Profile

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Philip Rutledge, Deputy Chief Counsel at the Pennsylvania Securities Commission, is visiting the IALS on an Inns of Court Fellowship.

Some visiting fellows at the Institute can afford themselves the luxury of taking a break from their normal routines while they immerse themselves in their chosen area of research. Philip Rutledge's workload and commitments are such that he is telecommuting to the Pennsylvania Securities Commission, conducting meetings as well as projects via the telephone and internet, while co-authoring a book with which the Institute is collaborating.

The working title of the book is 'electronic markets', and it deals with a variety of topics including trading in securities on the internet, raising capital on the internet, and the duties of on-line brokers to the public. The book also will explain in basic terms how all these electronic systems operate.

The broad coverage of the book reflects the all-embracing nature of Philip Rutledge's role at the Pennsylvania Securities Commission. The Commission is responsible for new issues of securities for companies that are not listed on national securities exchanges. It also has a licensing function in relation to broker dealers, agents, investment advisers and their representatives. That means the Commission is actively involved with the regulation of about 3,000 brokerage firms, 150,000 agents who work for those brokerage firms, about 500 investment advisers and about 2,000 investment advisers' representatives.

The Commission must be satisfied that applicants are fit and proper to carry on business, and that licensed firms are complying with the law and the rules that govern them, both statutory and self-regulatory. Failure to comply can result in proceedings ranging from an informal settlement all the way up to initiation of formal enforcement proceedings. The Pennsylvania Securities Commission has civil enforcement powers, but like the US Securities and Exchange Commission cannot undertake criminal prosecutions.

Although many securities frauds investigated by the PSC may appear small in terms of the amounts of money or numbers of people involved, the Pennsylvania Commission is rigorous in its pursuit of those responsible. Such scams can be extremely devastating to those affected, particularly the elderly who have been swindled out of their life savings. From time to time the state authorities also become involved in national cases. The Pennsylvania Securities Commission, for example, helped to break up a fraudulent investment operation run from Florida targeted at fundamental Christian organisations in various parts of the USA which made unrealistic promises of 100 per cent return on investors' money.

UK/USA COMPARISON

Philip Rutledge's research at IALS also involves a comparison of financial services regulation in the UK and the USA. Interestingly, the decision taken by the UK to set up a single regulator in the form of the Financial Services Authority is generally opposite to the American approach. Last year Congress agreed to retain 'functional regulation', which means, for example, that a bank dealing in securities with the public will have its brokerage activities subject to regulation by the Securities and Exchange Commission and the several states, not federal or state banking authorities.

There are legislative directives for co-operation between the various regulators, but the SEC does not have a dominating role in the same way as the FSA. There is no federal regulation of insurance. That is a state responsibility. The US system means that an organisation offering a range of financial services will be subject to several regulators supervising distinct aspects of its overall operation. However, Congress felt that the process of facilitating information sharing while relying on the expertise of individual regulators was preferable to the creation of a single financial services regulator. As Philip Rutledge points out:

'The fundamental regulatory goal is the safety and soundness of an institution on the banking side, the protection of investors on the securities side, and the protection of the consumers on the insurance side twinned with the concern that insurance companies are sufficiently solvent to meet their obligations. Those three principal regulatory criteria are somewhat at odds with each other, and if you combine all these goals within one regulator, which regulatory philosophy is going to win out?'

Julian Harris
Senior Information Officer, IALS