4 in order for Nissan to eliminate the above root causes and prevent reoccurrence of problems similar to the Misconduct, as well as to establish a governance structure worthy of a world-leading company. On the basis of the contents and purposes of the Companies Act and the Corporate Governance Codes published by Tokyo Stock Exchange, the Recommendations call for Nissan to establish strong governance beyond the standards required therein. On creation of the Recommendations, SCIG conducts its discussions with not only the current rules but the trend of future amendments and international rules such as the G20/OECD Principles of Corporate Governance in mind. Note that International Advisors have assessed that, if the governance improvement measures proposed by the Recommendations is implemented effectively, Nissan will be able to realize a good governance structure which is no different from those overseas listed companies who have realized good governance.

## **CHAPTER 4 GOVERNANCE SYSTEM (BASIC GOVERNANCE FRAMEWORK)**

### **PART 1 RELEVANT ROOT CAUSES**

The concentration of authority in the hands of one Director (particularly in terms of human affairs and compensation) is a root cause of the Misconduct. The partial failure of the functions of the Board of Directors and other organizations within the company to supervise/monitor/audit a director effectively when the director abused its authority is another one of the root causes. In light of this, SCIG found that Nissan should change its basic framework of governance, in other words the organization structure under the Companies Act, in order to eliminate these root causes.

### **PART 2 CONSIDERATION OF THE RECOMMENDATIONS**

#### **Recommendation**

*<1> Nissan shall adopt the “company with the three statutory committees” governance system by the end of June 2019.*

## **1. Choosing a governance system**

The governance system in place at Nissan (company with board of statutory auditors) is a traditional governance system in Japan and as such, it is not problematic in of itself for Nissan to apply this governance structure. However, accepting the reality with sincerity that Nissan was not able to prevent the Misconduct from occurring, Nissan must eliminate the root causes discussed above as soon as possible and recover the trust of stakeholders within and outside Japan. To achieve this it is necessary to establish the best practices which are internationally comprehensible and can prevent the principal element of the above root causes – the concentration of the authority to nominate and determine compensations of the directors.

Therefore, SCIG has considered a governance system which is expected to prevent concentration of authority regarding human affairs and compensation decisions in one director to some extent, and deemed capable of improving Nissan’s current governance system among the following choices:

- (i) company with the three statutory committees (“Three Board Level Committees System”);
- (ii) company with an audit and supervisory committee + voluntary nomination and compensation committees; and
- (iii) company with board of statutory auditors + voluntary nomination and compensation committees.

SCIG has reached the conclusion that Nissan should adopt the choice which separates the functions of operation and supervision/audit in the clearest form and in which a system preventing concentration of authority to nominate and determine compensation of the directors is ensured under the Companies Act in order to prevent recurrence of problems similar to the Misconduct and in order that Nissan will conduct its business activities as a world-leading company for years to come. Thus, SCIG has decided to recommend that Nissan adopt the Three Board Level Committees System.

## **2. Timing of transition**

As Nissan is a company with board of statutory auditors, it needs to amend its articles of incorporation by way of a shareholders meeting to adopt the Three Board Level Committees System. In addition, it is anticipated that Nissan will assume a substantial burden in the course of practice. SCIG also discussed what level of progress would be required as at the time of the general shareholders meeting to be held in June 2019. Considering that the improvement of the governance of Nissan is an urgent issue, SCIG has decided to recommend the adoption of the Three Board Level Committees System by the end of June 2019.

With respect to the content of the proposal concerning the election of directors to be put on the agenda of the annual shareholders meeting of Nissan, SCIG expects that this will be determined as quickly as possible in consideration of the purpose of the Recommendations.

## **CHAPTER 5 BOARD OF DIRECTORS (SEPARATION OF EXECUTION AND SUPERVISION)**

### **PART 1 RELEVANT ROOT CAUSES**

The concentration of authority in the hands of one Director (particularly in terms of human affairs and compensation) is a root cause of the Misconduct. The partial failure of the supervisory function of the Board of Directors is another one of the root causes. SCIG has determined that in order to eliminate these root causes, it would be insufficient only to adopt the Three Board Level Committees System discussed in Chapter 4 and that it is essential to diversify the composition of the Board of Directors and establish an environment where independent outside directors will drive discussions in the Board of Directors.

### **PART 2 CONSIDERATION OF THE RECOMMENDATIONS**

#### **1. Number of outside directors/independent directors**

##### **Recommendations**

*<2> Have a majority of the directors be independent outside directors.*

*<3> The number of directors shall be a number adequate to facilitate lively discussions and swift decision-making.*

SCIG has reached the conclusion that Nissan's Board of Directors should consist of a majority of independent outside directors in order to overcome the Misconduct and regain the international community's trust in Nissan's governance. In addition, SCIG understands that the standard of "independence" in the Recommendations will be set on the basis of the "*(Model) Appointment Criteria of Independent Directors in the Board of Directors' Rules*" created by the Japan Association of Corporate Directors, with reference to international trends.

In considering the number of directors, it is necessary to take into consideration both of the following perspectives: the need to increase the number of directors, particularly outside directors having independence, so that the significant burden on directors that can be anticipated from the scale of Nissan's business can be shared among them; and the need to limit the number of directors to a number to allow for swift decision-making. SCIG has reached the conclusion that the number of directors should be an adequate number in consideration of the scale of Nissan's business and from the perspective of facilitating swift decision-making (11 could be appropriate for the time being).

#### **2. Composition of outside directors**

##### **Recommendation**

*<4> The diversity of viewpoints of outside directors is extremely important and the diversity (including diversity of nationality and gender) shall be fully considered.*

SCIG debated whether to touch upon the composition of the outside directors in its Recommendations. Maintaining the diversity of the Board of Directors and engaging in discussions from the various viewpoints of each of the directors is extremely important for giving effectiveness to the Board of Directors' supervision of the executive officers. Considering the actual situation of Nissan's global business deployment, it is desirable that outside directors include persons from overseas. In addition, from the perspective of reflecting diverse opinions in management, gender should be given full consideration. Besides this, it is desirable that a nomination committee may take into consideration expertise and experience including the below as the criteria of outside directors, in addition to independence: (i) a person with management experience; (ii) a person with international experience and/or expertise relating to the automobile industry and/or in manufacturing and/or fields in connection with or which are likely to affect in the future the automobile industry; (iii) a person with experience and/or expertise in finance and is well versed in the level of expectation of institutional investors; (iv) a person with experience and/or expertise in international audit; and (v) a person with experience and/or expertise in laws including Japanese laws. Ultimately, however, the decision of the nomination committee with the authority and responsibility to determine the proposal of the selection of directors based on the circumstances at that time should be respected.

### **3. Nomination committee**

#### **Recommendations**

- <5> A majority of the members of the nomination committee shall be independent outside directors (it is desirable that all the members of the nomination committee shall be independent outside directors).***
- <6> The chair of the nomination committee shall be an independent outside director.***
- <7> The nomination committee shall be comprised of approximately 5 directors.***
- <8> The nomination committee shall have not only the authority to determine the appointment and dismissal of the directors, but also the authority to propose appointment and dismissal of the representative executive officers.***
- <9> The nomination committee shall aim to alter the composition of the Board of Directors on a regular basis.***
- <10> A member of the nomination committee shall not be included in the deliberation and resolution of his/her own re-nomination in the nomination committee.***

Since it is recommended that Nissan adopt the Three Board Level Committees System, SCIG discussed the composition of the nomination committee which is a required body for a company that has adopted the Three Board Level Committees System. SCIG has determined that it is necessary to establish an environment where discussion in the nomination committee is driven by independent outside directors. From this perspective, SCIG believes that it is desirable that the members of the nomination committee will be comprised entirely of independent outside directors. However, it may not be appropriate to limit the members of the nomination committee to only independent outside directors

considering the smooth relationship with the major shareholder; therefore, SCIG does not completely disallow appointing as a member of the nomination committee a director other than such outside directors. Therefore, SCIG recommends that at least a majority of the members of the nomination committee shall be independent outside directors and that the chair of the nomination committee be an independent outside director, although it is desirable that entire members of the nomination committee will be independent outside directors. Also, in regard to the composition of the nomination committee, SCIG has reached the conclusion that it is adequate that there be approximately 5 directors in light of the scale of Nissan's business.

In addition, SCIG has decided to include in its Recommendations that, in order to avoid the decision-making authority regarding human affairs from being concentrated on one person, the nomination committee shall have not only the authority to determine the appointment and dismissal of the directors, but also the authority to propose appointment and dismissal of the representative executive officers (it is contemplated that the Board of Directors should be obligated by way of the Regulations of the Board of Director to respect such proposals to the maximum extent). With respect to this point, there was also a view among some members of SCIG that, in order to definitively prevent the concentration of authority regarding human resource matters, the nomination committee's authority should extend to the authority to determine and/or propose appointment and dismissal of the top management except the representative executive officer (such as CFO (Chief Financial Officer) who is not the representative executive officer), or the authority to determine and/or propose appointment and dismissal of the members of Nissan's Executive Committee (including other management meetings of similar importance).

Further, the SCIG has decided to recommend that the nomination committee aim to alter the composition of the Board of Directors on a regular basis in order to deter collusion between the directors and executive officers and to preserve the effectiveness of the supervisory function. For example, it is desirable that the term for the Chairman of the Board of Directors Meeting and outside directors be limited to a certain number of years (8 years at the maximum).

As above, the nomination committee is expected to fulfill a major role. Therefore, for the avoidance of doubt in the nomination committee members' exercise of voting rights, just to be sure, SCIG has also decided to recommend that the member of the nomination committee shall not join the deliberation and resolution for his/her own re-nomination in the nomination committee.

#### **4. Compensation committee**

##### **Recommendations**

*<11> All members of the compensation committee shall be independent outside directors.*

*<12> The compensation committee shall be comprised of approximately 3 to 5 directors.*

*<13> The compensation committee shall have the authority to determine the*

*individual compensation amount of the representative executive officers, in addition to the directors.*

Since it is recommended that Nissan adopt the Three Board Level Committees System, SCIG discussed the composition of the compensation committee which is a required body for a company that has adopted the Three Board Level Committees System. SCIG has determined that it is necessary to establish an environment where discussion in the compensation committee is driven by independent outside directors. Considering the situation where the Misconduct is relating to director compensation, SCIG recommends that entire members of the compensation committee shall be independent outside directors. Also, in regard to the composition of the compensation committee, SCIG has reached the conclusion that it is adequate that there be approximately 3 to 5 directors in light of the scale of Nissan's business.

Considering that the Misconduct relates to the compensation of the top executive, SCIG has reached the conclusion that the compensation committee should go far as to determine the individual amounts of compensation for the representative executive officers, in addition to the directors, rather than only the basic policy or formula for calculating individual compensation. With respect to this point, there was also a view among some members of SCIG that the compensation committee's authority should extend to authority to determine the individual amounts of compensation for the top management (such as CEO and CFO), or the authority to determine the individual amounts of compensation for the members of the Executive Committees (including other management meetings of similar importance).

#### **5. Chairman of the meetings of the Board of Directors (“Board Chair (*gicho*)”) and “Chairman (*kaicho*)”**

##### **Recommendations**

**<14> *The articles of incorporation and/or the regulations of the Board of Directors shall provide that the chairman of the meetings of the Board of Directors (the “Board Chair (*gicho*)”) shall be an independent outside director.***

**<15> *The office of the “Chairman” of Nissan shall be abolished.***

Under the present articles of incorporation of Nissan<sup>5</sup>, the director to act as Chairman is

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<sup>5</sup> In regard to the “Chairman”, the present articles of incorporation of Nissan have the following provisions:

Article 14 (Chairman of General Meeting of Shareholders)

1. The Chairman of the Board of Directors, any one of the Co-Chairmen of the Board of Directors or the President and Director of the Company shall act as chairman of a general meeting of shareholders.

Article 22 (Directors with Executive Power)

1. One (1) Chairman of the Board of Directors and one (1) President and Director shall be appointed by resolution of the Board of Directors; however, a couple of Co-Chairmen of the Board of Directors may be appointed in lieu of one Chairman of the Board of Directors.

Article 25 (Convening of Meetings of the Board of Directors and Chairman)

also to act as the chairman of the meetings of the Board of Directors (the “Board Chair (*gicho*)”). However, in order to establish an environment where discussion in the Board of Directors will be driven by the independent outside directors, the Board Chair (*gicho*) to preside over the matters of the Board of Directors should be an independent outside director. Therefore, SCIG recommends that it should be provided in the articles of incorporation/Regulations of the Board of Directors that the Board Chair (*gicho*) shall be an independent outside director.

Within Japanese companies, the actual role of Chairman (*kaicho*) varies. In some cases the Chairman function involves not only the supervisory function, but also engaging in business execution. Accordingly, it is possible that the role of Chairman can be viewed as the highest office within the organization, with authority of supervision and command over directors, executive officers and other officers and employees (other than Chairman himself/herself). The Chairman of Nissan is one such example where, the role of the “Chairman” carries with it a strong impression as being emblematic of the concentration of authority in Mr. Ghosn. The role of such Chairman and the role of a person leading an organization supervising the business operations should not be confused. The impression of the concentration of authority in Mr. Ghosn should be dispelled taking advantage of the Recommendations. Accordingly, SCIG decided to recommend that the office of “Chairman (*kaicho*)” shall be abolished while maintaining the office of “CEO” who conducts business operations as a member of executive officers and the office of the “chairman of the meetings of the Board of Directors (the “Board Chair (*gicho*)”)” who supervises executive officers as a member of the Board of Directors. SCIG does not object against Nissan’s creation of a new honorary type post with specifications regarding the positions authorities clearly set forth in the articles of incorporation / internal rules.

## **6. Complementary measure for supervisory function of the Board of Directors**

### **Recommendations**

*<16> It is desirable to regularly convene exclusive meetings by the independent outside directors. It is desirable to designate the lead independent outside director, and it is also desirable that the lead independent outside director acts as the chairman of the above meetings.*

*<17> A secretariat shall be newly established, and it will support the Board of Directors and exclusive meetings by the independent outside directors. Personnel matters of the above secretariat staff shall not be determined solely by executive officers (such as by conducting personnel evaluations for the secretariat staff through discussions in the exclusive meetings by the independent outside directors and obtaining prior consents to their personnel transfers and*

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1. A meeting of the Board of Directors shall be convened and presided over by the Chairman of the Board of Directors or any one of the Co-Chairmen of the Board of Directors; provided, however, that when the Chairman of the Board of Directors or the Co-Chairmen of the Board Directors are prevented from acting, one of the other Directors shall act in his or their place in the order previously fixed by the Board of Directors.

*punishments in such gatherings). The above secretariat undertake activities upon the direction of the Board of Directors, such as measures to eliminate information gaps among directors and conduct checks of matters that might become conflicts of interest, which need to be done in order to supervise the executive officers.*

**<18> *In addition to using third party evaluation firms in order to evaluate the effectiveness of the Board of Directors, it is expected that the audit committee will conduct appropriate audits particularly with respect to the effectiveness of the supervisory function of the Board of Directors.***

It is important that the independent outside directors have an opportunity to exchange opinions among themselves through engagement in active discussions maximizing their experience and/or expertise. Therefore, SCIG recommends that it is desirable the independent outside directors regularly convene exclusive meetings by themselves. Based on the Recommendations, it is expected that an independent outside director will assume the office of the Board Chair; however, in order for the outside directors to smoothly communicate with the managements and stakeholders including shareholders, SCIG has decided to recommend that it is desirable to designate the lead independent outside director, separately from the Board Chair, and that it is also desirable that the lead independent outside director acts as the chairman of the above meetings.

Where the number of independent outside directors is increased, in order to maximize their experience and/or expertise, it will be necessary to provide necessary information to each director and establish the prerequisites to achieve active discussions. Therefore, SCIG recommends that a secretariat be newly established for supporting the Board of Directors and exclusive meetings by the independent outside directors, and also that the system be set up so that human affairs of the secretariat staff shall not be determined solely by executive officers (such as by conducting personnel evaluations for the secretariat staff through discussions in the exclusive meetings by the independent outside directors and obtaining prior consents to their personnel transfers and punishments in such meetings). SCIG expects that these secretariat functions will be able to engage in the activities necessary to supervise the executive officers in accordance with the instructions of the Board of Directors and without restriction. These activities would include measures to eliminate information gaps among directors, conducting checks of matters that might become conflicts of interest, and investigation to collect information of future director candidates to be reported to the nomination committee and the Board of Directors. It is desirable that the secretariat functions be able to independently seek out necessary information (including advice from external specialists) where necessary for such activities. In addition, it would be desirable to allow these secretariat functions to participate in meetings with institutional investors, to play a role in offering information regarding the views of the institutional investors to the Board of Directors.

Further, it would be desirable to include a provision in the internal rules of Nissan that “Directors who belong to Nissan’s Board of Directors, and who have experience serving as directors, executive officers or other officers or employees at Renault or other

principal shareholders<sup>6</sup> or Mitsubishi Motors, shall not participate in deliberations and resolutions when Nissan's Board of Directors discuss matters relating to transactions which the interests of Renault or other principal shareholders or Mitsubishi Motors may not be aligned with that of Nissan.”

Although it is important to make it possible that the Board of Directors can supervise the execution of operations by the executive officers, such as by establishing an organization whereby independent outside directors are the majority, it is also important to have an environment where such supervision by the Board of Directors could be verified that it functions as initially projected. Thus, the effectiveness of the Board of Directors shall be evaluated by various methods, such as, third party evaluation firms to carry out questionnaires or individual interviews of directors, and studies by the meetings exclusive to the independent outside directors etc., and the summary of results should be reported to the shareholders. Accordingly, SCIG has decided to particularly recommend the use of third party evaluation firms in evaluating the effectiveness of the Board of Directors. In addition, particularly as to the effectiveness of supervisory function of the Board of Directors, SCIG expect the audit committee to conduct adequate audits.

## **CHAPTER 6 EXECUTIVE OFFICERS (BUSINESS EXECUTION BODY)**

### **PART 1 RELEVANT ROOT CAUSES**

The concentration of authority in the hands of one Director (particularly in terms of human affairs and compensation) is a root cause of the Misconduct. The partial failure of the supervisory function of the Board of Directors is another one of the root causes. In order to eliminate these root causes, SCIG has determined that it would be insufficient only to adopt the Three Board Level Committees System discussed in Chapter 4 and that a recommendation for certain measures to prevent abuse of authority by executive officers is needed.

### **PART 2 CONSIDERATION OF THE RECOMMENDATIONS**

#### **1. Conditions for the representative executive officer**

##### **Recommendation**

*<19> The representative executive officer of Nissan shall not concurrently be a director, executive officer, or other officers or employees of (i) Renault or other principal shareholders<sup>7</sup> or (ii) Mitsubishi Motors.*

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<sup>6</sup> For the scope of the “principal shareholder”, please see Note 7.

<sup>7</sup> This considers the “principal shareholder” according to Article 163, Item 1 of the Financial Instruments and Exchange Act (i.e., shareholders who own 10 percent or more of the voting right under the name of

SCIG believes that the fact that Mr. Ghosn acted not only as CEO of Nissan for a long time but also concurrently as the CEO of a major shareholder served as the backdrop for enough authority to be concentrated in Mr. Ghosn in order for him to commit the Misconduct. A person who acts concurrently as the CEO of a major shareholder, would inherently have a strong inclination to put the interests of a major shareholder first. A person who doubles as the CEO of an alliance partner would inherently have a strong inclination to put the interests of a counterparty to the alliance first. Furthermore, the same applies to a person who acts concurrently as a director, officer or employee of the major shareholder or the alliance partner. These people will always have the risk of conflict of interest, and should not act as representative executive officer of Nissan. Therefore, SCIG recommends that, by using the word “principal shareholder” in order to clarify the definition of the major shareholder, the representative executive officer of Nissan shall not concurrently be a director, executive officer, or other officers or employees of (i) Renault or other principal shareholders or (ii) Mitsubishi Motors (one of the alliance partners).

## **2. Provision of information to the Board of Directors by executive officer**

### **Recommendations**

*<20> Each director shall be able to access all materials and information relating to the Executive Committee and other management meetings.*

*<21> Opportunities shall be made for direct reporting on the status of execution to the Board of Directors by the executive officers regularly and timely according to the request of the directors.*

Even if the Board of Directors attempts to supervise in order to prevent abuse of authority by the business execution body, appropriately doing so would be difficult if the information regarding the business held by the business execution body is not appropriately provided to the Board of Directors. Therefore, SCIG recommends to make it possible for each director to access all materials and information relating to the Executive Committee and other management meetings. In addition to obtaining the materials, it is also important for the effectiveness of supervision by the Board of Directors to establish opportunities for the executive officers to report directory to the Board of Directors on the status of business execution regularly and timely according to the requests of the directors. Therefore, SCIG also recommends the above point.

## **CHAPTER 7 AUDIT**

### **CHAPTER 7-1 AUDIT COMMITTEE**

#### **PART 1 RELEVANT ROOT CAUSES**

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him/herself or an another person)

The concentration of authority in the hands of one Director (particularly in terms of human affairs and compensation) is a root cause of the Misconduct. The partial failure of the monitoring/audit functions of organizations within the company other than the Board of Directors is another one of the root causes. In order to eliminate these root causes, the audit committee to be established upon the adoption of the Three Board Level Committees System discussed in Chapter 4, can be expected play a large role. Accordingly, SCIG has decided it is necessary to provide a recommendation on the number of members and composition of the audit committee.

SCIG would like to expect that the audit committee will also audit the control environment effectively.

## **PART 2      CONSIDERATION OF THE RECOMMENDATIONS**

### **1.          Composition of the audit committee**

#### **Recommendations**

*<22> A majority of members of the audit committee shall be independent outside directors.*

*<23> The chair of the audit committee shall be an independent outside director.*

*<24> The number of members of the audit committee shall be around 5.*

*<25> The chair of the audit committee is expected to spend substantial time for auditing.*

*<26> It is desirable that at least one of the members of the audit committee be a director (non-executive) with the ability to efficiently collect necessary information within Nissan.*

*<27> It is desirable that at least one of the members of the audit committee be a director having experience and/or expertise in international audits.*

*<28>It is not desirable for a member of the audit committee to be a person who has an experience as a director, executive officer or other officer or employee in Nissan's principal shareholders.*

The members of the audit committee should be determined considering the number of directors and effectiveness of audits. On this point, SCIG has reached the conclusion that the number of directors shall be an adequate number and 11 could be appropriate for the time being. In taking charge of the audit duties of Nissan, it can be expected that the audit committee will bear a heavy workload. Considering such, SCIG believes that around 5 people shall be required on the audit committee. In addition, in order to assure fairness of audits it is necessary to create an environment in which discussions are led by independent outside directors, as in the case of the nomination and compensation committees. Accordingly, the SCIG has decided to recommend that the audit committee be composed of a majority of independent outside directors.

Even if the audit committee is established, there will be a large difference on the effectiveness depending on its composition. Therefore, SCIG has made some recommendations regarding the composition of the audit committee.

First, we expect the chair of the audit committee to undertake the role of driving discussion regarding audits and also to undertake a leading role in coordinating with the internal audit/internal control and external accounting auditor. Accordingly, the chair of the audit committee should be an independent outside director. In addition, we anticipate that the duties of a member of the audit committee will expand. The chair of the audit committee is expected to spend substantial time for auditing in order to be able to give directions for investigation to the staff of the audit committee or look over the results when receiving information from the internal audit/internal control hinting at misconduct by executive officers etc.

Furthermore, in accordance with the above recommendation, the majority of the members of the audit committee should consist of independent outside directors, which means that a majority is the persons independent from Nissan's internal affairs. Under these circumstances, the ability of the audit committee to acquire the appropriate information from Nissan internally will be important from the perspective of the effectiveness of audits. Therefore, it is desirable that at least one of the members of the audit committee will be a director who can efficiently collect necessary information within Nissan. In addition, it is desirable that at least one of the members of the audit committee is a director with experience and/or expertise in international audit as Nissan operates its businesses both inside and outside Japan. On the other hand, the matters to be evaluated by the audit committee will include whether the joint interests of shareholders is being violated by the execution of Nissan's business, and the matters to be evaluated will often be a situation in which the interests of the major shareholders and those of the minority shareholders will be adverse to each other. In evaluating such matters, SCIG believes that it is not desirable for a director who inherently has a strong inclination to consider the interests of a major shareholder to be a member of the audit committee. Therefore, SCIG makes above recommendation by using the word "principal shareholder" in order to clarify the definition of the major shareholder.

## **2. Office of the Audit Committee**

### **Recommendation**

*<29> It is necessary to provide full staffing to support the audit committee.*

Considering that the majority of the members of the audit committee shall be outside directors, in order to deepen the understanding regarding Nissan's business among all members of the audit committee, it will be essential to establish a support system for the audit committee inside Nissan. In addition, sufficient staff is needed to support the audit committee and to undertake activities for the exchange of information among audit committee members by convening the audit committee and other meetings of audit committee members. Accordingly, SCIG makes the above recommendation.

## **CHAPTER 7-2 INTERNAL AUDIT/INTERNAL CONTROL**

### **PART 1 RELEVANT ROOT CAUSES**

The concentration of authority in the hands of one Director (particularly in terms of human affairs and compensation) is a root cause of the Misconduct. Also, the partial failure of the checks and balances functions of each internal department is another one of the root causes. SCIG believes that, in order to resolve these root causes, the internal audit/internal control shall cooperate with the audit committee; therefore, SCIG has determined that it is necessary to make recommendations on the reporting line of the internal audit/internal control.

### **PART 2 CONSIDERATION OF THE RECOMMENDATIONS**

#### **1. Reporting line of the internal audit/internal control functions**

##### **Recommendation**

*<30> When the internal audit/internal control detects the possibility of misconduct by top management, unlike the normal circumstances, the reporting line of the internal audit/internal control shall be the audit committee only, and the directions of the audit committee to the internal audit/internal control shall take precedence over directions from the CEO and other executive officers.*

The Misconduct was committed by the person who had been the leader of Nissan for a long time, and the system for internal audit etc. must be designed based on an assumption that future issues of the same sort may reoccur. For example, if the internal audit/internal control reports to the executive officers including the CEO, it would be practically impossible to conduct any audit on misconduct committed by themselves, and internal audit/internal control may not be able to handle such incidents. Considering the possibility of the responsible persons of the Legal Department and the Compliance Department who are supposed to serve as checks and balances to problematic behavior of the CEO, instead cooperating with the CEO as was seen in connection with the Misconduct, it is necessary to put in place a system in which internal audit/internal control are instructed by persons other than executive officers as necessary. For these reasons, SCIG has decided to make the recommendations that, when the internal audit/internal control detects the possibility of misconduct by top management, unlike the normal circumstances, the reporting line of the internal audit/internal control shall be the audit committee only, and that the directions of the audit committee to the internal audit/internal control shall take precedence over directions from the CEO and other executive officers.

## **CHAPTER 8 REFORM OF CORPORATE CULTURE/REESTABLISHMENT OF CORPORATE ETHICS/DEVELOPMENT OF INTERNAL SYSTEMS**

## **PART 1 RELEVANT ROOT CAUSES**

The concentration of authority in the hands of one Director (particularly in terms of human affairs and compensation) is a root cause of the Misconduct. However, a corporate culture that did not allow people to say “No” to top-down directions and an atmosphere which did not entertain objection to this, must also be highlighted as a part of the root cause.

Mr. Ghosn had been the CEO of Nissan for a long time, and the power had been concentrated in his hands. As the result, over the long reign, performance targets setting gradually became the subject of an excessive top-down approach, and Nissan became overly oriented to short-term results and efficiency. Also, Mr. Ghosn in effect made decisions regarding performance targets unilaterally and such performance targets became those which pursued figures exceeding the actual capability of Nissan. However, as a result of the fact that the standards for personnel evaluation in Nissan became overly results-oriented, the atmosphere that did not allow people to counter or say “No” to the performance target set in a top down manner became the culture of Nissan.

Under such corporate culture, the policy oriented on achieving short-term performance targets and excessive cost reduction measures had presumably continued. Nissan may have become too obsessed with appearing successful to maintain its focus on the foundation of the business activities such as safety and health, quality control, environment protection and compliance, and as the result, such foundation of the business activities took a backseat, and Nissan may have failed to place personnel, allocation of cost or provide training and development required to maintain the foundation of its business activities. In the production site, reflecting such reverse priority of safety and health, environment protection and compliance, the experienced employees who were necessary to maintain the foundation of the business activities were lost, and the shortage was covered not by spending money to train existing employees but by hiring fixed term employees. Such long-standing situation may be a cause of the misconduct in the final vehicle inspection. In addition to the production sites, similar policy was presumably spread out company-wide, such as in human resource development, technology development, etc.

In addition to the above, certain administrative departments becoming opaque and the fact that the checks and balances function of each department within Nissan did not necessarily function effectively should also be considered as a root cause.

SCIG believes that in order to resolve these root causes, reform of the corporate culture of Nissan, reestablishment of corporate ethics and development of internal systems are necessary and on this basis has decided to make the specific recommendations in this connection. With this Recommendations, SCIG expects that the Board of Directors of Nissan including the viewpoints of independent outside directors with various experience and/or expertise, will demonstrate the direction of a mid-/long-term management strategy for Nissan, whereby Nissan will be able to take shape as the organization it should be and aspire to become, while also taking into consideration the relationship with alliance.

## **PART 2      CONSIDERATION OF THE RECOMMENDATIONS**

### **1.          Reestablishment of corporate ethics**

#### **Recommendation**

*<31> The “reestablishment of corporate ethics as a manufacturing company”.*

SCIG is deeply concerned about the fact that Nissan has not established a corporate culture where everyone at the company believes that they must make sure not to cause a problem which would shake the foundation of Nissan’s business activities. The top executive must continuously remind directors, officers and employees that safety and health, quality control, environmental conservation and compliance prevail any of the business challenges. In addition, its execution of operation must always be supervised/monitored/audited by the Board of Directors and other bodies. With the objective of urging Nissan to reaffirm such corporate attitude, SCIG has decided to recommend reestablishment of corporate ethics as a manufacturing company.

### **2.          Review of the function and authority granted to the internal department**

#### **Recommendations**

*<32> The function and scope of the authority granted to the Secretariat and the Office of the CEO shall be changed so that it will be subject to the checks and balances by other departments.*

*<33> The planning department shall be reinstated to prevent others from being forced to accept ideas of only one person with respect to business strategy and mid-/long-term strategy.*

*<34> SCIG unequivocally recommends that the CEO Reserve be abolished. However, an ordinary reserve will be permitted.*

Mr. Ghosn was committing the Misconduct through the Secretariat, and the details of the Secretariat’s activities regarding so-called “CEO matters” became opaque by not being disclosed to other departments. While a very small number of administrative departments such as Accounting Department had opportunities to witness part of the Secretariat’s activities on certain occasions, including at the time of cash outlays, they could not see the whole picture of any suspicious flow of funds in relation to Mr. Ghosn because the Secretariat asserted that other departments should not be engaged in Mr. Ghosn’s matters. In order to prevent such a situation, SCIG has decided to recommend that the function and scope of the authority granted to the Secretariat shall be changed so that it will be subject to the checks and balances by administrative departments that is originally responsible for the practice of a specific professional administrative work, such as Legal Department, Accounting Department, and Finance Department.

In addition, similarly to the Secretariat, the Office of the CEO made it difficult for Nissan to detect the Misconduct. Therefore, SCIG has decided to recommend a change to the function and scope of authority of the Office of the CEO as well, so that such administrative departments can hold them in check. Further, it is desirable to reconsider whether it is necessary to change the function and scope of authority of the Offices of

the CxO.

Furthermore, with no planning department within Nissan, the system was that Mr. Ghosn was determining the business strategies practically by himself. Such a system has a risk to allow the management to be influenced by one person's discretion. Therefore, SCIG has decided to recommend the reinstatement of the planning department, which shall prepare Nissan's business strategies (particularly mid-/long-term strategies).

Moreover, Mr. Ghosn had spent the money related to so-called "CEO matters" that is difficult to be detected by other departments by utilizing the CEO Reserve. The CEO Reserve, is in the nature of a reserve fund for the purpose of making expenditures quickly, and as a general rule requires the signatures of the CEO, CFO and the head of the Office of the CEO (as well as the responsible officers) to be used for the expenditure. While SCIG sees no harm in maintaining an ordinary reserve, it has determined that a scheme that virtually allowed disbursement of funds merely with the signatures of the CEO and a few of his direct and particular subordinates facilitates the conduct similar to the Misconducts. Therefore, SCIG has decided to recommend the abolition of the CEO Reserve. This recommendation is not intended to condemn normal reserves for expenditures; however, it goes without saying that such reserves should be subject to appropriate audit by the audit committee, internal audit/internal control and the accounting auditor in accordance with the Recommendations.

### **3. Whistleblowing System**

#### **Recommendation**

*<35> Change the whistle-blowing system to make the final entity receiving the whistleblower's report the Audit Committee and make the system under which the executive directors cannot identify the whistleblower and the contents of whistleblowing.*

Although Nissan has a whistleblowing system, as far as SCIG has learned from interviews, it did not necessarily function effectively for the prevention of the Misconduct. This is because this system is considered to have no effect on misconduct by the CEO himself, considering that the organization under the CEO handles the contents of whistleblowing under this system and therefore the appearance of this system is as if the CEO could ultimately recognize the contents of whistleblowing. SCIG therefore recommends changing the final body receiving the whistleblower's report to the Audit Committee, as well as make the system under which the executive directors cannot identify the whistleblower and the contents of whistleblowing, in order to improve the situation.

### **4. Reinforcement of the Relationship Between the Audit Committee, Internal Audit/Internal Control and Accounting Auditor**

#### **Recommendation**

*<36> Reinforce the relationship between the Audit Committee, Internal Audit/Internal Control and Accounting Auditor and more proactively use outside scrutiny, as one option for establishment of an internal system for Internal*

### ***Control and improvement of its use.***

It is not realistic that one institution or department be in charge of audit etc. of the business execution body. It is a matter of course that the Audit Committee and the internal audit/internal control within the company, which will be established according to the Recommendations, conduct audit etc. in cooperation. But in addition, SCIG has decided that accounting auditor (which provide external scrutiny) should be used more proactively, and that the so-called “3 Types of Audit” of Audit Committee, Internal Audit/Internal Control and Accounting Auditor’s functions should be heightened, and therefore the SCIG has decided to include the reinforcement of the three entities’ relationship in its Recommendations. In order to do so, Nissan shall provide internal information more proactively to Accounting Auditor and hold regular meetings by three entities or the like.

## **CHAPTER 9 OTHER**

### **PART 1 SUCCESSION PLAN**

#### **Recommendation**

***<37> It is desirable that the nomination committee set an appropriate succession plan of executives (specifically CEO) and review this at least once a year.***

If Nissan is unable to foster successors of executives appropriately, the situation where the top of management continues to stay at the position for a prolonged period of time may occur again. Therefore, SCIG recommends that the nomination committee set an appropriate succession plan of executives (specifically CEO) and review this at least once a year.

### **PART 2 SUBSIDIARIES AND AFFILIATES POSSIBLY UTILIZED FOR THE MISCONDUCT**

#### **Recommendation**

***<38> RNBV, ZiA and other subsidiaries, affiliates and related organizations (whether or not having separate legal personality. The same applies hereinafter) of Nissan possibly utilized for the Misconduct should be reviewed including abolition.***

In committing the Misconduct, there was a possibility that Mr. Ghosn and Mr. Kelly utilized several subsidiaries, affiliates and related organizations of Nissan, such as RNBV and ZiA. SCIG believes that it is necessary to consider the business needs of the subsidiaries, affiliates and related organizations of Nissan possibly utilized for the Misconduct and conduct review including abolition with respect to the organizations deemed less necessary in order to prevent recurrence of acts similar to the Misconduct. Thus, SCIG has decided to recommend that Nissan should conduct review including

abolition with respect to the above organizations.

## **CHAPTER 10 CONCLUSION**

SCIG firmly believes that Nissan will be able to prevent actions similar to the Misconduct, with the root cause being fixed, if Nissan takes the Recommendations seriously and executes them in a swift and sincere manner. These Recommendations include both measures which need to be promptly implemented, and those which call for improvements over a long period of time. Because the progress management of these actions is of the utmost importance, we expect strict management by independent outside directors in the future.

In addition, SCIG expects that Nissan will inform its stakeholders the situation of the improvement of Nissan's governance through voluntary dispatching information via websites etc., regarding the improvement of governance including the implementation status of the Recommendations.

As the automobile industry reaches a great turning-point, Nissan's mid-/long-term strategies were determined by Mr. Ghosn in a top-down manner, and Nissan failed to aggregate a wide range of opinions within and outside the company. In this kind of corporate culture, operations valuing achievement of short-term and short-sighted performance targets rather than mid-/long-term strategies have continued, and Nissan's corporate capabilities suffered. Excessive cost-reduction is considered to have in part led to postponement of necessary investments, and caused the loss of talent. SCIG is also concerned about Nissan's inability to present an effective strategy which could remedy its inclination towards long-term stagnation in sales and operating profit in the past few years.

Although it is a matter of course that business strategies shall be proposed on the CEOs' responsibility, such strategies must be discussed by not only the Board of Directors but also management meetings such as the Executive Committee, and eventually, approved at the Board of Directors. SCIG believes that it is unfortunate for Nissan that under the Ghosn system, there is a perspective that no goals that it should reach had necessarily been discussed in an effective way in meetings of the Board of Directors or the Executive Committee and other management meetings.

The Recommendations in this Report regarding the transition to the Three Board Level Committees System and to have majority of directors be independent outside directors have been made because it is necessary that Nissan urgently improve supervision/monitoring/audit of the execution of operation, in light of this situation. However, it is needless to say that what is more important is that each director, officer and employee brings out the best of their abilities full of pride and hope, and performs his/her duties. In this regard, SCIG will add that human resources development, such as the succession plans of executives (specifically CEO) and the improvement of training and development system of directors, officers and employees is of importance.

In this present world, the automotive industry is facing an era of unprecedented reform, required to respond to the needs of the times, such as, connected cars, autonomous driving, sharing economy, electric including other zero emission technologies. SCIG expects that Nissan will take the initiative to meet such needs of the times and that the alliance of Nissan, Renault and Mitsubishi Motors will be operated in an effective way.

SCIG expects that Nissan will establish a new corporate structure presenting the goal which it should strive toward while casting aside the “negative aspects of Mr. Ghosn’s management” mentioned above, by taking the content of this Report seriously, and by swiftly and sincerely considering its content, constructing a strong and transparent governance system that will be the best that it can achieve. SCIG sincerely expect that Nissan will be able to make a new start as a world-leading company in the automotive industry, under a new management system, with directors, officers and employees with varied viewpoints actively discussing business strategies and challenges to be overcome.