

# Derivatives Regulation and Legal Risk: Managing Uncertainty in Derivatives Transactions

## Summary

The book consists of 12 chapters. Following the introduction, Chapter 2 examines the economic functions and purposes of financial derivatives markets and products. Chapter 3 assesses the costs of legal risk and legal uncertainty, and examines the implications for regulatory design arising from such concerns. Chapter 4 suggests that a number of practices and procedures can be adopted and implemented by market practitioners to reduce the incidence of legal risk for the markets for financial derivatives.

Chapter 5 examines the gaming, wagering and bucket shop laws affecting financial derivatives in the United Kingdom, United States and Australia. Chapter 6 examines the relationship and risk posed by insurance laws to credit derivatives. Chapter 7 examines the application of the ultra vires doctrine to financial derivatives transactions. The restitutionary response and the right to claim compound interest for losses incurred are examined in Chapter 8.

Chapter 9 examines the issue of customer-based litigation, and assesses the risks posed by customers and end-users of financial derivatives products. Chapter 10 provides a detailed examination of netting enforceability and bankruptcy laws in each of the three jurisdictions. Chapter 11 examines the content of new derivatives and financial markets regulation enacted in each of the three jurisdictions under review. Chapter 12 outlines additional areas for future review and reform, with the overall aim of minimising legal risk in derivatives markets in the United Kingdom, United States and Australia.