

AEI STUDIES ON FINANCIAL MARKET DEREGULATION



# THE ADVANTAGE OF COMPETITIVE FEDERALISM FOR SECURITIES REGULATION

ROBERTA ROMANO

# The Advantage Of Competitive Federalism For Securities Regulation

**Roberta Romano**



## **The Advantage Of Competitive Federalism For Securities Regulation:**

The Advantage of Competitive Federalism for Securities Regulation Roberta Romano, 2002 In this analysis of securities regulation the author demonstrates that the current approach toward U S regulation exclusive jurisdiction of the Securities and Exchange Commission is misguided and should be revamped by implementing a regime of competitive federalism Under such a system firms would select their regulator from among the states the SEC or other nations The author asserts that competitive federalism harnesses the high powered incentives of markets to the regulatory state to produce regulatory arrangements most compatible with investors preferences The author contends that the empirical evidence does not indicate that the SEC is effective in achieving its stated objectives The commission s expansions of disclosure requirements over the years have not significantly enhanced investors wealth In addition she asserts evidence from institutional equity and debt markets and cross country listing practices demonstrates that firms voluntarily disclose substantial information beyond mandatory requirements to provide the information investors demand The author concludes that under competitive federalism the aspects of the SEC s regime that are valuable to investors will be retained those that are not will be discarded and the resulting securities regime will better meet investors needs than the present one

*Advantage of Competitive Federalism for Securities Regulation* Roberta Romano, 2001-08-31 This work argues that the production of US securities law should be subject to the same market forces that produce US corporate law It questions fundamental beliefs regarding the efficacy of present day securities regulation and calls for opening US securities regulation up to competition

**EU Prospectus Law** Pierre Schammo, 2011-05-19 Pierre Schammo provides a detailed analysis of EU prospectus law and the 2010 amendments to the Prospectus Directive and assesses the new rules governing the European Securities and Markets Authority including the case law on the delegation of powers to regulatory agencies In a departure from previous work on securities regulation the focus is on EU decision making in the securities field He examines the EU s approach to prospectus disclosure enforcement and its implementation at Member State level and breaks new ground on regulatory competition in the securities field by providing a law in context analysis of the negotiations of the Prospectus Directive

**Political Competition and Economic Regulation** Peter Bernholz, Roland Vaubel, 2007-06-07 Using case studies from the US Canada Germany and Switzerland as well as the European Union and the global economy this is the first book of its kind to examine historical evidence on how competition among states or the lack of it affects regulation especially labour market regulation

*The Anatomy of Corporate Law* Reinier Kraakman, John Armour, Paul Davies, Luca Enriques, Henry Hansmann, Gerard Hertig, Klaus Hopt, Hideki Kanda, Mariana Pargendler, Wolf-Georg Ringe, Edward Rock, 2017-01-19 This is the long awaited third edition of this highly regarded comparative overview of corporate law This edition has been comprehensively revised and updated to reflect the profound changes in corporate law and governance practices that have taken place since the previous edition These include numerous regulatory changes following the financial crisis of 2007 09 and the changing

landscape of governance especially in the US with the ever more central role of institutional investors as active owners of corporations The geographic scope of the coverage has been broadened to include an important emerging economy Brazil In addition the book now incorporates analysis of the burgeoning use of corporate law to protect the interests of external constituencies without any contractual relationship to a company in an attempt to tackle broader social and economic problems The authors start from the premise that corporations or companies in all jurisdictions share the same key legal attributes legal personality limited liability delegated management transferable shares and investor ownership Businesses using the corporate form give rise to three basic types of agency problems those between managers and shareholders as a class controlling shareholders and minority shareholders and shareholders as a class and other corporate constituencies such as corporate creditors and employees After identifying the common set of legal strategies used to address these agency problems and discussing their interaction with enforcement institutions The Anatomy of Corporate Law illustrates how a number of core jurisdictions around the world deploy such strategies In so doing the book highlights the many commonalities across jurisdictions and reflects on the reasons why they may differ on specific issues The analysis covers the basic governance structure of the corporation including the powers of the board of directors and the shareholder meeting both when management and when a dominant shareholder is in control It then analyses the role of corporate law in shaping labor relationships protection of external stakeholders relationships with creditors related party transactions fundamental corporate actions such as mergers and charter amendments takeovers and the regulation of capital markets The Anatomy of Corporate Law has established itself as the leading book in the field of comparative corporate law Across the world students and scholars at various stages in their careers from undergraduate law students to well established authorities in the field routinely consult this book as a starting point for their inquiries *Competition Laws in Conflict* Richard Allen

Epstein, Michael S. Greve, 2004 Moreover states have powerful incentives to permit domestic industries to exploit outsiders or even to facilitate such practices High profile antitrust conflicts from the prosecution of Microsoft in state national and international forums to the transatlantic disagreement over the European Union's merger policy illustrate the difficulties Possible solutions to these problems range from improved intergovernmental cooperation to direct policy harmonization to a new regime of structured competition in antitrust policy modeled on U S corporation law **EU Law and the**

**Harmonization of Takeovers in the Internal Market** Thomas Papadopoulos, 2010-01-01 Although some provisions of the Directive are obligatory for all Member States two key provisions have been made optional the non frustration rule which requires the board to obtain the prior authorization of the general meeting of shareholders before taking any action that could result in the frustration of the bid and the breakthrough rule restricting significant transfer and voting rights during the time allowed for acceptance of the bid Other relevant legal issues covered in the course of the analysis include the following A the right of establishment as a right of legal persons A vertical vs **Comparative Corporate Governance**

Klaus J. Hopt,1998 This book comprises a comprehensive survey of the most recent research being done on corporate governance in the triad Europe with particular emphasis on Germany and the UK the US and Japan The comparative nature of the research brings forth new insights which studies conducted within one system may fail to produce The contributors to this volume represent a unique sample of scholars from throughout the triad and across disciplines      **Economic Law as an Economic Good** Karl Matthias Meessen,Marc Bungenberg,Adelheid Puttler,2009 Governments or at least the clever ones among them are aware of the factors guiding business activities In the course of adopting and enforcing economic legislation they seek to attract business activities in order to increase national income and fiscal revenues generate employment opportunities and very generally please voters Hence economic law may be considered an economic good as suggested by the title of this book That function which most rules of economic law have in the competition of systems was strengthened by the worldwide liberalization of trade Today it is of greater significance than ever before Lawyers economists academics and practitioners from inside and outside Germany have taken a look at the facts and have discussed approaches to conceptualizing them The resulting 30 essays collected in this volume contribute to the interpretation of existing and the making of new economic law      **Law and Corporate Finance** Frank B. Cross,Robert A. Prentice,2007-01-01 The authors examine the role of the law in developing large financial markets necessary for national economic success They discuss the basic foundational law of contracts property and tort corporate law and securities law providing both a broad theoretical and empirical case for its value in financial markets      EC Regulation of Corporate Governance Andrew Johnston,2009-12-03 Andrew Johnston examines EC regulation of national corporate governance systems through the lenses of economic theory and reflexive governance By contrasting the normative demands of the neoclassical agency model with those of the productive coalition model he shows how their incompatibility required political compromise Reflexive governance theory is then used to explain how progress has been possible Through detailed analysis of both case law and positive regulation the author highlights the move from positive to negative integration the benefits as well as the limits of regulatory competition and the significant role of reflexive techniques in both preventing market failure and enabling positive integration to proceed The workable compromise that has emerged between market integration and continued regulatory diversity at national level demonstrates that procedural regulation can steer autonomous social subsystems towards greater responsibility and a better articulation of the public good      *Reviewing U.S. capital market structure* United States. Congress. House. Committee on Financial Services. Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises,2003

**Research Handbook on Global Capital Markets Law** Iris H.-Y. Chiu,Iain G. MacNeil,2023-06-01 This Research Handbook is a one stop resource on global capital markets and the laws that regulate them Featuring contributions from leading global experts the Research Handbook delves into a range of issues including investment products such as equity finance sustainable finance fintech impact investing and private equity It also provides analysis on institutional and

procedural issues such as large and small companies capital formation the roles of institutional shareholders and information providers and the practices and regulation of financial trading markets

*Corporate Governance Regimes* Joseph McCahery, 2002 *Corporate Governance Regimes* addresses corporate law's leading question whether one or another corporate law regime possesses relative competitive advantage To this end the editors have brought together an international team of scholars in economics and law to critically assess the new theories of ownership and control which seek to explain the important efficiency advantages of dispersed ownership and the inevitable limitations of control oriented systems of governance Contributors describe and analyse the relative strength of the forces that shape the evolution of corporate law rules and practice They also raise the issue of whether nations undertaking reforms should develop corporate governance policies that borrow from other systems best practices or pursue a course of internally designed corporate governance reforms And building on new theories of law and finance they examine the incentives for introducing meaningful corporate governance reforms that disrupt or destabilize Europe's blockholding regimes The collection is divided into seven parts Part One provides not only a means for assessing the key features of market and control based systems of governance but a standpoint for determining whether national governance systems are likely to converge on a single optimal system of governance Part Two introduces the reader to the building blocks of European corporate governance and the securities law harmonization program Part Three examines the complex ownership and control structures that are found in Western Europe investigating the consequences of large shareholdings for minority investors Part Four offers law and finance analyses of the relationship between legal and financial systems and corporate performance Part Five looks at the economic perspective on the operation of the market for corporate control and the key legal rules and institutions of the bankruptcy and insolvency regimes in the USA and Britain Part Six is devoted to exploring the economic effect of institutional shareholder participation in corporate governance in the USA Britain and continental Europe The final section Part Seven evaluates empirically the executive compensation arrangements in the USA Britain and continental Europe The contributions supply a pool of current research on the motivational effect of performance related remuneration and the substantial increase in top executive remuneration in the USA

**Redesigning Financial Regulation** Justin O'Brien, 2006-11-02 At the height of the 1990s boom Jack Grubman one of the most successful analysts in Wall Street proclaimed what used to be conflicts of interest are now synergies This myopia contributed dramatically to the elevation of a culture in which greed was deified oversight denigrated and misfeasance justified Since the fall of the markets and the implosion of confidence in the American corporate business model one man has proved instrumental in deconstructing the rhetoric of the 1990s Eliot Spitzer the combative Attorney General of New York In the process his innovative application of state law has reconfigured the governance of Wall Street Over the past three years the pursuit of transparency and accountability in the structure of the markets has propelled Spitzer to the forefront of regulatory policy His investigations into tainted analyst research the mutual funds industry the

governance of the New York Stock Exchange and the insurance industry have focused attention not just on corrupted individuals but also the complicity of the financial structure itself Spitzer exploited the inherent conflicts of interest to the full forcing regulators to adopt a much more proactive approach and creating a national platform for his own wider political ambitions Now holding the Democratic nomination for the Governorship of New York Spitzer has begun a path for higher national office This groundbreaking book features exclusive access with many of the key actors in these changes to the governance of Wall Street It examines how Eliot Spitzer exploited gaps in the regulatory framework to capture the corporate reform agenda and explores the implications of his actions on policy formation and recalibration Key incidents include changing the terms of reference governing analyst research the defenestration of Dick Grasso s tenure over the NYSE which is now being heard in state court in New York and the battles for control between the former Chairman of the Securities Exchange Commission Harvey Pitt and Spitzer The book details not only the contested contingent and interdependent connections between the American political and financial systems but reveals how Spitzer s manipulation of those connections have proved instrumental in enhancing his own wider political ambitions *Chasing the Tape* Onnig H.

Dombalagian,2015-03-20 An examination of regulation and use of information in capital markets offering comparisons across different jurisdictions regulated entities and financial instruments Financial information is a both a public resource and a commodity that market participants produce and distribute in connection with other financial products and services Legislators regulators and other policy makers must therefore balance the goal of making information transparent accessible and useful for the collective benefit of society against the need to maintain appropriate incentives for information originators and intermediaries In *Chasing the Tape* Onnig Dombalagian examines the policy objectives and regulatory tools that shape the information production chain in capital markets in the United States the European Union and other jurisdictions His analysis offers a unique cross section of capital market infrastructure spanning different countries regulated entities and financial instruments Dombalagian uses four key categories of information issuer information market information information used in credit analysis and benchmarks to survey the market forces and regulatory regimes that govern the flow of information in capital markets He considers the similarities and differences in regulatory aims and strategies across categories and discusses alternative approaches proposed or adopted by scholars and policy makers Dombalagian argues that the long term regulatory challenges raised by economic globalization and advanced information technology will require policy makers to decouple information policy in capital markets from increasingly arbitrary historical classifications and jurisdictional boundaries **International Corporate Governance After Sarbanes-Oxley** Paul Ali,Greg N.

Gregoriou,2011-07-28 The Sabanes Oxley Act has been one of the most significant developments in corporate and securities regulation since the New Deal This collection of important articles would be a valuable resource for anyone seeking to understand Sabanes Oxley s far reaching effects on corporate governance in the United States and elsewhere Jesse Fried

coauthor of *Pay Without Performance The Unfulfilled Promise of Executive Compensation* and Professor of Law at the University of California Berkeley The editors have assembled the latest cutting edge research on international corporate governance by respected academics in this field In this handbook the editors deal with all aspects of the significant legislative changes to corporate governance regulation It introduces the reader to the new rules that will certainly improve the reliability and the accuracy of disclosures made by corporations The book comes at the right moment with the recent scandals such as Enron which will educate all readers especially shareholders of corporate stock Komlan Sedzro Professor of Finance University of Quebec at Montreal Today corporate governance is a topic at the center of public policy debate in most industrialized countries The range of concerns the variety of approaches and their tendency to converge in some areas or diverge in others not always in the right directions are emphatically demonstrated by these essays There is material here of enormous interest for scholars of comparative law and economic regulation And significantly the presentation of essays from legal financial and regulatory viewpoints demonstrates the growing practical as well as theoretical utility of interdisciplinary work in this area Professors Ali and Gregoriou are to be warmly congratulated for their skill and initiative in assembling an important publication as well as for their own contributions to interdisciplinary scholarship R P Austin BA LL.M Sydney DPhil Oxon Supreme Court of New South Wales This very international collection emphasizes the economic line of descent while including legal and socio legal contributions It fills a very important gap in our empirical knowledge of corporate governance It is accessible and comprehensive and will greatly assist readers from all relevant disciplines who are trying to discern the shape of corporate governance as a mature field Dimity Kingsford Smith Professor of Law University of New South Wales

*The Law and Regulation of Payment Services* Rhys Bollen, 2012-07-01 There is a widespread demand among businesses for more convenient and reliable international payment products and inevitably this has led to calls for more predictable and consistent regulation of these products especially in the light of such innovations as online payments and stored value cards Recognizing that recurring risks tend to be dealt with in similar ways by most legal regimes this study the first of its kind draws on a detailed analysis of the strengths and weaknesses of existing regimes to develop an international model which incorporates both the legal elements and their practical application In building his model the author addresses the fundamental questions in the law of payment services Who bears the risk of unauthorised payments What must be done about claims of error When are payments completed so that they discharge the underlying liability When can payments be reversed These issues are examined through in depth descriptions of payment facilities as regulated in five key jurisdictions Australia the United Kingdom the European Union Singapore and the United States under the headings of scope licensing disclosure obligations of the parties liability redress and dispute resolution The five regimes are further measured against the key harmonization project in this field the UNCITRAL Model Law on Credit Transfers The discussion is illustrated with analyses of leading cases and a number of worked examples In summary this very useful book synthesizes a logical and



useful package of regulatory measures into a model that takes into account the lessons learnt in the regulation of payment services Businesses will warmly welcome the study s contribution toward reducing the cost of taking a product to market across multiple jurisdictions Policymakers and legislators will find the task of comparing the various approaches to payment services regulation and analyzing their effectiveness greatly facilitated      *Competition among Financial Centres in Asia-Pacific* Soogil Young,Dosoung Choi,Jesus Seade,Sayuri Shirai,2009 Contents include an overview and policy recommendations case studies which include Australian content international perspectives and issues and findings

**Systemic Risk in the Financial Sector** Douglas W. Arner,Emilios Avgouleas,Danny Busch,Steven L. Schwarcz,2019-10-02 In late 2008 the world s financial system was teetering on the brink of systemic collapse While the impacts of the global financial crisis would be felt immediately at every level of the economy it would also send years long aftershocks through investment banking and regulatory circles worldwide More than a decade after the worst year of the global financial crisis what has been learned from its harsh lessons Are governments and regulators more prepared for another financial system failure that would significantly affect the real economy What may be the potential triggers for such a collapse to occur in the future Systemic Risk in the Financial Sector Ten Years after the Great Crash draws on some of the world s leading experts on financial stability and regulation to examine and critique the progress made since 2008 in addressing systemic risk The book covers topics such as central banks and macroprudential policies fintech regulators perspectives from the United States and the European Union the logistical and incentive challenges that impede standardization and collection clearing houses and systemic risk optimal resolution and bail in tools and bank leverage welfare and regulation Drawing on experts across disciplines including Howell Jackson John Geanakoplos Charles Goodhart Anat Admati Roberta Romano and Martin Hellwig Systemic Risk in the Financial Sector is the definitive guide to understanding the global financial crisis the safeguards being put into place to try to avoid similar crises in the future and the limitations of those safeguards

## Whispering the Strategies of Language: An Psychological Quest through **The Advantage Of Competitive Federalism For Securities Regulation**

In a digitally-driven world where monitors reign supreme and quick conversation drowns out the subtleties of language, the profound techniques and mental nuances hidden within words often get unheard. Yet, set within the pages of **The Advantage Of Competitive Federalism For Securities Regulation** a captivating literary prize sporting with raw feelings, lies an exceptional quest waiting to be undertaken. Penned by a skilled wordsmith, that enchanting opus encourages visitors on an introspective trip, gently unraveling the veiled truths and profound impact resonating within the material of each word. Within the mental depths of the moving evaluation, we will embark upon a honest exploration of the book is core subjects, dissect its fascinating publishing style, and fail to the strong resonance it evokes deep within the recesses of readers hearts.

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