

# Understanding Recent Trends Regarding the Liability of Managers and Directors in Japanese Corporate Law

*Hideki Kanda* \*

- I. Introduction
- II. Recent Developments
  - 1. Case Law Developments
  - 2. Practice
  - 3. Statutory Change
- III. Evaluation of Recent Developments: Interactions between Enforcement and Substantive Legal Rules
- IV. Preliminary Conclusion

## I. INTRODUCTION

The topic assigned to me in this symposium is “Civil Liability of Management and Shareholder Derivative Suits”. In thinking about the topic, there are three familiar questions:

- (1) how enforcement interacts with substantive legal rules,
- (2) whether transplantation of legal rules from Western countries has been successful, and
- (3) when, how, and why legal rules change.

A companion of these three questions is the well-known inquiry into whether legal rules are converging around the world. In this article, I revisit the first question in connection with the recent developments in this area in Japan.<sup>1</sup> Section II briefly describes recent developments in this area. Section III considers the question of interactions between enforcement and substantive legal rules. In Section IV, I offer my preliminary conclusion. I limit the discussion in this presentation to that of large publicly held corporations.

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\* An earlier version of this contribution was presented at the symposium on corporate governance held at Dôshisha University on November 7, 2003.

<sup>1</sup> As regards the second question, see H. KANDA / C.J. MILHAUPT, Re-examining Legal Transplants: The Director’s Fiduciary Duty in Japanese Corporate Law, in: American Journal of Comparative Law 51 (2003) 887.