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Feature Articles

This month's focus: **The End of Shareholder Primacy? Where Next?**

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The Meaning and Rationality of Shareholder Primacy *Wataru Tanaka* 7

In this article, I examine what “shareholder primacy” really means in corporate law in the US, especially in the state of Delaware, where this legal principle prevails. In particular, I emphasize that shareholder primacy does not prohibit directors of a corporation from pursuing or protecting interests of a variety of stakeholders of the corporation other than shareholders, but it requires that such pursuit or protection of interests must lead at some point to value for shareholders. I also examine whether or to what extent shareholder primacy is approved in Japan – both in law and in actuality. Finally, I try to make several arguments in support of the rationality of shareholder primacy.

Shareholder Primacy or Stakeholder Orientation? Cross-country Perspective *Shinichi Hirota* 18

Whether company policies are shareholder or stakeholder oriented depends on the kind of capitalism existing in a country. For a particular country, the balance between being shareholder or stakeholder oriented often changes depending on economic, social, and political conditions. In addition, since the shift from physical to human capitalism is a phenomenon of recent years, stakeholder-oriented companies are expected to be more dominant in the future.

Shareholder-led Stakeholderism in the US *Aichi Amemiya, CMA* 30

The Business Roundtable, a group comprising the CEOs of large US firms, announced its support for stakeholderism, denying its long-held belief in shareholder primacy. While the about-turn was somewhat surprising, critics saw it as just rhetoric to ease pressure from activist shareholders, policymakers, and the public given a widening income gap and growing concerns over the monopoly power of large corporations. We think that stockholders are playing a major role in promoting stakeholderism through ESG investment. The COVID-19 pandemic shifted investor focus toward the “S” element among the three pillars of ESG investment, which strengthened the relationship between ESG investment and major stakeholders such as employees, customers, and suppliers. To promote the ongoing transition toward stakeholderism from shareholder primacy, standard methodologies to assess the degree of companies’ involvement in ESG issues, in particular social issues, have to be established.

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