

March 10, 2026

To: Expert Panel on the Revision of the Corporate Governance Code
Financial Services Agency,
Japan

Dear Members of the Expert Panel,

Comments on Proposed Revisions to Japan's Corporate Governance Code (February 26, 2026 Draft)

We write on behalf of the Asian Corporate Governance Association (ACGA) to provide comments on the proposed revisions to Japan's Corporate Governance Code presented at the Expert Panel's second meeting on February 26, 2026. ACGA represents institutional investors with over US\$40 trillion in assets under management who are deeply invested in Japan's capital markets and committed to its long-term success.

We commend the Financial Service Agency's (FSA) efforts to streamline the Code and promote substantive implementation beyond formalistic compliance. The addition of a comprehensive Preamble, emphasis on growth-oriented governance, and focus on capital efficiency align with investor priorities articulated in ACGA's advocacy commentary following our October 2025 Japan delegation¹. We also welcome the importance placed on shareholder dialogue and alignment with the revised Stewardship Code. However, we respectfully submit that certain proposed deletions and dilutions risk undermining investor confidence at a critical juncture in Japan's corporate governance evolution.

Our commentary draws upon international best practices, feedback from investor members and studies including the Ito review series, Tokyo Stock Exchange (TSE) White Paper 2025 and recommendations from the Ministry for Economy, Trade and Industry (METI) on enhancing earning power to give clear rationale and actionable recommendations.

1. Deletion of minority protection principles

The draft proposes removing Principles 1.5 (anti-takeover measures), 1.6 (capital policy that may harm shareholder interests, including MBOs), and substantially modifying 1.7 (related-party transactions) on grounds they "overlap" with laws and listing rules requiring timely disclosure². Specifically, the Secretariat Briefing Pack states that Principle 1.5 overlaps with Securities Listing Regulations timely disclosure requirements for poison pills, Principle 1.5.1 with Financial Instruments and Exchange Act position statement requirements in tender offers, and Principle 1.6 with Securities Listing Regulations for share offerings and MBOs³.

This rationale appears to discount the complementary role of codes and statutory law in OECD jurisdictions. In the UK, the Takeover Code and Corporate Governance Code operate alongside company law to establish behavioural expectations beyond minimum legal compliance. Italy's related-party transaction regulations combine Consob rules with governance code provisions specifically to elevate standards⁴. The OECD Principles of Corporate Governance explicitly recognize that codes "complement legal requirements" by setting expectations for board behaviour and process quality, not merely disclosure obligations⁵.

Further, as detailed below, these issues remain areas of significant investor concern:

Management buyouts and going-private transactions: TSE's ongoing work on future initiatives explicitly discusses protection of minority shareholders in dependent listed companies, acknowledging ongoing market sensitivity⁶. ACGA's February 2026 analysis on the privatisation of Toyota Industries identified gaps in special committee composition, majority-of-minority protections, and synergy disclosure. These process issues should be addressed in Code Principles, rather than being left to disclosure-only approaches⁷.

Related-party transactions: There are many cases where parent-subsidary structures and cross-shareholding networks create conflicts requiring robust independent oversight. The TSE White Paper devotes an entire section to group governance and listed subsidiaries, noting that this remains an area requiring enhanced guidelines⁸. The proposed revision moves related-party procedures from a standalone Principle 1.7 into general board oversight language in Principle 4.3, diluting visibility and comply-or-explain discipline. Academic research documenting material agency problems in Japanese parent-subsidary structures, including cash pooling arrangements that disadvantage minority shareholders (as demonstrated in the cases of Nissan Shatai and Torii Pharmaceutical).⁹

Anti-takeover measures: While the use of poison pill adoption has declined, structural issues persist. Boards may still deploy defensive measures that entrench management while claiming shareholder protection. During the 2025 proxy season in Japan, we saw a similar number of poison pill proposals (25 versus 23 during the 2024 proxy year) as boards considered their potential response to unsolicited takeover situations. These proposals were often positioned as targeted, time-bound mechanisms intended to preserve corporate value and give boards the flexibility to evaluate strategic alternatives. Nonetheless, it is generally observed that most poison pills in Japan are effectively rolling, with companies seeking shareholder approval every three years to renew a poison pill. In 2025, TBS Holdings, parent of Tokyo Broadcasting System and one of Japan's major media conglomerates, continued to adopt a poison pill without first seeking shareholder approval¹⁰. We strongly recommend therefore that the Code should continue to recommend reduced use of poison pills.

OECD data shows that leading jurisdictions strengthen minority protections in codes specifically because law alone proves insufficient:

- United Kingdom: The UK Corporate Governance Code maintains provisions on related-party transactions (Provision 7 and Provision 29) and significant transactions requiring shareholder approval, despite these being covered in the Companies Act and Listing Rules. The FRC explicitly states the Code "complements and builds upon" legal requirements¹¹.
- Netherlands: The Dutch Corporate Governance Code includes detailed provisions on conflicts of interest and related-party transactions (Best Practice Provisions 2.7.3–2.7.5) that go beyond disclosure to specify independent review processes¹².
- South Korea: Following the Korean Air/Hanjin scandals, Korea's Stewardship Code and Corporate Governance Best Practices explicitly address fair pricing and special committee requirements for intra-group transactions and MBOs, operating alongside securities law¹³.

Recommendations:

1.1 We encourage the retention of Principles 1.5, 1.6, and 1.7 with enhanced interpretive guidance. Rather than deletion, these Principles should be updated to reference best practices. This approach would align Japan with OECD best practice while addressing legitimate investor concerns about procedural fairness in control transactions.

1.2 Strengthen Principle 4.3 on Related Party Transactions by recommending detailed public disclosure of process, independence safeguards, and how the transaction serves minority shareholders' interests.

2. Annual Securities Report timing requires clearer language

The revised Principle 1.2 states it is "best" to submit Annual Securities Reports at least three weeks before the AGM, located within Interpretive Guidance rather than the Principle itself¹⁴. While we welcome this upgrade from current practice, the data shows timely disclosure remains far from embedded.

Drawing on FYE March 2025 data (post-ministerial request) provided in the Secretariat Briefing Pack:

- In 2025, 57.7% of listed companies disclosed Annual Securities Reports before AGMs (vs. 1.8% prior year) but of those disclosing early, most provided only 1–2 days' notice (843 companies at 1 day before) and only 44 companies disclosed more than one week in advance.
- For the Prime Market 69.9% disclosed their Annual Securities Report ahead of the AGM but the number for Nikkei 225 constituents was higher at 81.2% (up from 10.5% in previous fiscal year).¹⁵

These figures represent a significant one-year improvement driven by regulatory pressure, not voluntary evolution. In line with the focus on moving from form to substance, the objective should now be to encourage companies to disclose at least three weeks ahead of the AGM, rather than several days before. The risk of backsliding is high if expectations are softened to "best efforts" language.

ACGA has earlier commented on need to change their articles of association to separate record dates from fiscal year-end and thus hold AGMs later as well as concurrent disclosure of the same materials in English for the benefit of internal investors¹⁶. We note the following international best practises in relation to release of materials ahead of AGMs.

- UK Companies Act 2006 & Listing Rules: Require timely distribution of AGM materials, with institutional investors expecting 4–6 weeks in practice.
- EU Shareholder Rights Directive II: Mandates early and standardized distribution of meeting materials to enable effective cross border participation.
- US SEC (Proxy Rules): Proxy statements are sent 20+ days before meetings, ensuring shareholders have adequate analysis time.

Recommendations:

- 2.1 We recommend elevating the three-week benchmark to the Principle itself, not merely Interpretive Guidance. Revised Principle 1.2 should state: "Companies should submit Annual Securities Reports at least three weeks before the general shareholder meeting with all materials available in English to provide shareholders with sufficient time for considered decision-making and constructive dialogue. Companies unable to meet this timeline should explain the specific obstacles and their plans for moving towards this target."
- 2.2 The code should promote moving the AGM dates by amending the voting right record date in the articles of incorporation to make informed voting decisions by giving sufficient time to review the Annual Securities Reports. Ideally the record date for the voting rights should be later than the submission of the Annual Securities Reports as in other countries to narrow the period between the record date and the AGM so voting more accurately reflects the current shareholding base.

3. Accountability mechanisms for cross-shareholding assessments

Principle 1.4 is strengthened by upgrading Supplementary Principles 1.4.1 and 1.4.2 to Principle level, requiring annual assessment of whether cross-shareholdings cover cost of capital and prohibiting coercive behaviour toward cross-shareholders¹⁷. Whilst this amendment is appropriate, TSE White Paper 2025 notes that while TOPIX 100 non-financials have reduced cross-shareholdings significantly since 2015, the decline has stalled, and the ratio to net assets remains material with wide dispersion¹⁸. Investor surveys consistently cite dissatisfaction with boilerplate explanations and lack of issue-level disclosure.

Recommendations:

We recommend adding accountability to Principle 1.4 cross-shareholding assessments. Companies should disclose:

- 3.1 Quantitative reduction targets (e.g., percentage of net assets) and timeline for achieving targets
- 3.2 Specific metrics used in annual cost-of-capital assessments

4. Independent Director effectiveness

TSE data shows remarkable structural progress as 98.8% of Prime Market companies have at least one-third independent directors (up from 12.2% in 2015), 26.2% have majority independent director (up from 1.4% in 2015). Further, 91.3% have nomination committees and 93.1% have compensation committees¹⁹.

However, substantive concerns persist as identified in Secretariat Briefing Pack "Room for improvement in the independence, diversity and skills of independent directors"²⁰. Our own research corroborates these concerns, considering Nidec Corporation as a case study in "form over substance":²¹

- Nidec had 64% independent directors and received praise for board diversity and active discussions.
- Yet the company experienced accounting irregularities across subsidiaries, weak internal controls, founder influence undermining independence, and regulatory penalties.
- Key structural issues included lack of financial and risk expertise among directors despite operating a complex global manufacturing business.
- Director compensation was low, signalling limited expectations for substantive challenge.

ACGA's February 2026 blog on *sodanyaku* (corporate advisor) roles documented that retired executives continue to exert influence without formal accountability, with data showing inverse correlation between number of advisors and ROE/ROA performance in TOPIX 100 companies.²² Skill matrices are improving but lack rigour and director training and development require further reinforcement. Without clear definitions and strategy-linkage, skills matrices risk becoming another compliance checkbox. The UK Corporate Governance Code requires boards to explain in the annual report how the board's composition aligns with the company's strategy and how directors' skills, experience, and knowledge support the strategy (Provision 23).²³ Japan's Code lacks equivalent specificity.

The draft moves Supplementary Principles 4.14.1 and 4.14.2 on director training and knowledge acquisition to higher Principle status, which we support. However, the Interpretive Guidance does not specify minimum content expectations.

Recommendations:

4.1 We recommend enhancing Principle 4.12 (skills and composition) with strategy-linked disclosure and that Interpretive Guidance should specify that companies disclose:

- Definitions of each skill in their board skills matrix and how the collective skills align with company strategy and risk profile. We recommend disclosure of specific expertise in corporate finance, capital markets, and enterprise risk management, particularly for companies with complex operations or significant overseas presence.

4.2 Strengthen Principle 4.14 (training) with content expectations and Boards should ensure that training covers:

- Cost-of-capital concepts, capital allocation frameworks and key performance metrics relevant to the company's business and that companies should disclose the frequency and content of training, not merely state that "training is provided."

4.3 Under Principle 4.11 guidance, we recommend stronger emphasis on the role of the Lead Independent Director, where the wording remains unchanged as "one option" for companies with *kansayaku* boards.

4.4 Board evaluations should be linked to capability enhancement: Principle 4.12.3 on board effectiveness evaluation could be strengthened to require periodic external board evaluations for larger companies with summary results and recommendations to be disclosed. The nomination committee should explain how evaluation findings influence director appointments and reappointments.

4.5 Introduce a one-year term limit on *komon* / *sodanyaku* roles.²⁴

This would align with OECD guidance that "regular board evaluations should be undertaken to evaluate the board's performance, the performance of its committees and of individual board members" and that "the outcome of such evaluations should be discussed in the board report."²⁵

5 Diversity progress is real but insufficient

Upgraded Principle 2.2 requires disclosure of diversity policies, voluntary measurable goals, human resource development, and internal environment development²⁶. This is appropriate given persistent gaps:

- TSE White Paper data shows increasing female director representation, but a "non-trivial number" of Prime-listed companies still have no female directors and Japan trails OECD averages on gender diversity at senior executive levels²⁷.
- Among the 18,088 internal directors, the proportion of women remains at only 3.4%, and while progress has been made in the appointment of female directors, those internally promoted to director have predominantly been male²⁸.
- OECD Corporate Governance Factbook 2025 documents Japan's below-average performance on diversity metrics²⁹.
- Current low levels of foreign directors on Japanese boards hinder the incorporation of international perspectives and limit the ability of Japan's governance reforms to align with global best practice³⁰.

However, diversity provisions remain siloed in Section 2 (stakeholder cooperation) rather than integrated into board responsibilities and effectiveness discussions. In addition, the practice in Japan of holding board meetings on a monthly basis rather than quarterly as in other markets is prohibitive to increasing the ratio of foreign directors, which limits the incorporation of international perspectives and the alignment of Japan's governance reforms with global best practices, as directors with international board experience should provide familiarity with governance standards from other markets.

Recommendations:

5.1 Integrate diversity into board effectiveness provisions: Principle 4.12 (board composition) Interpretive Guidance should explicitly state that diversity considerations—including gender, experience, nationality, age, and career background—are essential to board effectiveness, not merely stakeholder cooperation goals.

5.2 Corporates should be encouraged to run a Programme to develop female talent to senior management and C-suite level to increase insider director representation of women

6 AGM quality and shareholder dialogue: substance beyond process

New Principle 1.3 requires boards to analyse reasons for "considerable number" of votes cast against company proposals and take appropriate actions. This provision is a welcome and pragmatic addition which aligns with stewardship expectations though in its current form the wording is vague and open to subjective interpretation. Whilst recognising the difficulties of imposing a hard limit, we believe that this requirement should apply at a threshold of around 20% of votes against. In addition, the Interpretive Guidance merely suggests boards "could explain" analysis and response measures³¹. In many OECD markets, significant voting opposition triggers mandatory enhanced engagement or consequences:

- **United Kingdom:** Listed companies are expected to consult with shareholders and explain actions when 20% or more vote against a resolution.
- **European Union:** Under the revised Shareholder Rights Directive, companies must explain how they addressed significant shareholder opposition.
- **United States:** While not mandatory, significant say-on-pay opposition typically leads to direct engagement and disclosed responses in subsequent proxy statements.³²

Further, the draft revisions upgrade electronic voting platform requirements for Prime Market companies (at least for institutional investors), which we support. However, Interpretive Guidance merely "encourages" English translation of convocation notices³³. Given that foreign ownership of Japanese equities remains significant and that Japan aspires to be a leading international market, simultaneous or near-simultaneous English disclosure should be an expectation for Prime Market companies, not an aspiration. TSE data shows gaps between Japanese and English release dates remain material³⁴.

Recommendations:

6.1 We recommend strengthening Principle 1.3 with clear expectation for follow-up:

When voting opposition exceeds a defined threshold (e.g., 20–25%), companies should:

- Engage directly with shareholders to understand concerns.
- Explain in the following year's disclosures what analysis was conducted, what concerns were identified, and what actions were taken.
- If no changes were made, explain why the board concluded existing approach remains appropriate.

6.2 We recommend that Principle 3.2 (English language disclosure) should establish that Prime Market companies provide simultaneous or near-simultaneous English translations of key AGM materials and governance disclosures, not merely "to the extent reasonable."

6.3 Principle 1.1 currently states management/directors/*kansayaku* engage "to the extent reasonable". We recommend enhancing shareholder dialogue expectations by specifying in the Interpretive Guidance that:

- Policies for constructive dialogue should include meaningful CEO and senior management participation for material topics.
- Companies should explain how board members (including outside directors) participate in shareholder engagements and receive feedback regarding shareholder's concerns.
- Board evaluations (Principle 4.12.3) should assess whether the board receives adequate information about shareholder views and concerns.

7 Cost-of-Capital governance remains aspirational overall

Principles 4.1 and 4.2 have been strengthened to emphasise capital allocation, business portfolio reviews, and cost-of-capital awareness in line with Ito Review recommendations. This is positive. However, the Interpretive Guidance lacks specificity on what constitutes adequate disclosure and analysis.

METI's 2014 Ito Review established clear benchmarks for ROE target to exceed 90% of global investors' cost-of-capital expectations: 8%. The core Principle was "Management of Japanese companies must deepen their understanding that a company capable of generating long-term returns above its cost of capital is regarded as a value-creating company"³⁵. Yet TSE data and investor surveys reveal persistent gaps:

Secretariat Briefing Pack Data (Material 2):

- Japanese companies' cash and deposits as percentage of total assets: 16.5% (2024), vs. US 8.5% and Europe 9.0%. Capital investment to sales ratio (Japan): flat at ~5.7% (2013–2024), vs. rising trends in US and Europe. In research and development (R&D) expenses to sales Japan also lags US and Europe.

Company-investor perception gaps:

- 82.4% of investors view corporate cash reserves as "too high," vs. only 29.7% of companies; 64% of companies emphasise capital investment in plants and equipment, while only 31.4% of investors prioritize this; 62.8% of investors emphasise investment in human resources, vs. only 46.2% of companies

This data confirms that despite numeric improvements in ROE targets (e.g., Kyoto Financial Group raising ROE target from 3% to 5%), many companies lack serious cost-of-capital discipline or understanding of capital opportunity costs.

Recommendations:

7.1 The Code should require companies to disclose their optimal cash level (e.g., in months of annual revenues, as disclosed by Canon and Toyota) with a clear economic rationale justifying cash holdings as reasonable and non-hoarding, thereby fostering disciplined deployment and bridging critical perception gaps.

7.2 We would recommend enhancing Principle 4.1 capital allocation expectations and require companies to disclose:

- Their estimated cost of capital and methodology
- How business portfolio reviews incorporate cost-of-capital benchmarks
- Quantitative targets for underperforming business lines and timelines for improvement or divestment

This would operationalize the Ito Review's "earning power" concept and OECD guidance on strategic oversight.

Summary comments

As the draft Code's Preamble states, the streamlined draft Code aims at substance, not burden reduction, and provisions moved to Interpretive Guidance or deleted should not be understood as having "lost importance". We urge the Panel to ensure the final revisions align with this principle by retaining and strengthening provisions that address documented gaps between Japanese practice and investor expectations.

Japan's corporate governance reform journey since 2015 has been impressive. Maintaining momentum requires a Code that provides clear expectations on the issues that matter most to sustainable value creation: fair treatment of minority shareholders, disciplined capital allocation, capable board oversight, and genuine stakeholder engagement. We appreciate the efforts to update the Code and welcome the opportunity to discuss these comments in further detail to support the Panel's important work. Thank you for allowing us to provide this response to the draft Code.

Yours sincerely,

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¹ Asian Corporate Governance Association (ACGA), *Post-Japan Delegation Advocacy Commentary: Investor Priorities for Advancing Corporate Governance Reform in Japan* (December 2025), <https://www.acga-asia.org/advocacy-detail.php?id=529&sk=&sa=>

² Financial Services Agency (FSA), *Draft Revisions to Corporate Governance Code (with Track Changes)*, Material 23-1, 2nd Meeting of Expert Panel (February 26, 2026), pp. 15-17.

³ FSA, Secretariat Briefing Pack, Material 1, 2nd Meeting of Expert Panel (February 26, 2026), p. 13.

⁴ OECD, *Corporate Governance Factbook 2025 (2025)*, country chapters on UK and Italy.

⁵ OECD, *G20/OECD Principles of Corporate Governance (2023)*, Preamble and Chapter II.

⁶ <https://www.jpex.co.jp/english/equities/follow-up/b5b4pj000004yqcc-att/vk0khi000000ld19.pdf>

⁷ ACGA, *Analysis of Toyota Industries Revised Tender Offer* (February 2026), <https://www.acga-asia.org/blog-detail.php?id=114>

⁸ TSE White Paper 2025, Section 5-2.

⁹ Nissan Shatai, a listed subsidiary of Nissan Motor producing automotive components, and Torii Pharmaceuticals, historically a subsidiary of Japan Tobacco. In Nissan Shatai's case, the parent extracted excess liquidity via upstream loans at below-market rates, starving the subsidiary of growth capital while benefiting Nissan's balance sheet. Torii similarly funneled subsidiary cash reserves into group-wide pooling that prioritized parent dividends over standalone investments, eroding minority value as documented in CFA Institute research *CFA Institute, Inter-Corporate Network Dealings and Minority Shareholder Protection in Japan* (research paper), case studies on Nissan Shatai and Torii Pharmaceutical.

¹⁰ https://corporate.vanguard.com/content/dam/corp/advocate/investment-stewardship/pdf/policies-and-reports/2025_japan_regional_brief.pdf

¹¹ UK Financial Reporting Council, *The UK Corporate Governance Code (2024)*, Provision 7 addresses conflict of interest and Provision 29 internal risk assessment and Introduction. https://www.hwa.uk.com/site/wp-content/uploads/2024/09/UK_Corporate_Governance_Code_2024.pdf

¹² Netherlands Corporate Governance Code Monitoring Committee, *Dutch Corporate Governance Code (2022)*, Principles 2.7.3–2.7.5. <https://www.mccg.nl/site/binaries/site-content/collections/documents/2025/10/29/dutch-corporate-governance-code-2025/84444-mcgc-dutch-corporate-governance-code-eng-tgua.pdf>

¹³ Korea Corporate Governance Service, *Korea Corporate Governance Code (2021)*; *Korea Stewardship Code (revised 2022)*.

¹⁴ FSA, *Draft Revisions to Corporate Governance Code (Clean Version)*, Material 23-2 (February 26, 2026), Principle 1.2 Interpretive Guidance, p. 10.

¹⁵ FSA, Secretariat Briefing Pack – Data, Material 22 (February 26, 2026), p. 6.

¹⁶ <https://www.acga-asia.org/advocacy-detail.php?id=518&sk=&sa=>

¹⁷ FSA Clean Version Draft, Principle 1.4, p. 11-12.

¹⁸ TSE White Paper 2025, Chart 106/107, Section 2 on cross-shareholdings

¹⁹ FSA Secretariat Briefing Pack – Data, p. 2 (chart data on independent director ratios and committee formation 2015-2025).

²⁰ FSA Secretariat Briefing Pack, p. 4 (summary of opinions on independent director expertise and effectiveness).

²¹ "Japanese Corporate Governance: When Form Outweighs Substance – Lessons from Nidec Corporation," ACGA Blog (January 2026) <https://www.acga-asia.org/blog-detail.php?id=112&sk=&sa=>,

²² "Japan's Corporate Advisors: Enduring Influence, Absent Accountability," ACGA Blog (February 17, 2026), <https://www.acga-asia.org/blog-detail.php?id=111> (data on sodanyaku/komon advisor roles and correlation with ROE/ROA).

²³ UK Corporate Governance Code, Provision 23.

²⁴ Komon (顧問) and sōdanyaku (相談役) are honorary advisory roles in Japanese companies, typically held by retired senior executives like former presidents, offering informal guidance without formal authority or accountability. These positions enable continued influence over management decisions, often criticized for undermining board independence and governance reforms

²⁵ OECD Principles, Principle VI.E.

²⁶ FSA Clean Version Draft, Principle 2.2, p. 14.

²⁷ Chart 84 and Chart 89 in TSE White paper 2025

²⁸ Page 119, TSE White paper 2025

²⁹ OECD Corporate Governance Factbook 2025, Japan country chapter.

³⁰ FSA Secretariat Briefing Pack – Data, p. 11 (Ratio of foreign directors).

³¹ Id. at Interpretive Guidance for Principle 1.3.

³² UK practice on 20% voting opposition; EU Shareholder Rights Directive 2017/828; US say-on-pay engagement practices.

³³ Id. at Interpretive Guidance for Principle 1.2.

³⁴ TSE White Paper 2025, Chart 117/118, data on English disclosure timing gaps.

³⁵ Ministry of Economy, Trade and Industry (METI), Ito Review of Competitiveness and Incentives for Sustainable Growth (August 2014), Section 3.3 on minimum ROE and cost of capital, p. 8.