

HISTORICAL PERSPECTIVE OF SECURITIES LAWS

M S SAHOO*

The two exclusive legislations that governed the securities market till early 1992 were the Capital Issues (Control) Act, 1947 (CICA) and the Securities Contracts (Regulation) Act, 1956 (SCRA). The CICA had its origin during the war in 1943 when the objective was to channel resources to support the war effort. Control of capital issues was introduced through the Defence of India Rules in May 1943 under the Defence of India Act, 1939. The control was retained after the war with some modifications as means of controlling the raising of capital by companies and to ensure that national resources were channelled into proper lines, i.e., for desirable purposes to serve goals and priorities of the government, and to protect the interests of investors. The relevant provisions in the Defence of India Rules were replaced by the Capital Issues (Continuance of Control) Act in April 1947. This Act was made permanent in 1956 and enacted as the Capital Issues (Control) Act, 1947. Under the Act, the Controller of Capital Issues was set up which granted approval for issue of securities and also determined the amount, type and price of the issue. This Act was, however, repealed in 1992 as a part of liberalization process to allow the companies to approach the market directly provided they issue securities in compliance with prescribed guidelines relating to disclosure and investor protection.

Though the stock exchanges were in operation, there was no legislation for their regulation till the Bombay Securities Contracts Control Act was enacted in 1925. This was, however, deficient in many respects. Under the constitution which came into force on January 26, 1950, stock exchanges and forward markets came under the exclusive authority of the Central Government. The Government appointed the A. D. Gorwala Committee in 1951 to formulate a legislation for the regulation of the stock exchanges and of contracts in securities. Following the recommendations of the Committee, the SCRA was enacted in 1956 to provide for direct and indirect control of virtually all aspects of securities trading and the running of stock exchanges and to prevent undesirable transactions in securities. It has undergone several modifications since its enactment and even today an amendment is awaiting approval of the Parliament. It gives Central Government regulatory jurisdiction over (a) stock exchanges through a process of recognition and continued supervision, (b) contracts in securities, and (c) listing of securities on stock exchanges. As a condition of recognition, a stock exchange complies with conditions prescribed by Central Government. Organised trading activity in securities is permitted on recognised stock exchanges.

The authorities have been quite sensitive to requirements of the development of securities market, so much so that the last decade (1992-2003) witnessed nine special legislative interventions, including two new enactments, namely the Securities and Exchange Board of India (SEBI) Act, 1992 and the Depositories Act, 1996. The SCRA, the SEBI Act and the Depositories Act were amended six, five and three times respectively during the same period. The developmental need was so urgent at times, that the last decade witnessed five ordinances relating to securities laws. Besides, a number of other legislations (the Income Tax Act, the Companies Act, the Indian Stamps Act, the Bankers' Book Evidence Act, the Benami Transactions (Prohibition) Act etc.) having bearing on securities markets have been amended in the recent past to complement amendments in securities laws.

The legal reforms began with the enactment of the SEBI Act, 1992, which established SEBI with statutory responsibilities to (i) protect the interest of investors in securities, (ii) promote the development of the securities market, and (iii) regulate the securities market. This was followed by repeal of the Capital Issues (Control) Act, 1947 in 1992 which paved way for market determined allocation of resources. Then followed the Securities Laws (Amendment) Act in 1995, which extended SEBI's jurisdiction over corporates in the issuance of capital and transfer of securities, in addition to all intermediaries and persons associated with securities market. It empowered SEBI to appoint adjudicating officers to adjudicate wide range of violations and impose monetary penalties

Securities Law In Perspective

**Annina H Persson, Eleonor
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Securities Law in Perspective Harold S. Bloomenthal, 1977-01-01 Perspectives in Company Law and Financial Regulation Michel Tison, Hans De Wulf, Christoph Van der Elst, Reinhard Steennot, 2009-06-18 This collection of essays has been compiled in honour of Professor Eddy Wymeersch on the occasion of his retirement as professor at Ghent University His main international academic peers explore developments on the crossroads of company law and financial regulation in Europe and the United States providing a unique view on the dynamics of regulatory competition in an era of economic globalisation whether in the fields of rulemaking organising the mobility of capital or the enforcement of rules The deepening of European financial integration and the transatlantic regulatory dialogue has generated new paradigms of rule setting in a multinational framework and reinforced the need to develop adequate instruments for co operation between regulators Regulators increasingly use concepts such as equivalence or mutual recognition to regulate cross border relations

Commercial Law in a Global Context: Some Perspectives in Anglo-Japanese Law Yutaka Tajima, Fiona Macmillan, 1998-07-20 This unique work consists of a selection of key papers presented at the first Anglo Japanese Comparative Law Conference held at Jesus College Cambridge in September 1996 The conference was organised under the auspices of the Institute of Advanced Legal Studies University of London the University of Tsukuba Japan and Murdoch University in Australia The conference brought together a number of leading business lawyers from around the world who discussed the impact of globalisation on commercial law If the internalisation of trade and business has produced problems for lawyers the impact of globalisation particularly in such areas as the capital markets has proved to be even more problematic The implications for all those who operate in the commercial and financial sectors and for those who advise them of developments in the nature and character of the markets are increasingly significant The publication will be of particular interest to academics those involved in trans national business and legal practitioners *Roles and Perspectives in the Law* David Carter, Matthew Palmer, 2002 Contains papers presented at a conference entitled Roles and perspectives in the law held in April 2002 at Victoria University of Wellington Law School honouring Sir Ivor Richardson upon his retirement as President of the Court of Appeal Covers eight distinct and contrasting areas of law the juxtaposition of which illustrates the underlying principles tensions and values that run through the law Includes sections on taxes and commercial regulation

European Perspectives on Behavioural Law and Economics Klaus Mathis, 2015-02-09 This anthology highlights the theoretical foundations as well as the various applications of Behavioural Law and Economics in European legal culture By the same token it fosters the dialogue between European and American Law and Economics scholars The traditional neo classical microeconomic theory explains human behaviour by using Rational Choice According to this model people tend to maximize the difference between expected utility and cost expected utility theory This theory includes three assumptions 1 unbounded rationality 2 unbounded self interest and 3 unbounded willpower Behavioural Economics questions these

assumptions and endeavours to render economic analysis more realistic by underpinning it with psychological insights In recent years the influence of Behavioural Economics on the Economic Analysis of Law has gained momentum Behavioural Law and Economics generates a better theoretical understanding of legal phenomena and offers a multitude of applications in legislation and legal adjudication This volume is testament to the growing and thriving Law and Economics movement in Europe The European Law and Economics community has steadily grown and the yearly Law and Economics Conference at the law faculty of the University of Lucerne has successfully become a guiding star in the vast sky of Law and Economics

Jurisdiction in International Law Cedric Ryngaert, 2008-10-02 Introduction Public international law approaches to jurisdiction The territoriality principle The principles of extraterritorial criminal jurisdiction A reasonable exercise of jurisdiction A new theory of jurisdiction in international law *British and Canadian Perspectives on International Law* Christopher P.M. Waters, 2006-09-29 British and Canadian Perspectives on International Law examines the impact of public international law on the United Kingdom's and Canada's domestic legal systems It also analyses the contributions of British and Canadian practice to the development of international norms Topics addressed include international criminal law international humanitarian law human rights and human security asylum trade jurisdiction reception law and media portrayals of international law Whereas international law scholarship usually takes a global regional or national approach this book's chapters are written by leading scholars and practitioners from both countries and provide unique comparative views While there remains much in common between the two states' understandings of international law recent developments have shown significant points of departure *Swedish Perspectives on Private Law Europeanisation* Annina H Persson, Eleonor Kristoffersson, 2017-01-12 As part of the European integration an ambitious programme of harmonisation of European private law is taking place This new edition in the Swedish Studies in European Law series the work of both legal scholars and politicians aims to create a modern codification in the tradition of the great continental codifications such as the BGB and the Code Civil A significant step towards this development was taken in 2009 with the creation of the Draft Common Frame of Reference which contains model rules for a large part of central private law The process raises a number of questions What are the advantages and disadvantages of such an intensive process of harmonisation Are there lessons to be learnt from the Europeanisation of private law through history Are there any further steps which have been taken in order to create a European private law What is the future of European private law These crucial questions were discussed at a conference in Stockholm sponsored by the Swedish Network of European Legal Studies This important volume includes the answers offered by leading scholars in the field **Earnings Management, Fintech-Driven Incentives and Sustainable Growth** Michael I. C. Nwogugu, 2019-11-01 Traditional research about Financial Stability and Sustainable Growth typically omits Earnings Management as a broad class of misconduct Complex Systems Theory Mechanism Design Theory Public Health psychology issues and the externalities and psychological effects of Fintech Inequality Environmental Pollution

Earnings Management opportunities the varieties of complex Financial Instruments Fintech Regulatory Fragmentation Regulatory Capture and real financial sector linkages are growing around the world and these factors can have symbiotic relationships Within Complex System theory framework this book analyzes these foregoing issues and introduces new behaviour theories Enforcement Dichotomies and critiques of models regulations and theories in several dimensions The issues analyzed can affect markets and evolutions of systems decision making internal Markets and risk perception within government regulators operating companies and investment entities and thus they have Public Policy implications The legal analysis uses applicable US case law and statutes which have been copied by many countries and are similar to those of many common law countries Using Qualitative Reasoning Capital Dynamics Theory a new approach introduced in this book Critical Theory and elements of Mechanism Design Theory the book aims to enhance cross disciplinary analysis of the above mentioned issues and to help researchers build better systems Artificial Intelligence mathematical models in Financial Stability Portfolio Management Policy Analysis Asset Pricing Contract Theory Enforcement Theory and Fraud Detection The primary audience for this book consists of university Professors PHD students and PHD degree holders in industries government agencies financial services companies and research institutes The book can be used as a primary or supplementary textbook for graduate courses in Regulation Capital Markets Law Economics International Political Economy and or Mechanism Design Applied Math Operations Research Computer Science or Finance Regulating Capitalism? J. Zimmermann, J. Werner, 2013-09-26 By exploring how financial legal and wider socio economic systems can accelerate or decelerate the harmonization in financial markets this book connects issues both of contemporary political science and accounting research **United States Securities Law** James M. Bartos, Jim Bartos, 2006-01-01 Capital raising mergers and acquisitions and securities trading around the world often involve some connection with the United States and implicate the US securities laws United States Securities Law A Practical Guide offers a concise overview of US securities laws from the perspective of a non US participant It is written not only for lawyers but for managers bankers and others with an interest in the topic This new edition has been significantly updated and expanded including for the SEC's recent offering reforms and corporate governance developments Praise for the Second Edition This book has been a valuable resource in effectively counselling my company in the intricacies of SEC regulation Jim with his many years of counselling foreign issuers out of his firm's London office writes with a perspective that is particularly relevant to the needs of foreign companies listed on US exchanges George Miller Executive Vice President and General Counsel Novartis Corporation A well written and useful primer for those looking for quick practical answers to real life questions or who wish to understand better the background and rationale to US securities law and regulation Leland Goss Managing Director Credit Suisse This book really is a practical guide to the US securities laws It does a great job of explaining the rules and regulations in a way that can be understood by readers that are not themselves US securities lawyers Peter Castellon Director andamp Counsel Citigroup Corporate andamp

Investment Banking The Federalization of Corporate Governance Marc I. Steinberg, 2018-02-23 This book focuses on the federalization of corporate governance in the United States from both historical and contemporary perspectives Although the states traditionally have regulated the sphere of corporate governance encompassing the relations among and between the subject corporation its directors its officers its stockholders and other stakeholders federal law today impacts the governance of publicly traded companies to a greater degree than ever before in U S history This book discusses the evolution and development of corporate governance from a federal law perspective from the commencement of the twentieth century to the present It examines the tension between state company law and federal law analyzes the federal historical developments explains the ramifications of the federal legislation enacted during the past two decades and recommends corrective measures that should be implemented The book accordingly provides an original historical and contemporary analysis of the federalization of corporate governance a subject that impacts this country s economic well being in a very fundamental way

Regulatory Perspectives on the Obama Administration's Financial Regulatory Reform Proposals United States. Congress. House. Committee on Financial Services, 2010 Research Handbook on Insider Trading Stephen M. Bainbridge, 2025-01-09 This thoroughly revised second edition skilfully provides an updated and extensive overview of cutting edge research on insider trading the most common violation of securities law It presents legal economic and empirical studies from Australasia the Middle East Europe and North America *Regulatory Perspectives on the Obama Administration's Financial Regulatory Reform Proposals, Part I, Serial No. 111-66, July 22, 2009, 111-1 Hearing, **, 2010 The Foundations of European Transnational Private Law Anna Beckers, Hans-W. Micklitz, Rodrigo Vallejo, Pia Letto-Vanamo, 2024-05-30 Since Anu Bradford s groundbreaking book on the Brussels Effect there is a vastly evolving literature on the EU as a global regulatory actor as well as the global reach of EU law This edited collection connects to this debate Yet it shifts the focus from the currently predominant public law focus to investigating European and EU private law and to connecting to literature and research on transnational law To that end it proceeds first conceptually by introducing and giving shape to the notion of a European Transnational Private Law through four conceptual contributions by the editors Secondly it focuses on several sectors finance taxation investment consumer law labour law and topics climate litigation global value chains non discrimination to trace sector specifically the role of EU private law in relation to transnational legal ordering The Evolution of Legal Business Forms in Europe and the United States Erik M. Vermeulen, 2003-01-01 The evolution of partnership forms is stimulated by powerful economic forces that can lead to widespread prosperity and wealth creation for a society Given the importance of closely held firms in the United States and Europe The Evolution of Legal Business Forms in Europe and the United States argues that partnership law should trouble itself less with historical and descriptive arguments about the legal rules and structure of the partnership form and focus much more on the new analytical apparatus of the economics of organizational form as well the fundamental economic learning that informs the debates on limited liability partnership rules regarding

management and control conflict resolution and fiduciary duties Introducing and extending the best available theories from law and economics particularly those from the theory of the firm This book s analysis demonstrates that the patterns of European partnership law and its recent history are best understood from an economic and comparative law perspective By examining the economic theories of the firm and the economics of organization choice The Evolution of Legal Business Forms in Europe and the United States conceives partnership type business forms as contractual entities The key feature of the modern partnership form is that partners have significant flexibility and power to limit their liability transfer all of their rights and to freely exit the firm Another key feature of partnership law is the insight that lawmakers should provide the rules and enforcement mechanisms to regulate the important relationships within the partnership This book applies an efficiency test to determine which sets of default rules are likely to resolve the main problems in partnerships Having identified partnership law with the economic theory of organization The Evolution of Legal Business Forms in Europe and the United States then goes to argue that most of partnership law is directed at offering bundles of legal rules for different types of firms Lawmakers should promote partnership rules that attract investors and can be expected to be efficient if they allow entrepreneurs to freely select the bundle of rules that best match their priorities In a modern vision of partnership law lawmakers promote economic welfare through creating non mandatory rules that allow multiple businesses to switch to a favourable business form without significant costs Jurisdictions plagued by falling incorporations and low levels of small and medium business activity should abandon the mandatory and standardized framework and the lock in effect that it promotes and focus on the mechanisms of legal evolution and rules that tend to mimic the market This innovation work will have ramifications felt across European jurisdictions and will be debated by a large audience of policymakers and academic lawyers involved in law reform Moreover the book will receive serious attention from students of law and economics as well as practising lawyers involved in resolving complex issues of organizational law Review s Vermeulen s work makes a significant contribution to the dialogue between legal scholars and policy makers from Europe and the United States on the matter of business entity law reform The volume is ambitious in scope thoughtful in approach and accurate in result It shows a well read and nuanced view of the recent American partnership law reform debates He moves with assurance between different systems of law and analysis and has a confident sense of what his diverse readers need to know to come to the ultimate discussion with a common sense of the issues and alternatives at hand Vermeulen s work should serve as a starting point for a robust discussion among scholars and policy makers **Rethinking Corporate Governance** Alessio

Paccès, 2013-01-17 The standard approach to the legal foundations of corporate governance is based on the view that corporate law promotes separation of ownership and control by protecting non controlling shareholders from expropriation This book takes a broader perspective by showing that investor protection is a necessary but not sufficient legal condition for the efficient separation of ownership and control Supporting the control powers of managers or controlling shareholders is as

important as protecting investors from the abuse of these powers Rethinking Corporate Governance reappraises the existing framework for the economic analysis of corporate law based on three categories of private benefits of control Some of these benefits are not necessarily bad for corporate governance The areas of law mainly affecting private benefits of control including the distribution of corporate powers self dealing and takeover regulation are analyzed in five jurisdictions namely the US the UK Italy Sweden and the Netherlands Not only does this approach to corporate law explain separation of ownership and control better than just investor protection it also suggests that the law can improve the efficiency of corporate governance by allowing non controlling shareholders to be less powerful *Perspectives on Corporate Governance* F. Scott Kieff, Troy A. Paredes, 2010-07-30 The events that began with the collapse of Enron WorldCom Tyco and Adelphia and continued into the financial crisis of 2008 teach us an important lesson corporate governance matters Although it is widely acknowledged that good corporate governance is a linchpin of good corporate performance how can one improve corporate governance and its impact on corporate and overall economic performance This book offers a diverse and forward looking set of approaches from experts covering the major areas of corporate governance reform and analyzing the full range of issues and concerns Written to be both theoretically rigorous and grounded in the real world the book is well suited for practicing lawyers managers lawmakers and analysts as well as academics conducting research or teaching a wide range of courses in law schools business schools and economics departments *Making Transnational Law Work in the Global Economy* Pieter H. F. Bekker, Rudolf Dolzer, Michael Waibel, 2010-10-28 This tribute to Professor Detlev Vagts of the Harvard Law School brings together his colleagues at Harvard and the American Society of International Law as well as academics judges and practitioners many of them his former students Their essays span the entire spectrum of modern transnational law international law in general transnational economic law and transnational lawyering and dispute resolution The contributors evaluate established fields of transnational law such as the protection of property and investment and explore new areas of law which are in the process of detaching themselves from the nation state such as global administrative law and the regulation of cross border lawyering The implications of decentralised norm making the proliferation of dispute settlement mechanisms and the rising backlash against global legal interdependence in the form of demands for preserving state legal autonomy are also examined

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