Current State of Shareholder Activism in Japan

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I. INTRODUCTION

Since the "burst of the bubble" in 1991, despite attempts by the successive governments, Japanese economy has been slow to recover. It was only in 2024 that the 1990 level of share prices was recovered. The interim period is often referred to as the "lost decades".

There has been a series of attempts to reform corporate governance in Japan. After all, corporate governance had been ineffective in Japan for many years. Shareholders' meeting was a mere formality since the primary concern of the companies was to fend off extortionist shareholders ("special shareholders"). The board was insiders only and too large to have any meaningful discussion. A small number of directors ran the company without any effective external or internal control. Efforts were made to strengthen control over the management, mainly by the board reform and the strengthening of shareholders' rights. Shareholders' right to propose a matter to be put on the agenda of the shareholders meeting (hereinafter, "shareholder's proposal right") was introduced in 1981. Shareholders' derivative action was made easier in 1993.

After piecemeal legislative changes, a comprehensive Companies Act was adopted in 2006. However, the reform of corporate governance was still halfway. Introduction of outside directors met resistance; there was no statutory requirement of outsider directors, and as the result, the ratio of outsiders

* The links given were last checked on 11 November 2025.

in the board of listed companies remained low. Furthermore, institutional shareholders were complacent. Banks and insurance companies as well as business companies which held substantial number of shares of the company were denoted "stable shareholders". They tended to vote in favour of the company at the general shareholders meeting. They did not work as a constraint on the corporate management.

The situation surrounding Japanese companies started to change in the late 1990s. The first wave of foreign activist funds arrived in Japan. Activist funds attempted hostile takeover of medium-sized companies which had been undervalued in the market. In one case, a foreign fund initiated a TOB against a medium-sized company, but the company managed to fend off the fund by announcing a substantial increase of dividends. Such moves triggered discussion on the introduction of defensive measures against hostile takeovers in Japan. Large companies introduced defensive measures against hostile takeovers, which could be implemented by the board. At one stage, more than 400 companies put such measures in place. For instance, a foreign investment fund initiated a TOB against Bulldog Sauce Co. but was prevented by the defensive measures which had been put in place by the company. The fund contested the validity of such measures in court, but the Supreme Court dismissed the argument of the fund on the ground that in this case, the measures in this case have been endorsed by the shareholders meeting.[1]

In the 2000s there was no successful hostile takeover of a company listed in the then first division of the Tokyo Stock Exchange (TSE). There were two reasons for this: one was the existence of the cross-shareholding system, and the other was the newly developed defensive measures imported from the US. There was no surprise that most foreign investment funds which arrived in Japan earlier left Japan. According to the statistics, the amount of M&A by foreign investment companies (including funds) against Japanese companies was 520 hundred million yen in 2000, increased to 10,049 hundred million yen in 2007, but sharply fell to 2,450 hundred million yen in 2008.[2]

II. CHANGING ENVIRONMENT

1. Decline of Cross-Shareholding

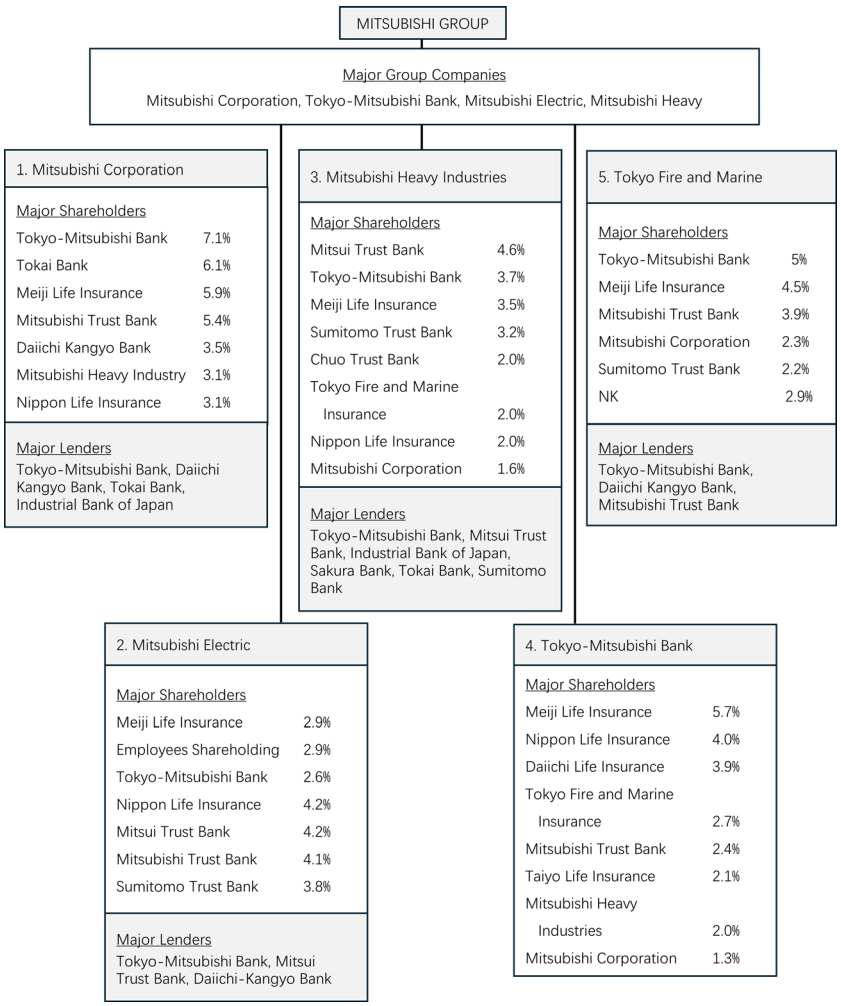
Cross-shareholding is a network of shareholding between companies (business companies, banks and other financial institutions). In cross-shareholding, a company holds shares not solely for investment, but for other

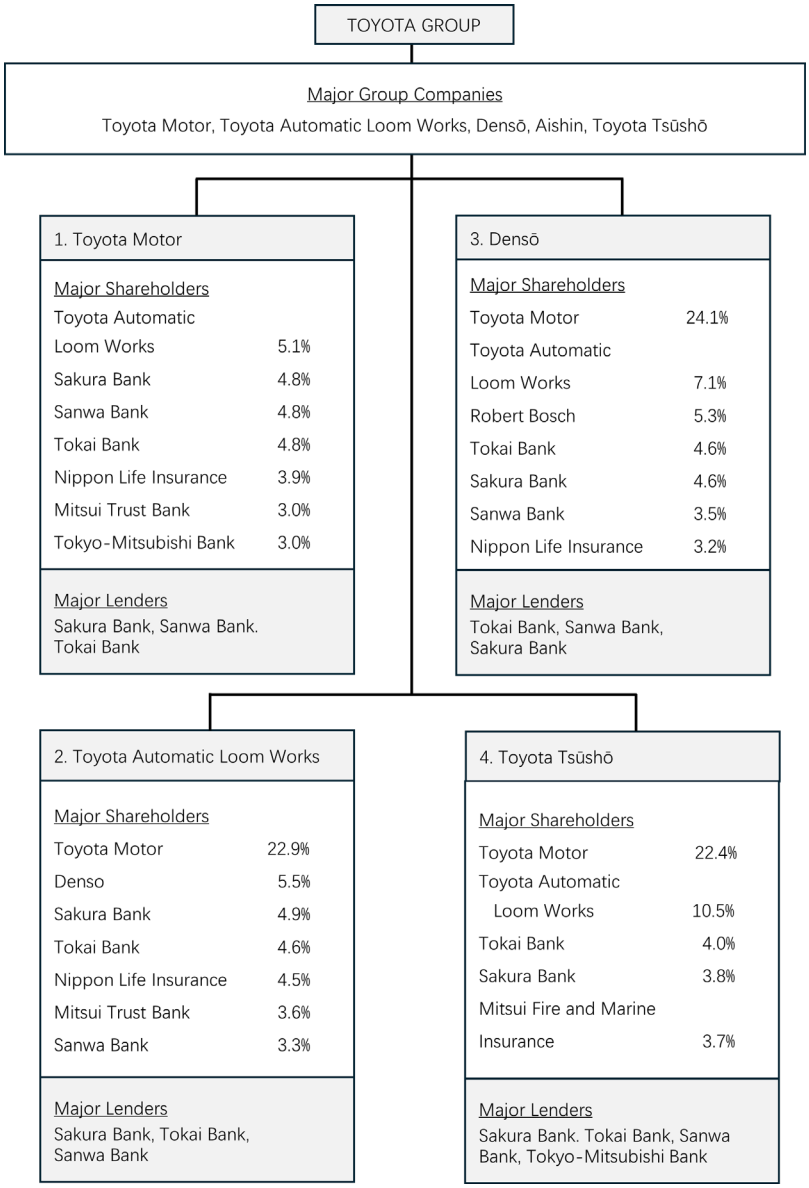
1 Decision of the Supreme Court, 7 August 2007.

2 RECOF CORPORATION, Merger and Acquisition Research Report (MARR) (June 2012) 26.

reasons such as the formation and/or the consolidation of a company group, cementing of business relationship, or the securing of stable shareholders. In the 1990s, a term "stability rate" was often used in statistics. This rate denominated the percentage of shares held in "friendly hands", which meant that whatever the economic benefit or its absence, the shareholder will not dispose of the shares against the intention of the issuing company. In some companies, the rate reached almost 70%.[3]

Cross-Shareholding: Mitsubishi Group and Toyota Group 1998





3 Nikkei Kaisha Jōhō (Nikkei Company Information) 1998 Summer Edition, CD ROM (1998).

Companies with a high stability rate could rest assured that in the event of a hostile takeover, these shareholders would support the company. Traditionally, banks and other financial institutions held a substantial number of shares in the market. They were the largest holders of shares in the market, followed by business companies. They comprised the core of the stable shareholders.[4] According to the TSE share ownership survey, over the years, shares held by financial institutions and business companies continuously fell, while the percentage of shares held by foreign investors increased.[5]

Cross-shareholding system came under criticism already in the 1990s. First of all, if a substantial number of shares are "stable", it meant that these shareholders will vote for the company management regardless of the performance of the company and the share prices. Minority shareholder's views were left unheard. It also meant that the number of shares actually traded in the market was reduced. Furthermore, by cross-shareholding, assets of the company which could otherwise be invested for the furtherance of business of the company remain in the form of shares without good use.

After the financial crisis of 2007 and the subsequent accounting reform, companies were unable to hold on to the shares which were not performing solely for strategic purposes anymore. The size of cross-sharing was gradually reduced.

Thus, shares held by "stable shareholders" have been in decline, while the ratio of shares held by institutional shareholders has substantially increased in the recent years. As we shall see later, since the introduction of the Stewardship Code in 2015, institutional shareholders have become more actively engaged in the companies' business and often vote against the company.

2. Defensive Measures

As a result of the successive corporate law reforms, defensive measures against hostile takeovers practised in the US were made available in Japan. In 2007, 6.9% of the companies listed in the then First Division of TSE reportedly had such measures in place.[6] While some companies introduced

4 Previously, the term mutual shareholding was commonly used, but since the Corporate Governance Code, the term cross-shareholding is widely used. As the Code explains, there are cases where listed companies hold the shares of other listed companies for reasons other than pure investment purposes, for example, in order to strengthen business relationships. Cross-shareholdings here include not only mutual shareholdings but also unilateral ones.

5 TSE, *http://www.jpx.co.jp/English/markets/equities/index.*

6 TSE, Whitepaper on Corporate Governance 2007, *https://www.jpx.co.jp/english/equities/listing/cg/tvdivq0000008jb0-att/white-paper07e.pdf.*

the trust type system, a majority of companies introduced an advanced warning type measures. 68.72% of companies refer the decision to activate the scheme to the general meeting of shareholders, while in some companies, the matter was left to an independent committee or outside directors. Companies put in place in advance the procedure which should be followed by the acquirer in the event that they initiate the takeover process. If the acquirer fails to follow this procedure, the takeover is regarded as an abusive acquisition that damages corporate value, and the company may decide to activate the rights plan issue new share subscription rights. The number of companies which introduced defensive measures increased from 126 in 2006 to 497 in 2015.[7]

Defensive measures were at first welcomed by companies. However, there was a growing concern among the companies that introduction of defensive measures might, in the view of investors, have a negative effect on corporate governance. The TSE White Paper of 2013 had already warned as follows:[8]

> "These measures have a large impact on the rights of shareholders and investors, and they have a potential of being abused to serve the interests of officers".[9]

The Corporate Governance Code which was introduced in 2015 recommended companies to disclose the scheme and explain its appropriateness.[10] Furthermore, it provided as follows:

> "Principle 1.5 Anti-Takeover Measures
>
> Anti-takeover measures must not have any objective associated with entrenchment of the management or the board. With respect to the adoption or implementation of anti-takeover measures, the board and the corporate auditor should carefully examine their necessity and rationale in light of their fiduciary responsibility to shareholders, ensure appropriate procedures, and provide sufficient explanation to shareholders."

The view of the TSE was:

> "Most companies that have not adopted anti-takeover measures and have provided an explanation for this mentioned that the maximisation of corporate value (stock

7 TSE, White Paper on Corporate Governance 2015, 84, *https://www.jpx.co.jp/english/equities/listing/cg/tvdivq0000008jb0-att/2015.pdf.*

8 TSE White Paper 2013, *https://www.jpx.co.jp/english/equities/listing/cg/tvdivq000000008jb0-att/b7gje60000024usu.pdf.*

9 Ibid., 95.

10 Ibid.

price) is the most effective anti-takeover measure and that they did not plan to introduce anti-takeover measures at the time."[11]

There were indeed some instances where activist funds proposed to cancel such measures at the general shareholders meeting. By 2023, the number of companies with defensive measures in place fell to 264.[12]

III. The "Revitalisation Programme" of 2014

After a series of abortive attempts by the successive governments to reinvigorate the economy, the Abe administration which regained power from the opposition party in 2013 produced a programme for the revitalisation of the economy. The Programme was entitled "Revitalisation of the Economy—Enhancement of Mid-/Long Term Corporate value by further Reform of Corporate Governance". Strengthening of the earning power of companies reflected in the ROE was set as a goal.[13]

In this programme, the improvement of corporate governance was directly linked to the economic growth and revitalisation of the economy. The Programme addressed the "enhancement of corporate governance, promotion of the supply of risk money, and the improvement of the investment chain". Board reform and engagement of institutional shareholders were specifically referred to in the programme. Board reform in this context primarily meant the increase of external control of the board, namely the enhancement of outside directors. Already the Companies Act was amended in 2014 and mandated the companies which do not have outside directors to explain why the company does not need an outside director. Review of the management policy on the use of assets was also encouraged. Supply of risk money and the improvement of the investment chain were something which had previously not been taken up as a government policy.

This strategy was based on the view that in Japan, companies were underperforming and have not been using their assets in an efficient manner. ROE of Japanese companies had been low. In 2014, the average ROE in Japan was poor in comparison to the US and EU member countries. Even as late as 2023, approximately half of the listed companies on the Prime Market and 60% in the Standard Market of the TSE have ROE below 8% and PBR below 1.0, indicating that there are continuing issues in terms of the earning power of Japanese companies.

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11 Ibid., 101.

12 TSE, White Paper on Corporate Governance 2023, 208–209, *https://www.jpx.co.jp/english/equities/listing/cg/tvdivq0000008jb0-att/uorii50000003gfb.pdf*.

13 Japan Revitalisation Strategy, revised 24 June 2014.

The argument in 2014 was that companies were not earning enough or not making use of their assets for the growth of the company and ultimately to the growth of the economy, more or less sitting on their assets. In other words, companies were being complacent, shielded by the existing corporate governance system and cross-shareholding. In order to revitalise the economy, it was understood that a "market for corporate control", which had not existed in Japan had to be introduced.

In order to develop a "market for corporate control", one perceived obstacle was cross-shareholding. The Corporate Governance Code which was introduced in 2015 provided as follows:

> "Principle 1.4 Cross-Shareholdings
>
> When companies hold shares of other listed companies as cross-shareholdings, they should disclose their policy with respect to doing so. In addition, the board should examine the mid- to long-term economic rationale and future outlook of major cross-shareholdings on an annual basis, taking into consideration both associated risks and returns. The annual examination should result in the board's detailed explanation of the objective and rationale behind cross-shareholdings. Companies should establish and disclose standards with respect to the voting rights as to their cross-shareholdings."

The intention of discouraging cross shareholding is apparent here. While cross-shareholding shielded the companies from hostile takeovers, in terms of capital policy and corporate governance, it also had a negative effect. If companies disposed of the cross-held shares and make good use of the proceeds, ROE and PBR should improve. The Corporate Governance Code chose to reduce cross-shareholding in order to encourage companies to make more efficient use of the capital and to promote the market for corporate control.

As a result, cross-shareholding was significantly reduced.[14]

IV. Activists Returned

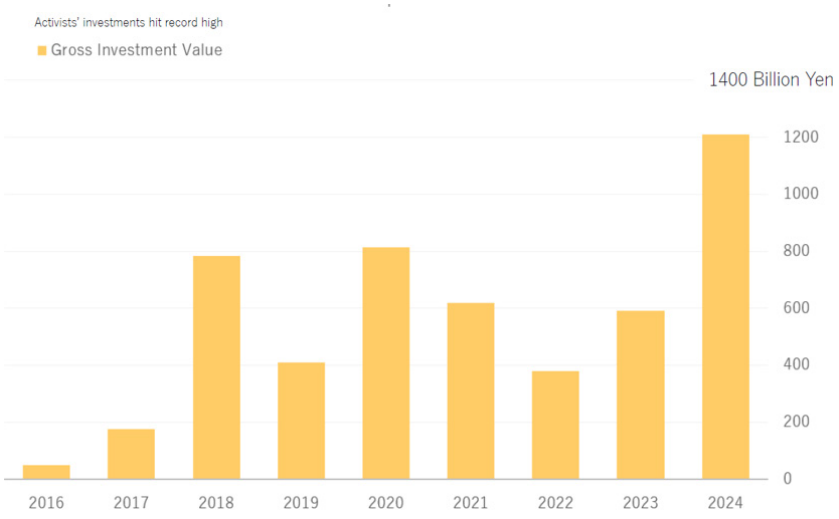
The 2014 Strategy of the government intended to create a market for corporate control and thus put pressure on companies to make better use of their capital. It was envisaged that institutional shareholders would play a major role in this process. Since the early 2000s, companies had been encouraged to improve communication and engagement with shareholders. With the adoption of the Stewardship Code in 2014, institutional shareholders be-

14 The ratio of cross-held shares of listed companies fell in the FY 2024 by 20% from 2023. Nikkei 4 November 2025.

came more actively engaged in corporate management. They are not complacent anymore; instead, if need arises, they do not hesitate to vote against the company. For example, if the performance of the company stays poor for several years, institutional shareholders may vote against the company's nomination of the board members.[15] However, institutional shareholders in Japan are not "activists". They opt for passive investment. There was a limit to the role they could play in the market for corporate control.

What has happened is that foreign activist funds returned to the Japanese market and become involved in this business of "efficient use of assets" by Japanese companies. As late as December 2024, there were 70 activist funds operating in Japan as compared to less than 10 in 2014.[16] After all, it was those "low performing" Japanese companies which foreign activists targeted unsuccessfully in the early 2000s.

Since 2018, activities of foreign investment funds have significantly increased.

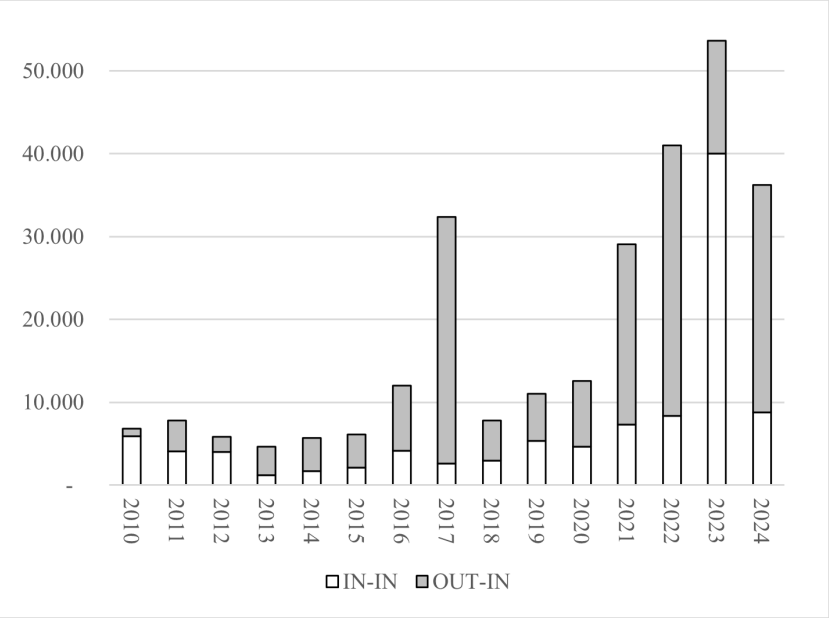


Increasing Activity of Activists Funds—Activist Investors Flock to Japan
Source: Bloomberg Intelligence; note: based on disclosed figures only

15 T. SHIRATORI/K.WATANABE, The Trend of Votes by Institutional Shareholders, Shōji-Hōmu 2373 (5 November 2024) 32.

16 Nikkei, 27 December 2024.

Amount of M&A Investment vis à vis Japanese Companies by Foreign Investment Companies



V. SHAREHOLDERS' PROPOSAL RIGHTS

By the 1981 amendment to the company law, shareholders with 5% or more of voting rights or 300 votes were given the proposal rights. While this right had not widely utilised for many years, the number of occasions where shareholders made such a proposal increased since 2018. In 2018, there were 40 companies which received a shareholder's proposal, of which 17 cases involved activists. In 2025, 120 companies received such proposals, of which over 50 proposals were brought by institutional shareholders including activist funds. In comparison to the period of 2014–2018 with that of 2019–2023, the number of proposals significantly increased from 48 cases to 278 cases.[17] According to a recent report, 50 companies received proposals from activist funds for the General Shareholders Meeting to be held in late June 2025.[18]

17 S. OHKUMA, Shareholder Activism and Market for Corporate Control (2024) 46.
18 Nikkei, 10 June 2025.

The breakdown of the subject matter of such proposals is as follows:

Proposal of activists 2019–2023 (in comparison to 2014–2018)

Topics	2014–2018	2019–2023
Increase of returns to shareholders	31	81
Sell-off/withdrawal of business	16	61
Improvement of Business Management	1	30
Remuneration of Directors	6	35
Nomination of Directors	9	27
Dismissal of Directors	3	21
MBO and other strategic proposals	20	5
Total	55	278

At the General Shareholders Meetings held in June 2024, following proposals were made by institutional shareholders (including activists):[19]

Topics	2021	2024
Change of the Articles of Incorporation	20	62
Disposal of the Surplus	8	28
Share buy-back	8	14
Dismissal of a director	3	7
Dismissal of a corporate auditor	2	0

Change of articles of incorporation included, for example, the change of the composition of the board with a majority outside directors, amendment of the articles of incorporation in order to shorten the term of directors to one year and the disposal of cross-held shares. There are also cases where activist funds propose nomination of directors or removal of current directors. Oasis proposed a list of five outside directors to Kao, which was rejected by the company.

Proposals for share buy-back and higher return to shareholders represent the largest portion of these proposals.[20] For example, in 2025, Elliott criticised Sumitomo Realty and Development for the low level of return and the slow speed of reduction of cross-shareholding and declared its intention to

19 A. USHIDA/K. MARUYA, Shōji Hōmu 2372 (25 October 2024) 25.
20 Ibid., 24; Nikkei, 22 August 2024.

vote against the nomination of the board by the company.[21] Elliott also proposed Mitsui Realty to dispose of the shares of Oriental Land which runs Tokyo Disney Land and buy back shares worth one trillion yen. Dalton proposed share buy-back of worth 27 billion yen to Ezaki Glico.[22] Mitsubishi Pencil, Ryobi, and Noritz received a proposal from activists to increase the dividend and to buy back shares.[23]

There are also proposals by activists on the company's business strategy. 3D Investment Partners has accumulated 19.5% of shares of Sapporo Holdings and became its largest shareholder. Sapporo's original business is brewing while it holds a substantial amount of real estate. In the early 2000s, the company was targeted by Steel Partners which proposed the company to concentrate on brewing business, but managed to fend them off. Now 3D Investment Partners and the company are in disagreement on the disposal of the property; the fund is proposing appointment of an outside director.[24]

The shareholder's right of proposal originated in the US. Although company law is left to the states, at the Federal level, according to the SEC Rule 14a-8, the scope of matters to be covered by the proposal is not unlimited. The Rule provides as follows:

Substantive grounds for exclusion include:

- The proposal relates to a personal claim or grievance against the company or others or is designed to benefit that particular shareholder to the exclusion of the rest of the shareholders;
- the proposal relates to immaterial operations or actions by the company in that it relates to less than 5% of the company's total assets, earnings, sales or other quantitative metrics;
- the proposal requests actions or changes in ordinary business operations, including the termination, hiring or promotion of employees – provided, however, that proposals may relate to succession planning for a CEO;
- the proposal seeks to disqualify a director nominee or specifically include a director for nomination;
- the proposal seeks to remove an existing director whose term is not completed;
- the proposal questions the competence, business judgment or character of one or more director nominees;
- the proposal seeks to require the payment of a dividend; or

21 Nikkei, 9 June 2025.
22 Nikkei, 13 February 2025.
23 Ibid.
24 Tōyō Keizai, 21 March 2025.

– the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting.

As above, in the US, the scope of matters which can be proposed is much narrower than in Japan where there is no limit to the scope of matters to be proposed. Proposals such as the increase of dividends and the composition of board are not allowed in the US. It is said that in the US, the general view is that the business strategy should be left to the company management.[25]

Since activist funds generally hold much less than a majority of shares, their proposals fail to be adopted at the general shareholders meeting. When cross-shareholding was at its height, this was only natural, but even in recent years, proposals by activists are seldom adopted at the general shareholders meeting. On average, such proposals have only 10–30% support at the general shareholders meeting.[26]

However, in recent years, some cases where the proposal by the shareholder was endorsed at the general shareholders meeting was adopted at the general shareholders meeting have been reported. In 2024, according to a survey of general shareholders meeting held in June which is normally the case, a proposal to replace some of the board members was approved by shareholders.[27] Strategic Capital proposed the removal of six directors, of which three were actually removed. The proposal was supported by just over 50% of shareholders.[28] There was even a case in 2025 where a director/CEO failed to secure support of shareholders in the face of a proposal by an activist fund.[29]

VI. 2023 TSE Appeal to Listed Companies

In 2023, the TSE published a document entitled "Action to Implement Management that is Conscious of Cost of Capital and Stock Price". TSE, quoting the Corporate Governance Code, pointed out as follows:

"The company management should act with sufficient consideration of cost of capital and profitability. This was important for the companies to meet the expectations of investors and other stakeholders and to achieve sustainable growth and enhancement of corporate value in the mid- to long-term. However, approximately half of the listed companies on the Prime Market and 60% in the Standard Market have ROE below 8% and P/B ratios below 1.0, indicating that there are issues in terms of profitability and growth potential.

25 Nikkei, 3 December 2024.
26 Daiwa Asset Management, Daiwa Market Letter, 16 July 2025.
27 Ushida/Maruya, *supra* note 19, 20; Nikkei, 25 April 2025.
28 Nikkei, 2 June 2025.
29 Nikkei, 21 June 2025.

There is a need for a change in the thought processes of management to be more conscious of cost of capital and stock prices in order to improve the corporate value of each company in the future. The management is expected to take the lead in appropriately allocating resources with sufficient consideration of cost of capital and profitability by pushing forward initiatives such as investment in R&D and human capital that leads to the creation of intellectual property and intangible assets that contribute to sustainable growth, investment in equipment and facilities, and business portfolio restructuring."[30]

The intention of the 2014 government Strategy and the 2023 TSE appeal was to enhance the awareness of the companies to make good use of the capital by 1) reducing cross-shareholding, i.e. selling shares held by cross-shareholding and invest the proceeds in a mid-/long term projects such as e.g. investment in the production facilities and M&A, 2) increase returns to shareholders in order to make the stock market attractive to investors. If companies sell the shares which they are cross-holding, this would lead to the increase of the ROE and PBR.

However, while companies did dispose of shares held in cross-shareholding, the proceeds from the sale were not always used for medium-/long term goals such as R&D and M&A, and did not help improve ROE. Instead, companies used the proceeds for share buy-back and increased payout of dividends. In some cases, such payouts even exceeded the proceeds of the sale. In this way, companies intended to appease activist funds.[31] A shipping company in which Efissimo Capital Management has been holding shares, the amount of the return to shareholders according to the company's Mid-Term Business Plan is about the same as the planned amount of investment. In NYK Line, the return to shareholders is about the half of investment. While these companies need more investment, they spend a significant amount in return to shareholders. Actually, ROE has failed to improve after 10 years of the 2013 Programme.[32]

The 2023 TSE initiative was aware of short termism and specifically mentioned that:

While share buybacks and dividend increases are considered effective means of improving profitability, if shown as such by the company's analysis of whether the balance sheet effectively contributes to value creation, TSE is not necessarily expecting companies to use only these or solve issues with a one-off response. Efforts are expected on a fundamental level to attain profitability in excess of cost of capital on a sustained basis and achieve sustainable growth.

30 *https://www.jpx.co.jp/english/equities/follow-up/uorii50000004sse-att/uorii500000004tcv.pdf.*

31 Nikkei, 20 September 2024.

32 Nikkei, 4 December 2024.

VII. Management Buy-Out

In the face of growing shareholder activism, the number of companies which decided to go private by MBO is increasing.

While the target of activist funds has been medium to large companies in the past, Toshiba, a large heavy electric company, after accepting directors from activists, finally went private in 2021 financed by private equity funds. Toyota Industries was targeted by Dalton Investment and some other funds in 2024.[33] Toyota group has been known for its intricate cross-shareholding which involved Toyota Motor and its major suppliers as well as trading houses and car dealers. The core of this network was Toyota Industries, which was actually the origin of the Toyota Group when the company started from manufacturing weaving machines in the early 20th century. Activists including Dalton Investment questioned the appropriateness of this cross-shareholding relationship. The company disposed large portion of shares of group companies, but in the end, chose to go private.

VIII. Possible Restraint on Shareholder's Proposal Rights

Shareholders' proposal right was introduced in the Japanese company law in 1981. According to the current Companies Act, a shareholder who has held one percent or more of shares or 300 votes or more for six months are entitled to this right. There is no limit on the scope of matters to be included in the proposal (Article 303).

There was a case where a shareholder placed multiple proposals of an identical content. The appellate court found this to be an abuse of the right.[34] In the light of such abuses, introduction of some restriction such as the denial of such rights in cases where the shareholder intends to obstruct the appropriate proceeding of the shareholders meeting and harms (or substantially harms) the common interest of shareholders was discussed at the time of the amendment of the Companies Act in 2019, but was not accepted in the end.[35]

Currently, there is a view that in Japan, shareholders' proposal right is too easily available as compared to other jurisdictions. Proposals for the introduction of some restraints have been made by business organisations.[36]

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33 Nikkei, 4 December 2024.

34 Decision of the Tōkyō Appellate Court, 19 May 2015.

35 Japan Federation of Bar Associations (ed.), Practical Guide to the Revised Companies Act (2nd ed., 2020) 393–394.

36 On different views, see J. Saki/A. Tokutsu, The Possibility of Restraining the Shareholder's Proposal Rights Based Upon the Data of the Exercise of Such Right in Listed Companies, Shōji Hōmu 2396 (2025) 28–29.

First, the threshold of 300 votes should be removed, or raised, since the price for a unit of a share has significantly fallen in recent years. It has become too easy to exercise shareholder's proposal right. According to Nikkei, in order to secure 300 votes of Deutsche Telecom, 80 million yen is required, while for NTT, 4.6 million yen is sufficient.[37]

Secondly, the one percent threshold is much lower than that in most European jurisdictions where five percent is the norm. It is no surprise that with the depreciation of yen and the low threshold, foreign activist funds targeted Japanese companies.

In the recent interim programme on the amendment of the Companies Act of METI there was a view that there should be some restraint on the content/purpose of the proposal, but this was not accepted. Only the proposal to scrap or raise the 300 votes requirement is now being considered.

IX. Concluding Remarks

The 2014 revitalisation programme was intended to galvanise the stagnating economy by creating a "market for corporate control". It was thought that indices such as PER/PBR were palpably low in Japan in comparison to other jurisdictions and needed to be improved. The idea was to encourage the company management, hitherto seen to be complacent, to make better use of the capital and thus increase the earning power of the company under pressure from the market.[38]

The problem is whether or not the market for corporate control has developed as had been envisaged at the outset. With the improvement of shareholder engagement since the introduction of the Stewardship Code in 2015, company management has become more conscious of the views of such shareholders. There is now a solid body of institutional investors, namely insurance companies and pension funds. They closely monitor the performance of the companies and if necessary, consider voting against the companies. However, these institutional shareholders are usually not the main actors in the market for corporate control in Japan. The M&A activities among Japanese companies are still at a low level, while the volume of out-in cases has significantly increased. In 2024, the volume of M&A between Japanese companies was merely 33% of the volume of foreign M&A investment into Japan.[39] Investors who were supposed to vitalise the market and pressurise the corporate management for reforms turned out to be for-

37 Nikkei, 3 December 2024.
38 Comment by Y. SHIOZAKI, Nikkei, 10 December 2024.
39 Merger and Acquisition Research Report (MARR) 2 (2025).

eign activist funds and not institutional shareholders or other business companies in Japan.

As can be seen in their proposals, short term goals such as share buyback, increase of dividends etc. are often sought by these activist funds. It should be remembered that the interest of activist funds does not necessarily coincide with that of the company. It was pointed out that in the Stewardship Code, it was assumed that the interest of funds is identical to that of shareholders in general. However, funds owe a fiduciary duty to their financiers, but their interest is not necessarily the same as the interest of the company, or the interest of shareholders in general.[40]

The positive outcome of the 2014 Programme was that companies have become more conscious of the efficiency of the use of capital and came to consider a better use of the assets. However, the view on whether the involvement of activist funds has actually improved the performance of the target companies or not is divided. A study by W. TANAKA and G. GOTO on the long-term effect of activism in Japan is based on the view that shareholder activism increases corporate value by mainly the return of free cash flow to shareholders. While Tobin's Q improved in these companies, ROA did not show any improvement.[41] Another study conducted by Q. TAI and Y. MIWA analysed campaigns by activists which took place between 2003 to 2021. Their conclusion was that activists cause the increase of return to shareholders, but the target company's ROS falls and the company's investment is reduced.[42]

The 2014 government programme in reality opened the floodgate for foreign activist funds. Whether these activist funds function as a catalyst for the improvement of the performance of Japanese companies and the revitalisation of the economy is yet to be determined.

SUMMARY

Shareholder activism has become conspicuous in Japan in recent years. In 2025, 120 companies received shareholder proposals, 50 of which were from institutional shareholders, including activists. In terms of numbers, this is second only to

40 T. KATO, Basic Theory of Stewardship Activities, Shōji Hōmu 2371 (5 October 2024) 13, 19.

41 W. TANAKA/G. GOTO, The long-term effects of shareholder activism in Japan, JSDA Capital Markets Forum, 2. Series Collection of Papers (2020).

The survey covers companies in which activists were involved between 2000 to 2011.

42 Q. TAI/Y. MIWA, The Impact of Shareholder Activism on the Long-Term Performance of Firms in Japan (25 July 2023), *https://ssrn.com/abstract=4530252*.

the United States. The largest portion of the proposals have been for share buy-backs and higher returns for shareholders. Japanese companies, which had been more or less free of external control, have come under growing pressure from the market to use capital efficiently to grow the company and increase shareholder value.

The decline of cross-shareholding in the last couple of decades has made companies vulnerable to pressure by activist funds. A major change in corporate governance was triggered by the adoption of the Stewardship Code and the Corporate Governance Code in 2014 and 2015 respectively. The intent was to galvanize the economy by empowering institutional shareholders, who had been complacent in Japan. However, activist funds turned out to be major players in the market for corporate control. In some cases, they took quite short-term views and sought quick returns. Some companies chose to exit the market by means of management buyouts. Compared to other jurisdictions, Japan makes it easy for shareholders to submit proposals, but currently there is a push to introduce certain restrictions on these rights.