

Regulating Financial Services and Markets in the Twenty First Century

Edited by
EILÍS FERRAN
and
CHARLES A E GOODHART



• HART •
PUBLISHING

OXFORD – PORTLAND OREGON
2001

Contents

<i>List of Contributors</i>	ix
GENERAL OVERVIEW	
1. Regulating Financial Services and Markets in the Twenty First Century: An Overview <i>Elis Ferran and Charles A.E. Goodhart</i>	1
2. Reforming Financial Regulation: Progress and Priorities <i>Howard Davies</i>	17
OBJECTIVES AND PRINCIPLES	
3. Regulatory Principles and the Financial Services and Markets Act 2000 <i>Colin Mayer</i>	25
4. Examining the Objectives of Financial Regulation—Will the New Regime Succeed? A Practitioner’s View <i>Amelia C. Fawcett</i>	37
5. <i>Incentive v. Rule-Based Financial Regulation: A Role for Market Discipline</i> <i>Rahul Dhumale</i>	59
REGULATION OF SENIOR MANAGEMENT	
6. Directors’ Fiduciary Duties and the Approved Persons Regime <i>Colin Bamford</i>	75
7. Fiduciary Duties, Regulation of Companies and Regulation of Individuals <i>Sir Adam Ridley</i>	89
DISCIPLINE, ENFORCEMENT AND HUMAN RIGHTS	
8. Regulatory Discipline and the European Convention on Human Rights—A Reality Check <i>Daniel F. Waters and Martyn Hopper</i>	95
9. Holding the Balance—Effective Enforcement, Procedural Fairness and Human Rights <i>Thomas A.G. Beazley</i>	115

ACCOUNTABILITY

10. Regulating the Regulator—A Lawyer’s Perspective on
Accountability and Control 127
Alan Page
11. Regulating the Regulator—An Economist’s Perspective on
Accountability and Control 151
Charles A.E. Goodhart
12. Public Accountability in the Financial Sector 165
Rosa M. Lastra and Heba Shams

EUROPEAN REGULATION

13. Regulating European Markets: The Harmonisation of Securities
Regulation in Europe in the New Trading Environment 189
Eddy Wymeersch
14. The Case for a European Securities Commission 211
Gilles Thieffry

INTERNATIONAL REGULATION

15. New Issues in International Financial Regulation 235
John Eatwell
16. The Financial Stability Forum (FSF): Just Another Acronym? 255
Andrew G. Haldane
17. The Need for Efficient International Financial Regulation and
the Role of a Global Supervisor 273
Kern Alexander

ROLE OF RATING AGENCIES

18. The Role of Rating Agencies in Global Market Regulation 297
Steven L. Schwarcz
19. The Role of Credit Rating Agencies in the Establishment of Capital
Standards for Financial Institutions in a Global Economy 311
Howell E. Jackson

TECHNOLOGICAL CHANGE AND REGULATION

20. The Challenge of Technology—Regulation of Electronic Financial
Markets 323
- Part I : Securities and Derivatives Markets 323
 Gay Wisbey
- Part II : Nasdaq 330
 Mary L. Schapiro
- Part III: London Stock Exchange 335
 David Shrimpton