

How welcoming should Japan be to shareholder activists?

Seminar for REITI

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The most famous line from [The Leopard](#) (*Il Gattopardo*) by Giuseppe Tomasi di Lampedusa is:

"If we want things to stay as they are, things will have to change" (often translated in Italian as "*Se vogliamo che tutto aghi come prima, bisogna che tutto cambi*").

Universally used by politicians and diplomats around the world to describe 'change that really is not change'

Outline

- 01** **What is different about activist funds?**
- 02** What explains the failure of activism in Japan in the first decade of 21 st century?
- 03** Why have attitudes to activism changed in Japan? Evidence on poison pills, cross holdings and share repurchases.
- 04** Recent evidence on performance of activist funds.
- 05** Has Japan got it right?

What is different about activist funds?

	Passive manager	Active manager	Activist hedge fund
Example	BlackRock, Vanguard	Fidelity, SLA	Cevian, Elliott
Stakes held	Typically 1,000s	Typically 100s	Typically < 15
"Voice"	Yes	Yes	Yes
"Exit"	No exit except for external factors	Internal decision	Internal decision
Engagement focus	"Care and maintenance"; hold directors to account	"Care and maintenance"; hold directors to account; gather information for investment decisions	Bring about strategic change
Selling	Determined by index rules; cannot sell when dissatisfied with management or the board	Determined by fund managers; can sell when dissatisfied with management or the board	Determined by engagement success

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What explains the failure of activism in Japan in the first decade of the 21st century?

Success rates and outcome returns were weakest in Asia, largely Japan

Abnormal returns around engagement outcomes by region. Success rate: Asia 18%, Europe 48% North America 55%
Source: Becht, Franks, Grant and Wagner, RFS (2017).

Asia Number of engagements: 214				Europe Number of engagements: 381				North America Number of engagements: 1,145			
Outcome	AR (-10, +10)	AR (-20, +20)	N	Outcome	AR (-10, +10)	AR (-20, +20)	N	Outcome	AR (-10, +10)	AR (-20, +20)	N
All outcomes	4.03**	2.72	38	All outcomes	8.32***	8.77***	183	All outcomes	5.89***	5.97***	629
Board	-1.03	-4.20	6	Board	1.75	4.03	43	Board	4.62***	4.80***	223
Payout	2.34	-1.62	15	Payout	-0.21	1.30	12	Payout	1.47	-0.11	107
Restructuring	8.03*	4.60	9	Restructuring	5.53***	5.25**	33	Restructuring	5.56**	5.87**	76
Takeover	3.33	1.15	4	Takeover	9.87***	10.8***	54	Takeover	9.29***	9.54***	129
Multiple + takeover	13.7***	1.70	2	Multiple + takeover	27.3***	25.1**	16	Multiple + takeover	15.0***	16.2***	40
Multiple + no takeover	5.60	51.7	2	Multiple + no takeover	11.9**	10.3*	25	Multiple + no takeover	5.49**	6.89**	54

Why early activism often failed in Japan

Structural barriers

Foreign activists more than two-thirds of the sample were less likely to succeed than domestic activists. But Japanese activism failed as well.

Confrontational style often clashed with Japanese culture. TCI's J-Power campaign failed despite 35% foreign ownership.

Lack of government and court sympathy toward such activism. Govt refused to allow TCI to increase its stake from 5% to 20%.

Activists did not have the support of traditional Japanese asset managers.

Case evidence

In 2007, Steel Partners held a stake in 30 Japanese companies. Bull-Dog Sauce won a landmark victory in the Supreme Court against Steel Partners, who owned a 10% stake. The court validated the use of the poison pill defense against a shareholder that had an "abusive motive" (e.g., greenmail, scorched-earth tactics, or aiming to sell off target assets to pay debts or pay out a one-time dividend).

In the 2005 Nippon Broadcasting case, the US Unocal decision was cited to justify a poison pill defense—an influential case in Japan.

Other Japanese companies successfully adopted a poison pill defense; e.g. Sapporo Holdings voted two-thirds in favor of a poison pill defense when Steel Partners expressed an intention to mount a takeover bid.

Starting 2014: Abenomics and an environment more friendly to shareholder engagement

Governance reforms encourage more emphasis on shareholder returns and engagement with management

Decline of poison pills

Decline of traditional cross share holdings & relational holdings particularly among large companies (accelerated in 2023)

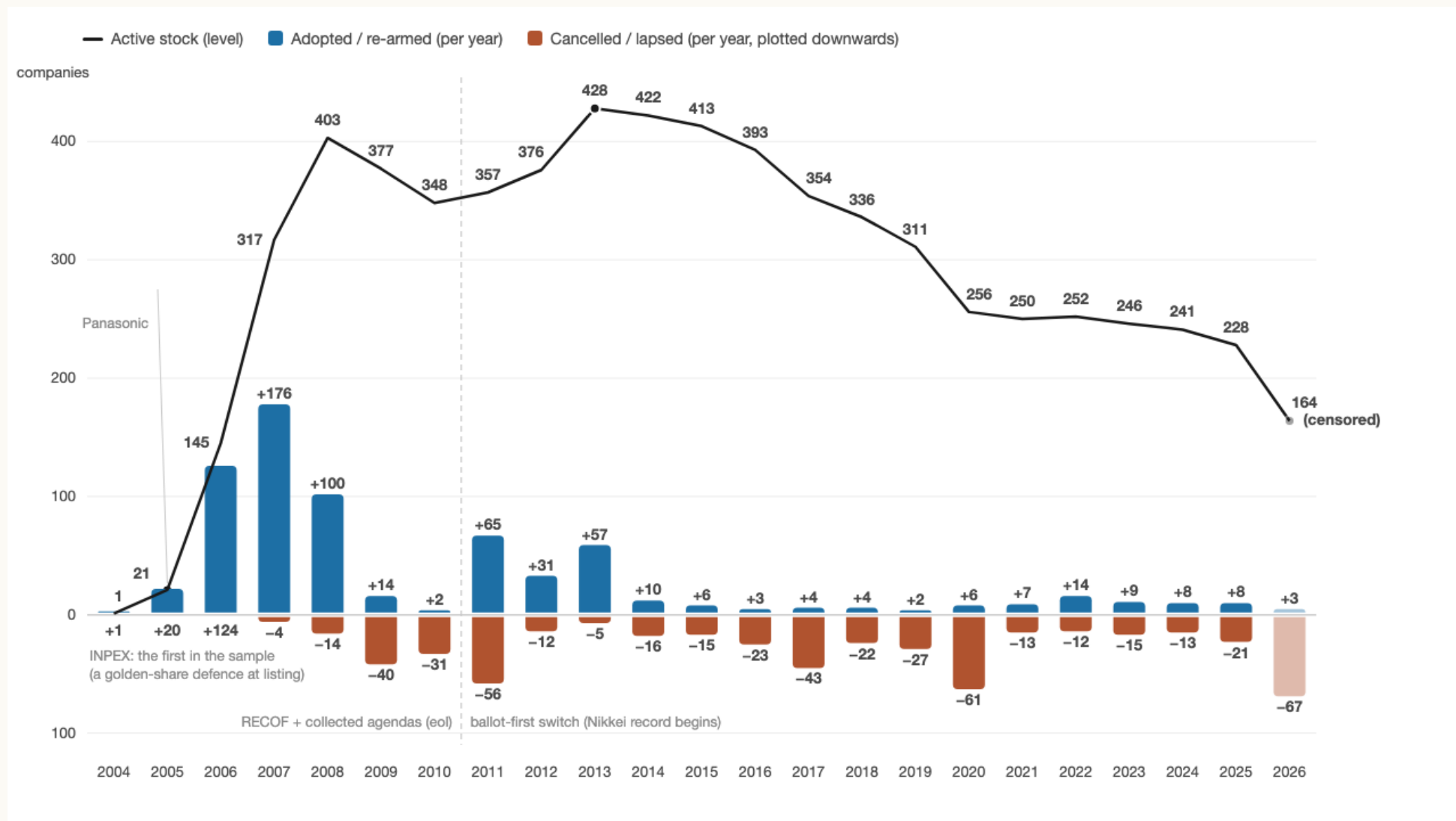
Increase in activist engagements

Increase in share repurchases

03

The rise and fall of the poison pills in Japan 2004-2026

Poison pills rose rapidly before 2007, then declined after 2013

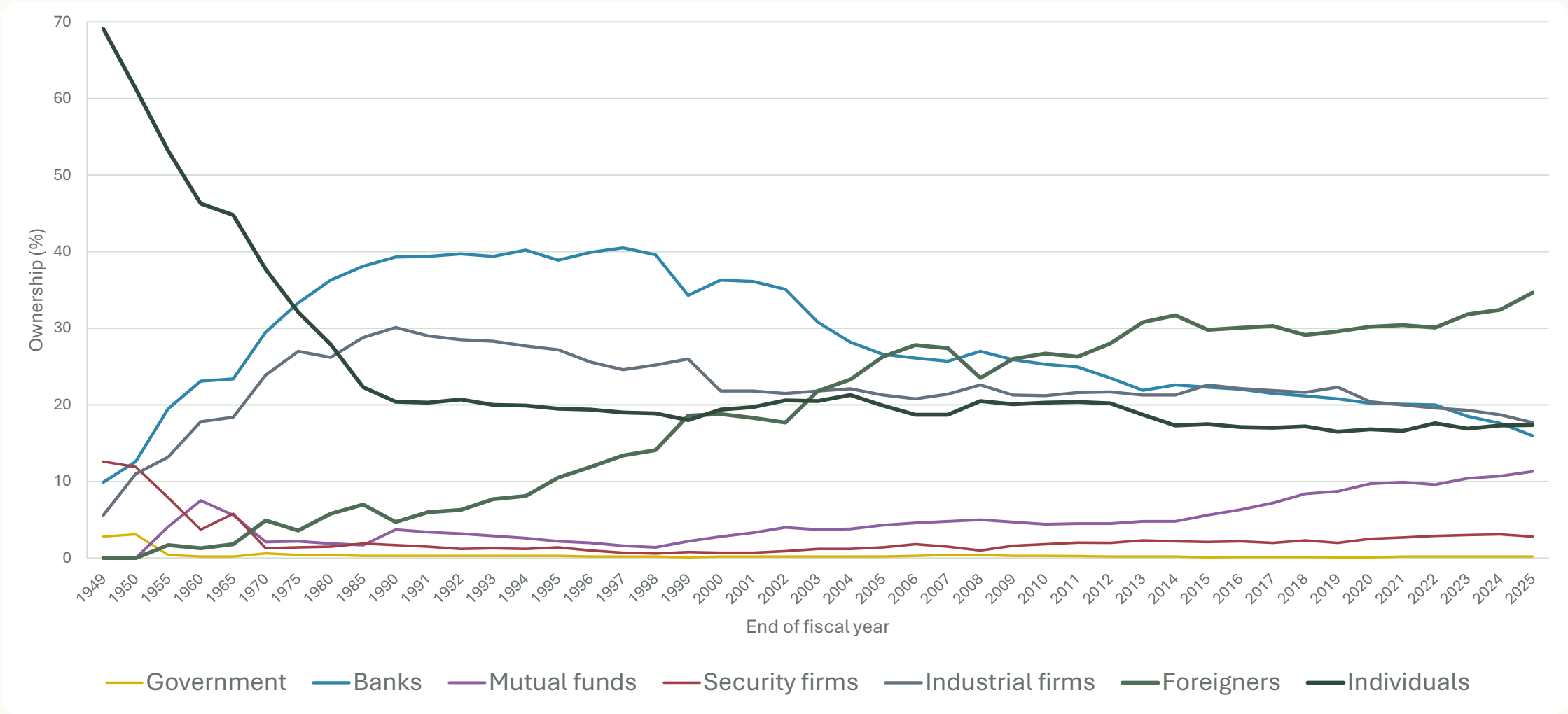


Poison pills outstanding, year by year, 2004–2026

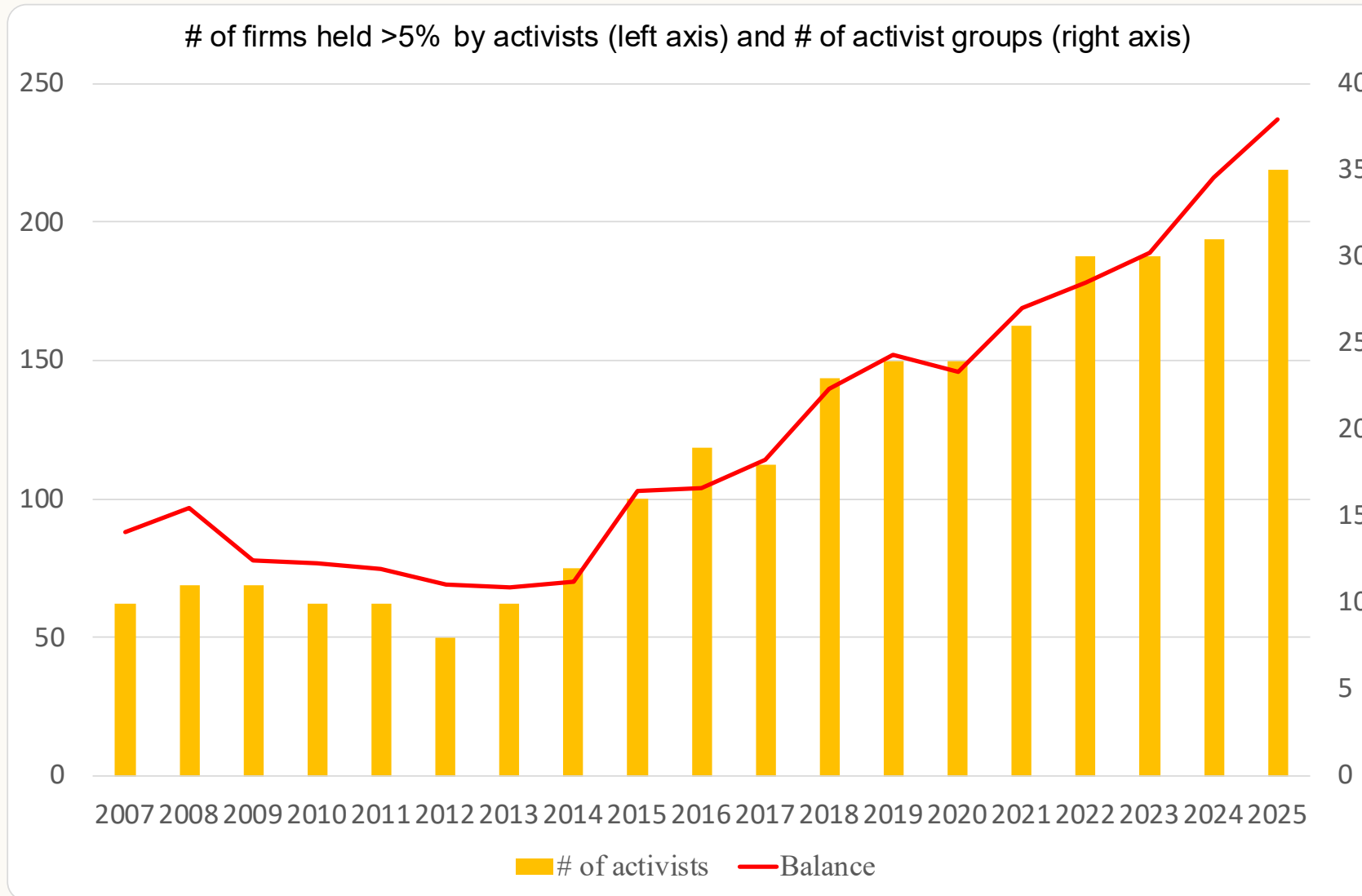
Year	Active pills (30 June)			Flows during the year		Ballot pills voted		
	All	Board pill	Ballot pill	Adopted / re-armed	Cancelled / lapsed	N	Approved	Defeated
2004	1	1	0	1	0	–	–	–
2005	21	11	10	20	0	–	–	–
2006	145	57	88	124	0	–	–	–
2007	317	99	218	176	4	–	–	–
2008	403	116	287	100	14	–	–	–
2009	377	101	276	14	40	–	–	–
2010	348	89	259	2	31	6	6	0
2011	357	79	278	65	56	157	158	0
2012	376	70	306	31	12	80	80	0
2013	428	67	361	57	5	140	139	0
2014	422	64	358	10	16	149	149	1
2015	413	63	350	6	15	84	84	0
2016	393	64	329	3	23	112	112	0
2017	354	63	291	4	43	118	118	0
2018	336	60	276	4	22	54	54	0
2019	311	59	252	2	27	71	71	0
2020	256	59	197	6	61	81	80	1
2021	250	62	188	7	13	48	48	0
2022	252	69	183	14	12	61	61	0
2023	246	76	170	9	15	75	75	0
2024	241	77	164	8	13	38	38	0
2025	228	82	146	8	21	40	40	0
2026	164	84	80	3	67	7	7	0
Total				674	510	1,321	1,320	2

Shareholder ownership in Japan, 1949–2025: new trends began pre-2000

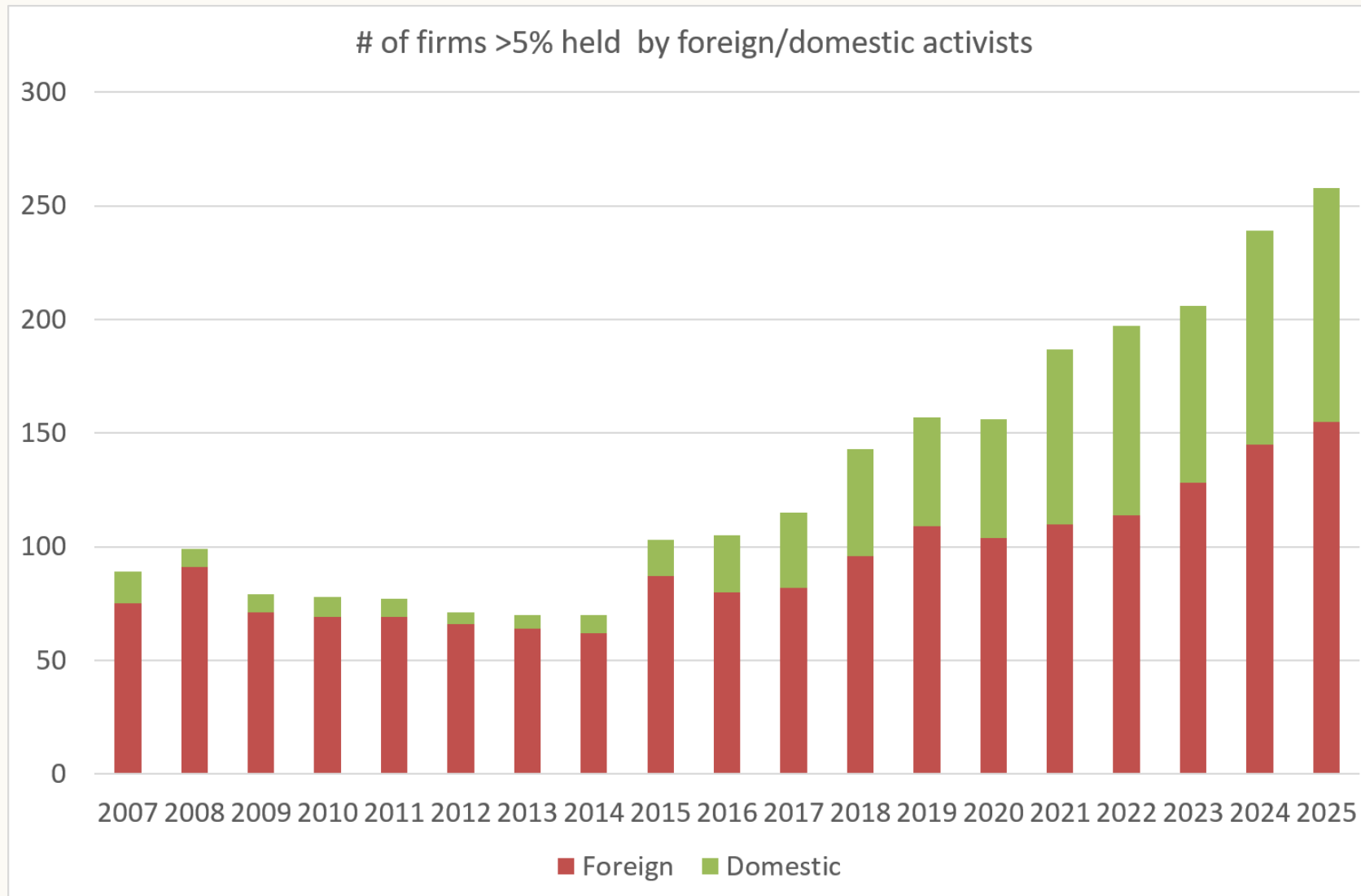
Source: Tokyo Stock Exchange



Increase in incidence of activism



Increase in incidence of activism: Foreign vs. Domestic



Foreign activists have learnt some (cultural) lessons in recent years

Three transactions involving Elliott Partners

SoftBank 2020

In response to Elliott's \$2 billion position, Masayoshi Son met directly with Elliott managers. SoftBank announced a \$41 billion asset disposal and a \$23 billion buyback program. Elliott had not publicly announced its position before the news leaked.

Toshiba 2022

In response to outside stakes, Toyota nominated executives from Elliott (Nabeel Bhanji) and Farallon Capital Management. But not without controversy: external director Mariko Watahiki objected saying their presence would skew decision making (Makiko Yamazaki, Reuters)

Toyota 2026

Toyota raises offer to buy largest subsidiary after campaign by activist investor ('Toyota bows to Elliott in \$38 bn buyout battle', Financial Times, March 3, 2026). Elliott, which had a 7.7% stake, accused the company of underpaying and asked minority shareholders not to tender. Accepted revised offer.

Activist holding period (in years) from entry to exit by classification “mild” and “vocal” (mild is private & Vocal is public, based on Bloomberg data)

	All (33 activists)	Mild (24 activists)	Vocal (12 activists)
Mean	4.33	5.60	2.22
Median	2.97	4.37	1.80
25th percentile	1.23	1.99	0.71
75th percentile	6.09	7.57	3.34
Minimum	0.02	0.03	0.02
Maximum	22.16	22.16	11.18

04

More recent evidence of the performance of activism

Share-price responses at the time of the first submission of “tairyohoyu hokokusho” filing

Event window	All events				Pre 2022
	All (n=513)	Mild (n=240)	Vocal (n=273)	Difference (vocal – mild)	All (n=253)
Mean [-1, +1]	4.18%**	2.98%**	5.23%**	2.24%**	2.15%**
Median [-1, +1]	2.68%	1.32%	3.90%	2.58%	1.04%
Mean [-2, +2]	4.65%**	3.50%**	5.67%**	2.17%**	2.83%**
Median [-2, +2]	2.81%	1.53%	4.26%	2.73%	1.05%
Mean [-5, +5]	6.06%**	4.97%**	7.02%**	2.04%*	3.83%**
Median [-5, +5]	4.09%	3.03%	5.00%	1.97%	2.34%

Abnormal returns over the duration of stake above 5% from start to end

Measure	All (n=342)	Mild (n=167)	Vocal (n=175)	Difference (vocal – mild)
Mean raw BHR	40.42%**	35.74%**	44.90%**	9.16%
Median raw BHR	25.96%	21.02%	29.25%	8.23%
Mean BHAR-TOPIX	11.07%**	1.75%	19.96%**	18.21%*
Median BHAR-TOPIX	4.55%	-4.83%	9.42%	14.25%

A controversial engagement: Alimentation Couche-Tard's \$47 bn takeover bid for Seven & i Holdings

Initial campaign launched in 2021-2022 by ValueAct, a campaign to split up the company, focus on the convenience stores and separate supermarkets.

In 2023 ValueAct launched a proxy vote to appoint their own directors. They lost.

But the business was eventually split up. In 2023 department stores split off, then supermarkets 2025.

In 2024, Canadian retailer Alimentation attempted a 'friendly' takeover of Seven & i with a 48% bid premium to acquire 2 divisions remaining after department stores split off. Rejected by management and founding family who attempted a \$58 bn management buyout that failed.

Several of Seven & i shareholders said 'the deal tested Japan's wider progress on corporate governance reform, transparency and attention to shareholder interest (FT, July 17 2025)'

05

Has Japan got its approach to governance and activism right?

The motive for corporate holdings does matter? Cross-holdings, relational holdings and strategic holdings may not be the same.

Asset owners are becoming stricter in their permitted threshold for cross-holdings & relational holdings. One asset manager has increased their votes against director appointments when asset manager's ownership threshold is breached. Asset manager reduced permissible threshold from 50% to 20%. ISS have a lower threshold of 10%. Comply or Explain.

Should regulators be more sympathetic to so called emergency pills? In the US the board has more discretion on the introduction of poison pills.

Some further thoughts

Some pushback against shareholder profit maximisation in the America. Hart and Zingales argue for shareholder welfare maximisation. They are not necessarily the same. How should the board consult its shareholders?

Some activist funds like TCI, have made it clear that they regard environment and climate change as important (benefitting) to long term shareholder returns.