

INVESTMENT FUNDS

A Roundtable Discussion

Boston University School of Law
Friday, December 10, 2010

Program

- 11:30 a.m. - Arrive at Boston University School of Law (Barristers' Hall)
765 Commonwealth Avenue, Boston, Massachusetts 02215
- 12:00 p.m. - Welcome luncheon, opening remarks & keynote address
Erik R. Sirri, Professor of Finance, Babson College
(former Director, S.E.C. Division of Trading & Markets)
- 12:45 p.m. - Discussion Session I
Supreme Court Litigation: *Janus v. FDT* & aftermath of *Jones v. Harris*
Moderator: **Kent Greenfield**
- 1:45 p.m. - Break
- 2:00 p.m. - Discussion Session II
The Dodd-Frank Bill, the SEC's new rules, and Money Market Funds
Moderator: **Deborah DeMott**
- 3:00 p.m. - Break
- 3:15 p.m. - Discussion Session III
Developments in Hedge Funds
Moderator: **Marty Lybecker**
- 4:15 p.m. - Break
- 4:30 p.m. - Discussion Session IV
Future Issues for Investment Funds
Moderator: **Ian Ayres**
- 5:30 p.m. - Closing Remarks: **Tamar Frankel**
- 5:45 p.m. - Dinner (Barristers' Hall)

PROPOSED DISCUSSION AGENDA

Session I: **Supreme Court Litigation: *Janus v. FDT* & aftermath of *Jones v. Harris***

Moderator: **Kent Greenfield**

Janus v. First Derivative Traders

- December 7 oral argument: Impressions from the justices' questions.
- The Court's understanding of funds.
- Predictions for the ultimate ruling.

Jones v. Harris Associates

- Progress of cases remanded to the lower courts.
- Empirical results from the decision.
- Political fault-lines of participants in the case.
- SEC announcement of excessive-fee prosecutions to come.
- Labor Department revisions to ERISA rules.

Session II: **The Dodd-Frank Bill, the SEC's new rules, and Money Market Funds**

Moderator: **Deborah DeMott**

The Dodd-Frank Bill

- Content and timing of forthcoming rulemaking under Dodd-Frank.
- Rules on 12b-1 fees.
- Rules on Exchange-Traded Funds.

Future SEC Regulation

- Efficacy and effect of any rules on systemic risk.
- Increasing dissents from SEC Commissioners.

Money Market Funds

- Analysis of January 2010 regulations.
- Additional proposals on floating NAV, insurance, etc., from President's Working Group on Financial Markets.

**PROPOSED DISCUSSION AGENDA
(continued)**

Session III: **Developments in Hedge Funds**

Moderator: **Marty Lybecker**

Hedge Fund Adviser Registration under Dodd-Frank

- Proposed SEC Regulations
- Industry responses and challenges

Hedge Fund Trading

- Flash Trading and Flash Crashes
- Dark Pools of Liquidity

Potential Future SEC & CFTC Rulemaking

Session IV: **Future Issues for Investment Funds**

Moderator: **Ian Ayres**

- Topics previously raised but not fully discussed.
- Potential future fund litigation & scope of socially productive litigation.
- Possible improvements to fund disclosure.
- Is the ERISA safe harbor requirement of prudent offerings working?
- Lifecycle investing and the demographics of American investors.
- The potential crisis in public and private pension funds.
- Systemic ramifications of the financial crisis.

ROUNDTABLE PARTICIPANTS

Diane E. Ambler

Partner
K&L Gates LLP

Ian Ayres

William K. Townsend Professor of Law
Yale Law School

William A. Birdthistle

Assistant Professor of Law
Chicago-Kent College of Law

Barbara Black

Charles Hartsock Professor of Law
University of Cincinnati College of Law

John C. Bogle

Founder & Former Chairman
The Vanguard Group

Zvi Bodie

Norman & Adele Barron Professor of Management
Boston University School of Management

Mercer E. Bullard

Associate Professor of Law
University of Mississippi School of Law
(former Assistant Chief Counsel, SEC Division of Investment Management)

John C. Coates IV

John F. Cogan, Jr. Professor of Law and Economics
Harvard Law School

Deborah A. DeMott

David F. Cavers Professor of Law
Duke University School of Law

Meyer Eisenberg

Adjunct Senior Research Scholar
Columbia Law School
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Tamar Frankel

Michaels Faculty Research Scholar
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