

COMMENT

HARMONIZATION OF SECURITIES MARKET REGULATIONS IN THE EUROPEAN UNION: IS THE PRICE TAG TOO HIGH?

INTRODUCTION

October 19, 1987, will long be remembered in the United States as Black Monday.¹ On that date, the Dow Jones Industrial Average of New York Stock Exchange listed securities fell 508 points² on a record trading volume of 604.3 million shares.³ This drop constituted a one trillion-dollar,⁴ or 22.6 percent loss in the market's value.⁵ The damage was not limited to the U.S. markets alone, however. The ripple of the U.S. market loss affected other exchanges and economies throughout the world.⁶

Europeans, for example, will never forget Black Monday as the day that ignited the worst market panic since the post-war regeneration of European industry.⁷ Coming off record highs, stock prices plummeted to a fraction of their former values.⁸ In the wake of the U.S. stock market crash, the stock exchange in London lost 11 percent of its value, the Zurich Stock Exchange lost 30 percent of its value, and the Frankfurt Stock Exchange lost 34 percent of its value.⁹ These losses were directly attributed to the U.S. stock market crash.¹⁰ The events of Black Monday, and similar occurrences,¹¹ underscore

1. See Lewis D. Solomon & Howard B. Dicker, *The Crash of 1987: A Legal and Public Policy Analysis*, 57 *FORDHAM L. REV.* 191, 191 (1988).

2. See Tim Metz et al., *Stocks Plunge 508 Amid Panicky Selling*, *WALL ST. J.*, Oct. 20, 1987, at 1. See also Jonathan R. Macey & Hideki Kanda, *The Stock Exchange As a Firm: The Emergence of Close Substitutes for the New York and Tokyo Stock Exchanges*, 75 *CORNELL L. REV.* 1007, 1007 (1990).

3. See Metz et al., *supra* note 2, at 1. See also Solomon & Dicker, *supra* note 1, at 191.

4. See Macey & Kanda, *supra* note 2, at 1007.

5. In comparison, the October 28, 1929, stock market crash that touched off the Great Depression amounted to a 12.8 percent decline. See Solomon & Dicker, *supra* note 1.

6. Similar market losses afflicted exchanges around the world. The Tokyo Stock Exchange was one of the first to reflect the impact of the U.S. market crash. See Macey & Kanda, *supra* note 2.

7. See Terence Roth, *European Stocks: Exchanges See Plans Ruined Across Europe in Crash's Wake*, *WALL ST. J.*, Jan. 4, 1988, available in 1988 WL-WSJ 479123.

8. *Id.*

9. *Id.*

10. See Macey & Kanda, *supra* note 2, at 1007.

11. Additionally, the interdependence of world markets was underscored in February 1995 with the collapse of Barings Plc, the British merchant bank, and again in June 1996 with

the interdependency of the world financial markets.¹²

The precipitation of such market interdependence now has world markets facing one of the most pressing and complicated economic problems of our times.¹³ International offerings of securities and international security trading have increased dramatically over the course of the past fifteen years.¹⁴ As the world's capital markets struggle to meet the ever-increasing demand for capital,¹⁵ development of a comprehensive global securities regulation plan is imminent. Such a plan would serve two objectives: (1) enhancement of international economic good through capital formation; and (2) avoidance of an international economic crisis.¹⁶ Thus far, the European Union (EU) is the only international community to develop and begin to implement such a comprehensive plan to harmonize security regulations.¹⁷

In past years,¹⁸ the fifteen member states of the EU¹⁹ have implemented far-reaching reforms covering a myriad of securities finance issues.²⁰ These detailed and phased reforms,²¹ implemented through a series of extensive directives aimed at the promotion of greater competition between the states' capital markets,²² also serve to provide a level playing field for cross-border security offerings.²³ The reforms, both regulatory and deregulatory in nature,²⁴ have not come easily. EU member states currently are facing a threat

the Japanese Sumitomo Corporation reporting two billion dollars in copper-trading losses. See Jane C. Kang, *The Regulation of Global Futures Markets: Is Harmonization Possible or Even Desirable?*, 17 NW. J. INT'L L. & BUS. 242, 242 (1996).

12. See Andreas J. Roquette, *New Developments Relating to the Internationalization of the Capital Markets: A Comparison of Legislative Reforms in the United States, the European Community, and Germany*, 14 U. PA. J. INT'L BUS. L. 565, 566 (1994).

13. See Samuel Wolff, *Recent Developments in International Securities Regulation*, 23 DENV. J. INT'L L. & POL'Y 347, 417 (1995).

14. *Id.* at 347.

15. See Roquette, *supra* note 12, at 567.

16. See Wolff, *supra* note 13, at 417.

17. *Id.*

18. See Manning Gilbert Warren III, *The European Union's Investment Services Directive*, 15 U. PA. J. INT'L BUS. L. 181, 181 (1994) [hereinafter Warren III, *Directive*].

19. Original member states of the EU consisted of France, West Germany, Italy, Belgium, the Netherlands, and Luxembourg, who joined together in 1957 under the Treaty of Rome. Ireland, Denmark, and the United Kingdom joined in 1973. Greece joined in 1979, Spain and Portugal in 1986, and Austria, Sweden, and Finland joined in 1995. See Elena Noel, *Prevention of Gender Discrimination Within the European Union*, 9 N.Y. INT'L L. REV. 77, 77-78 (1996).

20. See Giovanni Nardulli & Antonio Segni, *EU Cross-Border Securities Offerings: An Overview*, 19 FORDHAM INT'L L.J. 887, 888-89 (1996).

21. See Warren III, *Directive*, *supra* note 18, at 181.

22. See Roquette, *supra* note 12, at 597.

23. See Nardulli & Segni, *supra* note 20, at 900. See also Roquette, *supra* note 12, at 571-72.

24. Deregulation can refer to either the removal of restraints on competition or prudential regulations, which are regulations designed to protect investors. See Roquette, *supra* note 12, at 615.

to their sovereignty²⁵ and forced cultural change as a price for harmonized securities regulations.²⁶ Such a price tag is proving to be too high for some EU member states.²⁷

This Comment assesses the probability of the EU's success in attempting to harmonize securities regulation requirements among its member states. Successfully implementing securities market regulations in the EU, as originally envisioned, carries a high cost in the way of threats to sovereignty and forced cultural changes. Part I observes the historical perspective of EU directives, taking special note of three significant directives in the field of securities regulation. Part II addresses the present state of directive implementation, while Part III identifies the current shortcomings realized through directive implementation. Part IV examines future events scheduled to move the EU toward harmonization of securities regulation, and Part V concludes by arguing that the price tag on harmonization of security regulations in the European market system is too high for the EU's plan to succeed as originally envisioned.

I. EUROPEAN UNION DIRECTIVES

A. Historical Perspective

One of the principal objectives of the EU, since its inception in the 1950s, is the free movement of goods, persons, services, and capital between its member states' borders.²⁸ A barrier to achieving that objective is the EU's lack of a uniform system of laws governing securities transactions.²⁹ At present, the EU is faced with a current system of diverse national rules and regulations concerning the issuing and trading of securities on the EU's numerous exchanges.³⁰ Such conflicting regulatory systems erect barriers to free trade and securities trading between member states.³¹

25. Although sovereignty has been defined in many ways, this article adopts the general definition of Richard B. Bilder that sovereignty is "a state's right to do as it wishes, particularly within its own territory, free of external constraint or interference." Richard B. Bilder, *Perspectives on Sovereignty in the Current Context: An American Viewpoint*, 20 CAN.-U.S. L.J. 9, 10 (1994).

26. See *infra* Part V for a discussion of such threats.

27. *Id.*

28. Within this broad objective, the EU is working to establish a capital market where one EU country freely can list its securities on the trading exchange of another country. See Mark S. Willis, *A Brief Overview of the European Union's Efforts to Harmonize the Requirements for Listing Securities*, A.B.A. INT'L L. NEWS, Fall 1997, at 1.

29. Unlike the U.S., the EU does not have a uniform system of securities regulations and laws governing securities trading activity. Each member state independently supervises and administers securities trading on its own exchange. See Nardulli & Segni, *supra* note 20, at 887-88.

30. *Id.* at 888.

31. Conflicting regulatory systems prohibit the free flow of capital between EU member states by placing limitations on investors and trading practices through incompatible regula-

The EU is currently attempting to remove the high, non-tariff barriers³² of conflicting regulatory requirements to provide greater flexibility and access to the capital markets of the member states.³³ Through a series of directives to member states,³⁴ the EU has attempted to harmonize the security regulation requirements of each member state by establishing minimum security information disclosure standards.³⁵ Although the minimum standards in most cases may not be lowered by a member state, the standards generally can be raised.³⁶ Each member state must adopt these binding regulations into legislation; however, each member state retains the choice as to the form and method of implementation it wishes to employ to move the directive into national law.³⁷ Ultimately, the EU expects to achieve a minimum standard of quality and accessibility in the securities markets by fostering a level of cooperation among national supervisory bodies.³⁸ Despite the EU's efforts, however, the harmonization of securities regulations in the EU member states has not yet achieved such a level of standardization.

B. Significant Directives

For over fifteen years, the EU has drafted and implemented a broadening number of increasingly-detailed directives in order to orchestrate the harmonization of its member states' securities regulation requirements.³⁹ Among these directives, three are most significant: (1) the Admissions Directive; (2) the Interim Reports Directive; and (3) the Listing Particulars Directive.⁴⁰ Taken together, these three directives are commonly referred to as the Stock Exchange Directives.⁴¹

1. Admissions Directive

The Admissions Directive,⁴² adopted in 1979, established minimum

tory controls. *See generally* Roquette, *supra* note 12, at 588-89.

32. Non-tariff barriers consist primarily of regulatory statutes and controls. *See* Warren III, *Directive*, *supra* note 18, at 186.

33. *See* Roquette, *supra* note 12, at 588-89.

34. *See* Willis, *supra* note 28, at 20.

35. *See* Nardulli & Segni, *supra* note 20, at 887-88.

36. Each individual state retains the discretion to add additional requirements to the minimum standards set forth by the directives. *See* Willis, *supra* note 28, at 20-21.

37. *See* Roquette, *supra* note 12, at 588.

38. *See generally* Nardulli & Segni, *supra* note 20, at 888.

39. Construction of a supranational securities regulatory structure has evolved in phases over the past fifteen years. *See* Warren III, *Directive*, *supra* note 18, at 181.

40. *See* Willis, *supra* note 28, at 20.

41. *See* Manning Gilbert Warren III, *Global Harmonization of Securities Laws: The Achievements of the European Communities*, 31 HARV. INT'L L.J. 185, 209 (1990) [hereinafter Warren III, *Global*].

42. Council Directive 79/279, 1979 O.J. (L 66) 21, amended by Council Directive 82/148, 1982 O.J. (L 62) 22.

common listing requirements for both debt⁴³ and equity⁴⁴ securities that list⁴⁵ on EU members' stock exchanges.⁴⁶ Additionally, this directive compels corporations to report, in a timely fashion, all material information that may affect the security's price.⁴⁷ The aim of this directive is to ensure adequate capitalization of offers and to determine that a market will exist for the security after issuance.⁴⁸

A notable exception to this directive exists for Euro-securities. Euro-securities are units underwritten⁴⁹ by an agreement between the offeror and a number of underwriters (of which the participants represent at least two EU member states). Only banks or financial institutions can initially acquire these units.⁵⁰

The exclusion of Euro-securities from the Admissions Directive is due to policy considerations, rather than regulatory considerations.⁵¹ This exclusion was created due to opposition from the Euro-securities industry,⁵² which was attempting to prevent the placement of Euro-bonds on less regulated global markets.⁵³ Thus, the Euro-securities market has developed to a considerable extent without regulatory control, despite its exemption from the Admissions Directive.⁵⁴

2. Interim Reports Directive

In 1982, the EU adopted the Interim Reports Directive.⁵⁵ This directive requires issuers of equity-related securities listed on member EU stock exchanges to file biannual reports⁵⁶ of the company's activities for the subsequent six-month time period.⁵⁷ The report must indicate, in table form, both

43. Debt securities are promissory notes of a corporation, such as bonds. See NEW YORK STOCK EXCHANGE, NEW YORK STOCK EXCHANGE GLOSSARY 4 (1992).

44. Equity securities are instruments which represent an ownership interest in the corporation, such as common and preferred stocks. See *id.* at 10.

45. The stock of a company that is traded on a securities exchange is referred to as a listed security. *Id.* at 16.

46. See Warren III, *Directive*, *supra* note 18, at 188.

47. See, e.g., Roquette, *supra* note 12, at 589.

48. See Willis, *supra* note 28, at 20.

49. Underwriting is the process of one or more investment bankers buying new issues of stocks or bonds outright from a corporation and then forming a syndicate to sell the securities to individuals and institutions. See NEW YORK STOCK EXCHANGE, *supra* note 43, at 14.

50. See Nardulli & Segni, *supra* note 20, at 895-96.

51. *Id.* at 895.

52. See Warren III, *Global*, *supra* note 41, at 229.

53. See Nardulli & Segni, *supra* note 20, at 896.

54. *Id.*

55. Council Directive 82/121, 1982 O.J. (L 48) 26, 27-28; see also Roquette, *supra* note 12, at 590; see Warren III, *Global*, *supra* note 41, at 214.

56. A formal financial statement showing assets, liabilities, revenues, expenses, and earnings of a corporation, as well as any other information that may be of interest to investors. See NEW YORK STOCK EXCHANGE, *supra* note 43, at 7.

57. See Warren III, *Directive*, *supra* note 18, at 188. See also Warren III, *Global*, *supra*

current financial figures and figures from the preceding financial year showing, at minimum, the issuer's net asset turnover and the issuer's before-tax profit or loss.⁵⁸ An explanatory statement must also be included, indicating the company's business prospects for the remainder of the year,⁵⁹ and any relevant information concerning the company's activities.⁶⁰ This report must be published in a widely-distributed newspaper or made easily available to the public. Additionally, it must be conveyed to each member state where the issue is listed.⁶¹ This notice requirement allows investors to make informed appraisals of the security issue,⁶² thereby fulfilling the directive's goal of investor protection.⁶³

3. The Listing Particulars Directive

The Listing Particulars Directive,⁶⁴ adopted in 1980,⁶⁵ protects investors by providing sufficient information about a security and its issuer to enable an investor to make an informed investment choice.⁶⁶ The directive attempts to harmonize the vast array of the current disclosure requirements in the EU⁶⁷ by requiring publication of a detailed information sheet when: (1) an issuer seeks to list an existing security on any member state exchange,⁶⁸ or (2) the security is listed concurrently with the public offering.⁶⁹ This information sheet must include the nature of the security (e.g., debt or equity), the issuer of the security, the corporation's capital position, business activities⁷⁰ and financial position, the officers and directors of the corporation, and the corporation's recent developments, as well as current business prospects.⁷¹ Additionally, the directive contains a broad provision requiring the disclosure

note 41, at 214.

58. See Willis, *supra* note 28, at 20.

59. See Warren III, *Global*, *supra* note 41, at 214-15.

60. Activities include any past, present, or future events that would allow the investor to make informed decisions on the company's expected profits or losses. See Willis, *supra* note 28, at 20.

61. See Warren III, *Global*, *supra* note 41, at 215.

62. See Willis, *supra* note 28, at 20.

63. Regular, accurate, and consistent information is needed to achieve the goals of investor protection in securities trading. See Warren III, *Global*, *supra* note 41, at 215.

64. Council Directive 80/390, 1980 O.J. (L100) 1, amended by Council Directive 90/211, 1990 O.J. (L 112) 24.

65. See Roquette, *supra* note 12, at 590.

66. Listing particulars are often referred to as a listing prospectus. See Willis, *supra* note 28, at 20.

67. See Wolff, *supra* note 13, at 372.

68. This requirement is intended to extend to all issuers, not just those incorporated in the EU. See generally Nardulli & Segni, *supra* note 20, at 891.

69. See Willis, *supra* note 28, at 20.

70. Activities include all past, present, and future activities that may have an effect on the company's overall profitability.

71. See Willis, *supra* note 28, at 20.

of any information that may assist the investor in making an informed decision concerning the market risk of the security.⁷²

The implementation of the Listing Particulars Directive, however, should not be misconstrued as indicating that securities disclosure requirements in the EU are harmonized.⁷³ While the directive sets minimum standards of information disclosure, it allows each member state to effect numerous exceptions⁷⁴ and impose its own penalties for issuer non-compliance.⁷⁵ The home country of the EU issuer generally is accepted as the governing jurisdiction.⁷⁶

Additionally, mere compliance with the directive does not guarantee admission to listing.⁷⁷ While the directive sets the minimum information disclosure requirements, each member state retains the freedom to establish its own requisites for admission to listing.⁷⁸ Also, note that the directive's requirements are minimum requirements only; each member state has the authority to add additional requirements beyond the standards set forth in the directive.⁷⁹

The EU attempts to manage this disjointed system of security-listing requirements through the principle of mutual recognition.⁸⁰ Mutual recognition allows an issuer to list the same security in any member state using the same listing particulars form once the security is listed on another member state's exchange.⁸¹ Mutual recognition applies even if the other member state has more demanding disclosure requirements than the original listing member state.⁸²

It is important to note, however, that EU member states grant mutual recognition only to the listing particulars form.⁸³ Each time an issuer seeks to list a security in a member state, it must comply with the admissions directive requirements of that member state.⁸⁴

Thus, the Stock Exchange Directives do not completely harmonize se-

72. *Id.*

73. *Id.*

74. See Wolff, *supra* note 13, at 372.

75. See Willis, *supra* note 28, at 21.

76. In cases where the issuer is a non-EU member corporation, or the issue is directed at non-EU member states, the issuer has the option of choosing the law of any jurisdiction in the public offering to serve as the governing jurisdiction. See Nardulli & Segni, *supra* note 20, at 897.

77. *Id.* at 892.

78. Requisites for admission are governed by national rules adopted in compliance with other directives. *Id.*

79. See Willis, *supra* note 28, at 21.

80. *Id.*; see also Roquette, *supra* note 12, at 592.

81. Listing must occur approximately within the same time period. See Willis, *supra* note 28, at 21.

82. *Id.*

83. *Id.*

84. Additionally, preplanning is of primary concern because benefits only will be reaped from mutual recognition if listings occur within the same time period. *Id.*

curities regulation requirements in member states. Rather, the directives set a minimum standard for compliance.⁸⁵ Domestic law in each member state where listing is sought must still be consulted to determine any additional requirements the state mandates above the directives' minimum requirements.⁸⁶

II. PRESENT STATE OF DIRECTIVE IMPLEMENTATION

Understanding the present state of the EU's securities regulation harmonization efforts is helpful in assessing the progress that the Stock Exchange Directives have achieved thus far. While the national laws of EU member states have undergone considerable change and member states are closer to achieving harmonization of securities regulation requirements, only moderate harmonization has occurred since the implementation of the directives.⁸⁷ The EU markets are not integrated, as envisioned by EU proponents, but remain in a fragmented state.⁸⁸

One of the most demonstrable effects of the EU directives can be seen in terms of information disclosure requirements. In particular, both Germany and Switzerland, whose markets have traditionally been some of the most unregulated markets in Europe, are progressively adding heightened disclosure requirements to legislation.⁸⁹ Initially, Germany did not find it necessary to reform its capital markets and was reticent to do so.⁹⁰ Succumbing to the increasing competitive pressure placed on the German securities markets by other EU member states' reforms, however, Germany felt global economic pressure to make legislative reforms to match those of other member states.⁹¹ Now Germany is a competitive player in the EU securities market despite its initial slow start in making reforms.⁹²

Furthermore, through the increased information disclosure levels of the Stock Exchange Directives, the attitudes of many EU member market par-

85. *Id.*

86. *Id.*

87. It is important to note, however, that even the limited harmonization the EU member states have achieved thus far is rare in the global marketplace. See Roquette, *supra* note 12, at 617.

88. See Warren III, *Directive*, *supra* note 18, at 219.

89. Heightened disclosure requirements are viewed as a tool to improve competitive position within the global marketplace. See Nicholas G. Demmo, Comment, *U.S. Securities Regulations: The Need for Modification to Keep Pace with Globalization*, 17 U. PA. J. INT'L BUS. L. 691, 717-18 (1996).

90. See Roquette, *supra* note 12, at 613.

91. In addition to legislative reforms, Germany developed a new legal framework to attract investors and to meet the developing standards of the international legal arena. Germany also recognizes the importance of deregulation and is working to remove existing impediments to its securities market, such as tax barriers. See Roquette, *supra* note 12, at 613-14.

92. *Id.* at 613.

ticipants are beginning to change.⁹³ EU firms now are looking to other markets, such as the United States, to list their securities.⁹⁴ The increased levels of information disclosure required by the EU now make it easier for EU member countries to come to exchanges, such as the New York Stock Exchange (NYSE),⁹⁵ which previously were impenetrable by most foreign issuers due to the complexity and the high disclosure levels of foreign listing requirements.⁹⁶ Obviously, the greater the similarities between two different countries' disclosure levels, the easier it is for one to list on the other's exchange.⁹⁷

Foreign stock exchanges, such as the NYSE, now are becoming so attractive to EU companies that the companies are willing to undertake the burden of complying with higher disclosure requirements.⁹⁸ In fact, over one thousand foreign companies, ranging from Daimler-Benz of Germany to Toyota, Honda, and Nissan of Japan, now list on U.S. exchanges, despite the needed reconciliations in accounting standards and the heightened regulation by the Securities and Exchange Commission.⁹⁹

EU markets are also grappling with the technological advances that are bringing the world markets closer.¹⁰⁰ To remain competitive in the global market, member states are compelled to allow the installation of hardware and software in their territories to facilitate conducting business across borders.¹⁰¹ Moreover, the issue of electronic transmission of stock quotes is coming to the forefront.¹⁰² Unlike the U.S. securities markets' real-time reporting standards, the EU requires only the following constraints for quote dissemination: (1) reporting at market opening the weighted average price

93. The U.S. market historically was viewed as impenetrable because of its characteristic high disclosure requirements. *Id.* at 618.

94. EU member states also have discussed and embarked on a number of projects furthering the concept of a global marketplace. For example, the Federation of Stock Exchanges in the EU created the Eurolist. The Eurolist is the equivalent of European "blue chip" stocks. Another project concerns the development of a European stock index. *Id.* at 618-19.

95. *Id.* at 618.

96. *Id.* at 569.

97. *Id.* at 619.

98. Much of the burden in complying with disclosure requirements of both the EU and the U.S. comes by way of accounting standard discrepancies between the markets. The Commission of the European Community and the U.S. Securities and Exchange Commission are working to narrow the gap in accounting practice differences through mutual recognition and standardization efforts. As of now, the disclosure documents of U.S. issuers will almost always be accepted in the EU due to the U.S.'s heightened disclosure requirements. The reverse does not hold true, however, because the EU standards tend to fall below the U.S. guidelines. *Id.* at 618-19.

99. See James Flanigan, *Euro's Value Promises to Be More Than Monetary*, L.A. TIMES, Feb. 1, 1998, at D1, available in 1998 WL 2394140.

100. See Warren III, *Directive*, *supra* note 18, at 209.

101. The Investment Services Directive requires that investment firms be permitted to become members of, or have access to, a state's regulated market via remote computer terminals if the state's market does not require a physical trading floor. *Id.*

102. *Id.* at 215-16.

and the preceding day's high and low price, along with the preceding day's volume traded of each security; and (2) reporting the weighted average price and high/low prices of each security every twenty minutes until market closing (subject to a one hour reporting delay).¹⁰³

Consequently, true harmonization of securities regulation requirements in the EU is far from complete. While the EU markets are more closely harmonized than in the past, challenges continue to plague their harmonization efforts.

III. SHORTCOMINGS OF EU DIRECTIVES

Emerging financial markets are often faced with the lack of accounting and compliance infrastructures necessary for successful operation of a complex securities market.¹⁰⁴ This lack of harmonized accounting procedures and regulatory policies is increasingly evident in the EU member states as the implementation of further directives continues. Perhaps the most important and difficult obstacle confronting the EU right now is the challenge to maintain honesty and efficiency in a system that lacks absolute authority.¹⁰⁵ While the directives do establish a minimum level of regulation, member states are still free to adopt legislation that sets the regulatory bar higher. Thus, the result is a wide variation in the degree of securities regulation from one member state to another.¹⁰⁶

A. Accounting Inconsistencies

Perhaps the most significant hurdle confronting the EU at present is the varied system of accounting practices that each member state currently employs.¹⁰⁷ Not only do these inconsistencies in accounting practices result in conflicting asset and liability valuations, but they also impede business negotiations and hamper the goal of information disclosure.¹⁰⁸

For example, a unique historical German accounting standard is that of profit smoothing.¹⁰⁹ Profit smoothing is the practice of under-reporting earn-

103. Reporting of the weighted average price and high/low price is based on a two-hour calculation period. *Id.* at 215.

104. See Joel P. Trachtman, *Unilateralism, Bilateralism, Regionalism, Multilateralism, and Functionalism: A Comparison with Reference to Securities Regulation*, 4 *TRANSNAT'L L. & CONTEMP. PROBS.* 69, 83 (1994).

105. The measures necessary to achieve honesty and efficiency are different in each state due to the varying market structures existing in the EU. See Roquette, *supra* note 12, at 568.

106. *Id.* at 571.

107. See A. A. Sommer, Jr., *IOSCO: Its Mission and Achievement*, 17 *NW. J. INT'L L. & BUS.* 15, 23. See also Nardulli & Segni, *supra* note 20, at 890.

108. Reconciling financial statements and adapting to varied financial report disclosure intervals can prove costly and burdensome on businesses wishing to raise capital in the EU. See generally Nardulli & Segni, *supra* note 20, at 898.

109. See Demmo, *supra* note 89, at 710.

ings in good years and using the reserve funds to bolster profits in poor or mediocre years.¹¹⁰ Thus, informed investors discount¹¹¹ the price of German security offerings to compensate for unreported, hidden reserves.¹¹² This discounting is applied to all German companies, thereby negatively affecting the stock price of those companies that do not engage in profit smoothing.¹¹³ Therefore, the cost of capital in the German market is higher than it would be in an efficiently-priced market.¹¹⁴

In addition to valuation inconsistencies, discrepant timing requirements often hamper disclosure of financial information.¹¹⁵ For instance, the United Kingdom and the United States require companies to file quarterly financial reports, while Italian companies are required to file only biannual financial reports.¹¹⁶ This timing inconsistency can greatly impede proposed business transactions by delaying dissemination of information and increasing the costs of compliance.¹¹⁷ Moreover, the cost associated with reconciling financial statements between EU countries impacts business negotiations¹¹⁸ and can erect non-tariff barriers by making prohibitive the cost of doing business in the EU.

B. Regulatory Compliance

Securities market regulation, like accounting practices, varies widely among the EU member states, running from sparse regulatory requirements to comprehensive, complex systems.¹¹⁹ In most jurisdictions, the stock exchanges exert a great deal of authority over the regulation of the markets and the determination as to whom those regulations apply.¹²⁰ For instance, although the primary goal of securities market regulation is customer protection, some jurisdictions afford less protection to professional or sophisticated customers than they do to the average person.¹²¹ Consequently, the treatment of investors between exchanges is uncertain.

110. *Id.*

111. Discounting is a practice by which a stock or a bond is sold below par value. *See* NEW YORK STOCK EXCHANGE, *supra* note 43, at 9.

112. *See* Demmo, *supra* note 89, at 710.

113. *Id.*

114. *Id.*

115. *See* Nardulli & Segni, *supra* note 20, at 898.

116. *Id.*

117. Financial reports and accounting statements need to be reconciled to various EU accounting practices for each business transaction. This process can be impeded greatly by the differing schedules at which financial data is released in each EU state. *Id.*

118. *Id.*

119. *See* Peter E. Millspaugh, *Global Securities Trading: The Question of a Watchdog*, 26 GEO. WASH. J. INT'L L. & ECON. 355, 359-60 (1992).

120. *See* Kang, *supra* note 11, at 251.

121. The reasoning behind this is the belief that such customers can make more informed assessments of risk. *Id.* at 248-49.

Contributing to this regulatory uncertainty is the fact that not all security markets are the same.¹²² As reflections of varying political, cultural, and commercial structures, securities markets generally fall within three categories: (1) markets created through private exchanges (such as in the United States); (2) markets owned and operated by the state (such as in France); and (3) markets owned and controlled by central banks (such as in West Germany).¹²³ Therefore, closer cooperation between the diverse regulatory bodies that currently comprise the international securities market is essential for the efficient allocation of capital and for sustained economic growth activity in the EU.¹²⁴

Further evidence of the need for regulatory compliance among the EU member states is found in the mounting involvement of organized crime in securities theft and the surge in international securities trading.¹²⁵ In the 1980s alone, capital investments increased threefold globally, and the value of international equity trading increased tenfold.¹²⁶ Nevertheless, regulatory control has not kept pace,¹²⁷ and the EU is now facing a regulatory crisis characterized by a climate of extreme diversity and a fluctuating economic environment.¹²⁸

IV. FUTURE EVENTS MOVING TOWARD HARMONIZATION

The future success of the harmonization of securities regulation between EU member states is dependent upon the members' ability to lay a solid foundation of efficiency and honesty in the markets.¹²⁹ In particular, three movements are currently underway that are vital to the success of the EU's harmonization plan: (1) the implementation of a centralized regulatory authority; (2) the introduction of the Euro as a single European currency; and (3) the acceptance of international accounting standards.

A. A Centralized Regulatory Authority

The need for regulatory integration of securities markets is not as self-evident in any other market system as it is in the EU market system.¹³⁰ If the

122. World stock exchange markets differ in terms of trade clearance and settlement systems, access to information, and economies. See Millspaugh, *supra* note 119, at 359.

123. *Id.*

124. See Sommer, Jr., *supra* note 107, at 26-27.

125. See Millspaugh, *supra* note 119, at 358.

126. Stock exchanges in London, Amsterdam, Paris, Zurich, and the NASDAQ in the U.S. each list over 200 foreign securities. *Id.* at 356-57.

127. For example, in 1992 the SEC employed 2600 regulators while the Japanese markets employed approximately 200. *Id.* at 359-60.

128. *Id.* at 359.

129. See Sommer, Jr., *supra* note 107, at 28-29.

130. Greater efficiency and liquidity would result through economies of scale achieved by a unified financial market. See Warren III, *Directive*, *supra* note 18, at 191.

EU member states' markets were combined into one cohesive unit, they would form a market rivaling that of the NYSE.¹³¹ However, no formal, centralized, regulatory authority currently exists in EU securities markets.¹³²

The nearest entity approximating a formal, centralized regulatory authority in the EU is the International Organization of Securities Commissions (IOSCO).¹³³ In recent years, IOSCO has studied enforcement cooperation between the EU member state exchanges¹³⁴ and currently serves as the principal forum for discussions of international securities issues.¹³⁵ Despite speculation, IOSCO's agenda has not indicated an intent to assume the role of a global securities watchdog.¹³⁶ IOSCO, and similar organizations,¹³⁷ are special-interest groups with a narrow focus, lacking both the objectivity and credibility to serve effectively as an international regulatory authority.¹³⁸ Additionally, IOSCO lacks mandate authority to adopt and implement binding international regulatory principles.¹³⁹

The EU is not blind to the need for an international regulatory body, however. The EU member states are examining a proposal to create a Securities Committee charged with the roles of both a general discussion forum and a securities regulatory committee.¹⁴⁰ The Committee would be responsible for examining questions relevant to the application of EU provisions concerning securities, securities markets, and securities intermediaries.¹⁴¹ The Committee would not consider issues relating to individual cases, however.¹⁴² Thus, despite the lack of regulatory cohesiveness between EU markets, the extent of securities regulation harmonization achieved thus far is serving as a catalyst for the formation of a securities regulatory committee.¹⁴³

131. *Id.*

132. An independent, disinterested organization does not currently exist that holds the expertise and authority to function as an international securities watchdog. *See* Millspaugh, *supra* note 119, at 374.

133. In 1974, nations of the Western Hemisphere, largely under the leadership of the U.S., created the InterAmerican Association of Securities Commissions as a forum for common interest securities regulation issues and capital asset formation issues. By 1983, the organization had taken on a world-wide stature. By 1987, the organization had transformed itself into the International Organization of Securities Commissions and was recognized in the world securities markets as IOSCO. *See* Sommer, Jr., *supra* note 107, at 15.

134. *See* Millspaugh, *supra* note 119, at 365.

135. *See* Wolff, *supra* note 13, at 399-400.

136. *See* Millspaugh, *supra* note 119, at 371.

137. Similar organizations include the North American Securities Administrators Association (NASAA), the Organization for Economic Cooperation and Development (OECD), and the International Federation of Stock Exchanges (FIBV). *Id.* at 365-67.

138. *Id.* at 373-74.

139. *See* Wolff, *supra* note 13, at 399.

140. *See Proposal for Securities Committee is Amended*, EUR. UNION FIN. INDUS. MONITOR, Aug. 1, 1996, at 6, available in 1996 WL 10485798.

141. *Id.*

142. *Id.*

143. *See* Warren III, *Directive*, *supra* note 18, at 220.

B. Introduction of the Euro

January 1, 1999, marks the official introduction of the Euro¹⁴⁴ to the European Community.¹⁴⁵ This massive attempt to create a single European currency, and thus harmonize the economic markets of Europe, will culminate in the year 2002 when the Euro is scheduled to replace the varied currencies that currently exist throughout Europe.¹⁴⁶

Despite the potential economic gains¹⁴⁷ that stand to be achieved by a common European currency, the introduction of the Euro is being referred to as "the biggest currency crashshoot the world has known."¹⁴⁸ Indeed, not all countries are participating in the Euro. Thus far, Britain and Denmark have declined participation because economic conditions presently are not suitable.¹⁴⁹ Further, four economic and monetary experts lodged a complaint with Germany's Constitutional Court in Karlsruhe attempting to stop the scheduled introduction of the Euro, asserting that the stability of the Euro can not be guaranteed.¹⁵⁰ This was the fourth such complaint lodged with the Constitutional Court against the Euro.¹⁵¹ Nevertheless, introduction of the Euro remained scheduled for January 1999.¹⁵²

The impact of the Euro on European economic markets will be tremendous. The aggregate of stocks, bonds, and bank deposits of the fifteen EU countries currently totals \$27 trillion, compared to \$23 trillion in the United States.¹⁵³ One market watcher predicts that such a massive undertaking as the introduction of the Euro will have a negative impact on the current European securities markets.¹⁵⁴ He predicts the emergence of a "Euro-zone" of power,

144. The Euro is a single monetary unit proposed by the European Monetary Union. If the introduction of the Euro is successful, a unified capital market should result which will provide European individuals and businesses with the financial capabilities found in the U.S. See Flanigan, *supra* note 99.

145. See *Countdown to the Euro*, EUR. REP., Jan. 14, 1998, at 1, available in WL 8799947 [hereinafter *Countdown*].

146. See Douglas Lavin, *WSJ: Spending Money to Sell the Euro*, DOW JONES NEWS SERV., Nov. 25, 1997, at 00:05:00.

147. The introduction of the Euro has the potential to create the single largest global financial marketplace. This single European financial market will benefit Europe's people and businesses in much the same way the U.S. economy benefits its citizens and businesses. For example, the abundance of mortgage money will encourage home ownership, and financing will be more readily available to European businesses that wish to expand. See Flanigan, *supra* note 99, at D1.

148. See Lavin, *supra* note 146.

149. See Flanigan, *supra* note 99, at D1.

150. See *Countdown*, *supra* note 145.

151. *Id.*

152. See Flanigan, *supra* note 99, at D1.

153. *Id.*

154. An equities strategist with a major U.S. brokerage firm in London predicts competition between the individual European stock exchanges. See Robb M. Stewart, *Euro Might Prompt Stock Trading to Shift Toward Euro-Zone*, DOW JONES INT'L NEWS SERV., Dec. 17, 1997, at 03:31:00.

consisting of the security exchanges in Germany, France, and Switzerland.¹⁵⁵ This "Euro-zone" power triangle is expected to challenge London and other smaller exchanges¹⁵⁶ by heightening competition and diverting investments away from non-Euro exchanges.¹⁵⁷ The first signs of this "Euro-zone" power center are emerging, as German, French, and Swiss exchanges are already jointly working to create an electronic link-up between security trading systems.¹⁵⁸

Electronic link-ups and technology will play an important role in the securities markets with the introduction of the Euro. From an investor's perspective, the Euro will create a "common market"¹⁵⁹ by concentrating the delivery of numerous markets through system networks.¹⁶⁰ Accordingly, only those brokers with access to the best technology will be able to compete successfully, thereby challenging both the local markets and brokers not geared to meet the technological challenge.¹⁶¹ It is important to remember, however, that while technology may create the facade of a common market, individual European exchanges will still be subject to the control and administration of the individual member state in which they operate.¹⁶²

C. Acceptance of International Accounting Standards

At the heart of many of the issues encountered in the harmonization of securities regulation has been the diverse accounting practices employed throughout the EU member states. In particular, the preparation of disclosure documents is burdensome due to the lack of universally accepted accounting practices.¹⁶³ Thus, IOSCO has urged the development and acceptance of internationally accepted accounting and auditing standards.¹⁶⁴

Harmonization of accounting standards and practices is currently an issue of discussion in the world economic markets¹⁶⁵ as the movement to develop international standards pushes forward. Even the SEC, with some of

155. *Id.*

156. Denmark, Greece, and Sweden are exchanges expected to suffer at the hands of the "Euro-zone" power triangle. *Id.*

157. *Id.*

158. *Id.*

159. After the introduction of the Euro, the securities markets will appear as one because all securities will trade in the same denomination (the Euro) and the location of brokers will be of minimal importance with the advance of computerized trading. See Brendan McGrath, *Stock Exchange Predicts 10 New Listings*, IR. TIMES, Jan. 19, 1998, at 16, available in 1998 WL 6221454.

160. *Id.*

161. *Id.*

162. See Willis, *supra* note 28, at 21.

163. See generally Wolff, *supra* note 13, at 402.

164. *Id.*

165. Organizations such as IOSCO are discussing and reviewing proposals for the harmonization of accounting and auditing standards. See Nardulli & Segni, *supra* note 20, at 898.

the strictest exchange requirements in the world, has demonstrated support by accepting cash flow statements prepared according to International Accounting Standards currently in existence and not requiring that the statements conform to U.S. GAAP.¹⁶⁶ Yet, many hurdles exist to establishing an accepted, comprehensive system.

The developed standards will need to be flexible enough to support variations resulting from peculiarities in legal, tax, and regulatory structure; differing economic environments; and circumstances unique to specific countries.¹⁶⁷ Additionally, the standards developed will be open to questions of interpretation.¹⁶⁸ Despite these hurdles, the EU appears committed to developing and implementing international accounting standards.

V. SUCCESS AS ENVISIONED UNLIKELY

Further securities law harmonization beyond the scope of the current EU endeavors seems improbable,¹⁶⁹ and total integration of the EU markets, as originally envisioned by EU advocates, appears unattainable. While commentators generally agree that minimum standards of regulation must be implemented to ensure honesty within the market place, they often disagree on what constitutes those minimum standards.¹⁷⁰ At this juncture in the harmonization process, it appears future progress can result only from continued deregulation of the EU markets;¹⁷¹ however, continued deregulation is not a prospect that is attractive to many EU member states.

Indeed, it is becoming apparent that the EU member states chose "harmony now at the price of discord later,"¹⁷² with the signs of discord beginning to reveal themselves. The EU harmonization process, although swift, has resulted in a series of weak "minimum standard" securities regulations with no effective mechanism in place to coordinate or enforce the regulations.¹⁷³ Different cultures of regulation currently exist in the EU member states;¹⁷⁴ there are no universal trade clearance or settlement¹⁷⁵ mechanisms in

166. Generally Accepted Accounting Principles. See Wolff, *supra* note 13, at 403.

167. Any standards developed will be subject to variations encountered at local levels. These standards must be flexible enough to maintain their credibility and uniformity, yet be functional, taking into account any local variations. See David Mercado, *Evolving Accounting Standards in the International Markets*, 961 PLI/CORP 343, 348 (1996).

168. Systems for interpreting standards are being developed. *Id.* at 349.

169. See Roquette, *supra* note 12, at 620.

170. *Id.* at 621.

171. *Id.* at 620.

172. See Warren III, *Global*, *supra* note 41, at 231; Roquette, *supra* note 12, at 597.

173. See Roquette, *supra* note 12, at 597-98.

174. *Id.* at 620.

175. A trade concludes, or settles, when a customer pays the broker/dealer for the securities purchased or delivers the securities sold and receives from the broker/dealer the proceeds from the sale. See NEW YORK STOCK EXCHANGE, *supra* note 43, at 25.

place;¹⁷⁶ and there seems to be no regulatory commission in the foreseeable future.¹⁷⁷ Without continued deregulation of the securities laws to ignite further movement toward harmonization, success as envisioned for the EU securities markets will be unattainable.¹⁷⁸ Therefore, the question becomes one of how high a price the EU member states are willing to pay to achieve the desired goal of harmonization.

Two significant impediments stand in the way of further securities market deregulation in the EU: (1) the threat to the political sovereignty of the individual EU nations; and (2) a resistance to forced cultural changes within the EU.

A. Threat to Sovereignty

The creation of an international regulatory body is a natural and necessary development of the securities regulation harmonization process in the EU.¹⁷⁹ To create such a regulatory body, however, the EU member states must be willing to relinquish their sovereign authority over their market.¹⁸⁰ This is a price many independent EU nations are disinclined or hesitant to pay.

Indications of a desire to maintain a sense of sovereignty over their own economic markets are already beginning to emerge. For example, two EU member states, the United Kingdom¹⁸¹ and Denmark,¹⁸² have thus far declined to participate in the upcoming implementation of the Euro.¹⁸³ Britain, for instance, maintains that economic conditions presently are not suitable for the implementation of the Euro into its economy.¹⁸⁴ Although Britain one day plans to introduce the Euro, for the present time it is exercising its political sovereignty and declining to participate.¹⁸⁵

Such "in or out" approaches to securities deregulation are not as simplistic as they may seem, however. Decisions are further complicated when proposed reforms come in the form of an EU directive because each member state is bound to adopt the directive into legislation.¹⁸⁶ Thus, to remain a member state, compliance with EU directives is required.

Furthermore, whether reforms come by way of an EU directive or not, EU member states often feel compelled to implement the reforms to remain

176. See Warren III, *Directive*, *supra* note 18, at 210.

177. *Id.* at 219.

178. See Roquette, *supra* note 12, at 620-21.

179. See *supra* Part III.

180. See Millspaugh, *supra* note 119, at 374-75.

181. See *Countdown*, *supra* note 145.

182. See *supra* Part IV. B.

183. See Flanigan, *supra* note 99, at D1.

184. See *Countdown*, *supra* note 145.

185. *Id.*

186. See Roquette, *supra* note 12, at 587-88.

competitive, regardless of whether they agree with the substance of the reform. Through deference to and cooperation with emerging reforms, EU member states seek to reduce non-tariff barriers to trade¹⁸⁷ and maintain an air of collective participation. These efforts, in turn, allow the member state to remain competitive in the global market place.

Conversely, declining to participate in reforms is also a tool EU countries are using to maintain competitiveness.¹⁸⁸ The price of a competitive market need not come by way of relinquishing political sovereignty. By adopting only the minimum standards of EU directives or refusing to adopt certain reforms, a country can effectively gain a competitive advantage through lax regulation.¹⁸⁹ As EU directives become more restrictive, this lax approach to reform implementation is likely to become more common.

Increasingly, EU member governments are feeling the pressure to resign themselves to the role of business advocates instead of the governmental role they traditionally enjoyed.¹⁹⁰ Yet, the role of business advocate is not one all governments are adopting with open arms, as evidenced by Britain and Denmark's decision to decline participation in the implementation of the Euro.¹⁹¹ There is a continued reluctance to relinquish complete sovereignty of economic markets.

Release of governmental control over economic markets is a precursor to the implementation of a harmonized securities market. Such a release of control by all EU member states, however, would require inconceivable diplomatic efforts and is extremely improbable, short of a market collapse or an event of extreme political embarrassment to demand such a change.¹⁹² Thus, the threats to political sovereignty seem to be an insurmountable hurdle to achieving complete securities harmonization in the EU.

B. Resistance to Forced Cultural Change

In addition to a reluctance to relinquish political sovereignty, EU member states also cling to their cultural sovereignty. The race to achieve harmonization of the EU securities markets has affected both social and cultural concerns; however, the gains achieved toward economic good may not be high enough to sacrifice cultural mores.

A member state may decline to implement reforms initiated by another

187. See Trachtman, *supra* note 104, at 81. Examples of non-tariff barriers include taxes, admission and registration requirements, and securities regulation statutes.

188. *Id.* at 116.

189. A lack of policy and laws may foster an environment where countries can find common ground and agreement when conflicting standards between the countries threaten trade. *Id.*

190. Governments all over the world are finding themselves in the business of promoting the private sector. *Id.*

191. See *supra* Part IV.B.

192. See Millsbaugh, *supra* note 119, at 374-75.

state if it views such reforms as threatening to the state's cultural sovereignty or as acts of aggressive unilateralism.¹⁹³ For example, the heightened securities disclosure levels advocated by the EU are expected to create a new corporate psychology within EU corporations that did not exist in the past.¹⁹⁴ This new corporate psychology may be viewed by some as threatening to the state's business culture.

The EU is comprised of states having diverse historical events responsible for shaping each into a unique social and cultural entity. This sudden race toward the harmonization of securities markets may be viewed by states as an ethnocentric attempt to require everyone to follow the same path and compromise the heritage of the state in the process.¹⁹⁵

One example of the effects EU directives can have on both the political and cultural sovereignty of a nation is found in Ireland. Ireland's status as an EU member state has given the nation substantial economic benefits, yet these benefits have not come without social cost.¹⁹⁶ The political and cultural landscape of Ireland is changing forevermore as Ireland loses its struggle to maintain complete sovereignty.¹⁹⁷

The Roman Catholic Church has wielded immense power in Ireland. Since the nation's membership to the EU in 1973, however, this power has slowly waned.¹⁹⁸ Focusing on the economic benefits of EU membership, Irish politicians demonstrated a willingness to set aside canonical law in favor of EU law to show the compatibility of Ireland's government with the EU.¹⁹⁹ A prime example of the fading Roman Catholic Church's influence came in May 1995 when the Supreme Court of Ireland upheld the Regulation of Information Bill.²⁰⁰ This bill, in essence, protected the right of a woman to receive information on abortion procedures offered abroad.²⁰¹ This decision directly contravened prior Supreme Court holdings²⁰² and Ro-

193. See Trachtman, *supra* note 104, at 83.

194. This new corporate psychology may develop as a result of management's aspiration to develop a global image. See Roquette, *supra* note 12, at 598.

195. Countries may resist harmonization attempts to protect their sense of cultural sovereignty. See Trachtman, *supra* note 104, at 83.

196. See David O'Connor, Note, *Limiting "Public Morality" Exceptions to Free Movement in Europe: Ireland's Role in a Changing European Union*, 22 BROOK. J. INT'L L. 695, 695 (1997).

197. *Id.* at 696.

198. It should be noted that there has not been a complete separation of church and state, however. The preamble of Ireland's Constitution still contains references to the "Holy Trinity" and "our Divine Lord, Jesus Christ." *Id.* at 711-13, citing IR. CONST. PREAMBLE.

199. Politicians of the time knew that acceptance into the EU was critical for Ireland. Once acceptance was achieved, the politicians expected a windfall of economic benefits to follow. *Id.* at 712.

200. This bill codified the wording of the fourteenth amendment protecting a woman's right to information concerning abortion services offered in other EU states. The decision to uphold this bill is regarded as one of the most important modern Irish court decisions. *Id.* at 707-08.

201. *Id.* at 708.

man Catholic teachings, with many viewing the decision as an indication that the Irish Court is attempting to appease other member states.²⁰³ Further complicating matters in the EU is the Treaty on the European Union,²⁰⁴ which has the dual goal of achieving both monetary and political harmonization of EU member states.²⁰⁵

Thus, the EU has the power to influence member states indirectly by intruding into matters of political and cultural sovereignty.²⁰⁶ This power is not going unnoticed, as member states are beginning to realize the price tag attached to harmonizing securities regulations may be too high.

CONCLUSION

The goal of EU securities regulation harmonization efforts is to create an integrated securities market that will enhance the international economic good and avoid an economic crisis.²⁰⁷ Through a series of directives, the EU member states have moved closer to achieving such a goal; however, much needs to be accomplished in narrowing accounting inconsistencies between states and establishing an effective EU securities regulatory body.

The world is becoming a smaller place in which to do business. Countries are developing at a feverish pace as the attractiveness of doing business beyond home borders continues to grow. This is especially true in terms of securities trading. Immeasurable untapped wealth exists in foreign capital markets and the key to tapping that wealth lies in harmonization.

Despite the steps the EU has taken thus far, complete harmonization, as envisioned by EU advocates, is likely unattainable. The harmonization of security listing requirements has not been a smooth road to travel. Both the lack of a global regulatory commission and the difficulties surrounding the introduction a single European currency have plagued the efforts of the EU.

To achieve complete harmonization of securities regulations in the EU, the member states must be willing to sacrifice both political and cultural independence in favor of economic reform, a step many EU countries are unwilling to take. Threats to political and cultural sovereignty have forced many EU member states to proceed with harmonization cautiously and to protect their own interests. Additionally, many member states are finding non-compliance with the EU directives to be a competitive advantage as well.

202. The Irish Supreme Court had been extremely conservative in its decisions and it was expected the Regulation of Information Bill was certain to be struck down. *Id.*

203. *Id.* at 709-10.

204. Treaty on European Union, Feb. 7, 1992, 32 I.L.M. 1693 (entered into force Nov. 1, 1993). This treaty is viewed as a move toward unifying the treatment of public morality issues by EU member states. O'Connor, *supra* note 196, at 709-10.

205. O'Connor, *supra* note 196, at 727.

206. *Id.* at 713-14.

207. See Wolff, *supra* note 13, at 417.

The current level of harmonization already attained in the EU securities markets is a big step, however, and should not be discounted.²⁰⁸ EU securities markets are more attractive now than they have been at any time in the past,²⁰⁹ yet the present price tag on reaching complete harmonization appears too high.

*Todd A. Sulger**

208. See Roquette, *supra* note 12, at 599.

209. *Id.* at 597.

* B.B.A. (Business Administration), University of Wisconsin - Milwaukee; J.D. Candidate, 1999, California Western School of Law. My thanks to Professor Gloria Sandrino for giving me encouragement and advice in choosing and developing this topic and for being a guiding source during the initial drafts. My very special thanks and gratitude to Elly Halladay and Skyler Home for being constant reminders of what really is important in life and for serving as my motivation and inspiration.

