

A Comparison of Securities Litigation in the U.S. and the EU

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(Abstract)

Securities trading and investing have enjoyed significant increases in trading volume, available types of investments, and methods for trading and investing during the past twenty years. Along with this rapid increase in size and complexity of securities markets is the increasing globalization of the securities industry made possible by technological changes which would not have seemed possible twenty years ago. Along with this dynamic investing arena are a host of issues which must be addressed. Important among these is investor protection and recourse on a national as well as on a global basis.

The EU and the U.S. are of interest on the world scene as separate political and economic entities because of their histories, the size of their economies, and their global reach. Not surprisingly, the EU and the U.S. are each other's primary trading partners. Because of this economic interdependence, it is important that both entities operate within shared values of regulation and legal remedy. Divergent regulatory and legal standards inhibit commerce and create uncertainty and extra cost within the context of a common marketplace.

The purpose of this paper is to examine securities regulation and the procedures for dispute resolution in securities trades and management of portfolios in the U.S. and

the EU with respect to (1) the types of legal claims investors are permitted to pursue in seeking redress with respect to losses in these venues and (2) the mechanisms available for litigating such claims. It is imperative that investors in separate venues know the appropriate legal agency or authority for the resolution or litigation of investment disputes as well as the likely outcome.

Increasing globalization will also drive the U.S. as well as the EU to re-examine their securities markets with regard to cross-border mergers which will create a new set of regulatory issues for securities markets. It is entirely possible, if not likely, that there will be additional international exchange mergers. Such combinations will force the EU Commission and the Securities and Exchange Commission to deal not only with internal cross-border securities regulatory issues but also with the development and coordination of international cross-border securities dispute resolution mechanisms.

The summary of the state of securities regulation and litigation presented in this paper will be helpful in understanding the historical development of securities regulation in the U.S. and the EU as well as informing the reader of the current securities regulation and dispute resolution mechanisms in these two important marketplaces. Further, the securities regulation issues and dispute resolution mechanisms in the U.S. and the EU discussed in this paper will provide the foundation for normative suggestions for reducing barriers to securities trading between the U.S. and the EU as well as globally.