



Governance Training in Japan, and Elsewhere

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BDTI

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These Things Do Not Make Sense

- *The vast majority of economic activity is done by corporations, and*
- *Everyone complains about corporations especially financial institutions, but -*
- Many people do not really understand what corporations are: very effective fund-raising tools, but with liability avoidance features that lead to increasingly frequent, larger-and-larger “risk externalization” events. Society and the next generation picks up the tab

AND YET,

- **There are no qualifications needed to a director or a statutory auditor. Your barber, taxi driver, accountant and hairdresser must register, take a test, meet criteria for minimal knowledge...**
- ... but not board members of billion \$ companies !**

What Do These Events Have in Common?



Some Famous Quotes About Corporations that Capture Key Issues

- **“Did you ever expect a corporation to have a conscience, when it has no soul to be damned, and no body to be kicked? “**

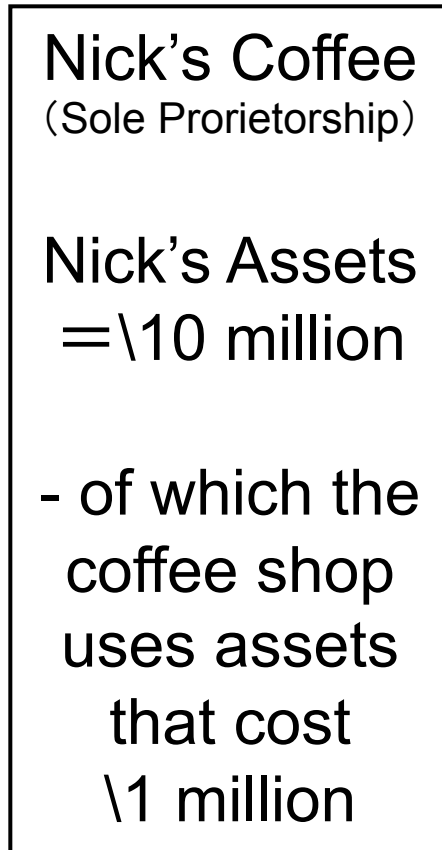
(Edward, First Baron Thurlow, British lawyer and judge, 1731-1806)

- **“The corporation is a risk externalization machine, in the same way that a shark is a killing machine.”**

(Robert Monks (2003), corporate governance adviser in the film "The Corporation")

Two Scenarios: Sole Proprietor, and Company

Case 1

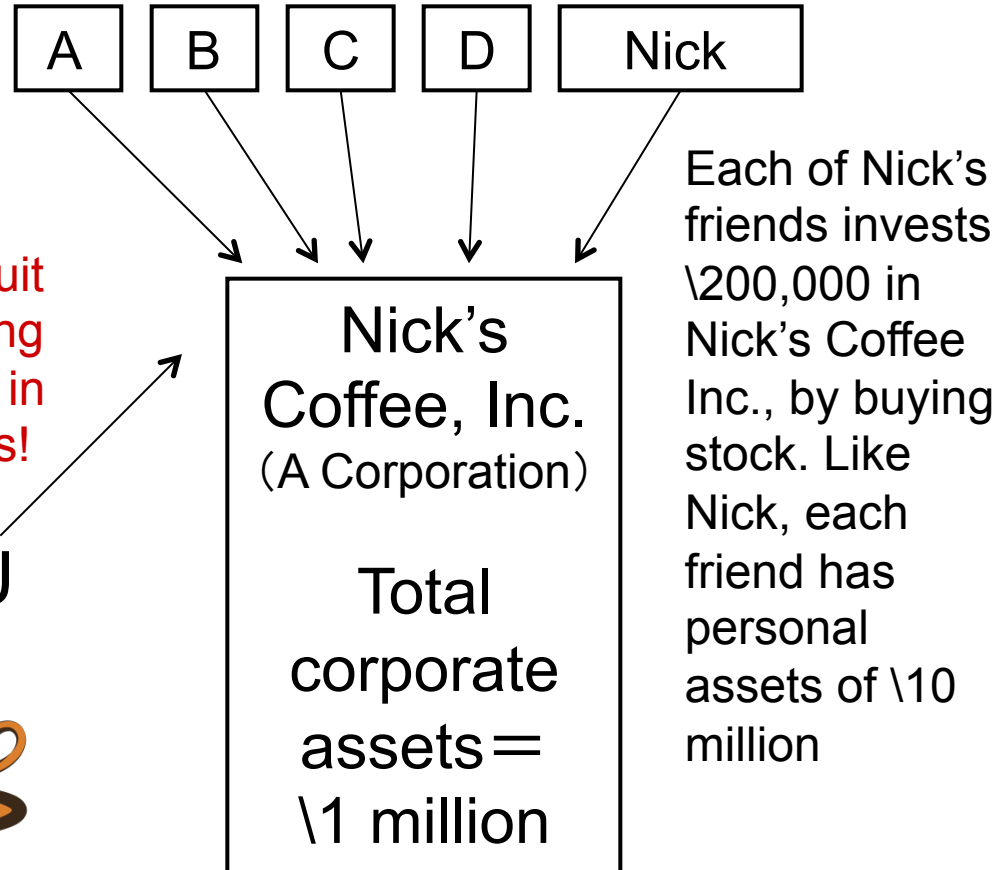


File lawsuit
demanding
\5 million in
damages!

YOU



Case 2



There was a poisonous substance in the coffee you drank, and you had to spend a month in the hospital and receive medical care costing \5 million

Needed: “Director Competency Assurance”

The FSA, SEC, and similar authorities should establish self-regulatory bodies that require:

- Minimum knowledge, competency testing for directors
- Maintenance of professional standards and knowledge (continuing education requirements)
- Registration by all directors of publicly-listed (or very large) companies
- Tiering (a higher level required for directors of the largest companies)
- A central database to enhance transparency re past performance
- A disciplinary tribunal w/ authority to act (e.g., de-register)

Almost all Countries Require or Encourage Director Training at Public Companies

- NYSE: Companies must disclose director training policy on web site
 - NACD and 400+ other programs for director training in the US
- UK: Chairman required to consult with each director about his development and training needs
- Canada: disclosure of continuing education measures; tiered programs
- Germany: directors can charge training costs to the firm
- Hong Kong, Singapore, Australia, Asia in general: rules requiring or encouraging director training, especially for first-time directors
- Pakistan requires training of all directors at certified training programs
- Literally more than a thousand programs worldwide; Institutes of Directors; business schools and law schools; online programs
- OECD: quality nominations and director training is a “priority” in Asia
- Popularity of business schools results in a widespread minimum competency knowledge of accounting/finance in many countries

At least there is some sort of guidance, or encouragement

What About Japan?

- BDTI's certification as a "public interest" non-profit (2011): the first time the government *acknowledged* that training about governance is "good for society"
- Most (85%) of directors are internal managers who rose through the ranks → thus, almost none of them have any board experience, or any experience working at a different company
- Less executive mobility + vertical organizations + "engineering" vs "other" categorization + not nearly as many people have MBA's → fewer of the skill sets needed by board directors, especially re finance, law and governance
- Japanese companies have excellent "OJT" training practices, but tend to underutilize off-site executive training. Less rigor, requirements
- To many executives: a) becoming a director is just a desirable "promotion" as a manager; b) they are relatively unaware that their role has changed that much; c) the board is still hierarchical organization, in which they owe loyalty to the person who "promoted" them (the CEO, usually)
- Probably only 500 out of 4,000 listed companies have significant internal programs. Perhaps only half just receive 2-hour boring lectures from lawyers

Japan needs director training much more than most countries!

Until Now, Japan Had NO Rules
or Public Encouragement
about Director Training

It was a very conspicuous outlier

Japan's New Corporate Governance Code (1)

Principle 4.14 Director and Kansayaku Training

New and incumbent directors and kansayaku should deepen their understanding of their roles and responsibilities as a critical governance body at a company, and should endeavor to acquire and update necessary knowledge and skills. Accordingly, companies should provide and arrange training opportunities suitable to each director and kansayaku along with financial support for associated expenses. The board should verify whether such opportunities and support are appropriately provided.

Supplementary Principles

4.14.1 Directors and kansayaku, including outside directors and outside kansayaku, should be given the opportunity when assuming their position to acquire necessary knowledge on the company's business, finances, organization and other matters, and fully understand the roles and responsibilities, including legal liabilities, expected of them. Incumbent directors should also be given a continuing opportunity to renew and update such knowledge as necessary.

4.14.2 Companies should disclose their training policy for directors and kansayaku.

Progress at last!

Japan's New Corporate Governance Code (2)

Principle 4.11 Preconditions for Board and Kansayaku Board Effectiveness

The board should be well balanced in knowledge, experience and skills in order to fulfill its roles and responsibilities, and it should be constituted in a manner to achieve both diversity and appropriate size. In addition, at least one person who has appropriate expertise on finance and accounting should be appointed as kansayaku.

The board should endeavor to improve its function by analyzing and evaluating effectiveness of the board as a whole.

Supplementary Principles

4.11.1 The board should have a view on the appropriate balance between knowledge, experience and skills of the board as a whole, and also on diversity and appropriate board size. Consistent with its view, the board should establish policies and procedures for nominating directors and disclose them along with its view....

4.11.3 Each year the board should analyze and evaluate its effectiveness as a whole, taking into consideration the relevant matters, including the self-evaluations of each director. A summary of the results should be disclosed.

Progress at last!

BDTI's Governance Training Offerings

- Web Discussion Forum and Data Library
- e-Learning: (a) Company Law and (b) Corporate Governance. Nine hours in total
- Drill-down seminars on a wide variety of topics:
 - CG Code implementation, ROE/ROIC enhancement, cyber security risk, M&A oversight, global HR policy, succession planning, Company Law changes, trends in stewardship and engagement, comparison of audit committee methods, etc.
- Japanese intensive director training course
- English intensive director training course
 - In both cases, seek to be interactive and seek to use examples, cases and mini-cases
- Customized director/executive training, or compliance training, for specific companies

Observation C



巨額の特別損失を計上した企業／事業を
調べてみると類似ケースが
続出することが
多い

Example of English Program Schedule

Time		Topics / Activity
09:30 – 09:45	Opening	Self-introductions Course goals
09:45 – 12:30 (10 min. coffee break)	Morning Session	① What is corporate governance? Why does it matter? Role of the board ④ Review of Company Law: questions about e-learning? Review of Company Law: statutory provisions Role of kansayaku ⑤ Audits and internal control ⑦ Important securities law provisions ⑧ Anti-organized crime ordinance
12:30 – 13:00	Lunch	Outside speaker – How to Have Impact at Board Meetings
13:00 – 16:45	Afternoon Session	The “Tone at the Top and corporate governance culture “Director skills” and “best practices” ⑨ Legal department and corporate secretary ⑩ Risk Management and strategy, business model ⑪ Nominations and succession planning ⑬ Corporate scandal “patterns” Alternative scenarios at Olympus What makes companies better: simple things + good process
16:45 – 17:15	Q&A and Discussion	Questions, unresolved issues, and discussion
17:15 – 17:30	Closing	Wrap-up and related activities



Example of Japanese Program Agenda

BDTI 『国際ガバナンス塾』 — 取締役会の課題整理と持つべき基礎知識

講師

取り上げるトピックと講義、受講者による参加・作業

ニコラス・E・ベネシュ (BDTI代表理事)

受講者の自己紹介、本講座から何を学びたいのか、自分の経験・役員になるため補強したいこと、課題意識をうかがう
講義開始にあたって主催者側挨拶、何を指すか。
最近の世界経済の流れ、企業を取り巻く環境変化。現代CGの新しい挑戦課題。

野間幹晴 (一橋大学大学院国際企業戦略研究科准教授)

企業価値の基礎知識
財務諸表の読み方: 数字や勘定項目の裏を見極める方法は?

野間幹晴 (一橋大学大学院国際企業戦略研究科准教授)

実際の有価証券報告書から、幾つかの事例検討。何が要注意、要警戒すべき事項か? 訊ねるべき質問は?
ミニケースについてグループディスカッション

ニコラス・E・ベネシュ (BDTI代表理事)

ガバナンスと「役員力」の重要性。CGの様々な観点、制度的な枠組みとしての会社法の重要性。
役員を務めるとは。大切なベスト・プラクティスと原則。

市川佐知子 (田辺総合法律事務所弁護士、BDTI監事)

金融商品取引法の要点

大杉謙一 (中央大学法科大学院教授、BDTI理事)

会社法に基づく日本のガバナンス制度のレビュー
役員が一番念頭におくべき知識 (義務、責任) (どのような状況が一番危険性が高く、要注意なのか)
注意するための具体的な方法
受講者からの質問と解答
最近の不祥事の実例。防ぐには? ミニケースについてディスカッション。「貴方なら、どうする? 役員会は、どうすべき?」
最近の法体系や判例の変化。これから予想できる変化の可能性。まだ法が不明な場合の要注意課題。

ニコラス・E・ベネシュ (JTP代表取締役)

グローバルカンパニー・M&Aの基礎知識

ニコラス・E・ベネシュ (JTP代表取締役)

取締役会: ケーススタディー

その他附属参考資料

1. BDTI eラーニング「会社法&コーポレート・ガバナンス」コース
 2. 「経営戦略にひそむ企業不祥事の芽」山口利招 (山口利昭法律事務所)
 3. 「会社役員賠償責任保険」(チャブ・グループ 経営保険本部)
 4. オリンパス株式会社第三者委員会調査報告書からの抜粋
 5. 取締役会の全般的な達成度評価/取締役のピアレビュー 質問表/CEO・社長評価シート
 6. 「監査委員会」との比較における監査役会の役割と機能 (ACGA)
 7. 「コーポレートガバナンス・コード原案」
- ほか

Observations

- Often, no one is in charge of director training. A sensitive topic
- W/o any government or stock exchange encouragement, no perceived need. This is changing. Now we receive requests for consulting about CG Code implementation
- Usually people are sent to our courses by a single individual (kansayaku, general manager, managing director) who simply cares about his company and improving governance. Scar tissue?
- When the CEO leads, customized course, motivation, and more people get involved. We can help the organization think about its CG practices and issues: quasi-consulting, with follow-up
- Many executives lack key knowledge about law, governance practice, and finance. This can make the job of an outside director difficult
 - Especially, balance sheet management, cost of capital, and capital allocation issues). Therefore, in the Japanese course we devote the most time to finance
- Our courses are mainly “a wake-up call” so participants can self-diagnose about what they need to learn more about
- Almost all participants seem to enjoy the process, say they learned something useful, and are eager to learn more about governance

What Does the Future Hold?

■ Possibly:

- ☐ Cooperation with other groups
- ☐ More sharing of best practices and management, oversight methods by leading companies who become “participating members”
- ☐ Advanced, next-level courses: finance, case studies about difficult situations, where knowledge is applied
- ☐ Courses for institutional investors. In-depth courses about investors’ viewpoints and ESG issues
- ☐ CG Code and internal practice improvement consulting. Examples of “success stories” to learn from
- ☐ A test and certificate of minimum knowledge?

About BDTI

Training

Consulting

Interactive Forum

Participation

Board of Directors

- » Kenichi Osugi
- » Nicholas E. Benes
- » Koichiro Hayashi
- » Nobuyuki Hiraizumi
- » Masataka Ueda
- » Sachiko Ichikawa

Advisors

- » Christina Ahmadjian
- » Harald Baum
- » Thomas J. Dreves
- » Robert Eberhart
- » Peter Fuchs
- » Kyoji Fukao
- » Kotaro Inoue
- » Ken Kiyohara
- » Katsuyuki Kubo
- » Curtis J. Milhaupt
- » Yosuke Mitsusada
- » Koichiro Naganuma
- » Kazuo Noda
- » Theodore A. Paradise
- » Takuji Saito
- » Takaya Seki
- » Wataru Tanaka
- » Ko-Yung Tung
- » Masao Yanaga
- » Yumiko Miwa

About the Institute

The only certified public-interest non-profit in Japan committed to building sound corporate organizations and the "directorship" skills needed by every board member, by providing training that the age of globalization demands.


The Board Director Training Institute of Japan (BDTI), a non-profit Japanese "public interest" organization certified by the government, was established in 2009 by experts and opinion leaders active in academic and business circles. BDTI's mission is to increase **trust** between corporations and the public, and facilitate the safe, sustainable and ethical development of the Japanese economy and Japanese companies, by improving corporate governance and accelerating the spread of effective management methods. We believe that training is the key to doing these things while also enhancing corporate value, for the reasons explained in this **memo** and also in this **Summary of BDTI, its Programs and Activities**.

Since BDTI's establishment, we have been fortunate enough to receive the support and participation of senior leaders (and leading firms) around the world, all of whom share our purpose and sense of mission.

In order to spread knowledge about corporate governance and related management methods widely, BDTI provides a low-cost **E-Learning Course** with modules covering both Company Law core knowledge and corporate governance theory and practice.

Together with first-class collaborating organizations and professionals, BDTI also offers (a) **intensive "director training" programs** that combine corporate governance know-how with global management methods; (b) **customized programs** for enhancing director skills, or governance and compliance

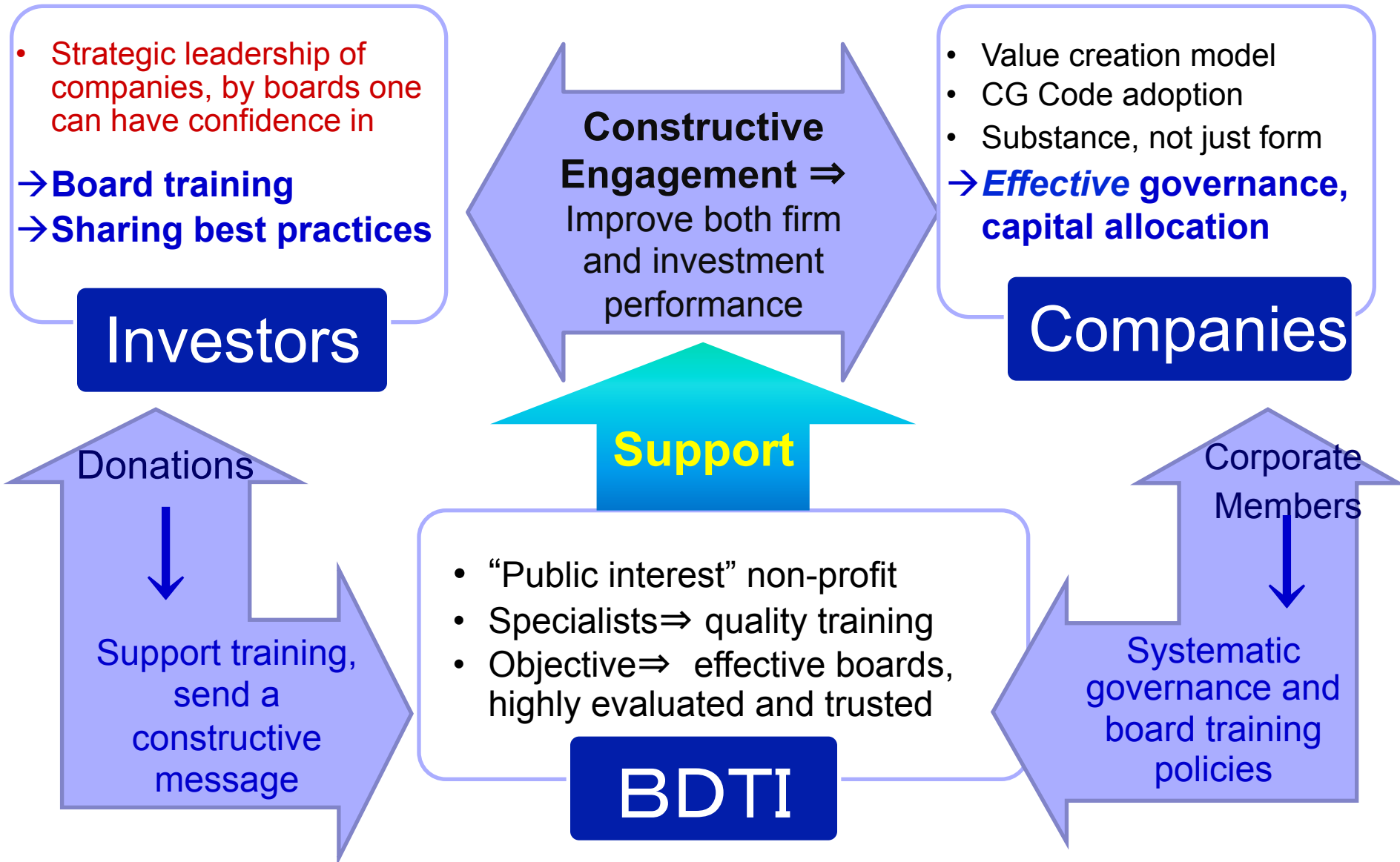
Smart investors are helping + sending a message



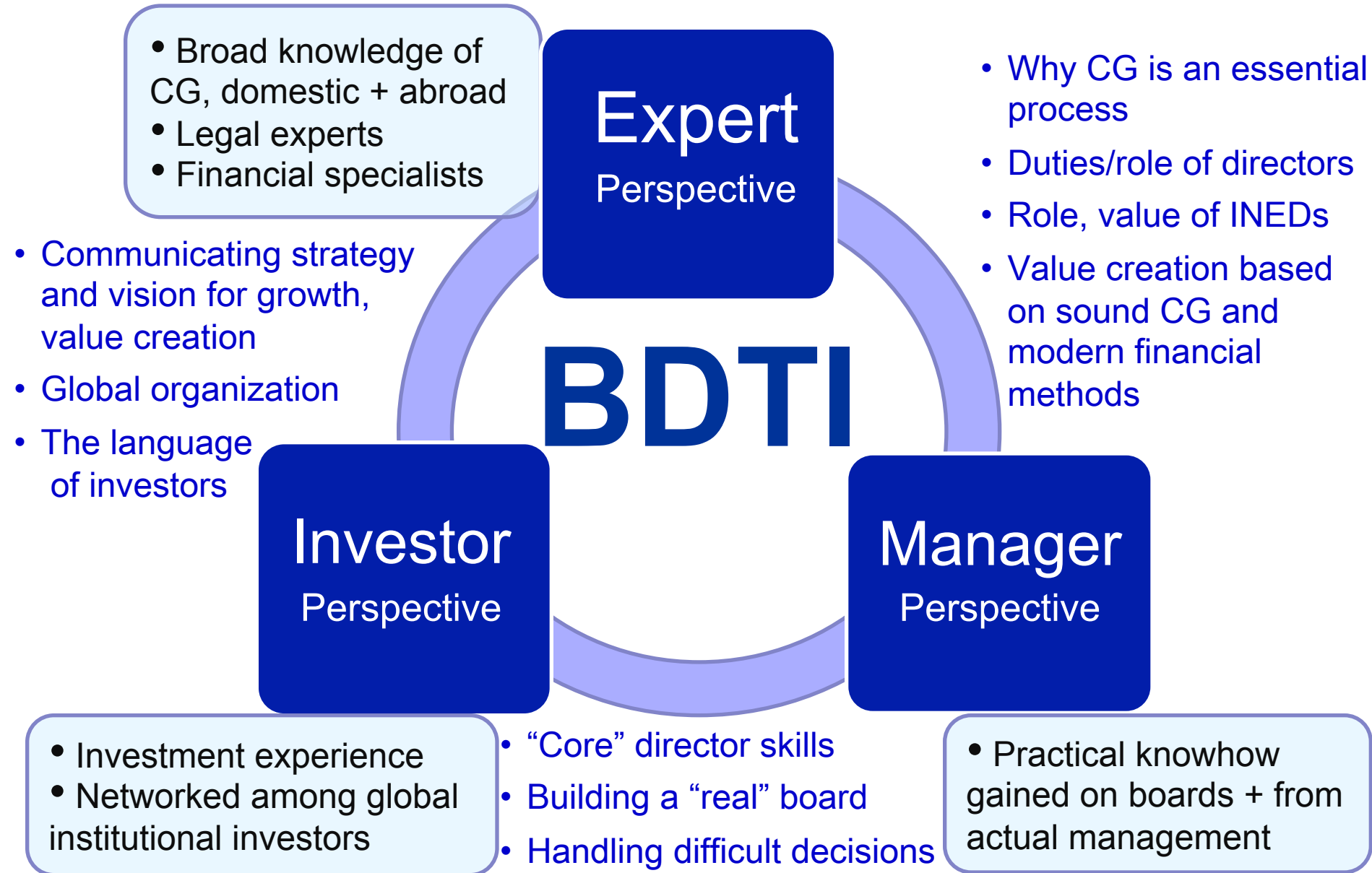
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- » Shearman & Sterling LLP
- » State Street Trust and Banking Co., Ltd.
- » Symphony Financial Partners
- » TANABE & PARTNERS
- » Regional Fund Manager (US\$25 Bln AUM)
- » Institutional Investor (US\$3 Bln AUM)
- » Fund Manager
- » Nicholas E. Benes
- » **Above: Sustaining Donors**
- » CLSA (Credit Agricole Securities Asia B.V.)
- » Give2Asia
- » The Canadian Chamber of Commerce in Japan (CCCJ)

A Virtuous Circle to Support Engagement



BDTI's Diverse Perspectives and Network



Help BDTI make Japan's boards more effective and aligned with the interests of shareholders, society, and the global economy.

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