FOREWORD

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This symposium issue of the Duke Journal of Comparative & International Law, sponsored by Duke University's Global Capital Markets Center, is dedicated to international securitization and structured finance. It is the Journal's second symposium on this topic in recent years, in recognition of the burgeoning and expanding role of securitization in international finance.

The Global Capital Markets Center is one of Duke's leading examples of interdisciplinary and collaborative research, bringing together the University's law and business schools as well as scholars in the Sanford Institute of Public Policy, the economics department, and other faculties. The Center was founded in 1997 by Professor Steven L. Schwarcz, in recognition of the need for intensive research, publication, and teaching about capital markets, and has grown through the able leadership of its Executive Director, Stephen Wallenstein, with overall guidance from Professor Schwarcz.[1] Among other things, the Center has been developing innovative interdisciplinary courses in international business law and finance and offering global conferences, workshops, and programs designed to prepare leaders for the emerging challenges in international law and business. The Center's mission is to examine the forces driving the development of capital markets worldwide and to shape debate over the problems of law and regulation that may impede market growth.

Securitization and structured finance are among the most innovative and sophisticated approaches to capital market financing. Companies around the world often find that it is cheaper to use securitiza-

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1. To this end, the Global Capital Markets Center maintains a website that includes, among other things, a complimentary research index on a wide range of capital market topics, including bankruptcy/insolvency, commercial law, corporate finance, corporate governance, global collateral, global financial architecture, hedge funds, mergers & acquisitions, securities law, securitization and structured finance, and sovereign debt restructuring. Interested parties can visit this website at http://www.law.duke.edu/globalmark/.

tion to raise funds from capital markets rather than from bank loans or other traditional funding sources. As a result, companies increasingly structure securitization and related financing transactions that cross their local borders in order to gain access to capital market funding. Typically, however, regulation lags behind market innovation.

This symposium focuses on these issues of innovation and regulation. Contributors to the symposium include scholars, practitioners, and representatives of the public sector, all of whom are important authorities in this field. The introductory article by Professor Steven Schwarcz, perhaps the world's foremost legal scholar on securitization, provides an introduction to the fundamental principles of cross-border finance that pertain to securitization and structured finance. Professor Schwarcz and British scholar Joanna Benjamin thereafter discuss how intermediary risk can impact securities issued in worldwide indirect holding systems, and what can be done about this risk.

Next, accounting expert Peter Jeffrey examines the progress toward international harmonization of accounting standards, focusing on a critical issue to securitization: "off-balance sheet treatment" of transferred financial assets. United Nations legal expert Spiros Bazinas then discusses the U.N. Commission on International Trade Law's new Convention on Assignment of Receivables in International Trade, intended to simplify and reduce the costs of securitization and other forms of cross-border receivables financing. Professor Carl Bjerre thereafter analyzes the increasing convergence of international securitization and project finance, after which Shearman & Sterling international securitization partner, Marke Raines, and associate, Gabrielle Wong, examine the complex subject of securitizing future cash flows, including those arising from intellectual property.

Boston University professor Tamar Frankel, author of a two-volume treatise on securitization, then draws on her widespread expertise to discuss the de facto unification of securitization law throughout the world. University of Hong Kong professor Douglas Arner and Chicago-Kent Law School professor Claire Hill next examine government efforts to promote securitization in emerging markets and the importance of securitization to those markets. Finally, Standard & Poor's Senior Managing Director and General Counsel, Petrina Dawson, and Standard & Poor's London-based counsel, Ian Bell, analyze the innovative development of "synthetic" securitization, including the use of derivative technology for credit transfer.

To ensure a broad perspective, each of these central papers is commented on by experienced scholars and practitioners.

We believe that this comprehensive treatment of cross-border securitization and structured finance will be a valuable and timely contribution to international finance and capital markets, furthering the Global Capital Markets Center's goal of examining the forces driving the development of capital markets worldwide and shaping the regulatory debate.