Index

accountability 58–9, 60–62
Adaptive Markets Hypothesis 85–6
AIG 72, 112, 282, 283–4, 285, 296, 302
Alliance and Leicester 251
American International Group see AIG
arbitrage trading 84–5, 86
Asian financial crisis 165
Asset-Backed Commercial Paper
Money Market Mutual Fund
Liquidity Facility 287, 290, 295
Association of British Insurers (ABI) 80–81
Australia, financial literacy initiative 235
Austrian state railways 119
Bank of America 271, 277, 280, 282, 284, 285, 295
bankruptcy 226
Bankruptcy Abuse Prevention and Consumer Protection Act (2005) 226
banks
attitude towards customers 114
conflict of interest 129–32
regulatory convergence 55–6
risk-taking and lax regulation 41–3, 47–9
Barclays Capital 119, 120
BCCI 255
behavioural finance 83–4, 85, 229–30
Belgium 315
Berlin, transport system 119
‘Big Society’ bank 238
BNP Paribas 275
book entry systems 200–202, 205–6
Brazil, access to credit 238
British Columbia Securities Commission 11
British offshore finance centres, deposit protection schemes 252–254, 264–6
Guernsey 258–61, 265
Isle of Man 255–7, 265
Jersey 261–64, 265
Bush, President George W. 272
CACs (collective actions clauses) 317–19, 320, 321, 323, 324, 325
capital 53, 54
Capital Mortgage Connections Ltd (CMC) 250
Capital One Bank (Europe) plc 250
CDOs (collateralised debt obligations) 111, 117, 118–21
CDS (credit default swaps) 42, 97, 111, 112–113, 119
Central Bank Liquidity Swap Facility 277–9, 294, 295, 303
CESR (Commission of European Securities Regulators) 75, 99
China see also China’s securities market
Civil Procedure Law (1982) 157
Civil Procedure Law (1991) 176, 178, 180, 183
Civil Procedure Law (2007) 181
Company Law (1993) 150, 151, 173
Company Law (1997) 173
Company Law (2005) 151, 153, 154
constitutional reform 181–82
Consumer Financial Protection Bureau 227
Contract Law (1999) 157, 158–9
Criminal Law (1997) 173
and EU sovereign debt markets 315
financial security 188, 189–90

327

Kern Alexander and Niamh Moloney - 9780857936639
Downloaded from Elgar Online at 05/04/2019 10:34:28AM
via free access
General Principles of Civil Law (1986) 157, 158–9
judicial reform 182–4
judiciary 159–60
legal system 157, 158–9
rule of law 182–184
social and economic policies 191–2
social stability 188–9, 190
WTO membership 181, 182
China Financial Futures Exchange (CFFEX) 145, 192
China Securities Regulatory Commission (CSRC) 150, 151, 156, 166, 167, 176, 185
China’s securities market 145–9, 192–194
see also China administrative securities regulator 185–7, 188
civil litigation 174–9, 180, 186–7
client protection 151–53, 156
commodity and financial futures market 147–8, 158, 160–72, 187–9
corporate governance 153–4
fraud 149, 155–6, 172–181, 186
Futures Trading Law 170
judicial committees 183–4
judicial rules 152, 154–5, 157–8
legal framework 149–51, 152–153, 154, 155–6
market manipulation 155–6
people’s courts 153–5, 167, 174–81, 184–5, 187, 189–90
regulation 150, 151–52, 157
Securities Law (1998) 149, 150, 155, 173, 174, 185
Securities Law (2005) 151, 152–153, 154, 155–6, 170, 185
Supreme People’s Court
fraud and civil litigation 174–9, 180, 186–7
futures market 157–8, 163–4, 165, 167–8, 189–90
securities market 141–52, 154–5, 159–60
circuit breaker halt system 76–7, 91, 102, 103, 104, 105, 107–9
Citibank 37, 277
Citigroup 243–4, 271, 280, 282, 284, 285, 295
club regulation 54–5
collateralised debt obligations (CDOs) 111, 117, 118–21
Commercial Paper Funding Facility 287–8, 290, 294, 295
Commission of European Securities Regulators (CESR) 75, 99
Committee of European Banking Supervisors (CEBS) 29
Community Reinvestment Act (US) 238
Competition Commission 229, 231–32
conflict of interest 50–52, 56, 129–32
Consumer Credit Act 223, 241
consumer credit regulation 221–23, 248–9
access, inequalities in 238
bankruptcy 226
competition 226–7, 228–30
consumer choice and preference 229–30
credit contracts 226, 230–31
creditor information 231–34
default 225
financial literacy 234–7
financial ombudsmen 225, 237–8, 245
Financial Services Authority 223, 239, 240, 241–45, 247
interest rate ceilings 227
neo-liberal approaches 223–8
Office of Fair Trading 239–40, 245–6
over-indebtedness 225–6, 231
payment protection insurance (PPI) 23, 242, 243–4, 245, 250–51
responsible lending 247
securitisation 224
Consumer Financial Protection Act (2010) 239
Consumer Financial Protection Bureau 222–223, 239, 240
Consumer Protection and Markets Authority (CPMA) 223, 240
convergence 35–6, 53, 55, 57, 63, 66
Council for Financial Stability 58
CPMA see Consumer Protection and Markets Authority
credit bureaux 231–32, 234
credit card companies 231, 233
credit cards 228, 231, 241
credit default swaps (CDS) 42, 97, 111, 112–13, 119
credit reporting 232
credit scoring 231, 233, 234
credit unions 238
cross-border shareholder voting in the EU 195–7, 217
book-entry systems 200–202, 205–6
company law and securities law overlaps 198–201
entitlement evidencing 199–201, 205
EU Company Law 207
EU Shareholder Rights Directive 196, 207–9, 217
European Market Standards for General Meetings 215–17
Hague Convention 211
intermediated securities 200–205
Legal Certainty Group’s Advice 211–14
securities clearing and settlement 209–210
securities law and company law overlaps 198–201
securities law harmonization 214–15
UNIDROIT Convention 210–11
cross-border-leasing deals 115
cultural capital 52–6

Dalian Commodity Exchange 161
democratisation of regulation 58–66
accountability 58–9, 60–62
jurisdictional arbitrage 63–5
public goods perspective 59–62
systemic protection 62–3
deposit protection schemes 252–254, 264–6
Guernsey 258–61, 265
Isle of Man 255–8, 265
Jersey 261–64, 265
derivatives 41, 48–9, 111–13
failed deals
foreign exchange hedging 131–3
hybrid capital raising bonds 126–31
structured swaps 121–6
 informational asymmetry
commercial innocence 114–15
cumulative misunderstanding 118–21
legal misunderstanding 115–16
technical misunderstanding 116–18
legal aspects of failed deals
advice 139–40, 142
capacity to contract 136–8
causation 140
good faith 138–9, 142
implied terms 138–40
market transparency 135–6
misrepresentation 143
randomness in representations 140–42
representations 140–43
risk disclosure legislation 144
disclosure of short sales 78, 80, 91, 102, 103, 105–7
Dodd-Frank Act 112, 301–303
economic capital 53, 54–5
Economic Stimulus Act (2008) 272
Efficient Markets Hypothesis 83–5
Egg Banking plc 251
Egg credit card 235, 243–4
equity release products 246
ESMA (European Securities and Markets Authority) 75, 77
EU
Capital Requirements Directive 29
Consumer Credit Directive 232
cross-border shareholder voting rights 195–7, 217
book-entry systems 200–202, 205–6
company law and securities law overlaps 198–201
entitlement evidencing 199–201, 205
EU Company Law 207
EU Shareholder Rights Directive 196, 207–9, 217
European Market Standards for General Meetings 215–17
Hague Convention 211
intermediated securities 200–205
Legal Certainty Group’s Advice 211–14
securities clearing and settlement 209–10
securities law and company law overlaps 198–201
securities law harmonization 214–15
UNIDROIT Convention 210–11
High-Level Group on Financial Supervision 65–6
MiFID (Markets in Financial Instruments Directive) 114, 139
principles-based regulation 27
ratings agencies’ regulation 49–50
remuneration, principles on 29
securities clearing and settlement initiatives 209–10
Shareholder Rights Directive 196, 207–9, 217
short selling regulation 99–100
sovereign debt problems 73, 306–7, 308–313, 315
sovereign debt restructuring 306–8, 310, 311, 316–24
collective actions clauses (CACs) 317–19, 320, 321, 323, 324, 325
decentralized institutional approach 317–20
European Financial Stability Facility 306, 307, 313–16, 320
European Financial Stability Fund 321–23
European Monetary Fund 307, 311–13
European Stability Mechanism 323–24
sovereign debt agency 308, 320–23, 325
sovereign debt restructuring mechanism 320
Stability and Growth Pact (SGP) 308, 312, 322
Treaty on the Functioning of the EU (TFEU) 308, 309, 312, 313, 323, 324
European Bank for Reconstruction and Development (EBRD) 126–8
European Central Bank 313
European Financial Management Association (EFMA) 81
European Financial Stabilization Mechanism (FSM) 306
European Investment Bank 314, 315
European Market Standards for General Meetings 215–17
European Monetary Fund 307, 311–13
European Securities and Markets Authority (ESMA) 75, 77
European Systemic Risk Council 65–6
evidence-based regulation 31
Fannie Mae 271, 272, 273, 274, 290, 296
Federal Deposit Insurance Corporation (FDIC) 273–4
Federal Reserve Act, Section 13(3) lending 279–92, 300–304
Federal Reserve reform 299–304
Federal Reserve response to the US financial crisis 269, 271–72, 274, 304–5
aftermath 299–304
assessment of 291–92
Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility 287, 290, 295
Central Bank Liquidity Swap Facility 277–9, 294, 295, 303
Commercial Paper Funding Facility 287–8, 290, 294, 295
consequences of 294, 297–9
Discount Window 276–7, 282, 285, 294
exit strategy 294–7
and governmental actions 272–274
interest rate lowering 275, 276
large-scale asset purchase programs 289–91
lending to depository institutions 275–7, 278
lending to non-depository institutions 284–9, 290, 294–5, 298
lending to systemically important non-depository institutions 279–80, 282–284, 285, 295
Maiden Lane facilities 283, 285, 295–6, 297
Money Market Investor Funding Facility 288–9, 290
moral hazard concern 299
Mortgage-Backed Securities (MBS) Purchase Program 290–91, 296, 298
Primary Dealer Credit Facility 286, 290, 295
Section 13(3) lending 279–92
Term Asset-Backed Securities Loan Facility 289, 290, 294, 295
Term Auction Facility 277, 278, 294, 295, 303
Term Securities Lending Facility 286–7, 290, 295
US financial crisis 270–71, 292–293
Financial Conduct Authority 239, 247–8
financial literacy 234–7
financial market regulation 35–7, 65–6
see also principles-based regulation (PBR)
accountability 58–9, 60–62
club regulation 54–5
and cultural capital 52–6
democratic oversight 61, 62–3
democratisation 35, 58–66
jurisdictional arbitrage 63–5
precautionary principle 42–4
private risk models 46–9
public goods perspective 59–62
rapture 36, 44–52, 53, 57
ratings 44–52
rational choice 36, 37–42, 43, 45–6, 57–8
regulators’ self-critique 38–42
regulatory convergence 35–6, 55, 57, 63, 66
systemic protection 62–3
tripartism 60–61
Financial Ombudsman Service 245–6
financial ombudsmen 225, 237–8
Financial Reporting Council 6
Financial Sector Assessment Programme 15
Financial Services Act (2010) 248
Financial Services Authority (FSA) 5, 8, 14, 30–31
Approved Persons Regime 22–3
circuit breakers, definition 76
consumer credit regulation 223, 239, 240, 241–45, 247
credible deterrence 24
evidence-based regulation 31
outcomes-based regulation 18
payment protection insurance (PPI) 243–4
Principles for Business 25, 27
principles-based regulation 16–17, 18–26, 31–3
remuneration code 29
risk-based regulation 31–3
short selling ban 73, 79–80, 89, 95
short selling disclosure 80, 105–6
‘short squeeze’ description 92
sub-prime credit regulation 242–243
Treating Customers Fairly (TCF) initiative 23, 25–6, 241–2, 250–51
Financial Stability Board 15, 28
Financial Stability Council 28
Financial Times 311
Foot Review 254, 265
foreign exchange hedging 113, 131–3
formal principles-based regulation 7–8, 14–15, 26–30
France, financial literacy initiative 235
Freddie Mac 271, 272, 273, 274, 290, 296
FSA see Financial Services Authority
gambling debts 141
GE Capital 243–4, 250
George White Motors Ltd 251
German Debt Office 314, 315
Germany, derivatives 73, 114–15, 119–20, 137–42
Ginnie Mae 290
GK Group Limited 251
Goldman Sachs 41, 111, 271
good faith 112, 113, 138–9
Great Depression 281
Greece, sovereign debt crisis 306, 307, 310–11, 313, 316
Guernsey, deposit protection scheme 258–61, 265
Law reform and financial markets

Hadenglen Home Finance 250
Hague Convention 211
Hainan Minyuan Modern Agricultural Company 186
hedge funds 39, 74, 82
herding 74, 85, 86, 102–3
HFC 243–4, 250
High-Level Group on Financial Supervision 65–6
Home and County Mortgage Limited 250
Housing and Economic Recovery Act (2008) 272
hybrid capital raising bonds 126–31
Icelandic banking sector meltdown 255–6, 259
insider dealing 72, 95–6, 155, 173
intermediated securities, cross-border shareholder voting 195–7, 217
book-entry systems 200–202, 205–6
company law and securities law overlaps 198–201
entitlement evidencing 199–201, 205
EU Company Law 207
EU Shareholder Rights Directive 196, 207–9, 217
European Market Standards for General Meetings 215–17
Hague Convention 211
intermediated securities 200–205
Legal Certainty Group’s Advice 211–14
securities clearing and settlement 209–10
securities law and company law overlaps 198–201
securities law harmonization 214–15
UNIDROIT Convention 210–11
International Monetary Fund (IMF) 65, 306, 319
International Organization of Securities Commissions (IOSCO) 44, 77, 87, 96
Principles for short sales regulation 75, 81, 97–9
investment banks attitude towards customers 114
conflict of interest 129–32
regulatory convergence 55–6
risk-taking and lax regulation 41–3, 47–9
Ireland, sovereign debt problems 315–16
Isle of Man, deposit protection scheme 255–8, 265
Japan, financial regulation 5
Jersey, deposit protection scheme 261–64, 265
Joint Money Laundering Steering Group 14
JP Morgan Chase 277, 283, 285
jurisdictional arbitrage 63–5
Kaupthing, Singer and Friedlander Isle of Man (KSF IoM) 253–4
Lamfalussy reforms 27
Land of Leather 23, 251
Landesbanken 138
Landsbanki Guernsey 259
Latin America, debt crisis 309–10
Legal Certainty Group (LCG) 211–14
Legal Services Board 6
Lehman Brothers 38, 41, 72, 271, 288, 302
liquidity crisis 277–9
Liverpool Victoria Banking services 251
Loans.co.uk Limited (LCUK) 250
Maiden Lane facilities 283, 285, 295–6, 297
management-based regulation 12–13, 16
market abuse 79, 95–6
market manipulation 72, 74, 94, 95, 96, 97, 173
market rapture 36, 44–52, 53, 57
MBS Purchase Program 290–91, 296, 298
Merrill Lynch 41, 112, 120, 124, 271, 285
meta-regulation 12–13, 16
Mexican debt crisis 309–10
MiFID (Markets in Financial Instruments Directive) 114, 139
Mizen, P. 41, 44
money laundering 14
<table>
<thead>
<tr>
<th>Term</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Money Market Investor Funding Facility</td>
<td>288–9, 290</td>
</tr>
<tr>
<td>Moody’s</td>
<td>50</td>
</tr>
<tr>
<td>Morgan Stanley</td>
<td>41, 271</td>
</tr>
<tr>
<td>mortgage market</td>
<td>38–9, 42, 45–6, 296–7</td>
</tr>
<tr>
<td>Mortgage-Backed Securities Purchase Program</td>
<td>290–91, 296, 298</td>
</tr>
<tr>
<td>municipalities and derivatives deals</td>
<td>115–16, 136–8</td>
</tr>
<tr>
<td>mutuels</td>
<td>238</td>
</tr>
<tr>
<td>‘naked’ short sales</td>
<td>74</td>
</tr>
<tr>
<td>ban</td>
<td>73, 81, 95, 96–7, 100, 102–3</td>
</tr>
<tr>
<td>settlement risk</td>
<td>91–2, 93</td>
</tr>
<tr>
<td>New Zealand, financial literacy initiative</td>
<td>235</td>
</tr>
<tr>
<td>Northern Rock</td>
<td>21</td>
</tr>
<tr>
<td>Obama, President Barack</td>
<td>5</td>
</tr>
<tr>
<td>OECD</td>
<td></td>
</tr>
<tr>
<td>Financial Education Project</td>
<td>234–5</td>
</tr>
<tr>
<td>Principles for Efficient and Effective Financial Regulation</td>
<td>27</td>
</tr>
<tr>
<td>principles-based regulation</td>
<td>5–6</td>
</tr>
<tr>
<td>off-balance-sheet vehicles</td>
<td>40–41, 42</td>
</tr>
<tr>
<td>Office of Economic Analysis</td>
<td>88</td>
</tr>
<tr>
<td>Office of Fair Trading and credit regulation</td>
<td>239–41, 245–6</td>
</tr>
<tr>
<td>offshore finance centres, deposit protection schemes</td>
<td>252–255, 264–6</td>
</tr>
<tr>
<td>Guernsey</td>
<td>258–61, 265</td>
</tr>
<tr>
<td>Isle of Man</td>
<td>255–58, 265</td>
</tr>
<tr>
<td>Jersey</td>
<td>261–64, 265</td>
</tr>
<tr>
<td>Orange County bankruptcy</td>
<td>115, 124</td>
</tr>
<tr>
<td>originate-to-distribute model</td>
<td>38–9, 42, 46</td>
</tr>
<tr>
<td>outcomes-based regulation</td>
<td>5, 11, 18</td>
</tr>
<tr>
<td>over-indebtedness</td>
<td>225–6, 231</td>
</tr>
<tr>
<td>over-indebtedness industry</td>
<td>226</td>
</tr>
<tr>
<td>over-the-counter derivatives</td>
<td>111–13</td>
</tr>
<tr>
<td>failed deals</td>
<td></td>
</tr>
<tr>
<td>foreign exchange hedging</td>
<td>131–3</td>
</tr>
<tr>
<td>hybrid capital raising bonds</td>
<td>126–31</td>
</tr>
<tr>
<td>structured swaps</td>
<td>121–6</td>
</tr>
<tr>
<td>informational asymmetry</td>
<td></td>
</tr>
<tr>
<td>commercial innocence</td>
<td>114–15</td>
</tr>
<tr>
<td>cumulative misunderstanding</td>
<td>118–21</td>
</tr>
<tr>
<td>legal misunderstanding</td>
<td>115–16</td>
</tr>
<tr>
<td>technical misunderstanding</td>
<td>116–18</td>
</tr>
<tr>
<td>legal aspects of failed deals</td>
<td></td>
</tr>
<tr>
<td>advice</td>
<td>139–40, 142</td>
</tr>
<tr>
<td>capacity to contract</td>
<td>136–8</td>
</tr>
<tr>
<td>causation</td>
<td>140</td>
</tr>
<tr>
<td>good faith</td>
<td>138–9, 142</td>
</tr>
<tr>
<td>implied terms</td>
<td>138–40</td>
</tr>
<tr>
<td>market transparency</td>
<td>135</td>
</tr>
<tr>
<td>misrepresentation</td>
<td>143</td>
</tr>
<tr>
<td>randomness in representations</td>
<td>140–42</td>
</tr>
<tr>
<td>representations</td>
<td>140–43</td>
</tr>
<tr>
<td>risk disclosure legislation</td>
<td>144</td>
</tr>
<tr>
<td>Park’s of Hamilton Holdings Ltd</td>
<td>251</td>
</tr>
<tr>
<td>payday loans</td>
<td>229, 246</td>
</tr>
<tr>
<td>payment protection insurance</td>
<td>23, 242, 243–4, 245</td>
</tr>
<tr>
<td>fines for TCF failures</td>
<td>250–51</td>
</tr>
<tr>
<td>PBR</td>
<td>see principles-based regulation (PBR)</td>
</tr>
<tr>
<td>Peerenboom, R.</td>
<td>182</td>
</tr>
<tr>
<td>pension funds</td>
<td>47</td>
</tr>
<tr>
<td>Porsche</td>
<td>92, 96</td>
</tr>
<tr>
<td>Portugal</td>
<td>315</td>
</tr>
<tr>
<td>PPI</td>
<td>see payment protection insurance (PPI)</td>
</tr>
<tr>
<td>precautionary principle</td>
<td>42–4</td>
</tr>
<tr>
<td>Primary Dealer Credit Facility</td>
<td>286, 290, 295</td>
</tr>
<tr>
<td>principles-based regulation</td>
<td>4–7, 33–4, 40</td>
</tr>
<tr>
<td>dyadic relationships</td>
<td>7, 13, 30</td>
</tr>
<tr>
<td>fall of</td>
<td>18–26</td>
</tr>
<tr>
<td>formal</td>
<td>7–8, 14–15, 26–30</td>
</tr>
<tr>
<td>international level</td>
<td>14–15, 27–8</td>
</tr>
<tr>
<td>polycentric relationships</td>
<td>7–8, 13–15, 28–30</td>
</tr>
<tr>
<td>regulatory conversations</td>
<td>9</td>
</tr>
<tr>
<td>rise of</td>
<td>16–18</td>
</tr>
<tr>
<td>and risk-based regulation</td>
<td>31–3</td>
</tr>
<tr>
<td>substantive</td>
<td>7, 8–13, 30–31</td>
</tr>
<tr>
<td>private sector risk models</td>
<td>44–9</td>
</tr>
<tr>
<td>rapture</td>
<td>36, 44–52, 53, 57</td>
</tr>
<tr>
<td>ratings</td>
<td>44–7, 50–51</td>
</tr>
<tr>
<td>ratings agencies</td>
<td>44, 45–6, 47, 49–52</td>
</tr>
<tr>
<td>ratings shopping</td>
<td>51</td>
</tr>
</tbody>
</table>
rational choice and regulation 36, 37–42, 43, 45–6, 57–8
Redcats (Brands) Ltd 250
Regency Mortgage 250
regulation see consumer credit regulation; financial market regulation; principles-based regulation (PBR); short sales regulation
regulatory accountability 58–9, 60–62
regulatory arbitrage 39–40, 63–5
regulatory capture 36, 48
regulatory convergence 35–6, 53, 55, 57, 63, 66
regulatory decentralisation 62–3
regulatory diversity 62–5, 66
regulatory rapture 36, 44–52, 53, 57
remuneration, principles on 28–9
risk-based regulation 31–3
rule-based regulation 40
Scandinavian countries, financial market regulation 61–2
Securities and Exchange Commission (SEC)
Consolidated Supervised Entity Program 41
financial crisis, response to 272
short sales regulation 73, 78–9, 81, 100–101
securities clearing and settlement 209–10
securities markets see China’s securities market; intermediated securities, cross-border shareholder voting
securitisation 39, 44, 224
Shanghai 145–6, 164–5
Shanghai Futures Exchange 145, 161
Shanghai Stock Exchange 145
shareholder voting rights see cross-border shareholder voting in the EU
short sales 82–6
see also short sales regulation in adaptive markets 85–6
as destabilizing factor 90–91, 93
efficiency benefits 87–90
in efficient markets 83–5
herding 85, 102–3
insider dealing 95–6
and market abuse 95–7
rights issues 93–5
seasoned equity orderings 93–5
settlement risk 91–3
short sales regulation 71–2, 74–5, 109–10
asymmetric national restrictions 80–81
ban 73–4, 75, 78–80, 95
CESR Recommendations 99
circuit breaker halt system 76–7, 91, 102, 103, 104, 105, 107–9
disclosure 78, 80, 91, 102, 103, 105–7
EU Commission Proposal 99–100
global framework 75–8
IOSCO Principles 97–9
‘naked’ short sales 74
ban 73, 81, 95, 96–7, 100, 102–3
settlement risk 91–2, 93
SEC rule 100–101
uptick rules 72, 75, 81, 100, 101, 103–5
short squeeze 92, 96
SIVs (structured investment vehicles) 45–6
Solicitors Regulation Authority 6
sovereign bonds 97
sovereign debt problems 306–7, 308–313, 315
sovereign debt restructuring, EU 306–8, 310, 311, 316–24
collective actions clauses (CACs) 317–19, 320, 321, 323, 324, 325
decentralized institutional approach 317–20
European Financial Stability Facility 306, 307, 313–16, 320
European Financial Stability Fund 321–23
European Monetary Fund 307, 311–313
European Stability Mechanism 323–324
sovereign debt agency 308, 320–23, 325
sovereign debt restructuring mechanism 320
Spain 307, 315, 316, 324
Stability and Growth Pact (SGP) 308, 312, 322
structured derivatives 111–13
failed deals
foreign exchange hedging 131–3
hybrid capital raising bonds
126–31
structured swaps 121–6
informational asymmetry
commercial innocence 113–15
cumulative misunderstanding
118–20
legal misunderstanding 115
technical misunderstanding
116–18
legal aspects of failed deals
advice 138–9, 141
capacity to contract 135–7
causation 139
good faith 137–8, 141
implied terms 137–9
market transparency 135
misrepresentation 141–2
randomness in representations
139–41
representations 139–42
risk disclosure legislation 142
structured investment vehicles (SIVs)
45–6
subprime market 43, 120–21, 228, 229,
233, 242–3
substantive principles-based regulation
7, 8–13, 30–31
systemic protection 62–3
targets 11
TARP (Troubled Asset Relief
Program) 78, 272, 273, 283
Term Asset-Backed Securities Loan
Facility 289, 290, 294, 295
Term Auction Facility 277, 278, 294,
295, 303
Term Securities Lending Facility
286–7, 290, 295
‘too big to fail’ firms 64, 299
Treating Customers Fairly (TCF)
initiative 23, 25–6, 241–42
fines imposed 250–51
Treaty on the Functioning of the
European Union (TFEU) 308,
309, 312, 313, 323, 324
tripartism in regulation 60–61
Troubled Asset Relief Program
(TARP) 78, 272, 273, 283
Turner, Lord 19–20
Turner Review 221–22
UNIDROIT Convention 210–11
uptick rules 72, 75, 81, 100, 101,
103–5
US
Community Reinvestment Act
238
Federal Reserve Act, Section 13(3)
lending 279–92, 300–304
Federal Reserve reform 299–304
Financial Consumer Protection
Bureau 227
financial crisis 270–74, 292–293
financial crisis, Federal Reserve
actions 269, 271–72, 274,
304–305
aftermath 299–304
assessment of 291–92
Asset-Backed Commercial Paper
Money Market Mutual Fund
Liquidity Facility 287, 290,
295
Central Bank Liquidity Swap
Facility 277–9, 294, 295, 303
Commercial Paper Funding
Facility 287–8, 290, 294, 295
consequences of 294, 297–9
Discount Window 276–7, 282,
285, 294
exit strategy 294–7
and governmental actions 272–274
interest rate lowering 275, 276
large-scale asset purchase
programs 289–91
lending to depository institutions
275–7, 278
lending to non-depository
institutions 284–9, 290,
294–5, 298
lending to systemically important
non-depository institutions
279–80, 282–284, 285, 295
Maiden Lane facilities 283, 285,
295–6, 297
Money Market Investor Funding
Facility 288–9, 290
<table>
<thead>
<tr>
<th>Term</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Moral hazard concern</td>
<td>299</td>
</tr>
<tr>
<td>Mortgage-Backed Securities (MBS) Purchase Program</td>
<td>290–91, 296, 298</td>
</tr>
<tr>
<td>Primary Dealer Credit Facility</td>
<td>286, 290, 295</td>
</tr>
<tr>
<td>Section 13(3) lending</td>
<td>279–92</td>
</tr>
<tr>
<td>Term Asset-Backed Securities Loan Facility</td>
<td>289, 290, 294, 295</td>
</tr>
<tr>
<td>Term Auction Facility</td>
<td>277, 278, 294, 295, 303</td>
</tr>
<tr>
<td>Term Securities Lending Facility</td>
<td>286–7, 290, 295</td>
</tr>
<tr>
<td>Financial literacy initiative</td>
<td>235</td>
</tr>
<tr>
<td>Principles-based regulation</td>
<td>28, 5</td>
</tr>
<tr>
<td>Regulation, pre-crisis</td>
<td>40–41</td>
</tr>
<tr>
<td>Securities and Exchange Commission (SEC)</td>
<td></td>
</tr>
<tr>
<td>Consolidated Supervised Entity Program</td>
<td>41, 274</td>
</tr>
<tr>
<td>Financial crisis, response to</td>
<td></td>
</tr>
<tr>
<td>Short sales regulation</td>
<td>73, 78–9, 81, 100–101</td>
</tr>
<tr>
<td>Volante CDO Class A2E credit linked notes</td>
<td>119–20</td>
</tr>
<tr>
<td>Volker rule</td>
<td>28</td>
</tr>
<tr>
<td>Volkswagen ‘squeeze’</td>
<td>92, 96</td>
</tr>
<tr>
<td>Voting rights see cross-border shareholder voting in the EU</td>
<td></td>
</tr>
<tr>
<td>Wachovia Bank</td>
<td>271, 277</td>
</tr>
<tr>
<td>Wagering contracts</td>
<td>141–143</td>
</tr>
<tr>
<td>Wells Fargo</td>
<td>271</td>
</tr>
<tr>
<td>World Bank</td>
<td>224, 225, 226, 237</td>
</tr>
<tr>
<td>Zhengzhou Commodity Exchange</td>
<td>147, 161</td>
</tr>
<tr>
<td>Kern Alexander and Niamh Moloney</td>
<td></td>
</tr>
</tbody>
</table>