



LEGAL MEDIA GROUP

LEGAL ERA

BY THE PEOPLE. FOR THE PEOPLE. OF THE PEOPLE

www.legaleraonline.com | June-July 2022 | Vol. XIII | Issue II | Pages 160

Lifetime Achievement Award
DUSHYANT DAVE



Star Senior Counsel of the Decade
MUKUL ROHATGI



Senior Counsel of the Year
GOURAB BANERJI



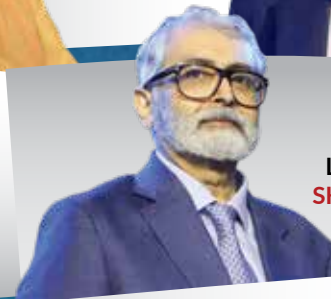
Lifetime Achievement Award
JYOTI SAGAR



Managing Partner of the Year
PALLAVI SHROFF



Insolvency & Restructuring Lawyer of the Year
SHARDUL SHROFF



Corporate & M&A Lawyer of the Year
HAIGREVE KHAITAN



Intellectual Property Lawyer of the Year
PRAVIN ANAND



Disputes Resolution Lawyer of the Year
ANAND DESAI



Litigation Lawyer of the Year
AMEET NAIK



Private Client Lawyer of the Year
RAJESH NARAIN GUPTA



Patent Lawyer of the Year
MANISHA SINGH



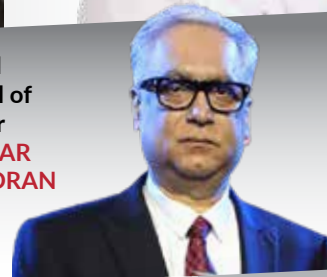
Global General Counsel of the Year
VINEET VIJ



General Counsel of the Year South-East Asia
RAJEEV CHOPRA



General Counsel of the Year
BHASKAR CHANDRAN



General Counsel of the Year
SORMISTHA GHOSH



INDIAN LEGAL AWARDS 2022

CELEBRATING INDIVIDUAL EXCELLENCE AND EXCELLENCE OF EACH OTHER
AT THE 11TH ANNUAL LEGAL ERA AWARDS 2021-2022

Recent Developments And Trends In Diversity & Inclusion In Japan



When D&I training and awareness are insufficient, top-level personnel often fail to recognize their lack of sensitivity to D&I issues





TAEKO SUZUKI
Partner



NATSUKI HOSOYA
Associate Attorney

NISHIMURA&ASAHI

In the 2020 Global Inclusiveness Rankings published by the Othering & Belonging Institute at UC Berkeley¹, Japan is ranked 24th in the world. However, in recent years, there have been several cases in Japan in which members of the top management of companies and organizations have made statements that were inappropriate from the perspective of diversity and inclusion (D&I) and, as a result, both the speaker and his or her company suffered significant damage. For example, last year, the former Chairman of the Tokyo Organizing Committee for the Olympic and Paralympic Games resigned from his position after he made inappropriate remarks about women. His comment that meetings that included female board members would “take a lot of time” received severe domestic and international censure. Similar incidents triggered by senior officers of listed corporations in Japan also have drawn substantial, harsh criticism, and some of the impacted companies’ stock prices have fallen sharply as a result.

These incidents may have many root causes, but insufficient corporate governance from the perspective of D&I ranks high among them. When D&I training and awareness are insufficient, top-level personnel often fail to recognize their lack of sensitivity to D&I issues. Further, appropriate corporate disclosures concerning D&I, and placing companies under the watchful eye of third parties and the public at large, also should be effective to help maintain appropriate corporate governance and attention to vital D&I issues.

This article discusses recent developments and trends in D&I in Japan, mainly from the perspective of corporate governance and disclosure of information related to D&I.

Revision of the Corporate Governance Code

Unlike India, where the Companies Act requires every listed and certain public companies to have at least one woman on the board of directors, Japan currently has no laws or regulations that impose any D&I duties on companies. However, an increasing number of Japanese companies are becoming aware of the importance of D&I, including diversity on the board, to ensure effective corporate governance.

On June 11, 2021, the Tokyo Stock Exchange, Inc., Japan’s largest stock exchange, published a revised Corporate Governance Code (“CGC”). The CGC is a principle-based guideline that outlines key principles for listed companies to achieve effective corporate governance. While the CGC does not impose any obligations on listed companies, the Tokyo Stock Exchange rolled out a major market segment restructuring in April 2022, and the revision of the CGC prior to that restructuring had a significant impact on many listed companies that wanted to stay in the top section of the Tokyo Stock Exchange.

¹ https://belonging.berkeley.edu/sites/default/files/2020_inclusiveness_index.pdf



The CGC emphasizes the importance of ensuring diverse human resources, and also amended or established several principles relating to D&I.

One of the most important points in this revision is designed to ensure diversity in core human resources, and involves: (a) identifying ideas, and voluntary and measurable targets, for ensuring diversity in core human resources, such as the appointment of women, foreign nationals, and mid-career recruiters to managerial positions, and disclosing the status thereof; and (b) disclosing the company's human resource development policy and in-house environmental development policy for ensuring diversity, as well as the status of implementation thereof. This will provide a framework for promoting and nurturing diverse core human resources, which will lead to diversification of directors and management-level personnel in the future, resulting in more effective corporate governance. The revision requires companies to take and disclose effective measures to this end.

In addition, while the previous CGC did encourage listed companies to ensure their boards of directors included persons of diverse genders and nationalities, the revision established additional categories: diversity of careers and ages. In Japan, diversity issues have tended to focus primarily on gender, but this revision has made it clear that effective corporate governance requires ensuring various types of diversity on the board of directors.

The revisions above suggest that, for Japanese companies, D&I is seen not only as a remedy for inequality, but also is being positioned as a way for companies to respond to the changing market environment, improve sustainable growth and corporate value, and strengthen their competitiveness.

Disclosure of Information Relating to D&I

In recent years, ESG investment has expanded in Japan, and the

The revisions above suggest that, for Japanese companies, D&I is seen not only as a remedy for inequality, but also is being positioned as a way for companies to respond to the changing market environment, improve sustainable growth and corporate value, and strengthen their competitiveness

importance of disclosing non-financial information, including D&I information, has increased. Some experts on ESG investment have pointed out that many Japanese companies have not been evaluated properly by institutional investors due to insufficient disclosure of non-financial information, even though the companies actually do take sufficient measures in this regard.

Currently, there are no laws or regulations that require companies to disclose non-financial information in Japan. However, the CGC requires listed companies to make appropriate disclosures concerning their efforts toward sustainability and, as mentioned above, encourages them to disclose information on their methods of ensuring the diversity of core human resources and other personnel. The Financial Services Agency ("FSA"), which is the government agency in charge of these disclosures, also has been encouraging companies to disclose D&I information

“ Japanese companies might be required to disclose more D&I information in the near future

actively, by introducing several good examples of the disclosure of D&I information in its annual named Collection of Good Examples of Non-Financial Information Disclosure, published in November 2020 and December 2021.

As a result, in recent years, many Japanese companies have been disclosing D&I information more clearly and thoroughly, for example, changes in the proportion of female officers and managers they employ. In addition, the FSA has adopted a stance of further promoting disclosures of non-financial information, including D&I information. For example, the Disclosure Working Group of the Financial System Council of the FSA has raised the theme of proper disclosure by Japanese companies, including the manner in which those companies disclose information on sustainability; the FSA also has analyzed the increase or decrease in the appearance of phrases like "women in managerial positions" and "women in executive positions" in financial reports published by Japanese corporations. This suggests that the FSA may decide to require Japanese companies to disclose D&I information in the near future.

ABOUT
THE
AUTHOR

Author: Taeko Suzuki
Designation: Partner

Taeko heads the India desk of the firm and advises leading Japanese corporations on their investments into India, other South Asian countries and the Middle East.

Author: Natsuki Hosoya
Designation: Associate Attorney

Natsuki specializes in DE&I (Diversity, Equity, & Inclusion) matters, and has extensive experience in cases requiring an understanding of labor and compliance law.



Disclaimer – The views expressed in this article are the personal views of the author and are purely informative in nature.