

Investor Protection In Europe Corporate Law Making The MiFID And Beyond

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[Retail Depositor and Retail Investor Protection under EU Law](#) Springer Nature

Pr é sentation de l' é diteur : "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."

MiFID II and Private Law BRILL

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.

Investor Protection in the CIS Springer Nature

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.

Stricto Sensu Investor Protection under MiFID II Oxford University Press on Demand

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, assetmanagement 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.

Law of Startups in Brazil and the World Springer Nature

This book analyses elements of international finance, comparing the regulation of hedge funds in United States, Europe, the UK, and off-shore jurisdictions in the aftermath of the financial crisis. It critically compares the Dodd- Frank Act in US with the Alternative Investment Funds Managers Directive in Europe. Moreover, it goes further by analyzing the implementation of the AIFM Directive in seven jurisdictions in Europe famous for the incorporation of hedge funds: the United Kingdom, Italy, France, Ireland, Malta, Luxembourg, and Switzerland. The book also analyses the effect of Brexit on the legislation in the UK regarding the application of the directive and the distribution of financial products in Continental Europe, and will be of particular interest to researchers, academics, and students of international finance and financial regulation.

Mega-Regional Trade Agreements: CETA, TTIP, and TiSA Cambridge University Press

'Investor Protection and Corporate Governance' analyzes the impact of corporate governance on firm performance and valuation. Using unique datasets gathered at the firm-level the first such data in the region and results from a homogeneous corporate governance questionnaire, the book examines corporate governance characteristics, ownership structures, dividend policies, and performance measures. The book's analysis reveals the very high levels of ownership and voting rights concentrations and monolithic governance structures in the largest samples of Latin American companies up to now, and new data emphasize the

importance of specific characteristics of the investor protection regimes in several Latin American countries. By and large, those firms with better governance measures across several dimensions are granted higher valuations and thus lower cost of capital. This title will be useful to researchers, policy makers, government officials, and other professionals involved in corporate governance, economic policy, and business finance, law, and management.

EU External Action in International Economic Law Cambridge Scholars Publishing

This book provides an original and critical analysis of the most contentious subjects being negotiated in the China – EU Comprehensive Agreement on Investment (CAI). It focuses on the pathway of reforming investor-state dispute settlement (ISDS) from both Chinese and European perspectives in the context of the China – EU CAI and beyond. The book is divided into three parts. Part I examines key and controversial issues of the China – EU CAI negotiations, including market access, sustainable development and human rights, as well as comparing distinct features between the China – EU CAI and the China – US BIT. Part II concentrates on the institutional reform of investor-state arbitration with an extensive analysis of the EU ' s approach to replacing the private nature of investment arbitration with the public nature of an investment court. Part III addresses the core substantive and procedural issues concerning ISDS, such as the role of domestic courts in investment dispute settlement, the status of state-owned enterprises (SOEs) as investors, transparency and the protection of victims in investment dispute resolution. This book will be of interest to scholars and practitioners in the field of international investment and trade law, particularly investment dispute settlement.

Investment Protection in Brazil Ctr for European Policy Studies

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.

Consumer Credit, Debt and Investment in Europe Cambridge University Press

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 regional 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.

YSEC Yearbook of Socio-Economic Constitutions 2020 JAI Press Incorporated

Reading the Company Law Action Plan of the European Commission (issued on 21 May 2003) it is impossible not to gain the impression that European company law policy is focused on listed companies, and that their efficiency will be enhanced, if possible, by means of state competition, and only out of necessity by means of harmonisation. The same is true of the new Action Plan on European company law and corporate governance (issued on 12 December 2012). This book adopts a different approach, based first of all 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 third parties. The Treaty on the Functioning of the European Union reminds us not to forget that, especially when drawing the attention of the legislator to directives safeguarding “ the protection of the interests of members and others ” (art. 50). This book focuses on the perspective of key jurisdictions in continental Europe, such as (in an alphabetical order) Austria, France, Germany, Italy, Spain, Switzerland, while also analysing seminal developments in the Netherlands, Portugal, and the Scandinavian countries.

Investor Protection Springer

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.

International Investment Protection within Europe Routledge Research in International Economic Law
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.

Distribution of Insurance-Based Investment Products Oxford University Press

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

Responsibility of the EU and the Member States under EU International Investment Protection Agreements Oxford University Press

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.

Regulating Investor Protection under EU Law Springer

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.

Issues in Corporate Governance and Finance Kluwer Law International B.V.

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.

Financial Services, Financial Crisis and General European Contract Law Cambridge University Press

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 and Investor Protection Springer

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.

EU Investor Protection Regulation and Liability for Investment Losses Bloomsbury Publishing

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.

The EU Issuer-disclosure Regime Martinus Nijhoff Publishers

This paper, aimed at professionals, scholars, and government officials in the field of securities regulations, compares the European (specifically the Market in Financial Instruments Directive MiFID) and U.S. securities regulations. The analysis focuses on the regulatory and supervisory framework, trading venues, and the provision of investment services. We show that although there may be regional differences in the structure and rules of current securities regulation, the objectives and some outcomes of regulation are comparable. Similarly, as the current global financial and economic crisis exposed gaps in securities regulations worldwide, regulators in both regions face similar challenges. This study will be particularly useful for World Bank member countries that are looking at either the European or U.S. regulations when conducting market reforms.