# FINANCIAL MARKET LAW - I PART

## Introduction to Financial Market Law

Financial markets are regulated both by national and international regulations. There is an Italian regulation and a European Union regulation, in which we will be focusing.

What is included in the area of financial markets regulation? First the capital market functioning, so how does the capital market function; included in the area we have the market infrastructures, so all the public and private systems that provide services that allow financial transactions (es. Trading venues, all the platforms that are somehow regulated that allow the market participants to do financial transactions), and the second part is the one devoted to investment services, all that activities that are related to investment in financial instruments (es. Brokers who provide advises in purchases of financial instruments). Second we have capital market actors, which are divided into three categories: issuers, intermediaries and investors. The issuers (to issue is to put on the market something new) are all the legal entities that first develop and then sell on the market a financial instrument or a security (from this momenti we use it a synonym of financial instrument), their goal is to finance their business, they might be corporations, investment trusts and governments. Investors are the counterpart of issuers, they are all individuals that buy securities on the market (they are the lenders, they lend money to the borrowers, the issuers). Third actor of the market are the intermediaries, the middle ground between the issuers and the investors. The intermediaries are all the institutions that somehow deal with financial activities, for instance banks, funds, insurance companies. We need professionals because they can suggest you better on how to invest your money based on your profile of investor. Secondly, being professionals, intermediaries have the contractual power to understand and have a complete pool of information regarding every security on the market, and somehow they bear the risk for the investor. The cost not only of knowing the information but also the cost of constant monitoring is significantly lower for someone who does it as a profession, so for the investor the cost of monitoring and knowing the information is higher.

The thirs part of financial market regulations regards financial instruments and products. They are all the assets that are or may be traded on a financial market. There is a basic distinction:

- · cash instrument, so instruments that are based on money, and they can be:
  - equity based, like shares (which make the investor part of the ownership of the company);
  - debt based, like bonds (the investor just gives a loan);
- derivatives instruments: all the instrument not based on cash but whose value is based on the underlying asset, for instance options and futures.

The last part of financial market regulation are all the rules whose purpose is to mitigate market failures. All the sensitive information are subject to disclosure, because they have an significant effect on the market so they can not be held privately. Then there is all the regulation regarding market abuse and insider trading. All these information exist to avoid market failure, to guarantee the correct going on of the market.

Financial markets are part of the bigger market economics, where we have lenders and borrowers. These two parts conclude contracts. In an ideal world where there is a perfect market, there would be no need for regulations: if the parts of the contract can reach the most efficient solution by themselves, the market wouldn't have to be regulated in any way. Although in the real world there is no such thing as a perfect market: rules exists to mitigate all the problems that can come from the day by day contracting in a financial market. The law intervenes when and where there is a risk of market failures, meaning those situations where all the parts can not reach an efficient solution. The problems we are referring to are:

- information asymmetry: normally the borrowers possess more information about the security compared to
  the lenders, because they issue the financial instrument itself. The lenders do not have the same set of
  information. If no rule would be there to mitigate this problem, in order to obtain said information, the
  lender would have to sustain such cost that eventually the purchase of the financial instrument wouldn't be
  efficient at all, so there wouldn't be contracts and the financial market would stop;
- moral hazard: when the borrowers has access to all the information, he could potentially report to the market
  a situation that is different from the reality. Without regulations there might be an inefficient allocation of
  resources, because the market wouldn't be able to push out the inefficient issuers;
- agency problems: all the situations where you have on one had the agent and on the other the principals: the typical situation in which this happens it the manager (agent)-shareholders (principals) situation. In this particular case, the shareholders give the manager the task of managing the company for them. The better

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formative development between the later 17th and the early 20th centuries the editors bring together a collection which employs selected documents and analytical commentary to illustrate the external role of the firm and public perceptions of it

EU Securities and Financial Markets Regulation Niamh Moloney, 2023-03-25 Over the decade or so since the global financial crisis rocked EU financial markets and led to wide ranging reforms EU securities and financial markets regulation has continued to evolve The legislative framework has been refined and administrative rulemaking has expanded Alongside the Capital Markets Union agenda has developed the UK has left the EU and ESMA has emerged as a decisive influence on EU financial markets governance All these developments as well as the Covid 19 pandemic have shaped the regulatory landscape and how supervision is organized EU Securities and Financial Markets Regulation provides a comprehensive critical and contextual account of the intricate rulebook that governs EU financial markets and its supporting institutional arrangements It is framed by an assessment of how the regime has evolved over the decade or so since the global financial crisis and considers among other matters the post crisis reforms to key legislative measures the massive expansion of administrative rulemaking and of soft law the Capital Markets Union agenda the development of supervisory convergence as the means for organizing pan EU supervision and ESMA's role in EU financial markets governance Its coverage extends from capital raising and the Prospectus Regulation to financial market intermediation and the MiFID II MiFIR and IFD IFR regimes to the new regulatory regimes adopted since the global financial crisis including for benchmarks and their administrators to retail market regulation and the PRIIPs Regulation and on to the EU s third country regime and the implications of the UK's departure from the EU This is the fourth edition of the highly successful and authoritative monograph first published as EC Securities Regulation Heavily revised from the third edition to reflect developments since the global financial crisis it adopts the in depth contextual and analytical approach of earlier editions and so considers the market political institutional and international context of the regulatory and supervisory regime South Africa Bankina & Financial Market Handbook Volume 1 Strategic Information and Important Regulations IBP, Inc, 2018-04 2011 Updated Reprint Updated Annually South Africa Banking Financial Market Handbook *Islamic Capital Markets and Products Simon* Archer, Rifaat Ahmed Abdel Karim, 2017-10-16 Ensure Basel III compliance with expert analysis specific to Islamic Finance Islamic Capital Markets and Products provides a thorough examination of Islamic capital markets ICM with particular attention to the products that they offer and the legal and regulatory infrastructure within which they operate Since Islamic banks act as asset managers attention is paid to the regulatory challenges which they face in the light of Basel III as regards both eligible capital and liquidity risk management The authors of the chapters are professionals and practitioners and write from experience The editors also contributed to some of the chapters The markets and products covered include Islamic equities Islamic investment certificates Suk k which are Shari ah compliant alternatives to conventional bonds and Islamic Collective Investment Schemes The coverage of legal and regulatory issues includes an examination of the implications for

ICM of securities laws and regulations and of Basel III as well as collateralisation issues Shari ah compliance aspects in terms both of the selection criteria for Islamic equities and of the purification of impermissible components of income are also examined in some detail as are the implications of Basel III for eligible capital in general and for Shari ah compliant capital instruments in particular A similar analysis is also made of the implications of the Basel III requirements for liquidity risk management and high quality liquid assets HQLA including Shari ah compliant HQLA The book concludes with three case studies two describing the ICM in Malaysia and Bahrain and a third which describes Suk k issued as Shari ah compliant capital instruments followed by brief concluding remarks by the editors The Social Licence for Financial Markets David Rouch, 2020-07-13 This book is about what Mark Carney has called the social licence for financial markets and how it can point us towards a more sustainable future Author David Rouch argues that what it reveals contrasts sharply with the usual portrayals of markets as places of unrestrained financial self interest Drawing attention to a more complex reality and the presence of justice focused aspirations in finance can positively impact individual institutional and systemic behaviour change not imposed by regulators but emerging from the very substance of market relationships The finance sector should have a key role in addressing humanity s increasingly pressing sustainability challenges Yet the relationship between finance and society has not recovered from the 2008 crisis and the scandals and austerity that followed The Covid 19 pandemic and its economic fallout is sharpening some of the issues and creating new ones Recognising that financial markets operate subject to a social licence has the potential to galvanise market participants in tackling these challenges strengthening social solidarity on which markets also depend and to provide coordinates for navigating a way through the post pandemic social political and economic landscape United Arab Emirates Business Intelligence Report Volume 1 Banking & Financial Market Strategic Information and Important Regulations IBP USA, 2013-08 United Arab Emirates Business Intelligence Report Practical Information Opportunities Contacts Moffat's Trusts Law Jonathan Garton, Rebecca Probert, Gerry Bean, 2020-05-14 Combines authoritative commentary and unique contextual analysis to explain the general principles of trusts and their practical operation The Transformation of Islamic Law in Global Financial Markets Jonathan Ercanbrack, 2015-01-01 The role of global capital in relation to human social systems has assumed enormous proportions in liberalised deregulated markets States attempt to nationalise it financial centres spring up in its wake and INGOs attempt to deal with its de territorialising supranational characteristics A global adjudication system arbitration has been introduced to safeguard and buttress its flow The power of Islamic capital has generated numerous sites of legal contestation and negotiation ranging from gateway financial centres international law firms and transnational financial institutions all of which interact in the production of Islamic financial law IFL The process of producing IFL illustrates complex fields of action driven by power dynamics neoliberal paradigms and the institutional momentum of the global economy The municipal legal systems under study in this book the United Kingdom Bahrain United Arab Emirates and the Dubai International Financial

Centre illustrate globalisation s acceleration of legal economic and social production Trusts and Patrimonies Remus Valsan, 2015-06-17 Focusing on the private law of England Scotland France Quebec and the Netherlands this volume explores how the private law concepts of trust and patrimony interact in various jurisdictions with a view to advancing the understanding of the trust as a fundamental legal concept It comprises new and previously published papers written by distinguished comparative law scholars The authors investigate whether the common law trust could be understood as a civil law patrimony by appropriation and whether civil law and mixed traditions could create local versions of the common law trust using patrimony as the main conceptual building block **Legal Aspects of Crowdfunding Caroline** Kleiner, 2021-11-05 This book offers a comparative perspective on 18 countries legal regulation of crowdfunding In the wake of the financial crises of 2008 use of this alternative financing method has increased substantially in various forms Whereas some states have adopted tailor made regimes in order to regulate but also encourage this way of financing projects allowing loans to be made by non banking institutions others still haven t specifically addressed the subject An analysis of these diverse legislative stances offers readers a range of legal solutions for managing crowdfunding activities with regard to e.g. protecting investors imposing limits on project owners and finally the role and duties of intermediaries i e companies operating crowdfunding platforms In addition the content presented here provides a legal basis for states and supranational organizations interested in regulating this phenomenon to achieve more legal certainty **Venezuela Banking and** Financial Market Handbook Volume 1 Strategic Information and Basic Regulations IBP, Inc., 2018-09-23 2011 Updated Reprint Updated Annually Venezuela Banking Financial Market Handbook Uniform Commercial Code, 2005

Party Autonomy in International Property Law Roel Westrik, Jeroen van der Weide, 2011-06-30 Party autonomy is a subject that is traditionally rejected in the field of property law Legal systems throughout Europe and most parts of the world still found their property law on the lex situs This point of view however is challenged more and more The immense intensification of worldwide trade may have turned boundaries between countries into barriers in a world that needs flexibility This book deals with important questions concerning this problem including What happens to property rights related to movables and claims when borders are crossed Do we recognize a German retention of title or an American security right Which law will apply the law of the country of origin the lex situs or the law of the country of destination How does legislation concerning financial instruments relate to the problem and what is it all worth in insolvency situations

A Comparative Analysis of Corporate Fraud Sally Ramage, 2006 A Comparative Analysis of Corporate Fraud Book Four examines corporate fraud in the United Kingdom compared with that of two civil law neighbouring countries France and Germany as well as the United States The objective of the study is to discover how fraud occurs how the two different legal systems treat fraud contributing factors and if recommendations were made to authorities in an attempt to combat this illegal activity The UK can learn much from the French legal system and the way France prosecutes corporations Germany s

Criminal Code is equally comprehensive in its prescriptive definitions of fraud especially corporate fraud Although the UK is striving for a general law against fraud the UK Fraud Offence Bill is very inadequate lacking detailed solutions The UK has become entrenched in upholding legal privilege bowing to intense lobbying by the legal profession And the use of electronic evidence vital in prosecuting modern corporate fraud remains overlooked The attitude toward corporate fraud in the UK remains laissez faire By analysing corporate fraud in the US France and Germany author Sally Ramage highlights examples that the UK can take from these countries that combat corporate fraud without derogation of established international human rights

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