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Regulation of Derivative Financial Instruments (Swaps, Options, and Futures)

Ronald H. Filler
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REGULATION OF
DERIVATIVE FINANCIAL
INSTRUMENTS
(SWAPS, OPTIONS AND FUTURES)
CASES AND MATERIALS



Ronald H. Filler
Jerry W. Markham

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REGULATION OF DERIVATIVE FINANCIAL INSTRUMENTS

(SWAPS, OPTIONS AND FUTURES)

CASES AND MATERIALS



by

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PREFACE

Derivatives trading was once an esoteric field of finance that was concerned only with transactions in agricultural commodities. Such instruments were of little interest to Wall Street until the 1970s, when the commodity exchanges began trading futures and options on financial instruments. Trading in those financial derivatives exploded over the next few decades and today comprises the vast majority of derivative transactions.

This casebook will provide you with an understanding of the derivative instruments that are found in the financial and commodity markets. It will trace the history of the regulation of these instruments and the role they played in various financial crises over the years, including the Stock Market Crash of 1987 and the Financial Crisis in 2008.

This casebook will explore the regulation of derivatives under both the federal securities laws and the Commodity Exchange Act of 1936 (CEA). However, its principal focus is on the latter. This is because most derivative trading occurs under the auspices of the CEA. Moreover, much of the regulation created by the federal securities laws is the subject of other courses, such as Business Organizations, Securities Regulation and Corporate Finance. Nevertheless, this casebook will show how the jurisdiction over financial derivative instruments is divided between the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC). It will address differences in the regulatory approaches of these two agencies.

This casebook will also describe the market participants that are regulated by the CFTC and SEC, including “contract markets,” “clearinghouses,” “broker-dealers,” “futures commission merchants,” “commodity pool operators,” “commodity trading advisors,” “investment advisers,” “swap execution facilities,” “swap dealers,” “major swap participants,” “swap data repositories,” and the various industry self-regulatory organizations, such as the Financial Industry Regulatory Authority (FINRA) and the National Futures Association (NFA).

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The following pages will also identify market abuses that have come to be associated with the trading of derivative instruments, including price manipulations and fraudulent trading and sales practices. Finally, this casebook will conduct a comparative analysis of derivative trading abroad.

RONALD H. FILLER

JERRY W. MARKHAM

February 15, 2014

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“Special thanks to my wife, Paula Filler, and my entire family for being true and loyal supporters throughout my career and to the University of Illinois for laying the foundation that led to this book. I bleed orange and blue.” Ronald Filler

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