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# Private Equity 2024

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## **Japan: Trends and Developments**

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## Trends and Developments

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## Investment Deal Trends

The private equity market in Japan continued to be very active in 2023. While there is no official data on the number or type of transactions conducted by private equity firms, it is reported that a historically high number of private equity deals occurred in 2023. Since around 2015, the increase in private equity deals has mainly been driven by the expanding need to find successors for small to mid-size business owners. Recently, however, private equity deals are showing more diversity, such as carve-out deals, taking-private deals, including management buyouts (MBOs), and secondary buyout deals. This is strong evidence that private equity firms are now recognised in the Japanese market and are expanding their role in Japan.

Notable deals from 2023 include:

- the acquisition of Proterial, Ltd. (formerly known as Hitachi Metals, Ltd.) by Bain Capital in January 2023 for approximately JPY714 billion (going-private);
- the acquisition of ImpactHD Inc. by Bain Capital in March 2023 for approximately JPY22 billion (going-private);
- the acquisition of Iwasaki Electric Co., Ltd. by Carlyle in March 2023 for approximately JPY22 billion (going-private);
- the acquisition of Nichi-Iko Pharmaceutical Co., Ltd. by J-Will Partners in March 2023 for approximately JPY20 billion;
- the acquisition of Evident Corporation (science-related business of Olympus Corporation) by Bain Capital in April 2023 for over JPY400 billion;
- the acquisition of Toshiba Corporation by Japan Industrial Partners in September 2023 for approximately JPY1.5 trillion (going-private); and

- the acquisition of SI&C Co., Ltd. (formerly known as System Information Co., Ltd.) by Bain Capital in November 2023 for approximately JPY15 billion (going-private).

It is notable that Toshiba Corporation, one of the largest Japanese electrical manufacturers, was acquired by the consortium led by Japan Industrial Partners, a Japanese private equity firm, at over JPY1.5 trillion in order to escape pressures arising from overseas activist shareholders.

## *The secondary market and public-to-private transactions*

While the number of public-to-private (P2P) deals decreased in 2023 compared with the previous year, around 16 P2P deals were closed in 2023. Given the high stock price of Japanese listed companies since 2023, the number of P2P deals might continue to decrease in 2024. However, activist shareholders have been active in the Japanese market recently, and there have been some deals in which private equity funds acquired listed companies having problems with activist shareholders as a kind of “white knight”. The acquisition of Toshiba Corporation, as mentioned above, is a good example of such a deal.

The number of hostile takeover deals has remained at a high level since 2018, and in 2023 only one hostile takeover deal failed. However, hostile takeovers have been publicly acknowledged as one of the legitimate acquisition methods to acquire a listed company in Japan and, given this position as stated in the Guidelines for Corporate Takeovers published by the Ministry of Economy, Trade and Industry (METI) on 31 August 2023 (as discussed below), the number of hostile takeover deals could increase in 2024.

In relation to the secondary market, in which private equity firms often sell their portfolio compa-

nies to each other, it is reported that there were around 13 deals in 2023. Although the number of M&A transactions being conducted by private equity firms in Japan is at an historical high, overall, the secondary market in Japan seems less active compared with the past year in which the number of secondary transactions was the highest for the previous five years.

### *Looking forward from 2023*

While the economy was a little uncertain due to historically weak Japanese yen in 2023, M&A activities in Japan continued to be very active. This trend is expected to continue in 2024.

As the market is accepting unsolicited tender offers with high premiums, the small to mid-size listed companies will continue to be a target for unsolicited tender offers in 2024 and more listed companies may consider going private so that they can focus on the business.

### **Exit Trends**

It is reported that the number of exit deals in 2023 sharply increased compared with 2022, which had the highest number of exit deals in recent years. In particular, there were ten initial public offering (IPO) exits in 2023. Given the high stock price of Japanese listed companies since 2023, it is expected that this exit trend will continue in 2024.

### **Fair M&A Guidelines**

The Fair M&A Guidelines: Enhancing Corporate Value and Securing Shareholders' Interests, issued by METI have influenced M&A practice. In particular, following the publication of these guidelines, a trend has emerged where companies undergoing an M&A transaction establish special committees to examine the proposed transaction and such special committees become more deeply and actively involved at

an earlier stage in MBO transactions in particular. However, not only is it becoming common for such special committees to be established for MBOs and in acquisitions of companies by their controlling shareholders, they are also being used in other public transactions involving squeeze-outs that are not directly covered by the these guidelines.

There were 16 MBO transactions announced in 2023, including the MBO transaction of Taisho Pharmaceutical, which is the largest MBO transaction in Japan in terms of deal value. It is expected that the number of MBO transactions in 2024 will exceed or stay on the same level as 2023. As many M&A transactions are being carried out by company management with the support of private equity (PE) funds as sponsors, the increasing number of MBO transactions may provide investment opportunities for PE funds.

### **Hostile Takeovers and Guidelines for Corporate Takeovers**

Hostile acquisitions were long considered taboo in Japan. However, the number of hostile transactions has risen since 2019, and some have concluded successfully for the acquirer.

Consistent with this trend, the Guidelines for Corporate Takeovers published by METI on 31 August 2023 are playing a role in further increasing the number of hostile and unsolicited M&A transactions. The purpose of these new guidelines is to present principles and best practices that should be used throughout the business world to develop fair rules regarding M&A transactions. The new guidelines encourage more M&A activity targeting listed companies in Japan as they require, among other things, the board of directors of target companies to give sincere consideration to bona fide takeover offers.

Although there have not been any recent transactions where a private equity fund attempted to acquire a target company against the wishes of the target company's management and it would typically be difficult for private equity funds to pursue hostile or unsolicited takeovers due to their investment policies and the need to obtain external financing, the trend of increasing numbers of hostile takeovers has greatly affected investments by private equity funds.

Previously, in response to hostile acquisition bids, some target companies attempted to introduce "poison pill" defence measures, the validity of which was disputed before the courts. The courts tended to support the validity of such defence measures if the shareholders' meeting had approved their implementation. However, given that "poison pills" are not a perfect defence measure, the increasing number of activities by activist shareholders could potentially induce other types of acquisition investments by private equity funds, such as acquisitions as a "white knight".

## Shareholder Activism

The presence of activist shareholders in Japan is growing. They are increasingly making various

demands of the listed companies in which they hold shares (including dialogue with management), and often submit proposals and dramatically express opposition to company proposals at general shareholders' meetings. In particular, activist shareholders tend to target companies with a low price-to-book ratio (PBR).

In the context of M&A, there have been several recent instances where activist shareholders intervened in M&A deals for listed companies by announcing their opinion that the purchase price was too low or by buying up the target company shares themselves, resulting in the share price in the market exceeding the tender offer price and the tender offer being unsuccessful (such cases have also included MBO deals by private equity funds). Therefore, in going-private transactions by listed companies, especially in MBO transactions, it is necessary to fully consider the appropriateness of the price and the possibility of intervention by activist shareholders before proceeding with the transaction.

On the other hand, activists sometimes drove M&A deals by advocating for going-private transactions or divestiture of assets or companies to enhance shareholder value.

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