

**Global Investigations Review**

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# The Guide to International Enforcement of the Securities Laws

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**Editors**

John D Buretta, David M Stuart and Lindsay J Timlin

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## Publisher's Note

Global Investigations Review is delighted to publish *The Guide to International Enforcement of the Securities Laws*. For those who don't yet know, Global Investigations Review is the online home for everyone who specialises in investigating and resolving suspected corporate wrongdoing. We tell them all they need to know about everything that matters.

GIR is famous for its daily news, but we also create more in-depth content. It includes a technical library, a volume of which you're now reading; full reporting of the liveliest conference series in the white-collar world, GIR Live (our motto: 'less talk, more conversation'); and unique data sets and related workflow tools to make daily life easier. And much else besides.

Being at the heart of the corporate investigations world, we often become aware of gaps in the literature before others – topics that are crying out for in-depth but practical treatment. Recently, the enforcement of securities laws emerged as one such fertile area.

Capital these days knows no borders, but securities-law enforcement regimes very much do. In that juxtaposition lie all sorts of questions. The book you are holding aims to provide some of the answers. It is a practical, know-how text for investigations whose consequences may ring in securities law. Part I addresses overarching themes and Part II tackles specifics.

If you find it helpful, you may also enjoy some of the other titles in our series. *The Practitioner's Guide to Global Investigations* is the best known. It walks the reader through what to do, and consider, at every stage in the life cycle of a corporate investigation, from discovery of a possible problem to its resolution. Its success has spawned a series of companion volumes that address monitorships, sanctions, cyber-related investigations and, now, securities laws. Please visit the Insight section at [www.globalinvestigationsreview.com](http://www.globalinvestigationsreview.com) to view the full technical library. GIR subscribers receive a copy of all our guides, gratis, as part of their subscription. Non-subscribers can read the e-version at [www.globalinvestigationsreview.com](http://www.globalinvestigationsreview.com).

I would like to thank the editors of *The Guide to International Enforcement of the Securities Laws* for helping us to shape the idea. It's always a privilege to work with Cravath, Swaine & Moore. I'd also like to thank our authors and my colleagues for the elan with which they've brought the vision to life.

We hope you find it an enjoyable and useful book. If you have comments or suggestions please write to us at [insight@globalinvestigationsreview.com](mailto:insight@globalinvestigationsreview.com). We are always keen to hear how we could make the guides series better.

**David Samuels**  
Publisher, GIR  
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# Contents

<b>Introduction</b> .....	1
<i>John D Buretta, David M Stuart and Lindsay J Timlin</i>	
<b>Part I: Overview of International Enforcement of the Securities Laws</b>	
<b>1 Basic Anatomy of Enforcement Investigations in Europe</b> .....	5
<i>Christopher Brennan, Emilie Rogey and Karl-Jörg Xylander</i>	
<b>2 Basic Anatomy of Enforcement Investigations in the United States</b> .....	10
<i>John D Buretta, David M Stuart and Lindsay J Timlin</i>	
<b>3 Representing Individuals in Cross-Border Investigations</b> .....	20
<i>William P Barry, Paul A Leder and Katherine E Pappas</i>	
<b>4 Strategic Considerations in Cross-Border Investigations</b> .....	30
<i>Scott S Balber and Pamela K Terry</i>	
<b>5 Privilege Issues in Cross-Border Investigations</b> .....	38
<i>Deborah R Meshulam, Katrina A Hausfeld, Laura Ford, Piotr Falarz and Shabaz Ahmed</i>	
<b>6 Forensic Procedures in Securities Investigations</b> .....	51
<i>Frances McLeod, Jerry Hansen, Neil Keenan and Alejandro Gomez-Igbo</i>	
<b>7 Resolving Securities Enforcement Investigations</b> .....	63
<i>Bob Allen, Daniel T Chaudoin, Sunil Shenoj and Erica Williams</i>	

Part II: Expert International Perspectives

8	<b>Argentina</b> .....	75
	<i>Juan M Diebl Moreno and Sergio Talamo</i>	
9	<b>Australia</b> .....	85
	<i>Abigail Gill, Felicity Healy, Craig Phillips, Anna Ross and Charles Scerri QC</i>	
10	<b>Brazil</b> .....	102
	<i>Rodrigo de Campos Maia</i>	
11	<b>Canada</b> .....	111
	<i>Alexandra Luchenko and Renee Reichelt</i>	
12	<b>France</b> .....	123
	<i>Kiril Bougartchev, Emmanuel Moyne and Nathan Morin</i>	
13	<b>Germany</b> .....	133
	<i>Eike Bicker, Marcus Reischl, Christoph Skoupil and Timo Bühler</i>	
14	<b>India</b> .....	142
	<i>Niti Dixit, Shabezad Kazi, Dhruv Nath and Zahra Aziz</i>	
15	<b>South Korea</b> .....	156
	<i>Robin J Baik and Daniel S Lee</i>	
16	<b>Switzerland</b> .....	163
	<i>Shelby R du Pasquier, Téo Genecand and Vincent Huynh Dac</i>	
17	<b>United Kingdom</b> .....	171
	<i>Ewan Brown, Gayathri Kamalanathan and Anna Lambourn</i>	
	<b>About the Authors</b> .....	183
	<b>Contributors' Contact Details</b> .....	203

# Introduction

**John D Buretta, David M Stuart and Lindsay J Timlin<sup>1</sup>**

As constrained as we have felt over the course of the 2020–2021 worldwide covid-19 pandemic, securities markets have continued to expand beyond international borders, making international enforcement of securities laws, and cooperation among regulatory authorities, an increasingly important issue among securities market participants and the practitioners who advise them. Financial institutions and other regulated entities have operations on multiple continents, corporations commonly engage in cross-border transactions and operations, securities issuers are offering investments internationally, and distributed ledger and blockchain technology has brought together investors from around the world.

By necessity, therefore, we have seen increased reliance among international law enforcement authorities on mutual cooperation, whether for the purpose of obtaining evidence or information outside their jurisdictions or jointly investigating potential securities law violations that touch multiple countries. Collaboration with the International Organization of Securities Commissions (IOSCO) is one of the most apparent ways in which securities regulators around the world coordinate their regulatory agenda and enforcement efforts. Its members regulate more than 95 per cent of the world's securities markets and have resolved to cooperate in developing, implementing and promoting compliance with the securities laws and enforcement of those laws to protect investors, maintain fair, efficient and transparent markets, and address systemic risks.<sup>2</sup>

As one of the leading securities regulators in the world, the US Securities and Exchange Commission (SEC) reports that its international reach and cooperation significantly increased after the global financial crisis of 2007–2008. The SEC's Office of International Affairs states that: 'The crisis demonstrated how closely capital markets around the globe are interconnected as well as their fundamental importance to the world's economies. The crisis

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1 John D Buretta and David M Stuart are partners and Lindsay J Timlin is a practice area attorney at Cravath, Swaine & Moore LLP.

2 SEC Office of International Affairs. [https://www.sec.gov/about/offices/oia/oia\\_intdorg.shtml](https://www.sec.gov/about/offices/oia/oia_intdorg.shtml).



also demonstrated that facilitating international cooperation and coordination is critical in helping to ensure the effectiveness of financial regulatory reform efforts, to develop high regulatory standards across jurisdictions, and to minimize regulatory gaps.<sup>3</sup>

Accordingly, international securities regulators rely on the IOSCO Multilateral Memorandum of Understanding (MMOU) for global multilateral information sharing among securities regulators. The SEC was among the first signatories to the MMOU in 2002, and today more than 100 securities and derivatives regulators are signatories. Pursuant to the MMOU, signatories agree to provide one another with certain critical information, to permit use of that information in civil or administrative proceedings and for onward sharing with self-regulatory organisations and criminal authorities, and to keep such information confidential.<sup>4</sup>

This book has brought together leading practitioners from the world's major securities markets to present, in one cohesive volume, an overview of international securities regulatory regimes and enforcement programmes. Part I addresses the basic anatomy of securities enforcement investigations in Europe and the United States, while also covering issues that commonly arise in cross-border securities enforcement matters, including the differences between representing individuals and entities, issues of privilege and data privacy, how to conduct international forensic procedures and the resolution of multinational investigations. Part II drills down into the specific regulatory regimes and enforcement programmes in major securities markets around the world and provides the perspectives of the foremost experts in their markets.

We hope this international collaboration provides an insightful and useful survey for international securities issuers, underwriters, auditors and accountants, broker-dealers and other regulated entities, and those who advise and represent these and other market participants around the world.

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3 id.

4 id.

# Appendix 1

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Capital these days seems to know no borders, but securities laws very much do. In that juxtaposition lie all sorts of challenges for those charged with investigating whether any law has been broken.

GIR's *The Guide to International Enforcement of the Securities Laws* aims to make practitioners' lives easier. Written by contributors with a wealth of experience, and edited by lawyers from Cravath, Swaine & Moore, this handy desktop reference guide seeks to address the most pressing questions in securities law enforcement.

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