

Creating New Corporate Legal Systems for Mature Civil Society  
- Restructuring Legal Systems of Corporation,  
Finance and Capital Market, and Asian Challenges -

## UPDATE

### The UK Financial Reform Seminar

**“Current Development in Financial Reform and Corporate Governance in the UK- the Updates from the UK”  
(2011/1/13)**

Like the financial crisis, the direction of financial system in the US and Europe has a huge impact on people's lives in the world. In that sense, non-Western nations should be qualified to participate in the discussions about the future of rules in this field. Uniquely positioned as a non-Western nation that has conducted a comparative study on the Western system for a long time, Japan has a responsibility to announce its opinion to the international community. With this belief, our Institute has consistently studied on the financial reforms in the UK and in the US. Especially, in 2009, we announced a message from Japan 《The Financial Crisis - Proposing a Japanese Perspective to the West》 focusing on the movement after the financial crisis. We believe we need to understand non-statutory laws such as Gentlemen's Rule, principles, and best practices in Europe and have the sense of awareness concerning the ideal rules in a mature civil society in order to develop the Japanese system. With this interest, we invited Mr. Richard Fleck, who is a partner of Herbert Smith LLP, UK, as a speaker to learn the updated circumstances in the UK.



【Speaker】

Richard Fleck, a partner of Herbert Smith LLP

### 【Commentators】

Kenji Kawamura, Associate Professor of Kanto-Gakuin University

Hiroyuki Bando, Waseda University Law School, Mitsubishi UFJ Trust and Banking

Hiroyuki Watanabe, Professor of Waseda University

### 【Moderators】

Tatsuo Uemura, Professor of Waseda University, Director of Waseda Global COE Institute for Corporation Law and Society

Hiroshi Oda, Professor of London University College

【Organizer】 Waseda GCOE, Waseda Institute for Corporation Law and Society

【Co-organizer】 Herbert Smith LLP

First, Mr. Fleck outlined the initiatives of the regulation on financial institutions in Europe and in the UK after the financial crisis. He stated that the European Commission had introduced a new structure for financial regulation and a number of existing European supervisory bodies would be restructured. The EC is developing a single set of harmonized regulatory rules across the EU to avoid the same crisis. In addition, as for the UK, he said that the Financial Services Authority would be disbanded and its activities transferred to various new bodies. Next, he spoke on developments in corporate governance and financial reporting in the UK and in Europe.

After the commentators respectively made a comment, a panel discussion took place, jointly moderated by Professor Tatsuo Uemura and Professor Hiroshi Oda. In the discussion, the participants exchanged opinions vigorously.



## Symposium & Seminar

### ■Lecture: “Recent Development of Europe Consumer Law” (2010/11/6)

We invited Professor Hans W. Micklitz, European University Institute, Florence, and Professor Norbert Reich, Emeritus, University of Bremen, to speak on the recent discussions and trends concerning consumer laws in Europe. First, Professor Makinori Goto, Waseda University, made opening remarks. Then, Professor Micklitz made a speech on “Collective Relief of Consumers”. Next, Professor Emeritus Norbert Reich made a speech on “Unification of European Consumer Laws and a Draft of Directives on Consumer Rights”. Then, Professor Kunihiro Nakata, Ryukoku University joined the discussions concerning the vision of consumer law in Japan.

### ■“Constitution and Economic Order” Workshop No.11 (2010/11/7)

This workshop was held inviting Professor Masayuki Uchino of Chuo University and full-time Lecturer Yoshiki Takeda of Yamanashi-Gakuin University as speakers.

First, Professor Uchino spoke on “the disabled people’s right to use means of living”. He introduced the arguments related to the issues of the disabled such as Rawls, Sen, Nussbaum and concluded that it was necessary to reconstitute “freedom”, taking into the disabled into consideration. He also introduced the interpretation of Constitutional theories.

Next, Lecturer Yoshiki spoke on “Economic Authority and Judicial Review”. He explained about judicial election and defendant’s bribery to judge during the process of selection, referring to the actual cases. It would be necessary to conduct strict judicial review for economic law making. Then, he stated that the goal must be set to establish the framework of determining concrete criteria for unconstitutionality. Vigorous discussions took place and the workshop successfully ended.

### ■Symposium: Verifying Financial Reforms in the UK and the US – How Should Japan Respond?— (2010/11/15)

This symposium was held to make public the research outcome by the younger researchers who have conducted

comparative research on Obama’s financial reform and the Conservative Party’s financial reform and pursued this issue consistently.

In addition, there were discussions as to how Japan should evaluate these reforms in the UK and the US and whether their reforms have any suggestions to what Japan has to do.

<<Program>>

Opening Remarks:

Tatsuo Uemura, Director of Waseda GCOE, Waseda Institute for Corporation Law and Society, Professor of Waseda University

#### 【Theme and Speakers】

“Financial Reform in the UK – in Comparison with the US Laws”

Kenji Kawamura, Associate Professor of Kanto-Gakuin University

“Dodd-Frank – General Overview and Institutional Reform”  
Hiroyuki Bando, Waseda University Law School, Mitsubishi UFJ Trust Bank)

“Regulation on Derivatives and Funds”

Hiroyuki Watanabe, Professor of Waseda University

“The Reform of Securities Regulations - Securitization, Rating, and Others”

Yasunobu Wakabayashi, Associate Professor of Kokugakuin University

#### 【Commentators】

Kazuhiro Ikee, Professor of Keio University

Etsuro Kuronuma, Professor of Waseda University

Naohiko Matsuo, Attorney at law, Nishimura Asahi,

Visiting Professor of Tokyo University

After the speeches, a panel discussion took place with speakers and commentators under the moderation of Professor Tatsuo Uemura.



■“Asia/Tokyo Bond Market Forum” – Towards the Development of Financial and Capital Markets in Asia and Japan – (2010/11/16)

On April 20, 2010, Waseda GCOE announced the establishment of “Asian Inter-Regional Professional Securities Market (AIR-PSM)” and “Professional Securities Market of Japan (PSM-J)”. Related Ministries supported Waseda’s proposal. Then, on June 18, the strategies including “the establishment of professional bond and the improvement of trading market” and “the establishment of general exchange” in the government’s new growth strategy was officially determined and announced. On the other hand, aiming at fostering bond markets based on local currency and distributing inter-regional private saving to markets, “ASEAN+3 Asia Bond Market Initiative”(ABMI: a framework for ASEAN 10 countries and Japan, China, and Korea) was agreed and established at the ASEAN+3 Financial Ministers Meeting of 2003. With this framework, on September 28, the first meeting of “ASEAN+3 Bond Market Forum (ABMF)” was held in Tokyo, having the inter-regional private and public cooperation (ADB, authorities of inter-retinal countries, and financial/capital market specialists). In the meeting, harmonization and adjustment of trade regulations or market practices were discussed. ABMF’s activities have just started, aiming at the establishment of common criteria and the standardization of practice.

The ABMI/ABMF’s activities as such are consistent with the movements of establishing professional bond market in Japan. Waseda GCOE, Tokyo Stock Exchange Group, and Capital Markets Association for Asia (CMAA) have collaboration and are providing support to the ABMF’s activities. At this forum, the current conditions of these activities were reported and a panel discussion was held on the theme of the importance of new markets in Asia and Japan.



<<Program>>

【Opening Remarks】

Atsushi Saito, President & CEO, Tokyo Stock Exchange Group, Inc.

Tatsuo Uemura, Professor of Waseda University, Director of Waseda Global COE

【Part I: New Listing Market】

“Waseda GCOE’s Proposal of Creating New Markets”

Shigehito Inukai, Professor of Waseda University

“Towards the Establishment of New Markets”

Yutaka Ito, Tokyo Stock Exchange Group (TOKYO AIM Exchange COO)

“The Significance of Creating New Markets”

Hirohiko Suzuki, Director of Barclays Capital Japan

“Legislation for Professional Markets and New Growth Strategy”

Hidenori Mitsui, Director of General Division, Planning Bureau Administration FSA

“Improving Procurement of Fund for Growth”

Ichiro Tsuchimoto, Director, Industrial Finance Division, Economic and Industrial Policy Bureau, METI

【Part II: Activities of ABMI/ABMF】

Keynote Speech 1: The Significance of ABMI and ABMF

Kazushi IWAI, Director for Promotion of Regional Financial Cooperation, International Bureau, MOF

Keynote Speech 2: “Activities of ABMF”

Satoru Yamadera, Economist, OREI, Asian Development Bank (participated via Video Conference from Manila)

Keynote Speech 3: Korean Response to ABMF

Hyun, Suk, PhD Research Fellow, Korea Capital Market Institute/ Visiting Fellow, Waseda University

〔Panel Discussion〕

Moderator’s Supplementary Comment:

Inukai Shigehito, Waseda University (ADB Consultant)

ABMF Sub Forum 1

Chairpersons:

Yutaka Ito, Tokyo Stock Exchange Group (TOKYO AIM Exchange COO)

Ryuichi Shiina, Japan Securities Dealers Association, General Manager, International Affairs Div.

【Part III: Panel Discussion- the Importance of New Markets in Asia and Japan】

Syuji Yanase, Attorney at law, Nagashima, Ohno & Tsunematsu

Yutaka Ito, Tokyo Stock Exchange Group (TOKYO AIM Exchange COO)

Hirohiko Suzuki, Director of Barclays Capital Japan

Masanori Higashi, Managing Director, Capital Market Division, Nomura Securities Co., Ltd.

Satoshi Yoshida, General Manager, Global Markets Administration Dept. Daiwa Capital Markets Co., Ltd.

Tsuyoshi Ando, Deputy Managing Director, Global Research, Mizuho Securities Co., Ltd.

Hiroyuki Bando, Waseda University Law School, Mitsubishi UFJ Trust and Banking

Keisuke Yabuta, Manager, Finance Division, Hitachi, Ltd.

Nobusuke Tamaki Councilor, Director-General, Planning Dept., Government Pension Investment Fund

Hyun, Suk, PhD Research Fellow, Korea Capital Market Institute/ Visiting Fellow, Waseda University

Shigehito Inukai, Professor of Waseda University

**[Moderator]**

Shigehito Inukai, Professor of Waseda University

**[Co-organizers]**

Waseda Global COE, Waseda Institute for Corporation Law and Society

Tokyo Stock Exchange Group

Capital Markets Association for Asia (CMAA)

**■“Critiques of Basic Juristic Concepts” Workshop**

**(2010/11/25)**

This workshop was held to examine the role of law in creation of civil society in the transition countries such as Eastern Europe and consider in principle the ideal relations between law and civil society and its possibility. As a speaker, Prof. Dr. Herbert Küpper at Institut für Ostrecht was invited and delivered a speech on “The Role of Law in Establishing Civil Society in the Transition Countries”.

**[Commentator]** Hiroyuki Shirafuji, Professor of Sensyu University

First, Professor Küpper outlined the meaning and reality of the civil society and then, discussed what the transition



country is and what the regulatory framework necessary for the civil society. Various issues that laws must mention concerning the civil society include: 1) various shapes of organizing voluntary

associations, 2) various activity fields in the civil society, 3) legal protection for various organizations in the civil society, and 4) various general issues concerning legal culture. He talked about the law which is a precondition for the civil society.

**■Special Seminar No.6**

**“Extraterritorial Application of Antimonopoly Law”**

**(2010/12/4)**

“Economic Law and International Economic Law Research” Group have focused on extraterritorial application. The group published the outcome in the interim report “Extraterritorial Application of Antimonopoly Law – Application of Antimonopoly Law in the Age of Globalization”. This time we invited Professor Masahiro Murakami, Graduate School of International Corporate Strategy, Hitotsubashi University, as a speaker to have a speech on “Extraterritorial Application of Antimonopoly Law”. He first overviewed the international moves since 1980’s and then, explained about the current bilateral agreement. He mentioned concrete cases of extraterritorial application of antimonopoly law. In the following QA session, vigorous discussions took place, having questionnaires from the participants.

**■Open Symposium: Audit Skepticism and Circular Transaction – Financial Statement Audit and Internal Control-**

**(2010/12/17)**

Fraud financial statements by listed companies relating to circular transaction have been frequently reported since around 2004. It always takes time to find out circular circulation. Therefore, it seems that repeated circular transactions have a lot of influence on financial statements, resulting in the failure of audit. Fraud financial reports relating to circular transaction (improper financial report) are all linked to an auditee company involved by a major auditing company in Japan. Those are not limited to some auditing companies or certified public accountants. There must be problems in governance itself if the circular transaction was directed by top management. If it was not, probably the circular transaction would be heavily related to the issue of effectiveness of internal control (effectiveness of internal audit).

In this symposium, as to these issues, first, Professor

Yoshihide Toba, Waseda University School of Commerce, explained about an overview of audit skepticism especially focusing on the relations with audit rules. Then, concerning circular transaction that requires professional skepticism, Mr. Toshifumi Takaoka (CPA, Executive Partner of KPMG FAS) spoke on the forms and signs of circular transaction which are often mentioned in practice. Next, based on his experience at Securities and Exchange Surveillance Commission (SESC), Mr. Katsuya Ichikawa (CPA, Ernst & Young ShinNihon LLC) explained about the issues of circular transaction relating to financial statement audit. Last, Mr. Kazuyuki Oomori (CPA, Partner of KPMG Azusa LLC) approached the issue from the perspective of quality control of audit.



#### ■“Constitution and Economic Order” Workshop No.12 (2011/1/9)

This workshop invited Professor Hidemi Suzuki of Osaka University and full-time lecturer Keigo Oobayashi of Teikyo University as speakers.

First, Professor Suzuki spoke on “Freedom of Broadcasting under the New Broadcast Act”. He gave an overview of “the bill for partial amendments to the Broadcasting Act, etc.” which was enacted in November 2010 and introduced the problems. The relations between the Broadcasting Act and economic order were also mentioned. A vigorous discussion took place.

Next, full-time lecturer Oobayashi spoke on “Risk Report and Damage to Credit- Constitutional Issues Concerning Safety of Food”. Referring to the examples such as the case of daikon sprouts, he outlined the efforts to achieve safety of food and the government’s activities of providing information and discussed the direction of legal control and legal responsibility.

#### ■ Social Law Workshop: Developments and Challenges of Poverty Law in the US

(2011/1/14)

【Speaker】 Lucy Williams, Professor of Northeastern University

【Theme】 Developments and Challenges in Poverty Law in the US

【Interpreter】 Fusako Seki, Associate Professor of Yokohama National University

What should the social law do in order to overcome accelerating poverty in Japan since Lehman shock? For this issue, we invited Professor Lucy Williams, Northeastern University, as a speaker to provide the cases of the US and the most updated information of legal policies.

#### ■Social Law Workshop: The Functional Failure of the US Labor Law and the Prospect of Reform

(2011/1/14)

The world depression triggered by Lehman shock caused the expansion of poverty in the countries of the world under the strong effect of the US, resulting in the unchanged poverty in those countries. Concerning the functional failure of labor law that have been seen in the US since then, we invited Professor Karl Klare, Northeastern University, who believes in the necessity of a new “New Deal Program” for labor as a speaker to have discussions on the ideal theory labor law in Japan. In the report, Professor Klare emphasized on the current conditions of weakening union activities in the world and the reason for that, and warned that this weakening had caused the decrease of labor conditions over the world.

【Speaker】

Karl Klare, Professor of Northeastern University

【Interpreter】 Chie Matsumoto (Freelance journalist)

■ **International Symposium: “Laborer’s Poverty and Roles of Social Law - Cross-section of Labor Law and Social Security Law”**

(2011/1/15)

**[Speaker]**

Karl Klare, Professor of Northeastern University  
 Lucy Williams, Professor of Northeastern University  
 Hirokuni Tabata, Professor Emeritus of University of Tokyo  
 Yoshimi Kikuchi, Professor of Waseda University  
 Makoto Ishida, Professor of Waseda University



Economic crisis since Lehman shock has caused the increase of jobless laborer in the US and Japan and also worsened the situation of many laborers under the unstable employment conditions such as non-regular workers, resulting in the expansion of poverty. This symposium was held to examine the role of society law to solve the situation in the US and Japan where the expansion of poverty of laborers from the perspectives of labor law and poverty law.

The symposium examined what impact the financial crisis triggered by Lehman shock gave to the labor conditions in the US and Japan and resulted in the expansion of poverty, and what problems were suggested to the labor legislation and social security legislation of each country by the situation as such. In addition, the role of society law was discussed from a broader standpoint.



Individual Report

- (1) Unstable Employment, Single Mother and “Social Contract”  
 Lucy Williams, Professor of Northeastern University
- (2) Unstable Employment – Labor Law and Poverty Law -  
 Karl Klare, Professor of Northeastern University
- (3) Why was the Working Poor Born? – Social Law of Employment and Poverty  
 Hirokuni Tabata, Professor Emeritus of University of Tokyo

Next, Professor Kikuchi, from the perspective of social security law, Professor Ishida, from the perspective of labor law, made comments. Many of renowned Japanese researchers of social securities law and government officials participated and vigorously discussed.

■ **Korean Bond Market Seminar**

**[Japan-Korea AMB(ASEAN+3 Bond Market Forum) the 2<sup>nd</sup> Meeting]**

(2011/1/17)

Aiming at fostering bond markets based on local currency and distributing inter-regional private saving to markets, “ASEAN+3 Asia Bond Market Initiative”(ABMI: a framework for ASEAN 10 countries and Japan, China, and Korea) was agreed and established at the ASEAN+3 Financial Ministers Meeting of 2003. With this framework, on September 28, the first meeting of “ASEAN+3 Bond Market Forum (ABMF)” was held in Tokyo, having the inter-regional private and public cooperation (ADB, authorities of inter-retinal countries, and financial/capital market specialists). In the meeting, harmonization and adjustment of trade regulations or market practices were discussed. ABMF’s activities have just started, aiming at the establishment of common criteria and the standardization of practice.

The ABMI/ABMF’s activities as such are consistent with the movements of establishing professional bond market in Japan. Waseda GCOE, Tokyo Stock Exchange Group, and Capital Markets Association for Asia (CMAA) have collaboration and are providing support to the ABMF’s activities. This seminar invited the related parties of Korean market to have a report on the current conditions and challenges of Korean bond market. Beneficial opinion exchange took place concerning the ideal bond market in Asia including Japan and Korea.

**【Speakers and Theme】****◆ Korean Bond Marke (I)**

SeiWoon Hwang (Research Fellow, KCMI)

“Korean Bond Market Outlook for 2011”

PiIKyu Kim (Research Fellow, KCMI)

“ABS Market in Korea”

Heejin Noh (Research Fellow, KCMI)

“Vitalizing High-yield Bond Market in Korea”

Hyun Suk (Research Fellow, KCMI)

“Asian Common Offshore Bond Market and Monetary Stability Issues”

**◆ Korean Bond Market (II)**

SungHwan Yoon (Korea Financial Investment Association)

“Free Bond Market by KOFIA”

YunSaeng Kim (Korea Exchange)

“Government Bond Market and KRX”

JongHyung Lee (KSD)

“Securities Settlement in Korea”

**◆ Japanese Bond Market -- Recent Development and Comments**

Yutaka Ito (Tokyo Stock Exchange Group, TOKYO AIM Exchange COO Senior Officer, Corporate Strategy Department &amp; Listing Department, Tokyo Stock Exchange)

“TOKYO PRO-BOND Market”

Ryuichi Shiina, Japan Securities Dealers Association, General Manager, International Affairs Div.

“Vitalizing Japanese Corporate Bond Market”

Shigehito Inukai (Professor of Law, Waseda University, ADB Consultant)

“Asian Inter-regional Bond Market”

**【Organizer】**

Waseda Global COE, Waseda Institute for Corporation Law and Society

Tokyo Stock Exchange Group

**【Co-organizer】 ABMF-J/ABMF-K****■ A Lecture by Professor Stephen A. Zeff (Rice University) (2011/1/20)****【Speaker】**

Stephen A. Zeff, Herbert S. Autrey Professor of Accounting, Jesse H. Jones Graduate School of Business, Rice University

**【Theme】** The Evolution of the IASC into the IASB, and the Challenges It Faces

Professor Zeff is one of excellent scholars of accounting in the US, who have given the most profound academic insights to the accounting field. He has consistently studied on accounting rules in the field of the establishment and historical development of accounting principles (accounting standards) in the US, the establishment of accounting standards in various countries, and the establishment of international accounting standards.

In this lecture, he gave an explanation about the evolution of the International Accounting Standards Committee, IASC to the International Accounting Standards Board, IASB, in chronological order, with the focus on the moves of the IASC (1973–2000) and the circumstances in each country. He overviewed the conditions of establishing the IASB in and the transition from the ISAC, and also the following issues. Many participants including practitioners listened earnestly to the lecture.

**【Organizer】**

Waseda Global COE, Waseda Institute for Corporation Law and Society

**【Co-organizers】**

Graduate School of Commerce, Waseda University

Graduate School of Accountancy, Waseda University

Research Institute of Business Administration, Waseda University

Waseda Accounting Institute



**■ Symposium on Intellectual Property and Private International Law: The Principles of Private International Law on Intellectual Property Right – Focusing on the Japan-Korea Joint Proposal—**  
(2011/1/29-30)

International Law and Private International Law Group completed the outcome of research for these several years as “the principles of private international law on intellectual property right” at the workshop in Seoul University in September 2010. This aims at proposing minimum common principles on intellectual property in Eastern Asia as a model law principle through joint research of some members of private international association in Japan and Korea while using the draft of “Conflict of Laws in Intellectual Property (CLIP)” by Europe Max Planck Group (EMPG) and the ALI’s “Principles Governing Jurisdiction, Choice of Law and Judgments in Transnational Disputes”. Concerning this joint proposal, two researchers at EMPG, two researchers from China, and Korean and Japanese researchers who made this joint proposal were invited to have an open research workshop.

**【Program】**

**January 29, Saturday**

Opening Remarks: Shoichi Kidana, Professor of Waseda University

Part I: Conflict of Laws in Intellectual Property (CLIP) by Europe Max Planck Group (EMPG)

Moderator: Satoshi Watanabe, Professor of Ritsumeikan University

**【Speakers and Theme】**

Dr. Annette Kur, Professor of Max Planck Institute for Intellectual Property and Competition Law, Germany

“The CLIP Principles: Certain Core Aspects”

Dr. Rita Matulionyte, Leibniz University Hannover, Germany

“Law Applicable to Copyright Infringements in the ALI and CLIP Proposals”

Part II: Waseda GCOE Research Group “The Principles of Private International Law on Intellectual Property Right (Japan-Korea Joint Proposal)”

Moderator: Attorney Kong-Woong Choe, President of Korea Private International Law Association

**【Speaker and Theme】**

Keynote Speech: Shoichi Kidana, Professor of Waseda University

Yoshiaki Nomura, Professor of Osaka University

“General Provisions in the Japan-Korea Joint Proposal”

Shunichiro Nakano, Professor of Kobe University

“International Jurisdiction in the Japan-Korea Joint Proposal”

Kwang-Hyun Suk, Professor of Seoul National University

“Applicable Law in the Japan-Korea Joint Proposal”

Lee Gyooho, Professor of Chung-Ang University)

“Recognition and Enforcement of Foreign Judgment in the Japan-Korea Joint Proposal”

**【Discussion】**

Moderator: Yoshiaki Sakurada, Professor of Konan University Law School

**January 30, Sunday**

Part III: “The Principles of Private International Law on Intellectual Property Right (Japan-Korea Joint Proposal)” from the Perspective of Chinese Private International Law and International Civil Procedure Law

Moderator: Shichi Kidana, Professor of Waseda University

**【Speakers and Theme】**

郭玉軍, Professor of the Research Institute of International Law, Wuhan university

“Provisions of Applicable Law in the Japan-Korea Joint Proposal from the Perspective of Chinese New Private International Law”

Li Wang, Professor of Tsinghua University

“The Japan-Korea Joint Proposal from the Perspective of Chinese International Civil Procedure Law”

Closing Remarks: Kong-Woong Choe, President of Korea Private International Law Association

(Simultaneous Interpretation was provided: Japanese, English, Korean, and Chinese)

**Waseda Global COE Program**

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