



FOR IMMEDIATE RELEASE

New report outlines Japanese directors' duties regarding climate change and the impact of not fulfilling these duties

23 February 2021 – Company directors in Japan could face personal liability if they fail to adequately oversee and manage climate-related risks and opportunities, according to a new report from the Commonwealth Climate and Law Initiative (CCLI), *Directors' Duties Regarding Climate Change in Japan*.

Japanese regulatory bodies, including the Bank of Japan, have widely recognized that climate change is a material issue affecting the sustainability of almost all companies. Last December, Japan's financial watchdog, the Financial Services Agency (FSA), established its Expert Panel on Sustainable Finance to discuss possible issues and policy approach related to the challenges associated with achieving carbon neutrality by 2050. The government has mandated the FSA to push banks and companies to accelerate decarbonization. Corporate directors therefore need to recognize their obligation to address climate-related risks and opportunities.

"We see growing recognition by financial services regulators domestically and globally that climate change poses a material risk to businesses and the financial system," says co-author Dr. Janis Sarra. She adds that "our report will serve as a guide to directors to take action to implement effective governance, risk management, and strategic business plans that will effectively navigate climate change risks and help companies benefit from the many opportunities".

Authored by Dr. Yoshihiro Yamada, Vice Dean of College of Law at the Ritsumeikan University, Dr. Janis Sarra, Professor of law at the University of British Columbia, and Dr. Masafumi Nakahigashi, Vice-President at Nagoya University, the report outlines the three primary duties for directors of Japanese companies: duty of loyalty; duty to be compliant with all laws, regulations, and ordinances, and the company articles; and the duty of care. These duties to the corporation ground the obligation of corporate directors and officers to act in their company's best interests by developing a plan to tackle climate change. The report also highlights how directors and their companies are impacted if they fail to fulfill these obligations.

Directors of listed companies in Japan understand that climate change risks should be dealt with and are actually taking concrete actions. Japanese laws basically support such activities of

directors. In other words, they understand that it is part of the duties of directors to establish a risk management system for climate change and to seize opportunities to develop businesses that respond to climate change. And directors have wide discretion in such actions.

However, the specifics of what should be done are not clarified by law. In addition, directors are required to pursue the common interests of shareholders in the medium to long term, and it is generally not allowed to prioritize the interests of other stakeholders over shareholders. Therefore, the three authors analyze that it is a matter to consider what kind of mechanism should be taken to address the social issue of climate change, even if it goes against the interests of shareholders. "The report sets out the direction that by incorporating climate change issues into the company's articles of incorporation, it will be an obligation of directors to comply with the law and the articles of incorporation," says co-author Dr. Masafumi Nakahigashi.

About the Commonwealth Climate and Law Initiative

The Canadian Climate and Law Initiative is the Canadian partner of the global Commonwealth Climate and Law Initiative, a research, education, and outreach project which was founded to focus on four Commonwealth countries: Australia, Canada, South Africa, and the United Kingdom, but is now expanding its remit to the United States, and to several Asian jurisdictions, including Hong Kong, India, and Singapore. Our founding partners are the University of Oxford, the Prince's Accounting for Sustainability project and ClientEarth and we leverage cross-disciplinary perspectives from our global experts in academia and the legal, accountancy, business and scientific communities. We help to make visible the material risks of future climate liabilities on directors and trustees and equip these actors with the tools to improve climate change governance practice. This is key to motivating actions today that can reduce climate impacts in the future. Read more [here](#).

About The Applied Social System Institute of Asia

The Applied Social System Institute of Asia has been established as a platform to promote research which cross-cuts five fields mainly from social sciences. It aims to respond to issues that are shared by the international community including Asia by quickly producing research findings that contribute to resolving such issues. It has a research section of the Sustainable development with realization of a carbon-free society. Read more [here](#).

About the Canada Climate Law Initiative

The Canada Climate Law Initiative (CCLI) is a cross-disciplinary research initiative that advances the understanding of climate governance across Canada through research, dialogue and knowledge sharing. CCLI conducts rigorous legal analysis and consults with a national network of 55 Canadian Climate Governance Experts to bring up-to-date governance knowledge

and tools to corporate and pension boards across Canada. CCLI is led by three principal investigators, Dr. Janis Sarra and Dr. Carol Liao from the Peter A. Allard School of Law, University of British Columbia, and Professor Cynthia Williams from the Osgoode Hall Law School, York University. For more information, visit www.cccli.ubc.ca

The Canada Climate Law Initiative acknowledges that the UBC Point Grey campus is situated on the traditional, ancestral, and unceded territory of the xwməθkʷəyəm (Musqueam).

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