

August 2024

## The New Special Study of the Securities Markets

The Columbia Law School/Columbia Business School Program in the Law and Economics of Capital Markets (<https://capital-markets.law.columbia.edu/>) is conducting the New Special Study of the Securities Markets, a multi-year comprehensive, from the ground up, examination of the securities markets and their regulation.<sup>1</sup> It is guided by a Steering Committee consisting of many of the world's most prominent securities markets scholars and practitioners.

The New Special Study is inspired by the original 1963 Special Study, spearheaded by the legendary Milton Cohen and funded by the federal government. The original study had a huge influence over the development of the securities laws for several succeeding decades. In response to that first study, for example, Congress added Section 13(g) to the Exchange Act extending its disclosure and other requirements beyond just exchange-listed firms. The SEC standardized the disclosure in prospectuses and periodic reports filed by publicly held companies, which permitted incorporation by reference of periodic reports into prospectuses, reducing them in size and ultimately allowing an established issuer to file a shelf registration so that, whenever it decides it wishes to do a public securities offering, it can proceed almost immediately.

The New Special Study is proceeding in three Stages.

### Stage I

Stage I, which was funded in significant part by a grant from the Smith Richardson Foundation, was completed on June 30, 2018. A key component was the commissioning of seven papers: a legal paper and an economics paper relating, respectively, to primary markets, trading markets and intermediaries, and a final paper relating to how the globalization of securities markets has affected concerns of the types raised in the other six papers. Each of these papers defined, with respect to its field, what needs to be known for good policy making in the coming years. The papers were presented at a conference at Columbia Law School on March 23-24, 2017, attended by over 100 leading academics, practitioners, and regulators. The keynote speakers were acting SEC Chairman Michael Piwowar and FINRA CEO Robert Cook. Final versions of the papers, along with an overview of future regulatory challenges, was published in a book entitled *Securities Market Issues for the 21st Century*, available in both electronic and paperback versions from Amazon. Five other conferences or workshops were also part of Stage I. Information about the conferences, workshops, and the book can be found at <https://capital-markets.law.columbia.edu/content/new-special-study-securities-markets>.

### Stage II

Stage II, which has been funded in significant part by grants from FINRA, Bloomberg LLC and IBM, began on July 1, 2018 and is expected to be completed by the Fall of 2024. It consists of (1) commissioning papers and hosting a Technology Conference, which occurred in October 2019;<sup>2</sup> (2) conducting a Stakeholder Survey, described below; (3) holding a conference on the Future of Securities Regulation including a report on the Stakeholder Survey, which occurred in December 2021; (4) the Going Public in the 2020s Conference held in March 2023; (5) conferences concerning securities litigation and Investment Company Act reform in, respectively, the Spring and Fall of 2024; and (6)

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<sup>1</sup> See: <https://capital-markets.law.columbia.edu/content/new-special-study-securities-markets> for further information.

<sup>2</sup> See <https://capital-markets.law.columbia.edu/events/new-special-study-securities-markets-columbiafinra-technology-conference>

completing a detailed prospectus (the “Prospectus”) that comprehensively outlines the final New Special Study report itself.

The Program has undertaken the now largely completed Stakeholder Survey part of Stage II, a survey of a wide range of stakeholders in the securities markets, including domestic and international regulators, and relevant persons from securities issuing corporations, the securities trading venues of different types, broker/dealer firms, institutional investors, retail investor protection organizations, securities law firms, blockchain entrepreneurs, technology and financial institutions utilizing new digital ledger technologies, and academics whose thinking is driving the field forward. The purpose of the Survey is to gain a deeper understanding of the specific legal and economic issues considered by these stakeholders to be most critical to the market’s regulation, in particular, what regulatory changes each respondent regards as most needed and why.

We have interviewed to date about 115 persons for the survey. On the regulatory side, these have included nine current or former SEC Commissioners, including four former Chairs or Acting Chairs of the Commission, the head of the Brazilian CVM (the Brazilian equivalent to the SEC), the former Chair of the Committee of European Securities Regulators, and the CEO of FINRA and his immediate predecessor. On the private side, the interviewees included the heads of some of the largest trading venues as well as the former CEO of the management company of one of the world’s largest mutual fund families. We also interviewed many persons with key operating responsibilities on the regulatory and private side along with a number of leading lawyers and economists with first-hand knowledge of the securities markets.

The preliminary results of the Survey were written up in a White Paper that was presented at a conference, *The Future of Securities Regulation*, held at Columbia in early December 2021 and sponsored by the Program as part of Stage II. Most of the world’s leading securities regulation scholars attended and presented papers, which have been now been published in two sequential issues of the *Columbia Business Law Review*.

The work during Stage I, the Technology Conference and its papers, the Stakeholder Survey, and the December 2021 conference and its papers, the Going Public in the 2020s conference and the Spring 2024 conferences will in turn provide the basis for completing the Prospectus. The Prospectus will comprehensively outline the final New Special Study report and specify in detail the empirical and other research projects that will need to be commissioned to answer the questions that must be addressed in that report, but that are not answered in the empirical literature currently available. The Prospectus is expected to be completed by the late Spring of 2024.

### **Stage III**

The final stage, Stage III, is targeted to begin in late 2024. This final stage will involve implementation of the Prospectus, including completion of the identified empirical and other research projects, and preparation of the final report. The final report will be published as a hard copy and e-book and delivered to Congress and the relevant regulators, as well being made available to the public.