

# Related Party Transactions: Board and Shareholder Approvals

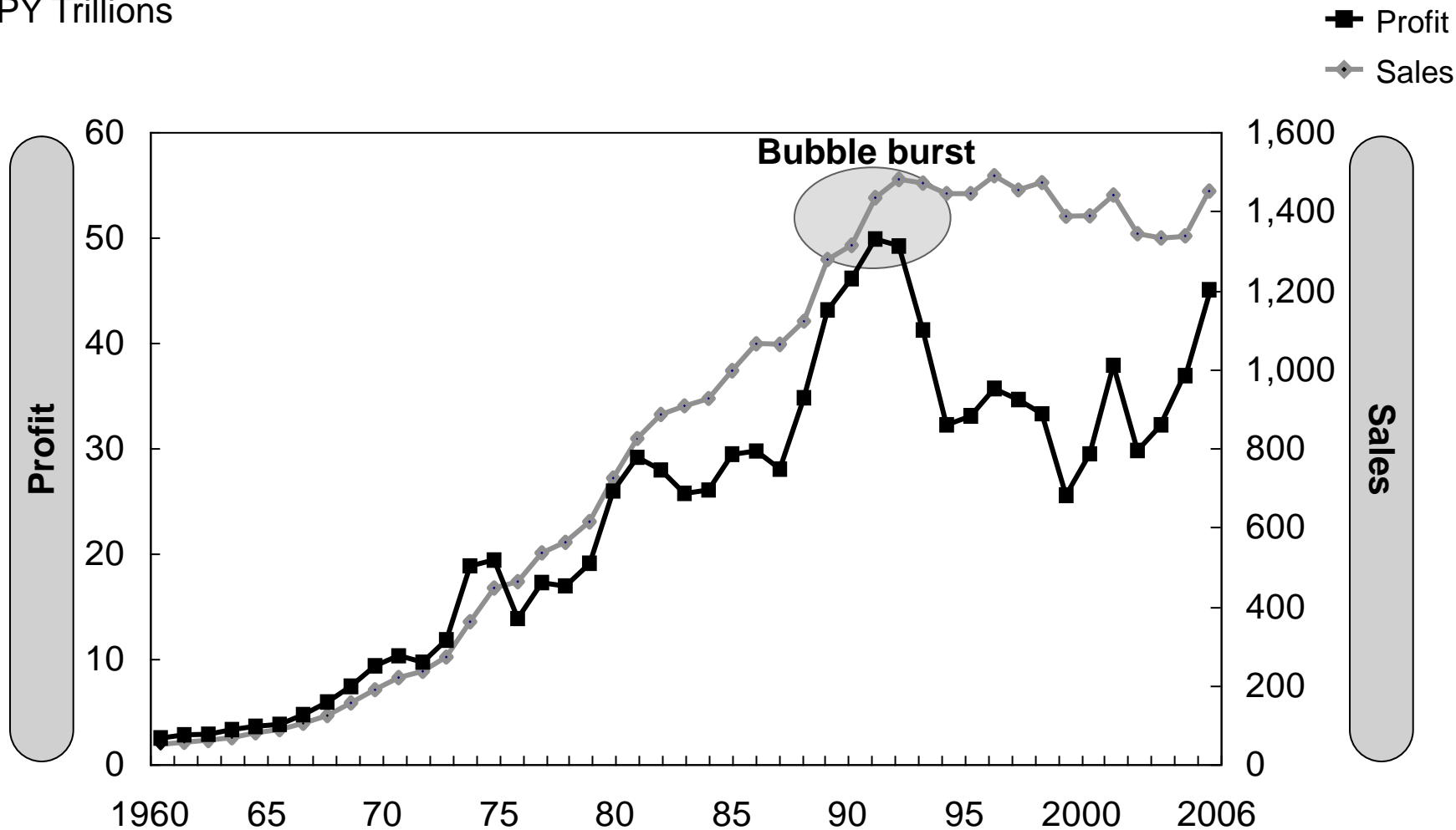
Japan case

Yuko Kawamoto

May 12, 2008

# FOLLOWING THE SECOND WORLD WAR, JAPAN'S ECONOMY GREW DRAMATICALLY THROUGH 1990, AND HAS RECENTLY RECOVERED FROM A DECADE-LONG RECESSION

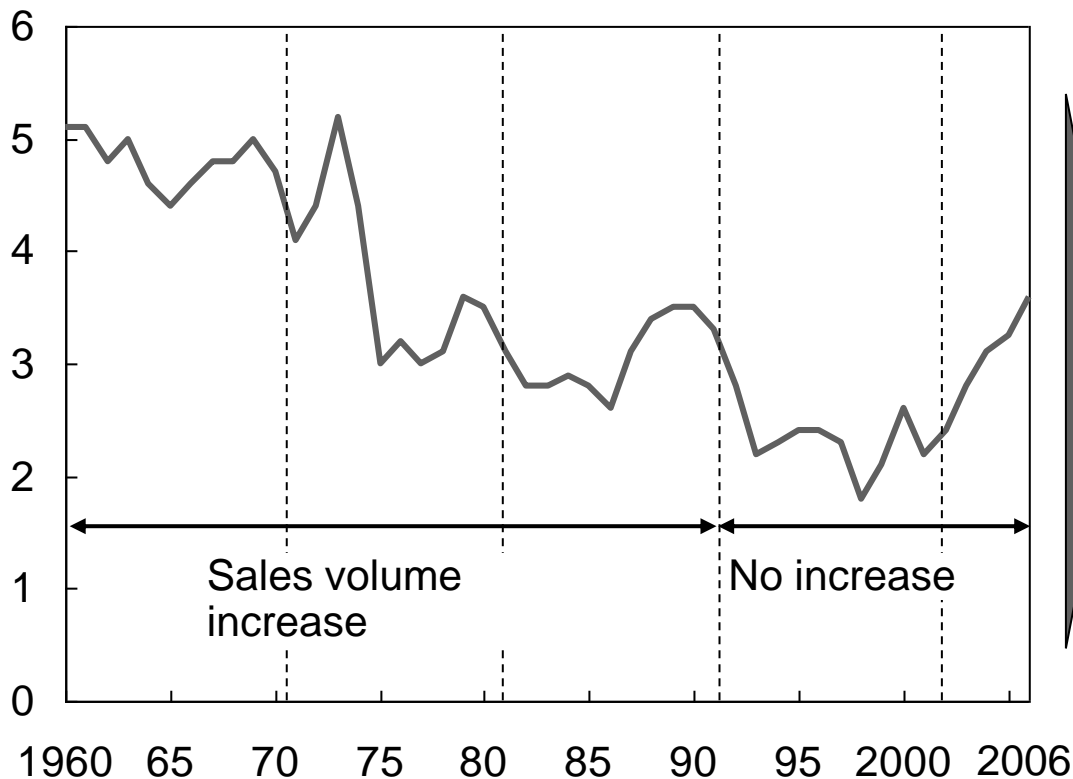
JPY Trillions



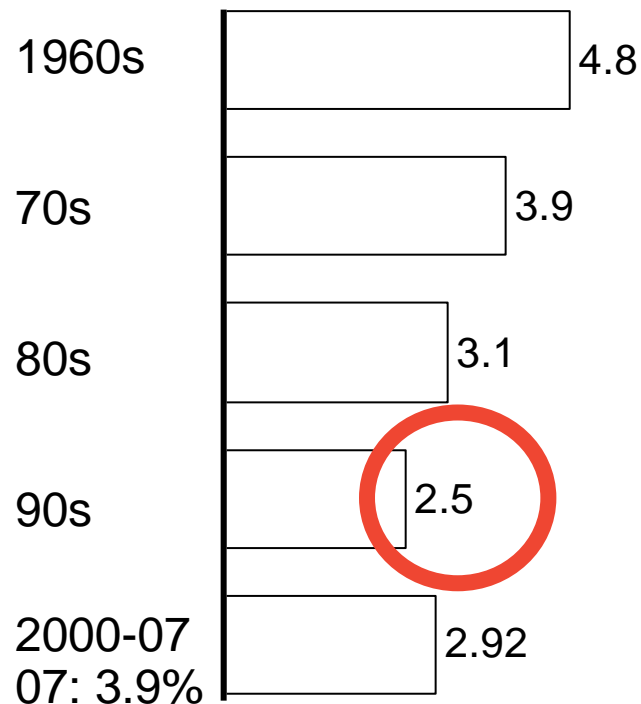
# DETERIORATING PERFORMANCE HAS BECOME A KEY DRIVER IN TRANSFORMING CEO MINDSETS TOWARD CORPORATE GOVERNANCE

Percent

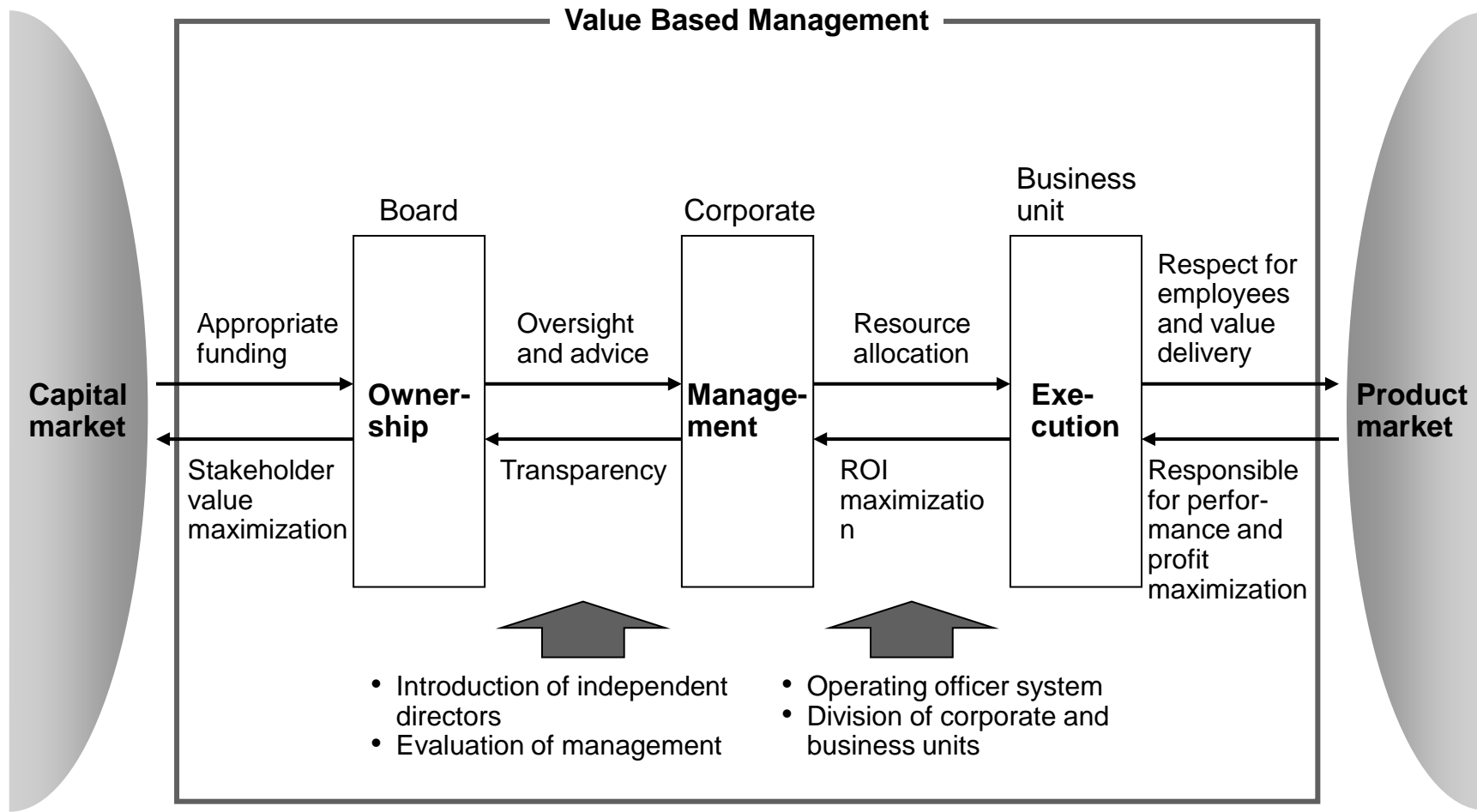
## Profit/sales



## Average profit margin



# NEW PARADIGM: OWNERSHIP, MANAGEMENT, AND EXECUTION ARE UNDERGOING FUNCTIONAL AND PSYCHOLOGICAL DIVISIONS



# CORPORATE GOVERNANCE IS BEING ADAPTED , BUT FACING MANY CHALLENGES WITH THE JAPANESE CORPORATE CONTEXT

## Corporate governance challenges

### Traditional system

Strong *keiretsu* (company group) and main bank systems

Mutual shareholding

Seniority-based lifetime employment

Board membership as final objective of lifetime employment

Boards of over 50 members

Auditors in charge of monitoring & controlling function

### Common perspectives

CEOs believe independent directors lack company-specific knowledge and are, therefore, useless

Independent directors are not “independent,” as mutual shareholding is still commonplace

Independent directors are often referred to as “outside” directors

Homogeneity and affinity in companies is quite strong, and diversity is rarely considered

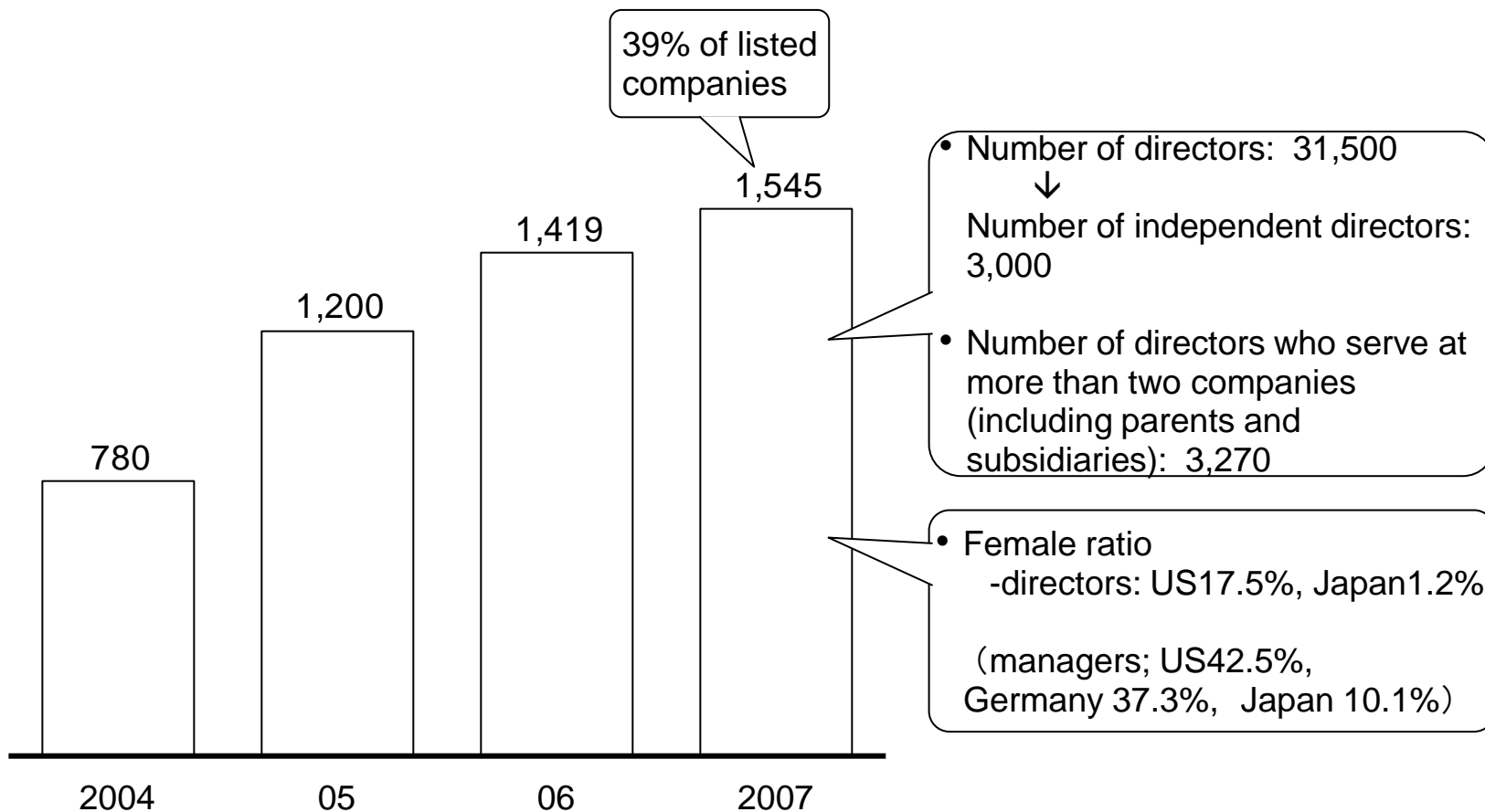
The most important owners of a company are often thought to be the employees, not the shareholders

The “old boys club” continues to be influential

The CEO appoints auditors who are junior to him

# BY NOW, MANY COMPANIES ARE INTRODUCING INDEPENDENT DIRECTORS, BUT PARENT-SUBSIDIARY RELATIONSHIPS AND MUTUAL SHARE-HOLDINGS ARE A BOTTLENECK, AND THE IMPORTANCE OF DIVERSITY ON BOARDS IS NOT RECOGNIZED YET

## Number of companies to introduce independent directors



# RECENT DISCUSSIONS SEEM TO CENTER ON DEVELOPING A DECISION-MAKING SYSTEM FOR BOARDS THAT FUNCTIONS PROPERLY . . .

## Recent benchmark of highly functional board

### **Independence**

- Only CEO (or CEO/COO) can become an operating officer, and the board has more than two independent directors

### **Information**

- Directors receive meeting materials well before the meeting
- Meeting materials are informative
- Sufficient time is allocated for discussing all agenda items

### **Authority**

- Directors can postpone decisions on topics which cannot be discussed thoroughly at one meeting

### **Resources**

- Directors (especially independent directors) are directly involved in their companies for a substantial amount of time