Japan's governance reform has reshaped and how investors should react

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Toho Holdings (8129) adopted a takeover response policy on 31 October 2025 and passed a warrant allotment at its 78th annual meeting on 26 June 2026, with 54.7% support (Glass Lewis recommended to vote against). 3D Investment Partners, a holder since July 2020 with roughly 24 per cent of voting rights, filed for a provisional injunction in the Tokyo District Court on 13 August 2026 to block the trigger against a planned additional purchase of around 3 per cent. Toho confirmed receipt on 14 August and stated its board had not resolved to trigger.

The case is worth watching on its own. Whether the court blocks the trigger will set the practical limit on takeover defences in Japan for years. It is more useful as a marker of where three years of governance reform have arrived.

This year, between late June and the end of July, three ministries and one exchange published documents that together redraw the terms of engagement. The common direction is easy to miss because each was reported separately. Incase investors missed it- old playbook for PBR, ROE and shareholders' return has evolved.

Scrutiny of capital allocation has moved from the balance sheet down to the operating segment, with METI making economic profit the shared language and identifying stagnant capital in value-destroying businesses as the problem to solve. Board discretion in control transactions has widened, with METI confirming that a board may decline a higher bid in favour of the proposal it considers most conducive to corporate value, and that corporate value may include employees, suppliers, governance and supply chain security. Controlled companies will soon have to publish how minority shareholders voted on each director, which is the most useful new disclosure in years. And running against all of it, the Ministry of Justice is drafting a mechanism that would let voting rights be suspended where a shareholder has erred in its large-shareholding disclosure. Boards gained a defence and shareholders gained data and a potential penalty.

Defence measures tell the same story. According to **レコフデータ (RECOF Data)**, published on MARR Online in the M&A スクランブル series, the number of Japanese companies carrying a takeover response policy has barely moved, at 239 in March against 240 a year earlier, and the headline has fallen by more than half since 2008. But new adoptions tripled to eighteen last year, nine of them introduced only after a bidder or an activist appeared. Companies are not rebuilding permanent defences. They are keeping the option in a drawer and taking it out when challenged, The pill was built for the coercive bid - the buyer who wants control but now the measures now being adopted are increasingly aimed at shareholders who have made no bid at all. Toho Holdings' defence, backed by 54.7 per cent of votes at its June meeting, would dilute 3D Investment Partners if it moved from 24 to 27 per cent: a stake that confers no control and triggers no mandatory offer.

What this means for engagement and activist campaigns

The first conclusion is uncomfortable for anyone whose playbook was written in 2023. Campaigns built on payout are now the weakest available demand. METI has stated in writing that raising capital efficiency and shareholder returns in the short term is not the objective, and that what matters is expanding the economic value a company generates over time. A fund demanding a bigger buyback can be answered with the ministry's own text.

The same document supplies the replacement. If capital sitting in value-destroying segments is the officially diagnosed problem, and transferring businesses to their best owner is the officially endorsed remedy, then the segment carve-out is now the strongest case an investor can make in Japanese. It requires more work than a payout demand, because it requires establishing that a division earns below its cost of capital and that a credible buyer exists. Boards will push back using a caveat METI itself wrote, namely that segment returns become unreliable where unallocated headquarters costs are large. Investors should prepare that reconciliation before filing rather than after.

Bid campaigns need rethinking too. Arguing that the price is too low is weaker ground than it was in July. Arguing that the process was defective is stronger, and METI has handed shareholders one specific lever by warning boards not to manipulate discount rates to overstate or understate corporate value. Valuation methodology and not headline premium, is where these fights will now be won.

The most important shift is toward the board itself. If the argument is that capital is being misallocated, the remedy is at director level, and the revised Corporate Governance Code obliges companies to explain how they deploy cash and other resources for growth. Skills matrices, capital allocation experience and segment accountability move from soft governance material to the centre– its not just “comply or explain” but that companies must come up with something that CAN convince investors of the qualifications of the candidates in terms of the “skill set/ matrix” to deal with the new agenda. Director nominations, particularly at controlled companies where minority-only approval rates will shortly be public and a director rejected by independent holders becomes a documented fact the company must publicly answer.

Two practical points follow. Funds should recognize that accumulating a stake is now more likely to invite a defence policy rather than a negotiation, and with a suspension mechanism in draft, discipline in large-shareholding filings has become an operational risk before it is a legal one.

The case against the suspension mechanism

The Ministry of Justice proposal deserves separate objection, because it is the one element of this year's reforms that could undo the rest. Large-shareholding disclosure errors are overwhelmingly technical and short-lived. Japan has spent a decade persuading global investors that its market rewards engagement. Handing boards a procedural tool to remove inconvenient votes would cost more credibility than the abuse it is designed to prevent.

The quieter restriction on shareholder proposals

The suspension mechanism is not the only draft working against shareholders. Material No. 14, tabled at the Subcommittee's 16th meeting on 22 July, would bar shareholders in listed companies from proposing articles amendments on "matters relating to the execution of business". Almost every Japanese shareholder proposal is framed as an articles amendment, so this is where campaigns are actually filed. The idea was absent from the April interim proposal and has not been through public comment, and its scope would be set by ministerial ordinance rather than in the Act.

The Ministry's table of examples lays it out. Buyback policy, dividend floors and board composition sit in the tier judged unlikely to cause harm. Binding a company to particular suppliers, prices or transactions sits in the harmful tier. But the unresolved middle tier includes entry into and withdrawal from unprofitable businesses, management plans, special and corporate value enhancement committees, and disclosure of individual director pay, cost-of-capital measures and cross-shareholding reviews. That is close to the exact agenda METI, the FSA and the TSE have spent this year urging investors to pursue.

The paper concedes there is no effective remedy when a board ignores a valid proposal, since there is no resolution to rescind, and offers only a line of disclosure in the meeting materials as a safeguard. The alternatives in its notes, confining the restriction to boards with an outside-director majority or extending the holding period from current six months have been left open.

A second item would raise the threshold for requisitioning a shareholders' meeting from 3 per cent of voting rights, a level set in 1950, to 5 per cent. Toho's challenger, at 24 per cent, would not notice. A holder between 3 and 5 per cent would lose the right unless it combined with others, and agreeing to exercise shareholder rights jointly makes investors joint holders under the large-shareholding rules. In practice, every shareholder able to call a meeting would also be a large-shareholding filer, and within reach of the suspension mechanism.

Reference material: documents, dates and links.

Ministry of Justice: the Companies Act review

The Justice Minister's consultation reached the Legislative Council on 10 February 2025 and the Subcommittee on Company Law began work that April. An interim proposal was compiled at the 12th meeting on 18 March 2026 and published with supplementary explanation on 2 April 2026 for public comment.

Drafting is now under way. The 15th meeting on 24 June 2026 opened the outline draft stage on Material No. 13, which carries the substantial-shareholder identification regime and the attached voting-suspension mechanism. The 16th meeting on 22 July worked from Material No. 14, covering meeting digitalisation and shareholder proposal rights, and the 17th on 26 August took Materials 14 and 15, covering the investigator regime, nominating-committee companies, liability limitation agreements and disclosure rationalisation. The substantive debate on suspension closed in June.

Material No. 14 also carries two items absent from the interim proposal: a bar on articles-amendment proposals concerning the execution of business at listed companies, with scope to be set by Ministry of Justice ordinance and illustrated by a three-tier table of examples, and a rise in the threshold for requesting a shareholders' meeting from 3 to 5 per cent of voting rights, with the six-month holding requirement unchanged.

The regulatory reform implementation plan adopted by Cabinet on 13 June 2025 targets a Companies Act amendment within FY2026, pointing to a bill in the 2027 ordinary Diet session.

- Subcommittee index: https://www.moj.go.jp/shingi1/housei02_003007_00014.html
- 16th meeting (22 July 2026): https://www.moj.go.jp/shingi1/shingi04900001_00340.html
- Material No. 14 (Japanese, PDF): https://www.moj.go.jp/content/001467056.pdf
- 17th meeting (26 August 2026): https://www.moj.go.jp/shingi1/shingi04900001_00341.html

METI: Growth Investment Guidance, 21 July 2026

Drafted by the Value Creation Management Subcommittee under Professor Numagami of Waseda, and mandated by the economic package adopted by Cabinet on 21 November 2025. The draft appeared on 12 June and the comment period was extended from 26 June to 12 July because of submission volume.

Economic profit becomes the common language. Two failures are named: the balance between growth investment and shareholder returns is not matched to a company's growth stage, and capital is stagnating in value-destroying segments. The remedy is portfolio transformation under the best-owner principle. Growth investment as a share of sales runs at 29.4 per cent in the United States and 27.2 per cent in the euro area against roughly 17 per cent in Japan; ROE stands at 9.4 in Japan against 20.9 and 11.1.

The guidance is voluntary reference material rather than comply-or-explain, so its force comes from being the implementation manual for the revised Code.

- Press release: https://www.meti.go.jp/press/2026/07/20260721001.html
- Full text: https://www.meti.go.jp/shingikai/sankoshin/shin_kijiku/value_creation/pdf/20260721_guidance_01.pdf
- Executive summary: https://www.meti.go.jp/shingikai/sankoshin/shin_kijiku/value_creation/pdf/20260721_guidance_02.pdf

METI: takeover guidelines Q&A, 30 July 2026

METI reconvened the Fair Acquisition Study Group under Professor Emeritus Hideki Kanda in February 2026, having concluded the 2023 Takeover Guidelines were being misread. The Q&A confirms that tendering into the proposal a board considers most conducive to corporate value can be defended as business judgment, citing the Tokyo High Court decision of 25 October 2006. Qualitative factors count only where they can reasonably be expected to raise the discounted present value of future cash flows, and the document warns against manipulating the discount rate.

The April 2026 study group material shows the prompt: directors reported believing that if they could not deliver a share price above the bid within a short period, refusal was not open to them.

- Press release: https://www.meti.go.jp/press/2026/07/20260730002.html
- Q&A: https://www.meti.go.jp/policy/economy/keiei_innovation/keizaihousei/fair-ma-rule/pdf/kodoshishin_20260730_5.pdf
- Interpretive note: https://www.meti.go.jp/policy/economy/keiei_innovation/keizaihousei/fair-ma-rule/pdf/kodoshishin_20260730_1.pdf

FSA and TSE: Corporate Governance Code 2026, 21 July 2026

The first revision in five years. The expert panel under Yuri Okina began in October 2025; the draft was published on 10 April 2026, comments closed on 15 May and 147 individuals and organisations responded. Supplementary principles were abolished and replaced by interpretive guidelines, leaving four basic principles and twenty-six principles. Three pillars: promoting growth investment, disclosure of the annual securities report before the general meeting, and board effectiveness including the secretariat function. On cash, the FSA is explicit that holding it is not to be denied where a company can explain necessity and rationality. Governance reports reflecting the revised Code are due by 31 July 2027.

- FSA: https://www.fsa.go.jp/news/r7/singi/20260721.html
- TSE: https://www.jpx.co.jp/corporate/news/news-releases/1020/20260721-01.html

TSE: minority shareholder protection

The Study Group on Minority Shareholder Protection in Controlled Listed Companies was established in January 2023 and held its ninth meeting on 26 January 2026. The July 2025 revision of the corporate behaviour code covering MBOs and going-private transactions has produced better special committee opinions and valuation disclosure, but adoption of majority-of-minority conditions and market checks has barely moved.

On 27 March 2026 the TSE published proposed listing rule changes for consultation, which closed on 26 April and drew 38 comments; responses were published on 3 July 2026. Companies with a parent, or a shareholder holding 40 per cent or more of voting rights on an aggregated basis, will disclose the minority-only breakdown of votes on director elections, and where minority opposition exceeds half, how they intend to respond, partly immediately and partly within six months. Independence criteria are being tightened alongside. Roughly 800 companies are in scope, applying from meetings for fiscal years ending on or after December 2026. The 40 per cent threshold reflects the level at which control-based parent status can arise and the fact that around 80 per cent of listed companies see turnout below 80 per cent.

Scope is set to widen. The TSE intends to concentrate first on parent-subsidiary structures, then extend to companies in dominant but non-parental relationships, including equity-method affiliates, acknowledging that disclosure there lags well behind and that a phased approach starting with relationship disclosure is appropriate. Development was to begin from summer 2026.

- Consultation document: https://www.jpx.co.jp/rules-participants/public-comment/detail/d1/t13vrt000000p40i-att/t13vrt000000p42y.pdf
- Study group material: https://www.jpx.co.jp/equities/improvements/study-group/nlsgeu000004acah-att/um3qrc0000026zbs.pdf
- Ninth meeting summary: https://www.businesslawyers.jp/articles/1528
- Daiwa Institute of Research, 4 March 2026: https://www.dir.co.jp/report/research/capital-mkt/securities/20260304_025613.html