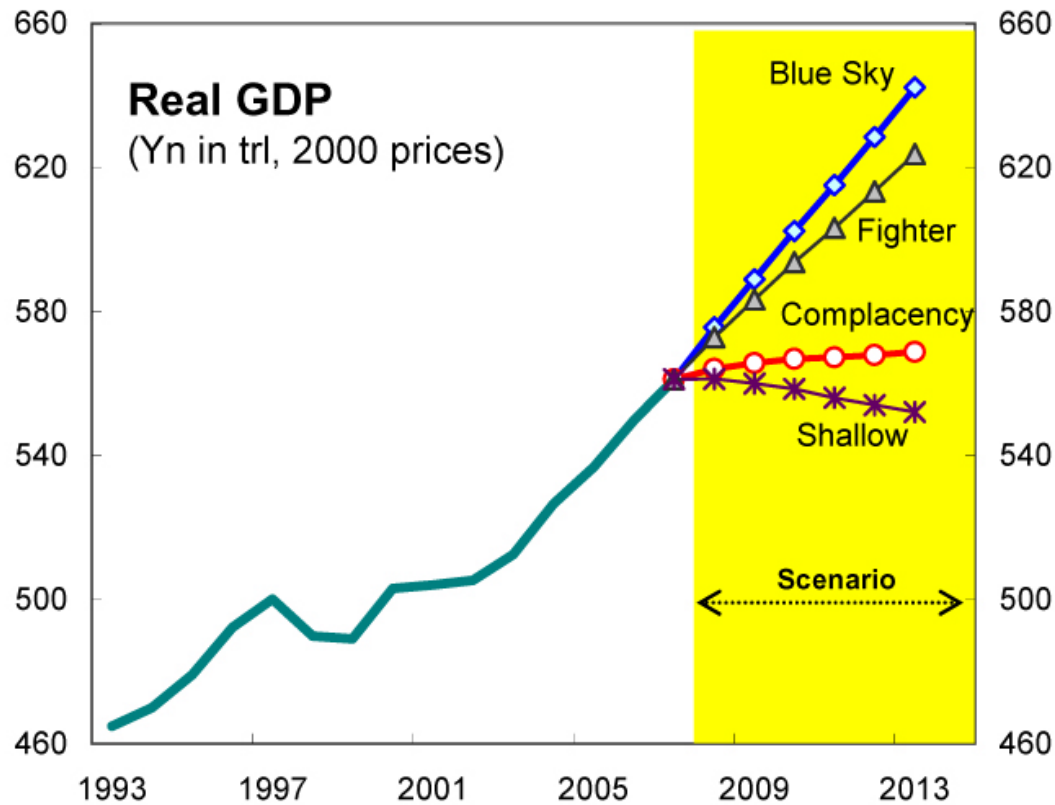


A photograph of the Golden Gate Bridge in San Francisco, California, viewed from a low angle looking across the water. The bridge's iconic orange-red towers and suspension cables are prominent against a clear sky. The bridge deck is visible, showing the roadway and pedestrian walkways.

Trends for Corporate Governance Reform in Japan

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Corporate Governance Reform may be the Critical Factor for GDP Growth



Sources: Cabinet Office, Morgan Stanley Research

The Japanese Market is Undisciplined

1. The following home-grown remedies have not eliminated inefficiency on a long term basis:
 - a. Revised bankruptcy law.
 - b. IRCJ.
 - c. Forced marriages of companies.
 - d. Revised Corporate Law of 2005.

2. The top quintile of publicly listed companies in Japan are highly efficient, world-class companies.

The Pension Crunch: Japan Has to Finance Retirements

1. How can Japan compete in manufacturing when labor is more expensive in Japan than in China/Russia/India?
2. By 2025, 30% of the Japanese population will be more than 65 years old.
 - a. The pension system will be put under great strain.
 - b. The national savings rate will drop.
 - c. Health costs will increase dramatically.

Possible Solutions

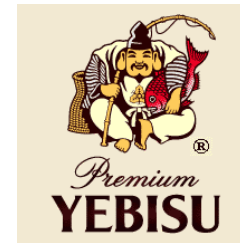
1. Get better returns from capital.
 - a. Change Japanese corporate governance laws so as to promote more efficient management of companies and improve stock performance.
 - b. Hope that Japanese companies will generate better returns without legal reform.
2. Get better returns from intellectual property.
 - a. Use Japanese IP in international standards.
 - b. Demand royalties for use of Japanese IP.
3. Import foreigners.
4. Cut health costs.

How Does the U.S. Guarantee Shareholder Returns?

1. Employee pay is often linked to share price, thereby creating an incentive to improve the value of shares.
2. Shareholders sometimes replace management if management does not run the company efficiently.
3. For a price, third parties can purchase control of a company, and management often can't stop them from doing so.
4. Our courts play an active role in balancing the rights of shareholders, management, employees and the community in a corporation.
 - a. The courts are a “speedy, just, transparent, and impartial” forum.
 - b. They provide enough certainty that “corporate control” can be priced.

How Has the Japanese System Prevented Transfer of Control In the Past

1. Management can easily block a takeover attempt.
 - a. Sapporo Beer, J-Power, etc.
2. Shareholders don't support change of control.
 - a. Bulldog Sauce.
 - b. Cross-holding system.
 - c. No Erisa obligation.
3. Community does not support such changes.
 - a. See e.g., Takafumi Horie.



The ACGA White Paper

1. Written by a collection of reputable soft activist investors.
2. Well-articulated.
3. The right priorities.
4. A foreign agenda.

The ACGA White Paper's Six Proposals

1. Shareholders as Owners.
2. Utilizing Capital Efficiently.
3. Independent Supervision of Management.
4. Pre-emption Rights.
5. Poison Pills and Takeover Defenses.
6. Shareholder Meetings and Voting.

This is the right list of issues if you believe in the Chicago school model of corporate governance.

The Japanese Pension Fund Association Wants Better Returns from Capital

1. Last year they were pushing Japanese management to deliver an 8 percent average return on equity over a three year period.
2. Recently, they have appointed a new director of Corporate Governance and adopted a milder approach.

METI Proposes Reform

1. On June 30th, the METI Corporate Value Study Group (企業価値研究会) issued a report.
 - a. This report can be cited in court (but is not binding) and used in negotiations between shareholders and management.
 - b. It clearly and decisively make management liable to shareholders.
 - 1) States definitively that the purpose of takeover defenses is to slow down negotiations and make sure that shareholders get the best possible deal.
 - 2) If enforced in court, it would make it extremely difficult for management to block hostile takeovers.

The TSE Supports Reform

1. In August of this year, the Tokyo Stock Exchange conducted a survey of foreign investors, asking how to prioritize reform.
2. TSE will toughen takeover defense disclosure rules.
3. Survey results at:
<http://www.tse.or.jp/english/rules/ls-improvements/index.html>

Reforms are Having an Affect

1. Nikkei reports that dividends in Japan are at record highs.
2. Nikkei reports that stock buybacks are at record highs.
3. Directors at Aderans rejected. Directors introduced by hostile third parties at CFS and Moritex.
4. Company resolutions were rejected by shareholders at Nihon Housing, Noritsu Koki, and Kasuga Electric Works.
5. Japanese Pension Fund Agency voted against close to 40% of company resolutions related to the election of directors.

Recent/Ongoing Disputes of Interest

1. **Sapporo Beer** — Steel Partners takeover bid.
2. **Noritz** — Steel Partners takeover bid.
3. **Rex Holdings** — Court retroactively changes price of management buyout.
4. **IHI Corp.** — Sued for retroactive earnings downgrade.
5. **Nippon Koa Insurance Company** — Southeastern Asset Management proposes business plan, and opposes election of director.
6. **Daiwabo Information Systems** — Effissimo takeover bid.
7. **Akindo Sushiro** – Unison Capital takeover bid.
8. **Works Application Co.** — proposed poison pill rejected by shareholders.

2009 is the Year of the Independent Director

1. There is increasing pressure on Japanese companies to hire independent outside directors. Pressure from:
 - a. The American Chamber of Commerce.
 - b. Foreign pension funds (See, e.g., ACGA White Paper).

2009 May Also be a Year for New Legislation

1. M&A and the Wealth of Nations (Iwai and Sato, President-Sha).
 - a. Argues that the Japanese corporate governance system that arose in the post-war era is no longer adequate to meet the country's needs.
 - b. Rejects the full-blown adoption of Chicago school laissez-faire takeover model.
 - c. Proposes a system that avoids court involvement and is based around quality of management, not the price of corporate control.
 - d. Argues that new legislation is necessary to help Japan adapt to the “post-industrial” economic world.

Thank You

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