

JULIAN FRANKS

AND

COLIN MAYER

**RISK, REGULATION
AND INVESTOR
PROTECTION**

The case of investment management

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Risk Regulation And Investor Protection

G Thomas



Risk Regulation And Investor Protection:

Risk, Regulation, and Investor Protection Julian R. Franks, Colin P. Mayer, 1989 This authoritative study of the investment management business focuses on the use of capital requirements for investment managers as a means of investor protection Commissioned by the Investment Management Regulatory Organization and drawing on extensive discussions with investment managers it provides a comprehensive account of how the investment management business is organized and identifies its inherent risks The authors examine the cause and incidence of market failures as well as the dangers to investors through mismanagement and malpractice and provide an extensive treatment of fraud with a full listing of British fraud cases since the early 1970s The report concludes with a summary of the risks faced by investors and recommendations for appropriate forms of protection and on the basis of existing regulatory structures in the United Kingdom and the United States proposes an alternative structure in accordance with the authors analysis *Enhancing Investor Protection and the Regulation of Securities Markets, Part II* United States. Congress. Senate. Committee on Banking, Housing, and Urban Affairs, 2009

Investor Protection Hanneke Wegman, 2015-11-24 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

Enhancing Investor Protection and the Regulation of Securities Markets-Part II, S. Hrg. 111-144, March 26, 2009, 111-1 Hearing, *, 2010 **Enhancing Investor Protection and the Regulation of Securities Markets** United States.

Congress. Senate. Committee on Banking, Housing, and Urban Affairs, 2009 *EU Investor Protection Regulation and Liability for Investment Losses* Marnix Wallinga, 2020-10-30 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 **Asset Management and Investor Protection** Julian Franks, Colin

Mayer, Luis Correia da Silva, 2003-01-16 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

The Cambridge Handbook of Investor Protection Arthur B. Laby, 2022-10-27 The topic of investor protection has occupied investors businesses regulators academics and courts since the 1930s The topic exploded in importance after the 2008 financial crisis and the Bernard Madoff Ponzi scheme of the same year Investor protection scholarship now seeks to respond to developments such as the institutionalization of the markets the democratization of finance and the enhanced role of market professionals and other gatekeepers Additionally although the philosophy of full disclosure remains the guiding principle behind the securities laws recent research has questioned the merits of a disclosure based regime In light of these trends regulators try to strike the right balance between imposing a strict investor protection regime on the one hand and giving businesses the freedom to innovate new projects market new services and reduce costs on the other The Cambridge Handbook of Investor Protection brings together leading scholars to inform this debate and fill a gap left by these developments

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

The Alternative Investment Fund Managers Directive Dirk A. Zetzsche, 2015-09-14 Apart from MiFID the Alternative Investment Fund Managers Directive AIFMD may be the most important European asset management regulation of the early twenty first century In this in depth analytical and critical discussion of the content and system of the directive thirty eight contributing authors academics lawyers consultants fund supervisors and fund industry experts examine the AIFMD from every angle They cover structure regulatory history scope appointment and authorization of the manager the requirements for depositaries and prime brokers rules on delegation reporting requirements transitional provisions and the objectives stipulated in the recitals and other official documents The challenging implications and contexts they examine include the following connection with systemic risk and the financial crisis nexus with insurance for negligent conduct connection with corporate governance doctrine risk management transparency the cross border dimension liability for lost assets impact on alternative investment strategies and the nexus with the European Regulation on Long Term Investment Funds ELTIFR Nine country reports representing most of Europe's financial centres and fund markets add a national perspective to the discussion of the European regulation These chapters deal with the potential interactions among the AIFMD and the relevant laws and regulations of Austria France Germany Italy Luxembourg Liechtenstein The Netherlands Malta and the United Kingdom The second edition of the book continues to deliver not only the much needed discussion of the inconsistencies and difficulties when applying the directive but also provides guidance and potential solutions to the problems it raises The second edition considers all new developments in the field of alternative investment funds their managers depositaries and prime brokers including but not limited to statements by the European Securities and Markets Authority ESMA and national competent authorities on the interpretation of the AIFMD as well as new European regulation in particular the PRIIPs Regulation the ELTIF Regulation the Regulation on European Venture Capital Funds EuVeCaR the Regulation on European Social Entrepreneurship Funds EUSEFR MiFID II and UCITS V The book will be warmly welcomed by investors and their

counsel fund managers depositaries asset managers administrators as well as regulators and academics in the field

Risk Regulation And Investor Protection Book Review: Unveiling the Magic of Language

In a digital era where connections and knowledge reign supreme, the enchanting power of language has be more apparent than ever. Its ability to stir emotions, provoke thought, and instigate transformation is really remarkable. This extraordinary book, aptly titled "**Risk Regulation And Investor Protection**," written by a highly acclaimed author, immerses readers in a captivating exploration of the significance of language and its profound impact on our existence. Throughout this critique, we will delve in to the book is central themes, evaluate its unique writing style, and assess its overall influence on its readership.

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