

ARTHUR B. LABY

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ACADEMIC EMPLOYMENT

Rutgers Law School, Camden, NJ

Professor, 2011 to present
Associate Professor, 2006 to 2011

Co-Director, Rutgers Center for Corporate Law and Governance

Courses: Business Organizations, Securities Regulation, Fiduciary Law, Regulation of Investment Management, Origins of Modern Financial Regulation; Introduction to Business Concepts

George Mason University School of Law, Arlington, VA

Adjunct Professor, 2004 to 2005

Course: Securities Law and Regulation

Fulbright Scholar Program

Friedrich-Schiller-Universität (Law Faculty), Jena, Germany, 1995-96
Universität Augsburg (Law Faculty), Augsburg, Germany, 1994-95

EDUCATION

Boston University School of Law, J.D., *magna cum laude*

Boston University Law Review, Member and Note Editor

American Jurisprudence Prize

G. Joseph Tauro Distinguished Scholar

University of Pittsburgh, B.A., *magna cum laude*

PUBLICATIONS

Treatise

The Regulation of Money Managers: Mutual Funds and Advisers (4 Volumes). New York, New York: Wolters Kluwer (3d ed. 2015) (with Tamar Frankel)

Book Chapters

The Fiduciary Structure of Investment Management Regulation, in John D. Morley & William Birdthistle, eds., *Research Handbook on Mutual Funds*. Northampton, MA: Edward Elgar Publishing (2016) (forthcoming)

Competing Accounts of the Fiduciary Relationship, in D. Gordon Smith & Andrew S. Gold, eds., *Research Handbook on Fiduciary Law*. Northampton, MA: Edward Elgar Publishing (2016) (forthcoming)

The Definition of "Security" Under the Federal Securities Laws, in Jerry Markham & Rigers Giyshi, eds., *Research Handbook on Securities Regulation in the United States*. Northampton, MA: Edward Elgar Publishing (2014)

Harmonizing the Regulation of Financial Advisers, in Olivia S. Mitchell & Kent Smetters, eds., *The Market for Retirement Financial Advice*. Oxford, UK: Oxford University Press (2013)

The United States of America, in Danny Busch & Deborah DeMott, eds., *Liability of Asset Managers*. Oxford, UK: Oxford University Press (2012) (with Deborah DeMott)

The Competition of Systems in the Market for Listings, in Karl M. Meessen, ed., *Economic Law as an Economic Good*. Munich, Germany: Sellier European Law Publishers (2009) (with John Broussard)

Articles

Regulatory Convergence and Organizational Culture, 90 *Tulane Law Review* 1181 (2016) (symposium)

Book Review, Andrew S. Gold & Paul B. Miller (eds.), *Philosophical Foundations of Fiduciary Law*, 35 *Law and Philosophy* 123 (2016)

Regulation of Global Financial Firms After Morrison v. National Australia Bank, 87 *St. John's Law Review* 561 (2013) (symposium)

Selling Advice and Creating Expectations: Why Brokers Should Be Fiduciaries, 87 *Washington Law Review* 707 (2012)

Winner of the Investment Management Consultants Association (IMCA) 2013 Richard J. Davis Legal/Regulatory/Ethics Award

SEC v. Capital Gains Research Bureau and the Investment Advisers Act of 1940, 91 *Boston University Law Review* 1051 (2011) (symposium)

Reprinted in 53 *Corporate Practice Commentator* 789 (Robert B. Thompson ed. 2012)

Implementing Regulatory Harmonization at the SEC, 30 *Annual Review of Banking & Financial Law* 189 (2010) (symposium)

Fiduciary Obligations of Broker-Dealers and Investment Advisers, 55 *Villanova Law Review* 701 (2010) (symposium)

Reprinted in *Securities Law Review* (Donald C. Langevoort ed. 2011)

Reforming the Regulation of Broker-Dealers and Investment Advisers, 65 *The Business Lawyer* 395 (2010)

What Caused the Financial Crisis and What Can Be Done?, 6 *Rutgers Journal of Law & Public Policy* 926 (2009) (dialogue with Peter Wallison)

Detecting Insider Trading Through Forensic Testing, Practical Compliance and Risk Management for the Securities Industry, May-June 2009, p. 5

Hedge Funds and Their Advisors: Introduction to the Symposium on the Regulation of Private Funds, 39 Rutgers Law Journal 529 (2008) (symposium)

The Fiduciary Obligation as the Adoption of Ends, 56 Buffalo Law Review 99 (2008)

Differentiating Gatekeepers, 1 Brooklyn Journal of Corporate, Financial and Commercial Law 119 (2006) (symposium)

Juridical and Ethical Aspects of the Fiduciary Relationship, 13 Jarhbuch für Recht und Ethik/Annual Review of Law and Ethics 565 (2005)

Resolving Conflicts of Duty in Fiduciary Relationships, 54 American University Law Review 75 (2004)

Models of Securities Regulation in the US, Weimar Symposium on the Competition Law of Deregulation, 23 Fordham International Law Journal 20 (1999) (symposium)

Patterns of SEC Enforcement Under the 1990 Remedies Act: Civil Money Penalties, 58 Albany Law Review 5 (1994) (with W. Hardy Callcott)

Fishing for Documents Overseas: The Supreme Court Upholds Broad Consent Directives Against the Claim of Self Incrimination, 70 Boston University Law Review 311 (1990) (student note)

PRESENTATIONS

“Extraterritorial Application of U.S. Financial Law,” University of Bonn, Institute for International Private Law and Comparative Law, Bonn, Germany, October 2016

“The Fiduciary Structure of Investment Management Regulation,” University of Zurich, University Research Priority Program, Financial Market Regulation, Zurich, Switzerland, October 2016

“Regulatory Convergence and Organizational Culture,” Tulane Law Review Symposium, The Promise and Perils of Convergence in Consumer Financial Regulation and Investor Protection, New Orleans, LA, November 2015

“Corporate Concepts,” Administrative Office of the Courts and the Supreme Court Committee on Judicial Education, New Jersey Judiciary Judicial Conference, Newark, NJ, November 2015

“Lawyers as Fiduciaries and Gatekeepers,” Wayne Law Review Symposium, Corporate Counsel as Gatekeepers, Detroit, MI, October 2015

Testimony on Conflict of Interest rule, U.S. Department of Labor, Employee Benefits Security Administration, Washington, DC, August 2015

“Models of Financial Adviser Regulation,” AICPA, Advanced Personal Financial Planning Conference, Las Vegas, NV, January 2015

“Advisers as Fiduciaries,” University of Richmond Corporate and Securities Litigation Workshop, Richmond, VA, October 2014

“Proposed Regulatory Changes and the Potential Impact on Advisors and Retail Investors,” TD Ameritrade 2014 Fiduciary Leadership Summit, Washington, DC, September 2014

Keynote Address, Financial Services Fiduciary Duties: Navigating the Emerging Regulatory Maze, Practising Law Institute, New York, NY, April 2014

“Justifying a Fiduciary Duty for Broker-Dealers,” Financial Planning Association, Major Firms Summit, New York, NY, March 2014

“History of the Fiduciary Standard with Implications for Today’s Debate,” TD Ameritrade 2013 Fiduciary Leadership Summit, Palm Beach, FL, June 2013

“Anglo-American Fiduciary Law,” Martin-Luther-Universität Halle-Wittenberg, The Law and Practice of US Financial Services: Current Topics, Halle, Germany, May 2013

“The Regulation of Financial Services Providers,” Martin-Luther-Universität Halle-Wittenberg, The Law and Practice of US Financial Services: Current Topics, Halle, Germany, May 2013

“Extraterritorial Application of US Financial Services Law After *Morrison v. National Australia Bank*,” Martin-Luther-Universität Halle-Wittenberg, The Law and Practice of US Financial Services: Current Topics, Halle, Germany, May 2013

“Making Sense of the Reliance on Compliance Defense,” Brooklyn Law School Symposium, The Growth and Importance of Compliance in Financial Firms: Meaning and Implications, New York, NY, February 2013

“The Regulation of Broker-Dealers and Investment Advisers After *Morrison v. National Australia Bank*,” St. John’s University School of Law Symposium, Revolution in the Regulation of Financial Advice: The U.S., the U.K. and Australia, New York, NY, October 2012

“The Extraterritorial Application of U.S. Securities Laws after the Supreme Court’s *Morrison* Decision: The Regulators’ Approach,” German-American Lawyers Association, Annual Conference on German and American Law, Fordham Law School, New York, NY, October 2012

“The Best of NERA 2012,” SEC Historical Society Program audio program on high-frequency trading, bias in hedge fund reporting, and SEC settlements, Washington, DC, July 2012, available at <http://www.sechistorical.org/museum/programs/2012> (moderator)

Testimony on bond covenants affected by Senate Bill No. 2063, before New Jersey Senate Committee on Higher Education, Trenton, NJ, June 2012

“Harmonizing the Regulation of Financial Advisors,” The Wharton School of the University of Pennsylvania Pension Research Council Conference, The Market for Retirement Financial Advice, Philadelphia, PA, May 2012

“Fiduciary Responsibility and Conflicts of Interest,” Address to the Pennsylvania Public School Employees’ Retirement System Board of Trustees, Harrisburg, PA, January 2012

“Extraterritorial Securities Regulation After *Morrison v. National Australia Bank* and the Dodd-Frank Act,” University of Pennsylvania Journal of Business Law Symposium on Ongoing Implementation of the Dodd-Frank Act: Consumer Protection and Other Goals, Philadelphia, PA, November 2011

“Conflicts of Ethics in Transnational Engagements,” German-American Lawyers Association, New York, NY, October 2011 (moderator)

“Common Law Antecedents of Fiduciary Disclosure,” The Institute for the Fiduciary Standard, Fiduciary Forum 2011: Crafting Effective Disclosure – Is it Possible?, Washington, DC, September 2011

Invited Commentator, Wharton International Financial Regulation Conference, University of Pennsylvania, Philadelphia, PA, July 2011

“Fiduciary Duty,” ALI-ABA Securities Law Conference on Investment Adviser Regulation, New York, NY, March 2011

“Ethical Considerations in the New Era of Whistleblower Claims Under Dodd-Frank and Other Statutes,” Institutional Investor Educational Foundation Conference on Ethical Considerations for Whistleblowers, New York, NY, December 2010 (moderator)

“Advisers’ Federal Fiduciary Obligations: Misreading *SEC v. Capital Gains Research Bureau*,” Temple University School of Law, Faculty Colloquium, Philadelphia, PA, November 2010

“Revisiting Advisers’ Federal Fiduciary Duty Under *SEC v. Capital Gains Research Bureau*,” Boston University School of Law Symposium, The Role of Fiduciary Law and Trust in the Twenty-First Century: A Conference Inspired by the Work of Tamar Frankel, Boston, MA, October 2010

“Liability of Asset Managers in the United States,” Presentation to the International Working Group on the Liability of Asset Managers, Radboud University, Nijmegen, The Netherlands, October 2010

“Insider Trading Law in the United States,” University of Regensburg, Regensburg, Germany, October 2010

“Studying Regulatory Harmonization at the SEC,” The Fiduciary Forum 2010: Exploring the Fiduciary Standard in a Brokerage Environment, Washington, DC, September 2010

“What the Proposed Uniform Standard of Care May Mean for Advisers,” Fundamentals of Investment Adviser Regulation 2010, Practising Law Institute Panel, New York, NY, July 2010

“Responsibilities of Dual Registrants,” Investment Management Institute 2010, Practising Law Institute Panel, New York, NY, April 2010

“Mutual Funds Under New Administration: Litigation and Regulation: A Roundtable Discussion,” Boston University School of Law, Boston, MA, November 2009

“The Regulation of Financial Intermediaries,” Brooklyn Law School Corporate and Securities Law Forum, Brooklyn, NY, October 2009

“Financial Regulatory Reform,” Rutgers University – Camden, Chancellor’s Faculty Research Day Colloquium, Camden, NJ, November 2009

“Reforming the Regulation of Broker-Dealers and Investment Advisers,” Villanova University School of Law, Morgan Lewis & Bockius Symposium on Securities Regulation, Villanova, PA, October 2009

“Broker-Dealers and Investment Advisers,” Panel on Financial Services Regulation, U.S. Department of the Treasury, Washington, DC, August 2009

“Pending Regulations for Hedge Funds,” Bowne Compliance Seminar, New York, NY, August 2009

“Insider Trading and the Bias for Fairness,” Southeastern Association of Law Schools Annual Meeting, Palm Beach, FL, August 2009

“Regulatory Responses to Complexity,” Panel on Regulatory Reform, Temple University School of Law Symposium, Complexity and Collapse: The Credit Crisis, Philadelphia, PA, May 2009

Invited Commentator, University of Notre Dame, Conference on the Future of Securities Regulation, Notre Dame, IN, April 2009

Invited Commentator, Temple University School of Law, Faculty Colloquium, Philadelphia, PA, February 2009

“What Caused the Financial Crisis and What Can Be Done,” Rutgers University School of Law – Camden Panel Discussion with Peter Wallison, Camden, NJ, January 2009

“The Fairness Bias and Insider Trading,” Midwest Law & Economics Association Annual Meeting, Chicago, IL, October 2008

“Insider Trading and False Promising,” University of Mississippi School of Law Faculty Colloquium, Oxford, MS, January 2008

“Negotiating With Management Regarding Board Decisions,” Mutual Fund Directors Forum, Second Annual Directors’ Institute, Fort Myers, FL, January 2008

“Why Non-US Companies Delist from US Exchanges,” Düsseldorf Symposium on Economic Law as an Economic Good, Düsseldorf, Germany, November 2007

“The Fiduciary Obligation as a Duty of Ethics,” XXIII World Congress of Philosophy of Law and Social Philosophy, Krakow, Poland, August 2007

“Gatekeepers and Corporate Governance,” Center for International Legal Studies, Conference on Mergers, Acquisitions and Securities, Cape Town, South Africa, November 2006

“The Fiduciary Obligation as the Appropriation of Ends,” Seton Hall Faculty Colloquium, Newark, NJ, October 2006

“The Asset Management Industry: A New Wave of Acquisitions and Mergers,” Practising Law Institute Panel, New York, NY, April 2006

“Differentiating Gatekeepers,” Symposium on New Models for Securities Law Enforcement: Outsourcing, Compelled Cooperation and Gatekeepers, Brooklyn Law School, Brooklyn, NY, March 2006

“Pending Litigation Regarding SEC Rulemaking,” Federal Bar Association, Executive Council of the Securities Law Committee, Washington, DC, February 2006

“Registration Issues and Disclosure to Clients,” Center for Financial Market Integrity, Investment Adviser Association, Hedge Fund Advisers Compliance Conference, Washington, DC, November 2005

“Managing a Securities Commission,” Securities and Exchange Commission, Annual International Institute for Securities Market Development, Washington, DC, April 2004

“Transatlantic Regulatory Structures,” Center for European Policy Studies, Conference on Global Markets, National Regulation: How to Bridge the Gap, Brussels, Belgium, June 2003

“International Securities Markets: Emerging Best Practices for a Rapidly Evolving Regulatory Scheme,” Speaker on Practising Law Institute Panel, New York, NY, May 2003

“Market Discipline and Disclosure,” Center for European Policy Studies, Roundtable on Securities Market Regulatory Processes in the E.U. and U. S. Compared, Brussels, Belgium, May 2002

“The Reform of European Capital Markets – An American Perspective,” European Central Bank Legal Colloquium, Frankfurt, Germany, July 2001

“The Information Disclosure Process and the Relationship Between Companies and Investors,” IBRI, The Brazilian Institute of Investor Relations, Sao Paulo, Brazil, March 2001

MEDIA

Guest Column, *Playing the Long Game to Achieve a Uniform Fiduciary Standard*, Journal of Financial Planning, December 2014

“Matt Taibbi on Unequal Justice in the Age of Inequality,” Guest speaker on National Public Radio, On Point with Tom Ashbrook, April 14, 2014, podcast at www.onpointradio.org

“More Corruption on Wall Street,” Guest speaker on National Public Radio, On Point with Tom Ashbrook, December 11, 2012, podcast at www.onpointradio.org

“The Rajaratnam Case: Insider Trading on Trial,” Guest speaker on National Public Radio, On Point with Tom Ashbrook, March 10, 2011, podcast at www.onpointradio.org

“Fiduciary Standard is A Complex Question,” Video Interview on The Wall Street Journal Digital Network, Daisey Maxey, Reporter, Dow Jones Newswires, June 10, 2010

“Goldman Sachs vs. S.E.C.,” Guest speaker on National Public Radio, On Point with Tom Ashbrook, April 19, 2010, podcast at www.onpointradio.org

“Hedge Funds and Insider Trading,” Guest speaker on National Public Radio, On Point with Tom Ashbrook, November 10, 2009, podcast at www.onpointradio.org

Feature Interview, “An Academic Look at the IA-BD Conundrum,” ACA Insight, May 4, 2009

Moving Toward a New Era of Hedge Fund Regulation, New York Law Journal, April 8, 2009

Guest commentator on Executive Compensation, New Jersey 101.5 FM Radio, March 23, 2009

Op-ed, *New Regs Could Take Many Forms*, Courier Post, October 8, 2008

PROFESSIONAL SERVICE

Rutgers University

Committee on Socially Responsible Investing, 2015-16

Rutgers Law School

Academic Policy Committee, 2017

Chair, Appointments Committee, 2015-16

Chair, Tenure & Promotions Committee, 2013-15

Chair, Foreign Programs Committee, 2010-13, Member, Spring 2009

Academic Petitions Committee, 2010-12

Academic Advising, Spring 2010, Spring 2008

Building Committee, Spring 2009, 2008-09, 2007-08, 2006-07

Chair, Task Force on Post-JD Graduate Work, Spring 2009

Chair, Junior Faculty Colloquium Committee, 2008-09

Admissions Committee, 2006-07

Prizes and Awards Committee, 2007-08, Spring 2006

Speakers and Lecturers Committee, Spring 2006

ORGANIZATIONS AND ACTIVITIES

National Association of Corporate Directors, Academic Advisory Board

SEC Historical Society (Board of Advisors)

Association of American Law Schools (Section on Securities Regulation – Executive Committee;
Section on Scholarship; Section on Business Associations;)

Association of SEC Alumni

American Law Institute (elected)

American Council on Germany

German-American Lawyers Association

Fulbright Association

American Bar Association – ABA Fund Directors’ Guidebook Task Force 2013-15

DC Bar Association

Philadelphia Compliance Roundtable

HONORS AND AWARDS

Richard J. Davis Legal/Regulatory/Ethics Award, 2013
Center for International Legal Studies Bisone Foundation Grant, 2006
SEC Capital Markets Award, 2001
SEC Chairman's Award for Excellence, 2000
Fulbright Senior Scholar in Law, 1994-95 and 1995-96
Phi Beta Kappa

PRIOR EMPLOYMENT

Mayer Brown LLP, Washington, DC
Part-time Counsel, 2006 to 2009

Pillsbury Winthrop Shaw Pittman LLP, Washington, DC
Part-time Senior Counsel, 2005 to 2006 (practice group moved to Mayer Brown LLP)

U.S. Securities and Exchange Commission, Washington, DC
Assistant General Counsel, Office of General Counsel, 2001 to 2005
Senior Special Counsel for International Matters, Office of General Counsel, 2000 to 2001
Special Counsel, Division of Investment Management, 1998 to 2000
Attorney Advisor, Office of International Affairs, 1996 to 1998

Wilmer, Cutler & Pickering, Washington, DC
Associate, 1991 to 1994

George Washington University National Law Center, Washington, DC
Instructor in Introduction to Legal Writing and Advocacy, 1991-92 and 1993-94

United States District Court for the District of Maryland, Baltimore, MD
Clerk to the Honorable J. Frederick Motz, 1989-90

BAR AND COURT ADMISSIONS

Pennsylvania
District of Columbia

United States Supreme Court
United States Court of Appeals for the Fourth Circuit