Research Paper on The Japanese Approach to Corporate Governance —A Foreign Researcher's View

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Abstract

Corporate Governance in the Japanese Context

This paper seeks to evaluate the current state of corporate governance in Japan, in the light of increasing pressures from international investors for corporations to be more accountable to shareholders for their actions. Japanese companies may be deemed to have been relatively slow to react to such pressures. This is largely because Japanese company executives have continued to view themselves as accountable to a wider group of stakeholders, reflecting the group orientation of Japanese society.

The corporate governance climate in Japan began to change, however, following the bursting of the "bubble" economy in the early 1990s.

Particularly in the period from around 2000, overseas investors have been successful in convincing the Japanese authorities that reforms were required in the corporate governance system, to make companies more accountable to their shareholders.

While this campaign has been successful in introducing a greater degree of transparency to corporate governance in Japan, the paper observes that there remains substantial resistance to any wholesale embracing of the Western concept of shareholder supremacy. Indeed, there is evidence of significant rearguard action, both from academics and company executives, aimed at preserving the Japanese stakeholder perspective on corporate governance.

Corporate Governance in the Japanese Context

Introduction

This paper seeks to examine the current state of corporate governance in Japan. The context for the study is the increasing focus, internationally, on the issue of the means by which business corporations may be held accountable to their shareholders and other stakeholders.

The debate as to whether companies should be accountable just to shareholders or to a wider group of stakeholders has not left Japan unaffected, and the paper will assess the key factors which have, in recent years, brought the issue of corporate governance in Japan to the forefront. The study will, however, also take an historical perspective on corporate governance in Japan, it being argued that the current position can only be fully understood in relation to the influence of Japanese cultural factors on the approach taken on such issues.

International Viewpoints on Corporate Governance

The earlier reference to "…shareholders and other stakeholders" was an oblique reference to the reality that there are differing viewpoints on how corporate governance should operate in practice. The narrow view, epitomised initially by Friedman (1970, cited in Chryssides and Kaler 1993), is that corporations are only responsible to their shareholders – their "owners" – and, thus, corporate governance should be directed at ensuring that companies are managed in the best interests of these, prime, stakeholders. The wider view, as expressed in Mallin (2007, p.5) and citing an OECD publication (1999), is, however, that corporate governance is "…concerned with a set of relationships between a company's board, its shareholders and other stakeholders." [1]

This wider perspective implies that corporations have responsibilities beyond just ensuring that the suppliers of capital earn an acceptable return on their investment. In this view, the needs of employees, consumers, suppliers, and the communities in which companies operate, have to be taken into account in relation to the issue of whether or not corporations are properly governed.

The relevance of this debate to Japan is that there is a perception, amongst current academic writers on corporate governance matters, that cultural differences will determine whether it is the narrow or the wider perspective which holds sway. Thus, writers such as Crane and Matten (2004), Yoshimori (2005) and Dore (2006) examine corporate governance issues acknowledging that there will be a difference between the Anglo-Saxon perspective – which views shareholder interest as paramount – and the Germanic-Japanese viewpoint, in which companies have an inherent duty to account for their actions to a wider group of stakeholders.

The Anglo-Saxon rationale that shareholder interests are the prime responsibility of corporate management is, in Yoshimori's view (op.cit. p.448) "…the central goal of corporate governance in the US." Although Yoshimori does not refer specifically to the UK, it could be argued it has been

similarly so in Britain since the political swing to the right from the late 1970s. In this period, corporate management has been judged primarily on the extent to which they have delivered "shareholder value" – even when this may have been at the expense of other stakeholders.

While there have been differences in the means by which the authorities attempt to make sure that governance is improved – by voluntary codes or legal measures[2] – the Anglo-Saxon corporate governance model thus still has in common the feature that shareholders are in the forefront. It is also pertinent to observe that this approach is practised in societies in which individuality is a prominent trait. In this view, individuals are responsible for their own actions and "society" does not have an implicit wider duty towards other stakeholder groups.

In Japan, however, society is orientated much more towards collectivism rather than individuality. The Confucian ethic, on which Japanese social values are based, calls for loyalty and obedience to authority, and for harmony in interpersonal relationships. It also requires the subjugation of individuality, with the attainment of group – rather than individual – goals as the key target both in business and in the wider social context.[3]

This cultural orientation of stressing group values is important in understanding both what, in Japan, is meant by the concept of corporate governance, and by what means governance transgressions should be dealt with. Thus, the group orientation of Japanese society, and the implicit acceptance of wider duties have meant, historically, that the extent of corporate governance responsibilities has gone further than in the Anglo-Saxon model,[4] encompassing other stakeholder groups, and not just being limited to a company's shareholders. Thus further, the fundamental view in Japan is that disputes should be resolved by discussion and agreement by consensus rather than by resort to legislation. This has meant that, in the corporate governance field, voluntary adherence to broadly agreed standards has been preferred to the US-style introduction of detailed legislative measures.

It has to be acknowledged that there are also historical factors which have contributed to the different system of corporate governance which has evolved in Japan. The key issue here is that, Japan being a late developer, economically, there is less of a built-in tradition of "shareholder democracy". While Hoshi and Kashyap ((2001) acknowledge that "equity financing was more important than bank or bond financing from the beginning of Japan's modern development until the 1930's", post war developments meant that bank financing became more important, and that shareholders were more "friendly". The latter point is well expressed in Miyajima, Omi and Saito (2004) who comment that "The corporate governance structure in the post war period had particular characteristics. Boards of directors were composed mainly of corporate insiders promoted within firms. It was the main banks rather than shareholder control that imposed discipline on managers". There is, therefore, an historical context in which current corporate governance issues in Japan must be considered.

Having established that there are fundamental differences in the way in which "corporate governance" is perceived in Japan, it is pertinent to assess the success, or otherwise, of the Japanese system in relation to the Anglo-Saxon perspective that the shareholder is "king". It is hardly a contentious view that the Japanese model could be deemed to have been highly successful in the thirty years from the mid-nineteen fifties to the mid-nineteen eighties, all three parts of the triumverate of participants (corporations, labour, government/bureaucracy) gaining from the mutually beneficial system. Thus, shareholders gained from stock market recognition of companies' improving profitability, employees gained from permanent employment and rising remuneration, and politicians/bureaucrats gained from a longstanding climate of political stability.

So long as it could be argued then—or even demonstrated—that the system was "working" to everyone's benefit, Japanese business leaders and politicians could easily rebuff efforts from overseas to effect changes in corporate governance practices. Thus, for example, an early challenger of Japanese-style corporate governance, T. Boone Pickens, the prominent U.S. investor, was embarrassingly unsuccessful in his attempt, in 1989/90, to gain seats on the Board of Koito Manufacturing Company, despite having built up a 20% stake in the company. Widely reported in the Western and Japanese press at the time, Morck and Nakamura (1999) assert that it was the "…the other firms in the Keiretsu …(who) owned a majority of Koito stock and, acting in concert, …blocked Pickens' every move."

However, while it might be argued that the Japanese governance system delivered favourable results up to the mid to late 1980s, the events of the past fifteen to twenty years have shown corporate governance in Japan in a very different light. The pivotal "event" in this period which has cast a cloud over the Japanese governance system has, of course, been the bursting of the "bubble economy" in 1990, and it is to this matter that the paper now turns.

The "bursting of the bubble" has, indeed, been the catalyst for an upsurge in interest in corporate governance issues in Japan, shareholders having suffered a decade and a half of underperformance in profitability—and, therefore in stock market valuations—in international terms, by Japanese companies. There is little doubt that it has been foreign investors (and foreign corporations) who have been in the vanguard of the movement to "improve" corporate governance in Japan. However, Japanese companies have also not helped themselves by being caught out in numerous scandals in which shareholders have suffered as a result of management negligence.[5]

One such example of corporate governance "scandals", which have strengthened the case of Western investors to press for more accountable corporate management in Japan, is that of Seibu Railway Corporation. Founded in 1912, Seibu is one of the foremost private railway companies in Japan, running commuter services into Tokyo from Saitama prefecture. As with its competing railway companies, Seibu diversified into retail, tourism, and related activities (including a baseball team) and enjoyed a prolonged period of successful development during which the son of the

company's founder, Tsutsumi Yoshiaki, became the world's most wealthy businessman.[6]

The group's progress came to a halt, however, when it was revealed that the company's accounts had been falsified, and that there had been no board meetings to discuss company affairs for at least a period of seven years. The shares of the company have subsequently been delisted from the Tokyo stock exchange, and Tsutsumi San convicted of insider trading and financial fraud.[7] The case has become regarded as the epitome of corporate governance "problems" in Japan; typical of Japanese managers being unaccountable for their actions.

Recent years have also witnessed the seminal case of Renault and Nissan, illustrating how foreign investors have been able to exert influence on Japanese companies to alter their strategies to better meet the needs of their shareholders. The takeover of the loss making Japanese carmaker, Nissan, and the introduction of "Western" management strategies which transformed its fortunes[8] showed that a different approach to management could deliver much better returns to shareholders. It, undoubtedly, paved the way for subsequent campaigns by overseas investors to pressure Japanese company boards to reform their corporate governance systems.

The Fund Managers' Initiative

It was largely as a result of such scandals as the Seibu case - and the Nissan experience - that overseas investors began to take a more "hands-on" approach on corporate governance matters in Japan. This trend has become marked since the late 1990s, with an upsurge in shareholder activism, as can be seen by focussing on two such investment management groups, Hermes Pensions Limited, and F & C Asset Management plc. These two international investment houses have long been known for their pro-active stance on corporate governance issues on a global basis; this paper will now set out specifically how both have sought to engage with Japanese corporations in order to improve corporate governance standards in Japan.[9]

Hermes' overall policy on corporate governance matters as expressed in the Hermes' *Approach to Engagement* (Undated) is to engage directly with the companies in which they have investments to ensure that good governance is undertaken. Where individual countries have codes or other governance guidelines, these are regarded as benchmark, minimum standards. However, Hermes (ibid) "…may (also) supplement local codes with (their) own market-specific policies which go into more detail on issues (they) believe to be of particular importance."

Thus, specifically on Japan, Hermes' corporate governance executives have identified a number of particular issues which have to be addressed in their engagement activities. Of particular relevance at present in Japan are the following matters:

First, that company boards may seek to undertake share buybacks without obtaining shareholder approval.

Secondly, that companies threatened by "unfriendly" bids, may choose to resort to poison pill anti-takeover tactics e.g. share issues to friendly shareholders, again without overall shareholder

approval.

Thirdly, whether, if a Japanese company appoints outside i.e. non-executive directors, those "non-execs" are sufficiently independent to act impartially on the shareholders' behalf.

The above references are to specific corporate governance issues which Hermes would wish to see addressed in Japan. It is pertinent, however, to sum up the wider position of this particular investment management house as focussing on, irrespective of location, the securing of long term value for all shareholders from Board actions and practices.

With reference to F. & C.'s governance principles, the current key issues of concern in Japan are in line with those at Hermes. This fund manager's *Corporate Governance Guidelines* (Undated), cite these as the need for the affirmation of the rights of shareholders to approve share repurchases; the abolition of unauthorised bonuses to executive directors; and the protection of shareholder rights in relation to boards implementing poison pill measures to secure the directors' position in the event of contested bids.

F & C also take a pro-active stance on corporate governance issues in Japan, "…(combining) active voting with detailed dialogue with its companies — both before the vote when writing to advise of its governance policies, and afterwards, to explain votes against management." Claudia Kruse in interview (13 March 2006). It can, thus, be confirmed that F & C both identify governance matters of concern, and engage with the Japanese companies in which they are invested to establish a dialogue through which disputes may be resolved.

Changes in Corporate Governance Procedures in Japan

These initiatives by UK fund managers should also be considered in relation to the changes in the corporate governance system which have been introduced in recent years in Japan. Such changes as have been made have been influenced by the pressure for reform from international fund managers, Hermes and F & C being to the fore in such matters, but it is pertinent to evaluate what has actually happened, and whether it has gone far enough to appease foreign investors.

In this respect, there have been two main events in terms of changes to the corporate governance system in Japan. The first was the issuing, in 2001, of *Revised Corporate Governance Guidelines* by the Japan Corporate Governance Committee, introducing changes in the governance procedures which Japanese companies could adopt. However, the Committee's perspective on what constitutes good corporate governance in Japan was set out clearly at the outset. In the Chairperson's initial message it was stated that (op.cit. p.33, English text and as cited in Mallin, op.cit. p.175) "A good company maximises the profits of its shareholders by efficiently creating value, and in the process contributes to the creation of a more prosperous society by enriching the lives of its employees and improving the welfare of its other stakeholders." It, thus, seems clear that the Committee was reinforcing the Japanese approach to corporate governance, as based —

despite the pressures brought to bear from overseas — on a pluralistic view of the corporation, being responsible to a wider group of stakeholders than merely its shareholders.

On more detailed aspects of corporate governance, a number of specific recommendations were made in the Committee's report. In relation to the matter of shareholder accountability, the Committee established five key principles on the role of company boards, on the role of board committees, and on the relationship between boards of directors and their investors, with a view to improving corporate accountability. Under the proposals, boards were to incorporate independent, non executive directors, were to constitute committees to cover issues such as the audit and executive pay, and CEOs were required to ensure that there was, *Revised Corporate Governance Guidelines* (op.cit. p.65) "…a proper governance system, which provides for adequate internal control."

The recommendations of the 2001 Committee were further reinforced by the revisions to the Japanese Commercial Code in 2002, which concentrated on allowing companies to use what Mallin (2007 op.cit. p.223) describes as "…the option of adopting a US-style corporate governance structure." This US-style structure would have a main Board with Non-Executive Directors, who would preferably be in the majority on the established Audit, Remuneration and Nomination committees.

In relation to these measures, it has been the position of the leading overseas investment groups, such as Hermes and F & C, that corporate governance in Japan would be improved should Japanese companies move to the new, more "Anglo-Saxon", system of governance as recommended by the 2001 Corporate Governance Committee and the subsequent revisions to the Commercial Code. However, it is the case that very few Japanese companies have decided to adopt the recommended new proposals, Ms. Kruse of F & C, in interview, (op.cit.) estimating that only some one hundred and ten companies out of the 2,500 quoted in Japan have thus far chosen to switch to the new system.

The suggestion in this paper is that this indicates that Japanese companies continue to have a predilection to maintain the traditional system of assuming responsibility to stakeholders other than just their shareholders. Indeed, such a view is reinforced by the aforementioned expression of reservations by both Hermes and F & C as to the commitment of Japanese companies towards changes to "Western-style" governance standards, particularly over the independence of Non-Executive Directors and Auditors.

Japanese Company Reactions

As a means of assessing the extent to which Japanese corporations have adapted to the new corporate governance environment, this paper will now focus on the example of Higashi Nihon Tetsudo Gaisha. JR East, to give its Western title, is a Japanese company which was converted to Public Limited status in 1987 following the privatisation of the Japanese National Railway. While JR

East has only been a PLC for twenty years, the author considers this company to be an appropriate example of how Japanese companies are dealing with corporate governance issues in the face of pressures from international shareholders.

In interview with Fujimori Shinichi, a Senior Executive in JR East's Management Planning Department (7 January 2006) it was acknowledged that scandals arising out of poor governance, such as Enron in the USA, and Snow Brand in Japan have influenced the company's corporate governance policies. However, the Company has still decided to remain with the (Japanese) Auditor system of governance. Thus, although the number of Board Directors has been reduced from the peak of thirty six to twenty four, and two outside Non-Executive Directors have been appointed,[10] the company has decided against adopting the US-style (Audit and Remuneration) Committee structure.

In the company's 2005 *Annual Report*, p.11, Company President, Otsuka Mutsutake, also argued that "…the auditor system of corporate governance is best suited to JR East", the view appearing be that this reflects the specific characteristics of the railway industry, with returns on investments being extremely long term, and that "…medium-to-long-term thinking is important." It is the author's view that this latter comment is an oblique reference to the perception that a move to a more "Anglo-Saxon" system of governance would lead to greater pressure on company management to emphasise short term returns to shareholders, a perspective reinforced by the increase in overseas investors[11] who are seen as having such "short term" objectives.

JR East's *Sustainability Report* (2005, p.13) further makes reference to "… (the company's) corporate culture that recognizes the importance of contributing to society, and of fulfilling its responsibility to society through its business activities." This again supports the view that JR East management continues to perceive that the company should be responsible to a wider group of stakeholders than merely its shareholders. Indeed, the *Sustainability Report* (2005, op.cit.) further emphasises this wider perspective on corporate governance by stressing that the company acknowledges its accountability to "society" in terms of the impact of its operations in such areas as rail safety and the environment.

The overall impression is, therefore, that, taking JR East as an example of the Japanese corporate body, there is an acknowledgment that management now have to be more directly accountable to shareholders — and that foreign shareholders have been very influential in getting this message across. However, it is the view of the author that there still remains a perception in Japan that governance requirements go beyond just those towards the "owners" of the company, and that their executives should continue to accept the responsibility to address the interests of a wider range of stakeholder groups.

The Livedoor Issue - and Its Aftermath

In relation to this debate as to how far Japanese companies should go in terms of management accountability, the recent "scandal" concerning the Japanese company, Livedoor, provides some interesting pointers on current thinking in Japan on corporate governance issues.

The details of this case are beyond the remit of this paper, but the relevant facts are that the Livedoor Managing Director, Horie Takafumi, was accused of perpetrating a financial fraud with respect to a particular acquisition[12] in early 2006. At the time of writing, the case had concluded in favour of the opposition to the business tactics of Mr. Horie, in that he has sought to champion the interests of shareholders rather than those of any other stakeholder groups, and that he has used any tactics which would further the singular shareholder position. Horie San has been sentenced to two and a half years imprisonment, at that time subject to appeal.

When the original story broke, Frederick (20 January 2006) cited the adverse reaction from the Japanese establishment to the recent trends in corporate management strategies－epitomised by Livedoor, of putting shareholders above the interests of other stakeholders－and utilising "debatable" tactics to ensure that shareholder oriented goals are achieved. The significance of this is that it voices a view which is contrary to that of the fund managers as earlier expressed in this paper. The author would, therefore, cite the Livedoor case as a pertinent example of the questioning of the narrow view on shareholder supremacy as being the sole basis for deciding on corporate governance issues. Indeed, despite the fact that there was tacit support from the Koizumi led government, during his term of office, for the "entrepreneurial" (shareholder-first) style of management epitomised by Mr. Horie (of Livedoor), this case suggests that there is a fundamental disquiet in Japan as to whether the country should be embracing the concept of shareholder capitalism as practiced in the "Anglo-Saxon" system.

In this respect, misgivings on giving up the traditional Japanese corporate governance principles, have also recently been expressed by two eminent Japanese scholars. Indeed, the position of Professors Miyajima Hideaki and Yoshimori Masaru[13] on corporate governance matters might be considered to be part of a backlash in Japan against the "Westernisation" of Japanese culture in general, and business practices in particular.

Professors Miyajima (2003) and Yoshimori (2005) have also both sought to promote the view that adherence to Anglo-Saxon corporate governance systems does not, necessarily, lead to better performance. Indeed, Professors Miyajima (2004 op.cit.) and Yoshimori contends (2005, op.cit.) that the long term performance of Japanese corporations has been superior to their American counterpoints. Yoshimori. specifically, contends that the performance of two corporate "giants" in Japan－Toyota and Canon－has been superior to that of US corporations such as GM and Xerox, despite operating under "inferior" corporate governance systems. Professor Yoshimori's conclusion, further supported by his comments in interview (12 January 2006) is that "corporate governance plays a relatively limited role in long-term corporate performance" and that mission and culture

may be more important in driving employees to strive for better results.

Conclusion

This paper has sought to place the current discussion of corporate governance in Japan in a cultural and historical context. This is considered important in understanding Japanese attitudes towards governance issues and, in particular, what might be judged to be a "good" standard of governance in corporations.

From a Western perspective, or more precisely an Anglo-Saxon viewpoint, company boards should be judged on the extent to which their corporate governance policies meet the criterion of maximising shareholder value. However, historically, Japanese managers have viewed their responsibilities as extending beyond shareholders to encompass other stakeholder groups. Thus, corporate governance in Japan has been regarded as meeting the needs of shareholders, but also those of employees and the communities in which companies operate. This Japanese standpoint is a reflection of a group-oriented society, in which the providers of capital (the shareholders) are not seen as more important than other stakeholders.

For most of the post-war period in Japan, investors had little complaint on governance matters. Although shareholder interests were not, necessarily, regarded as paramount by Japanese company boards, the combination of rising corporate profitability and buoyant stockmarkets meant that high returns were generated by both domestic and overseas investors.

Since the bursting of the Japanese "Bubble Economy" in the early 1990's, however, there has been a decade and a half of stagnant corporate profitability, and the stock market has under-performed by international standards. These factors have given ammunition to overseas investors to press for better governance standards in Japanese corporations, there being clear evidence that company boards have not been delivering "shareholder value".

Foreign investment groups, such as Hermes and F. & C., have been in the vanguard of this movement, and their pressure has led to official measures being introduced to improve corporate governance in Japan. Thus, recommendations on voluntary changes have been issued by the Japanese Corporate Governance Committee, and revisions made to the Japanese Commercial Code, designed to make company boards more clearly answerable to their shareholders.

Japanese companies have, however resisted these pressures. It has been difficult for corporate boards in Japan to deny that they have produced inadequate returns to shareholders in the period since the late 1980s. Rather, their implicit response has been to point to the wider concept of corporate governance in Japan as encompassing stakeholder interests beyond just those of shareholders.

This ingrained attitude, while not acceptable to Western investors, would help to explain why so few Japanese corporations have adopted the Governance Committee's recommendations. The position held by Japanese companies such as JR East, and as expounded by academics such as

Professors Miyajima and Yoshimori remains, thus, that corporations should be judged not only by what return is generated for shareholders, but on how well they serve their other stakeholders.

It can, readily, be conceded that corporate governance standards in Japan have been found wanting in recent years—at least from a Western viewpoint. There remains, however, a debate as to whether the Anglo-Saxon perspective of singular shareholder supremacy is the correct basis of measurement of corporate governance standards. Of the two significant questions, therefore, which still exist as unresolved on corporate governance issues in Japan, this is the first. The second, fundamental, question refers to a related area in which research to date has not yet come to any definitive conclusion. That is whether there is sufficient evidence of a correlation of companies' adopting the "Western" perspective on corporate governance, with the subsequent creation of superior corporate performance.

The concluding position of this author is that a verdict that corporate governance standards in Japan are "poor", may be deemed to be over-simplistic. The primary basis for this conclusion is that such critical views on Japanese governance issues depend primarily on a questionable, value judgment that companies' corporate governance systems may be evaluated solely on their impact on shareholders. In addition, there is, as yet, no definitive proof that Western-style governance produces better business results—at least in the Japanese context. Overall, thus, overseas investors should not look to a ready capitulation, by Japanese corporate executives, to the view that good governance is achieved only by adopting the stance of shareholder supremacy.

Endnotes:

1. Christine A. Mallin, *Corporate Governance*, OUP, Oxford, 2nd edition, 2007, p.5, Professor Mallin acknowledging, however, that there will be companies which will regard corporate governance as simply as "…deal(ing) with the ways in which suppliers of finance to corporations assure themselves of getting a return on their investment" ibid., p.5. Chapter 2 (ps 11-20) of Mallin, op.cit., provides a thorough discussion on the "narrow" and "wide" perspectives on corporate governance.
2. Mallin, op.cit., Crane and Matten, op.cit., and Colin Fisher and Alan Lovell, *Business Ethics and Values*, FT Prentice Hall, Harlow, 2nd edition, 2006, have pertinent accounts of the findings of the UK Committees, from Cadbury in 1992 to Higgs in 2003, on corporate governance matters. The Combined Code arising out of the Higgs Review, which provides guidance on UK companies' voluntary acquiescence with "best-practice" principles of corporate governance, is discussed in Mallin, op. cit., pp.22-31. Mallin, op. cit., pp.36-39, also summarises the approach to improving corporate governance in the U.S., as set out in the Sarbanes Oxley Law (2002), with legal sanctions put in place should there be breaches of governance standards.
3. Yoshimori, (2005), p.448 and pp.455-456, argues that a Japanese company's stance on

corporate governance matters will be influenced, not only by its corporate culture, but also by the values of Japanese society as a whole.

4. Particularly pertinent for non Japanese readers of this paper, succinct account of cultural factors as they affect the management of Japanese businesses is contained in Sonia El Kahal, *Business in Asia Pacific*, OUP, Oxford, 2001, Chapters 6 and 7, pp.125-165. For a wider discussion on behavioural factors in Japan which will influence attitudes to corporate governance issues, see Joy Hendry, *Understanding Japanese Society*, Routledge, London, 2nd. (pb) ed., 2003.
5. Occurring across a wide range of sectors of Japanese business, the following "scandals" were cited in interview (Tokyo, 11 January 2006) by Ishii Naoki, Managing Director of Kotsu Tokei Kenkyujo (Institute of Transportation Statistics) – Tokyo Style, Snow Brand, Mitsubishi Motors, Chubu Electric Power, Kanebo, Sogo and Daiei Retailers, Seibu Railway and Livedoor (the latter two companies to be discussed further in this paper).
6. *The Financial Times,* 11 November 2005, p.14, described Seibu's founder, Tsutsumi Yoshiaki, as "... a man (once) as rich as Croesus (but who was) "… now facing a prison sentence… for falsifying share registers."
7. *The Mainichi* daily newspaper reported on 17 January 2006 that Seibu shareholders had voted to remove control of the company from the property group, Kokudo Corporation, and from its previous Chief Executive, Tsusumi Yoshiaki. A new corporation was established, Seibu Holdings Inc., with the U.S. investor group Cerberus holding 29.9% of the equity.
8. Commenting on Carlos Ghosn's appointment as Chief Executive of Renault, BBC News reminded viewers that Ghosn had been successful in saving Renault's Japanese partner, Nissan, from bankruptcy in the late 1990s. "A hatchet man dubbed le cost killer, Mr.Ghosn pushed through a swift and savage turn-around that lifted Nissan back into the black by 2001." News.bbc.co.uk/2/hi/business/4291105.stm. Accessed 19 June 2006.
9. Interviews were conducted on 13 March 2006, in the London offices of Hermes Pensions Management Ltd (with Colin Melvin, Director – Corporate Governance), and F & C Asset Management Ltd. (with Claudia Kruse, Senior Analyst, Governance & Socially Responsible Investment).
10. In the 2005 *Annual Report*, p.11, the JR East President, Otsuka Mutsutake, stated that "JR East has appointed two outside directors who have served as president and chairman of companies outside of the railway transportation industry. Those directors offer the board valuable opinions from the viewpoints of experienced senior executives." However, Otsuka San also comments (also on p.11 of the 2005 *Annual Report*) that he is "…doubtful of the value of accepting outside directors without clarifying the functions that are expected of them." The interpretation of this author is that this Company is complying with the new corporate governance guidelines more out of reluctant acceptance of the current governance environment, rather than out of a belief in the new, Western inspired, system.

11. 32.4% of JR East's shares were held by foreign investors at the time of publication of the company's 2005 *Annual Report*, as cited on p.54.
12. In relation to the acquisition of the company, Money Life, Livedoor management, principally its Chief Executive, Horie Takafumi, is accused of window-dressing its Accounts, and perpetrating an accounting fraud. *The Financial Times*, 19 January 2006, p.24.
13. Miyajima Hideaki (with Haramura Kenji and Inagaki Kenichi), *The Latest Report on Corporate Governance Reform: Progress in Corporate Governance Reforms and the Revitalisation of Japanese Companies*, Ministry of Finance Policy Research Institute, Tokyo, 2003. Also reported in *The Financial Times*, 21 June 2003, p.13, article entitled "US corporate governance not suited to Japan, says Ministry". Yoshimori Masaru, op.cit., ps.447-457.

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Interviews:

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Professors Imashiro, Hasegawa, Yamazaki, and Inoue of Daito Bunka University, Tokyo, 9 January 2006.

Professor Yoshimori (Professor Emeritus of Yokohama National University), Tokyo, 10 January 2006.

Ishii Naoki, Managing Director of Kotsu Tokei Kenkyujo (Institute of Transportation

Statistics), Tokyo, 11 January 2006.

Colin Melvin, Director－Corporate Governance, Hermes Pension Management Ltd., London, 13 March 2006.

Claudia Kruse, Senior Analyst, Governance & Socially Responsible Investment, F & C Asset Management, London, 13 March 2006.