

SURVEY

CURRENT ISSUES IN INVESTOR PROTECTION

In 2002, the editors of the *Columbia Business Law Review* inaugurated the annual Survey, which they intended to serve as a compendium of articles discussing various facets of a single topic in business law. Having already addressed topics such as bankruptcy, “going private” transactions, and the Sarbanes-Oxley Act, the Survey celebrates its fifth anniversary with two articles regarding the broad concern of investor protection.

The first of these articles, entitled, *Do You Get What You Pay For? A Look at the High Fees and Low Protections of Mutual Funds*, considers the excessive fees that some mutual funds charge and the legal remedies available to shareholders who wish to combat them. After evaluating the protections that the Investment Companies Act of 1940 affords mutual fund investors, the article discusses the prospects for alternative modes of regulation, from the potential imposition of fee caps and greater disclosure requirements by the Securities and Exchange Commission (“SEC”), to self-regulation by the mutual fund industry.

As the title of the second article indicates, *Dr. Spitzlove or: How I Learned to Stop Worrying and Love “Balkanization”* offers an account of the development of the “balkanization” phenomenon, by which state attorneys general (most notably New York Attorney General Eliot Spitzer) and other state officials allegedly have encroached upon the domain of the SEC to police the securities markets. The article discounts the fears of regulatory balkanization that Attorney General Spitzer’s critics have raised, and argues that the possibility of administrative preemption by the SEC of state securities regulation effectively checks state attorneys general from pursuing enforcement actions that would harm the capital markets and the investing public.

The *Columbia Business Law Review* hopes that academics and practitioners alike find the information in this year's Survey useful. As the *Review* embarks upon the next five years of the Survey, the editors welcome its readers' comments, as well as suggestions of new topical areas for consideration.

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