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SHML4R - LESTER LANEY

Discusses: (Part I) The index measuring investor protection in the paper "Law and finance" by Rafael La Porta (et al.)(1996, rev. 1998), and: (Parts II-III) compares the distribution of powers in corporations in the United States and western Europe.

The expansion of the fund industry has been one of the most notable trends in the financial markets of recent years. Not only has the demand for funds among EU investors grown, but both the number and types of investment funds also continue to increase. Since investment funds available in the EU can be established both inside and outside the EU, they may be subject to different investor protection regulations, depending on where the fund is located. Accordingly, different levels of investor protection may exist between investors investing in EU funds and investors investing in non-EU funds, including US funds. This book investigates whether there is a level playing field between EU investors investing in EU funds and EU investors investing in US funds and if not, if there is a legal basis in current EU law for the EU regulator to adopt additional investor protection rules applying to investment funds. The analysis considers the basic characteristics of investment funds, how they function in practice, and how they are regulated relating to investor protection issues. Factors examined in depth include the following: – features of funds most relevant to the protection of retail investors; – operational structure, investment strategies, fee structure, and legal structure of funds; – internal control systems; – transparency and disclosure rules; – conduct of business rules; and – depositary monitoring rules. The author examines relevant EU directives and rules and the particular remit of each, as well as US law applying to investment funds that are active in the EU. Case law and relevant literature in the field is also drawn on. As an assessment of the current degree of protection applying to funds that are available to EU retail investors – as well as an up-to-date overview of regulatory requirements and procedures concerning the protection of EU investors in investment funds – this book is unsurpassed. Especially valuable is the closing discussion about whether the EU regulatory system provides for a level playing field of protection for EU retail investors, and if not which additional rules can be adopted by the EU regulator in this area. Lawyers and other professionals in all areas of law and policy concerned with investment and finance will find this book of great value.

The Comprehensive Economic and Trade Agreement between the EU and Canada (CETA), proposed Transatlantic Trade and Investment Partnership between the EU and the US (TTIP), and the plurilateral Trade in Services Agreement (TiSA) between the EU and 22 other States have sparked a great deal of academic and public interest. This edited collection brings together leading experts in the field of international economic law to address the legal complexities of these treaties and provide an explanation of their core principles. In the first two chapters, this book examines changing conceptions of international economic law and the main motivations for negotiating mega-regional agreements. In nine further contributions, international experts examine sectoral issues such as the trade, investment, and dispute settlement procedures envisaged in these 'mega-regional' agreements. The book goes on to consider the progress made in intellectual property protection, the problems associated with data protection, human rights, labour, and environmental standards, issues of transparency and legitimacy, and the relationship between CETA, TTIP, and TiSA on the one hand and EU law on the other. It concludes with four chapters that discuss globalization and other fundamental questions surrounding these mega-regional agreements from economic, political science, and legal perspectives.

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Multinational Finance Journal and the Journal of Financial Transformation. He was a member of the Board of the European Finance Association. James S. Ang, Bank of America Eminent Scholar, Professor of Finance, College of Business, Florida State University. He joined the College of Business, of Florida State University as a Professor of Finance in 1998 from Barnett Bank Chair Professor of Finance, Florida State University. His main areas of research interest are amongst others, in corporate restructuring, corporate governance and control. He has published extensively in leading academic journals like Journal of Corporate Finance, Journal of Financial Economics, Journal of Finance, The Bell Journal of Economics, Journal of Financial and Quantitative Analysis, Journal of Money, Credit and Banking, and The Review of Economics and Statistics. And he is a member (current and past) of the Editorial Board of several of these Journals. He is amongst others a member of the Board of Trustees of the Financial Management Association and formerly he was a member of the Board of Directors of the European Financial Management Association. Sudi Sudarsanam, Professor of Finance & Corporate Control, School of Management, Cranfield University. He joined Cranfield as Professor of Finance and Corporate Control on the 1 January 2000 from City University Business School where he was Professor of Finance and Accounting. His original commercial background was in banking and international trade finance. Sudi’s main areas of research interest are in corporate restructuring, mergers and acquisitions and corporate strategy, adopting a multidisciplinary approach. He is one of the leading authorities on mergers and acquisitions in Europe and author of The Essence of Mergers and Acquisitions (Prentice Hall), translated into five European and Asian languages. His recent book, Creating value from mergers and acquisitions: the challenges, an international and integrated perspective (FT Prentice Hall, 2003, pp613) has been widely acclaimed by both academics and practitioners and is considered a standard work on M & A. He has been a visiting professor at US and European business schools. He has been an expert commentator on mergers and acquisitions on radio and television and in the print media. Sudi has also published articles in top US and European journals on corporate restructuring, corporate governance and valuation of intellectual assets.

The Market in Financial Instruments Directive (MiFID) is nothing short of a revolution. Introduced on 1 November 2007, it will have a profound, long-term impact on Europe's securities markets. It will see banks operating as exchanges for certain activities, offering alternative execution services that more closely resemble the structure of over-the-counter markets, and will lead to the decentralisation of order execution in an array of venues previously governed by concentration rules. Crucially, MiFID will also have a profound impact on the organisation and business strategies of investment firms, exchanges, asset managers and other financial markets intermediaries. Until now, analysis has focused on the directive's short term implementation issues. This book focuses on the long term strategic implications associated with MiFID, and will be essential reading for anybody who recognises that their firm will need to make constant dynamic readjustments in order to remain competitive in this challenging new environment.

This special issue focuses on the opportunities and challenges connected with investment courts. The creation of permanent investment courts was first proposed several decades ago, but it has only recently become likely that these proposals will be implemented. In particular, the European Commission has pushed for a court-like mechanism to resolve investment disputes in various recent trade and investment negotiations. Such a framework was included in some free trade agreements (FTAs) and investment protection agreements (IPAs) the European Union (EU) signed or negotiated with Vietnam, Singapore, Mexico and Canada. While it was shelved long before the publication of this Special Issue, the European Commission had also formally proposed a court system during the negotiations for the Transatlantic Trade and Investment Partnership (TTIP) agreement with the United States. The issue of a Multilateral Investment Court (MIC) has also been prevalent at the Working Group III proceedings of the UNCITRAL on investor-State dispute settlement reform, attracting scholarly and public attention.Will these developments lead to the creation of permanent investment courts? How will such courts change the future of international investment law? Will they bring about a real institutional change in adjudicatory mechanisms? Will they introduce a 'hybrid' system, which borrows important characteristics from both arbitration and institutional methods of international adjudication? How will the enforcement mechanisms work, and under which rules of ethics will its adjudicators function and exercise their duties? This special issue brings together leading scholars sharing a common interest in investment courts to address these questions.

This note weighs the merits of a capital market union (CMU) for Europe, identifies major obstacles in its path, and recommends a set of carefully targeted policy actions. European capital markets are relatively small, resulting in strong bank-dependence, and are split sharply along national lines. Results include an uneven playing field in terms of corporate funding costs, the rationing out of collateral-constrained firms, and limited shock absorption. The benefits of integration center on expanding financial choice, ultimately to support capital formation and resilience. Capital market development and integration would support a healthy diversity in European finance. Proceeding methodically, the note identifies three key barriers to greater capital market integration in Europe: transparency, regulatory quality, and insolvency practices. Based on these findings, the note urges three policy priorities, focused on the three barriers. There is no roadblock—such steps should prove feasible without a new grand bargain.

We analyze delistings from European stock exchanges 1995-2005 as a function of market conditions, firm effects and governance regulation. We find that investor protection and corporate governance quality reduce the likelihood of going private, bankrupt or liquidated, but increase the likelihood of exit by merger or acquisition. Taking into consideration that corporate governance policy may be endogenously determined, the estimated policy effects turn out to be highly sensitive to model specification, but our best estimates produce qualitatively similar results. We conclude that the evidence is most consistent with efficient regulation: better protection of minority investors and higher corporate governance quality stimulates the market for corporate control (M&A) and reduces the incentive to go private. However, going private transactions have increased significantly while governance standards have been improved over the past decade, and we would not ignore the possibility that more regulation would lead to more delistings. For example, we find indications that the adoption of corporate governance codes and changes in the level of corporate governance indices increase the propensity to go private. It seems likely that increasing investor protection will at some point add more costs than benefits to companies and investors. Governments should therefore consider both costs and benefits of further regulation. Key words: Delisting, public listing, mergers, acquisitions, bankruptcy, liquidation, going private, private equity,

investor protection.

The book examines the legal regime for protection of company shareholders in the CIS. The focus is on important aspects of domestic legal reform in the twelve CIS countries, but also on the contribution of CIS model legislation to this process.

The year 2008 is a propitious time to evaluate systems of investor protection in financial markets as global bank losses exceed the 1 trillion mark. The Markets in Financial Instruments Directive [MiFID] is the regulatory equivalent of the deregulatory 1987 quot;Big Bangquot; that shaped the current European financial markets. It also applies to one of the world's largest trading regions. MiFID and its Level 2 implementing Directive are complex, comprehensive, and challenging for interpretive construction, given the novelty of the Directive, the absence of judicial decisions, and its opaque language. In Lamfalussy terms, MiFID is a Level 1 document containing quot;high principlesquot; of governance. The level 2 Directive provides quot;concrete organisational requirements and procedures for investment firmsquot; performing activities governed by the Directives. This article selects certain investor protection provisions of MiFID for examination, within the larger context of the macroeconomic function of financial markets, and the theoretical underpinnings of investor protection in the United States and in Europe, as well as the practical track record of enforcement of investor protections in Europe to evaluate the effectiveness of investor protection under the new instruments. The conclusions reached indicate that the style of investor protection envisaged within MFID is likely to impose substantial costs upon investors to the benefit of investment firms, while probably falling short of fulfilling the promises of the risk/reward equation. The effectiveness of investor protection, which depends exclusively upon the quality of enforcement, is questionable given the European Union's passive enforcement style toward financial market misconduct. In addition, as the recent global financial crisis has demonstrated a fundamental assumption of MiFID is false: the need to interpose a quot;professional investment advisorquot; between the investor and the markets. Countless examples from history related to scandals and market crashes support this contingent truth. MiFID, if successful, will achieve its economic objectives of financing the markets with investor savings, and thereby achieving the conventionally accepted theory of the macroeconomic function of financial markets. Nevertheless, the question remains are the investor protection provisions of MiFID an investor blessing or an investor execution.

As governments around the world withdraw from welfare provision and promote long-term savings by households through the financial markets, the protection of retail investors has become critically important. Taking as a case study the wide-ranging EC investor-protection regime which now governs EC retail markets after an intense reform period, this critical, contextual and comparative examination of the nature of investor protection explores why the retail investor should be protected, whether retail investor engagement with the markets should be encouraged and how investor protection laws should be designed, particularly in light of the financial crisis. The book considers the implications of the EC's investor protection rules 'on the books' but also considers investor protection law and policy 'in action', drawing on experience from the UK retail market and in particular the Financial Services Authority's extensive retail market activities, including the recent Retail Distribution Review and the Treating Customers Fairly strategy.

This collection examines investor protection in Europe, offering a broad and coherent examination of the effects of regulatory competition versus harmonisation. It covers both capital market and company law perspectives and explores clearing, settlement, prospectuses and transparency regulation.

Asset management is a major industry playing an increasingly important role in economic activity around the world. Asset managers provide services to individuals, governments, public agencies, banks, pension funds, insurance companies, and charities, to name a few. Traditionally, asset management has been primarily associated with the 'stock market' economies of the UK and the USA, but, as this book shows, some of the most spectacular growth in activity of recent years has occurred in Continental Europe. This has presented opportunities and challenges. New forms of financial instruments and institutions have emerged in countries that have traditionally relied on debt and non-market forms of intermediation. Competition has intensified, and entry has occurred both within and across national markets. However, this growth has been accompanied by potential problems: while investors enjoy a wider range of products and services, they face more complex instruments and transactions. Therefore, the potential for failures, such as misdealing and fraud, may have increased. The natural response is to strengthen regulation, but there is a fine balance to be struck between inadequate and excessive regulation of asset managers. This is particularly complicated in the context of European capital markets. European countries have traditionally had very different financial systems and asset management businesses, therefore it is no surprise to discover many different approaches to regulating asset managers. How should the European Commission respond to this diversity? Should it seek to create greater uniformity via common regulatory rules? The particular focus of this book is financial resource requirements. There is currently an active debate about the role capital requirements should play in asset management, particularly in the European context. In order to address this issue, the authors argue that it is necessary to understand the nature of the asset management business in different countries and the risks that it faces. They therefore discuss how the asset management business operates; how it is organized; the nature and size of risks in the business, who bears them, and how they are financed; and what the alternative forms of investor protection are, together with their associated costs and benefits.

This study analyses Articles 24-30 of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 “on markets in financial instruments” (MiFID II), which govern, as of January 2018, the most important aspects of investor protection of clients to whom credit institutions and investment firms provide investment services. These Articles contain code-of-conduct and product governance rules, which constitute cornerstones of contemporary EU capital markets law as shaped to address the weaknesses revealed in capital markets’ micro-prudential regulation and supervision after the recent international financial crisis of 2007-2009. The book concisely identifies the elements of continuity and change in relation to the repealed Directive 2004/39/EC (MiFID I), while also presenting the detailed delegated acts of the European Commission and Guidelines of the European Securities and Markets Authority (ESMA), which were adopted on the basis of Articles 24-30 MiFID II.

Reading the Company Law Action Plan of the European Commission (issued on 21 May 2003) one cannot help having the impression that European company law policy has a certain focus on listed companies and will try to enhance their efficiency by way of state competition if possible, and by harmonisation only if need

be. The same is true under the new Action Plan on European company law and corporate governance (issued on 12 December 2012). The book, to the contrary, is first of all based on the fact that throughout Europe only a small number of corporations are listed at all - the reality of corporate law is dominated by small and medium-size enterprises. Therefore legal standards pertaining to control transactions or investor protection and other topics of capital market law are not part of the core principles of corporate law. The question is not how to protect best the interests of shareholders but rather the interests of all parties affected by a firm's activities, including its creditors and other third parties. The Treaty on the Functioning of the European Union reminds us not to forget that when drawing the attention of the European legislator in the field of corporate law and freedom of establishment to directives safeguarding "the protection of the interests of members and others" (art. 50). The book is focusing on the perspective of key jurisdictions in continental Europe, such as (in an alphabetical order) Austria, France, Germany, Italy, Spain, Switzerland, and considering seminal inputs from Belgium, the Netherlands, Portugal and Scandinavian countries. Highlights - an up-to-date contribution to the imminent reforms in European company law emphasizing the continental European perspective - written by authors with great practical experience

Both in the USA and in Europe there has been an increase in delistings in recent years, which has been partly attributed to increasing governance costs for listed companies. The question is whether stronger corporate governance regulation brings sufficient improvements in investor confidence to cover increased costs of disclosure and box checking as well as lower flexibility in board structure etc. To answer this question we analyze the determinants of 3577 delistings among 12612 companies listed on European stock exchanges 1995-2005. We find that stronger minority investor protection and the adoption of corporate governance codes are associated with a higher delisting frequency both by Mamp;A and going private transactions. In contrast better overall governance (as measured by a modified version of the World Bank governance index) is associated with lower going private rates. The policy effects on delistings turn out to be particularly strong and significant for small firms, profitable firms and in the post-2000 bear market. Taking into consideration that corporate governance policy may be endogenously determined, we find that investor protection and a composite corporate governance index tend to lead to more going private transactions. Our results therefore indicate that there are costs as well as benefits to corporate governance regulation.

In the wake of the global financial crisis, investors have suffered significant losses as a result of breaches of conduct of business rules in the distribution of financial instruments. MiFID II introduced new disclosure, distribution and product governance rules to strengthen the protection of investors but, like MiFID I, did not harmonise the civil law consequences for their violation. This book asks whether, in spite of the silence of the EU legislators, the MiFID II conduct of business rules may produce civil law effects, enabling investors to enforce them against investment firms before national courts and alternative dispute resolution (ADR) mechanisms. Building on the case law of the CJEU, the book shows the conditions under which the breach of MiFID II conduct of business rules should give rise to a private law remedy, and what remedies would be compatible with EU law. MiFID II and Private Law is an essential contribution to academic research in EU and financial law and will be a key text for policy-makers and legal practitioners working in the field of investor protection regulation and mis-selling litigation.

Investor protection regimes have been shown to partly explain why the same type of corporate event may attract different investor reactions across countries. We compare the value effects of large bank merger announcements in Europe and the US and find an inverse relationship between the level of investor protection prevalent in the target country and abnormal returns that bidders realize during the announcement period. Accordingly, bidding banks realize higher returns when targeting low protection economies (most European economies) than bidders targeting institutions which operate under a high investor protection regime (the US). We argue that bidding bank shareholders need to be compensated for an increased risk of expropriation by insiders which they face in a low protection environment where takeover markets are illiquid and there are high private benefits of control.

Retail Depositor and Retail Investor Protection under EU Law offers an original perspective on EU financial law in the area of retail investor protection, examining the status of protection awarded by EU law to retail depositors and retail investors in the event of financial institution failure. The analysis of relevant EU law is on the basis of effectiveness and has been elaborated in two levels of comparison. The first comparative approach examines relevant EU law both externally and internally: externally, vis-à-vis relevant international initiatives and developments in the area of financial law, as the latter affect the features and evolution of EU law, and internally by examining relevant instruments of EU law with regard to each other as to their normative structure and content. The second comparative approach also examines the status of retail depositors in relation to that of retail investors under EU law, in the event of financial institution failure, and the relevant legal consequences thereof.

The Alternative Investment Fund Managers Directive (AIFMD), adopted in 2011, aims to reshape the asset management industry in Europe. Despite often being depicted as the "hedge-fund directive," the AIFMD embodies in substance the basic Europe. The directive paves the ground for investment funds and investment mandates to grow in size and importance as Europe reduces its historical reliance on banks. This report provides a comprehensive assessment of the future of the investment management industry in Europe after the subprime crisis and the subsequent regulatory response. It considers in four separate chapters - Selected issues of financial stability related to investment funds - Product structuring and the use of derivatives in mutual funds - Distribution; investor choice; and investor protection, including disclosure and investment advice; and the contribution of asset management to economic growth, including long-term and responsible investing

The harmonization of company law has always been on the agenda of the European Union. Besidesthe protection of third parties affected by business transactions, the founders had two other objectives: first, promoting freedom of establishment, and second, preventing the abuse of such freedom. The European Commission issued its Company Law Action Plan in 2003. In this volume researchers of the Jan Ronse Institute for Company Law of the Katholieke Universiteit Leuven present five chapters on the main priorities of the Action Plan: capital and creditor protection,corporate governance, one share one vote, financial reporting, and corporate mobility. The book also includes responses and ensuing discussions by reputed European company law experts.

This book explores the status quo of corporate governance in banking and investor protection from both theoretical and practical perspectives. Bringing together original conclusions with a re-

gional and international focus, it provides a timely and comprehensive overview of the effectiveness of corporate governance in the financial sector and an assessment of investor protection. It also includes a number of examples and case studies to illustrate the findings. The book compares corporate governance in the banking and financial industries before and after the financial crisis, and helps to evaluate the effect of the recommendations and regulations that have been developed in the interim.

This study examines the interactive influence of corporate ownership, corporate governance and investor protection on the incorporation of current value shocks in the accounting earnings of European companies. This influence is investigated not only by means of the association between current news and current earnings but also with respect to the association of the same news with expected future earnings, and its persistence. Consistent with the contractual explanation of accounting conservatism, it is shown that the accounting behaviour examined is a function of the demand created by shareholders, and that the institutional arrangements in force are of lesser significance in the presence of widely held ownership. On the other hand, greater separation between supervision and management and stronger investor protection are seen to be influential under close ownership, as these are shown to curb aggressive accounting in the form of a persistently lower recognition of bad news in earnings. Evidence is also provided that stricter corporate governance practices in Europe can substitute for weaknesses in investor protection provisions in law.

We investigate whether and how major shareholders influence M&A wealth effects for listed acquirers in Europe. To that end, we examine 342 intra-European takeovers of listed target firms announced between 1997 and 2007. We find that family-controlled acquiring firms on average engage in deals with substantially larger value creation, particularly in Continental Europe. However, this positive family effect disappears in industry-diversifying acquisitions, consistent with the idea that those family-controlled firms may also pursue corporate diversification through M&As in order to diversify the family wealth. Moreover, family owners across Europe cannot curb low-value acquisitions driven by managerial overconfidence. We relate this finding to the strong connections of family owners with management in family-controlled firms. Next, large institutional shareholders all over Europe are associated with the lowest-value deals, but they are able to limit the negative effects of managerial overconfidence. As to the division of M&A gains, we find that regardless of their identity, large acquirer shareholders tend to put their firm in a weaker negotiation position. Lastly, we find no robust support for the idea that major owners are less likely to pursue private benefits through M&As in countries with stronger investor protection.

European capital markets law has developed rapidly in recent years. The former directives have been replaced by regulations and numerous implementing legal acts aimed at ensuring a level playing field across the EU. The financial crisis has given further impetus to the development of a European supervisory structure. This book systematises the European law and examines the underlying concepts from a broadly interdisciplinary perspective. National experiences in selected Member States – Austria, France, Germany, Italy, Spain, Sweden and the United Kingdom – are also explored. The first chapter deals with the foundations of capital markets law in Europe, the second explains the basics, and the third examines the regime on market abuse. Chapter four explores the disclosure system and chapter five the roles of intermediaries, such as financial analysts, rating agencies and proxy advisers. Short selling and high frequency trading is described in chapter six. Chapter seven deals with financial services and chapter eight explains compliance and corporate governance in investment firms. Chapter nine illustrates the regulation of benchmarks. Finally, chapter ten deals with public takeovers. Throughout the book emphasis is placed on legal practice, and frequent reference is made to the key decisions of supervisory authorities and courts.

The steadily rising number of investor-State arbitration proceedings within the EU has triggered an extensive backlash and an increased questioning of the international investment law regime by different Member States as well as the EU Commission. This has resulted in the EU's assertion of control over the intra-EU investment regime by promoting the termination of bilateral intra-EU investment treaties (intra-EU BITs) and by opposing the jurisdiction of arbitral tribunals in intra-EU investor-State arbitration proceedings. Against the backdrop of the landmark Achmea decision of the European Court of Justice, the book offers an in-depth analysis of the interplay of international investment law and the law of the European Union with regard to intra-EU investments, i.e. investments undertaken by an investor from one EU Member State within the territory of another EU Member State. It specifically analyses the conflict between the two investment protection regimes applicable within the EU with a particular emphasis on the compatibility of the international legal instruments with the law of the European Union. The book thereby addresses the more general question of the relationship between EU law and international law and offers a conceptual framework of intra-European investment protection based on the analysis of all intra-EU BITs, the Energy Charter Treaty and EU law, as well as the arbitral practice in over 180 intra-EU investor-State arbitration proceedings. Finally, the book develops possible solutions to reconcile the international legal standards of protection with the regionalized transnational law of the European Union.

While hedge funds have been part and parcel of the global asset management landscape for well over fifty years, it is only relatively recently that they came to prominence as one of the fastest growing and most vigorous sub-sectors of the financial services industry. Despite their growing significance for global and European financial markets, hedge funds continue enjoying a sui generis regulatory status. The ongoing credit crisis and its lessons for the wisdom of unregulated or loosely regulated pockets of financial activity raise, with renewed urgency, the issue of deciding how long for the relative regulatory immunity of hedge funds is to be tolerated in the name of financial innovation. This well-thought-out book, the first of its kind in this particular field, examines the case for the European onshore hedge fund industry's regulation, making concrete proposals for its normative future. Following a detailed account of the 'established' regulatory systems in Ireland and Luxembourg, as well as of the 'emerging' hedge fund jurisdictions in Italy, France, Spain and Germany, and of the regulatory treatment of hedge funds in the UK, this book examines to what extent the continuing exclusion of hedge funds from harmonized European regulation is defensible, whether their differences to traditional asset management products justify their distinct regulatory treatment and, ultimately, if their EU-wide regulation is possible and, if so, what form this should take. This book offers enormously valuable insights into all facets of the subject of the regulation of hedge funds, including: the legitimacy of the public policy interest in their activities; the conceptual underpinnings and systemic stability emphasis of a realistic hedge fund regulatory scheme; the main parameters of a workable onshore hedge fund regulatory framework; the role of investor protection and market

integrity as part of a holistic hedge fund regulatory scheme; the possible use of the UCITS framework as a foundation for the EU--wide regulation of hedge funds; the MiFID's impact on the regulatory future of the European hedge fund industry; existing cross-jurisdictional differences and similarities in the normative treatment of hedge funds within the EU; hitherto initiatives and recommendations of the Community institutions and bodies; and the need for more efficient co-operation and information-sharing arrangements amongst national supervisors for the monitoring of the cross-border risks inherent in the activities of hedge funds. As the first ever comprehensive account of the profile, main features and normative future of the contemporary global and European hedge fund markets – including a systematic inquiry into the conceptual underpinnings of hedge fund regulation and a detailed examination of the European hedge fund industry's treatment under Community and domestic law – this book represents a major contribution to the literature on hedge funds and their regulation which, through its concrete proposals for the onshore industry's regulation and its clear analysis of the conditions necessary for their implementation, should be of extraordinary value to policy-makers, supervisors and academics alike.

Présentation de l'éditeur : "In an examination that is at once critical, comparative and interdisciplinary, the book discusses the stated objectives of the EU issuer-disclosure regime - principally about retail investor protection - and then goes on to identify objectives that can actually be met in practice, i.e. market efficiency and corporate governance. The author concludes by drawing concrete policy and regulatory implications, along the way covering such aspects and ramifications of the regime. In its defence of the power of market forces as regulatory means, and its clear argument that market finance should be seen at a minimum as a useful complement to bank credit and other financing sources, this important book can claim a privileged space in the debate over the role of disclosure requirements in securities regulation."

"Foreign direct investments (FDI) are becoming the new "frontier of commercial policy". Despite the current economic crisis the EU remains the largest global investor and the world's largest destination for investment. However, the rules-based international investment system is undergoing profound changes, with emerging economies taking up a larger share and starting to invest in Europe. But while the system of international dispute settlement is increasingly being challenged or disregarded, EU institutions do not share a common approach how to reform the international investment system and how to develop a European approach to investment protection. In a new policy brief Jonas Parello-Plesner and Elena Ortiz de Solorzano suggest ways the EU could improve its own coherence and strengthen global rules on investment protection: The EU should create a model bilateral investment treaty (BIT) which could set the standards both for investment protection and for other important concerns such as environmental, social, and human rights standards -- The EU should create a joint EEAS/European Commission task force to develop a comprehensive approach to investment protection -- The EU should create a set of transparent, proportional, and rule-bound tools that it can use in situations where governments do not comply with international rules -- The EU should use the various financial institutions linked to the World Bank and the IMF to put pressure on non-compliant states. Key facts: The EU attracted a total of €225 billion in investments in 2011 and it is the world's top destination for FDI -- In 2011, FDI from emerging countries in the EU totalled $384 billion-23 percent of global outflows-and is likely to increase further in future -- International investment rules are not regulated by a single international organisation. Instead, countries sign BITs, which set standards to regulate the treatment of host states to investors, and grant private companies or individual investors the right to initiate claims against host states -- Europe is at the centre of this global web of agreements: European states signed 1,200 BITs. The US has signed only 48 and Japan only 11 -- The EU now has exclusive competence on FDI, although the exact scope of FDI is not defined in the treaties. The European Commission is now in charge of entering into negotiations to conclude future BITs on behalf of the EU, and the European Council and the European Parliament share legislative power pursuant to the co-decision procedure that applies to common commercial policy.

This book analyzes the legal system for the protection of retail investors under the European Union law of investment services. It identifies the regulatory leitmotiv driving the EU lawmaker and ascertains whether and to what extent such a system is self-sufficient, using a set of EU-made and EU-enforced rules that is essentially different and autonomous from the domestic legal orders. In this regard, the book takes a double perspective: comparative and intra-firm. Given the federal dimension of the US legal system and, thus, the "role-model" it plays vis-à-vis the EU, the book compares the two systems. To fully highlight the existing gaps and measure how self-sufficient the EU system is against its American counterpart, the Union/Federal level as such is analyzed – i.e., detached from the national (in EU terms) and State (in US terms) level. Regulating Investor Protection under EU Law also showcases the unique intra-firm perspective from a European investment firm and analyzes how EU-produced public-law rules become a set of compliance requirements for investment services providers. This "within-the-firm" angle gauges the self-sufficiency of the EU system of retail investor protection from the standpoint of an EU--regulated entity. The book is intended for both compliance professionals and academic scholars interested in this topic while also including illustrative sections intended to provide a broader regulatory view for less-experienced readers.

This book provides a comprehensive portrait of how international responsibility of the EU and the Member States is structured under the EU's international investment protection agreements. It analyses both the old regime as represented by the Energy Charter Treaty and the new regime as represented by the new EU investment treaties, such as CETA, TTIP, the EU-Singapore Agreement and the EU-Vietnam Agreement. The international responsibility of the EU, being a "special" international organisation, is in and of itself an important and challenging topic in public international law. However, in the context of international investment law, and especially with regard to the emerging new EU investment treaties, the topic is largely unexplored and represents new terrain. The book promotes the development of law in this area and provide a springboard for further research. The book puts forth the thesis that the determination of the EU or a Member State as respondent in a dispute under the new EU investment treaties has a substantive effect on the respondent's international responsibility. The international law effects of the respondent determination will surely be one of the central topics in future debates on the new EU investment treaties. The book further compares the EU regulation that allocates financial burdens between the EU and the Member States arising out of international investment disputes with the only other genuinely existing allocation system in federal states to date, namely that of Germany. The book finally reveals many shortcomings of the new EU responsibility regime in international investment law and provides some

suggestions on how they can best be remedied.

This book examines the relationship between the EU investor protection regulations enshrined in MiFID and MiFID II and national contract and torts law. It describes how the effect of the conduct of business rules as implemented in national financial supervision legislation in private law extends to the issue of enforcement, and critically assesses this interaction from the perspective of EU law. In particular, the conclusions identified in the book will deepen readers' understanding of the interplay between the conduct of business rules and private law norms governing a firm's liability to pay damages, such as duty of care, attributability of damage, causation, contributory negligence and limitation. In turn, the book identifies the subordination and the complementarity model to conceptualise the interaction between the conduct of business rules and private law norms. Moreover, the book challenges the view that civil courts are – or should be – forced to give private law effects to violation of the MiFID and MiFID II conduct of business rules in line with the subordination model. Instead, the complementarity model is advanced as the preferred approach to this interaction in view of what MiFID and MiFID II require from Member States in terms of their implementation, as well as the desirability of each model. This model presupposes that courts should consider the conduct of business rules when adjudicating individual disputes, while preserving the autonomy of private law norms governing liability of investment firms towards clients. Based on analysis of case law of courts in Germany, the Netherlands and England & Wales, as well as scholarly literature, the book also compares the available causes of action, the conditions of liability and the obstacles investors face when claiming damages, as well as how and the extent to which investors can benefit from the conduct of business rules in clearing these obstacles. In so doing, under the approach adopted by national courts to the interplay between the conduct of business rules of EU origin and private law, the book shows how investors can benefit from the influence of these rules on private law norms. In closing, it demonstrates a hybridisation of private law remedies resulting from the accommodation of the conduct of business rules into the private law discourse according to the complementarity model, illustrating how judicial enforcement through private law means may contribute to investor protection.

The spate of mis-selling episodes that have plagued the financial services industries in recent years has caused widespread detriment to investors. Notwithstanding numerous regulatory interventions, curtailing the incidence of poor investment advice remains a challenge for regulators, particularly because these measures are taken in a 'fire-fighting' fashion without adequate consideration being given to the root causes of mis-selling. Against this backdrop, this book focuses on the sale of complex investment products to corporate retail investors by drawing upon the widespread mis-selling of interest rate hedging products (IRHP) in the UK and beyond. It brings to the fore the relatively understudied field concerning the different degrees of investor protection mechanisms applicable to individual retail investors – as opposed to corporate retail investors – by taking stock of past regulatory reforms and forthcoming regulatory initiatives as well as, more importantly, the conclusions reached by the judiciary in IRHP mis-selling claims. The conclusions are particularly interesting: corporate retail investors are in a vulnerable position when compared to individual retail investors. The former are exposed to a heightened risk of mis-selling, meaning that regulatory intervention should be targeted accordingly. The recommendations made as a result of these findings are further supported by insights emerging from behavioural law and economic theories. This book is aimed at researchers, lawyers and students with an interest in the financial regulation field who are keen to explore potential regulatory reforms to the investment services regime that address the root causes of mis-selling, and restore a level playing field amongst all retail investors.

Asset management has quickly become one of the European Commission's key points on the post- Financial Services Action Plan (FSAP) agenda. The combination of Europe's demographic decline and the poor state of public finances means that asset management will play an increasingly important role in securing retirement income for the masses, as well as in channeling personal savings to productive investments. At the same time, the internal market for asset management is a project still very much under construction.While the commission's work has largely focused on supply-side considerations with a view to improving overall market integration and efficiency, this report tackles some key demand-side issues. The authors take a longer-term approach to the critical challenges that will arise following release of the European Commission's White Paper in the fall of 2006.

The European Union (EU) has emerged as a key actor in the global investment regime since the 1980s. At the same time, international investment policy and agreements, which govern international investment liberalisation, treatment and protection through investor-to-state dispute settlement, have become increasingly contentious in the European public debate. This book provides an accessible introduction to international investment policy and seeks to explain how the EU became an actor in the global investment regime. It offers a detailed analysis of the EU's participation in all major trade and investment negotiations since the 1980s and EU-internal competence debates to identify the causes behind the EU's growing role in this policy domain. Building on principal-agent and historical institutionalist models of incremental institutional change, the book shows that Commission entrepreneurship was instrumental in the emergence of the EU as a key actor in the global investment regime. It refutes business-centred liberal intergovernmental explanations, which suggest that business lobbying made the Member States accept the EU's growing role and competence in this domain. The book lends support to supranational and challenges intergovernmental thinking on European Integration. This text will be of key interest to scholars, students and practitioners of European and regional integration, EU foreign relations, EU trade and international investment law, business lobbying, and more broadly of international political economy.

The Achmea judgment revolutionised intra-EU investment protection by declaring intra-EU bilateral investment treaties (intra-EU BITs) incompatible with EU law. This incisive book investigates whether intra-EU foreign investments benefit from this alteration, which discontinued the parallel applicability of intra-EU BITs and EU law in the EU internal market. In addition to comparative legal analysis from an investor perspective, Dominik Moskvan puts forward a proposal for a creation of a permanent intra-EU foreign investment court to ensure a balanced economic development of the EU internal market.

This topical volume examines key developments in the law regulating capital markets, drawing on examples from around the world – including United States, Canada, Europe, China, India, and New Zealand. With perspectives from international scholars, chapters look at current issues including the regulation of crowdfunding, efforts in Europe for shareholder empowerment, hedge fund activism in Canada, international regulatory cooperation,

and regulation of corporate governance in China through securities law rules.
This collection examines investor protection in Europe, offering a broad and coherant examination of the effects of regulatory competition versus harmonisation. It covers both capital market and company law perspectives and explores clearing, settlement, prospectuses and transparency regulation.

This essay first describes the differences in the ownership structure of companies in the three main economies of continental Europe - Germany, France, and Italy - with comparisons to the United States and the United Kingdom. Next, it summarizes the corporate governance issues that arise in firms with a dominant shareholder. Then, it provides a brief account of the major European corporate scandal, Parmalat, as an extreme example of investor expropriation in a family-controlled corporation. After outlining in general the legal tools that can be used to tackle abuses by controlling shareholders (internal governance mechanisms, shareholder empowerment, disclosure, public enforcement), it describes the corporate governance reforms enacted by France, Germany, and Italy between 1991 and 2005 and assesses the way in which investor protection in the three countries has changed.