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The Regulation of Hedge Funds

Razeen Sappideen Hedge funds are deliberately structured to sidestep legislative strictures, disclosure and other compliance requirements imposed on institutions raising funds for their activities and as such operate within the cracks of the law. Consequently, there has been much discussion on whether hedge funds should be regulated. Those disfavouring regulation see hedge fund activity as generating efficiency in the marketplace including securities markets by "mitigating price downturns, bearing risks that others will not, making securities more liquid, and ferreting out inefficiencies". Those fearful of financial market failure and its contagion effects, however, argue for varying degrees and forms of regulatory intervention aimed at several different levels: the fund itself (as with the case of a corporate entity); the managers of the fund (in respect of their investment strategies); investors into the fund (investment unit holders as well as creditors); and intermediaries such as broker dealers who facilitate the transactions of the fund. This paper evaluates these claims, as well as exploring the most effective point of regulatory intervention from an investor perspective.

Remodelling Knowing Receipt as a Gains-Based Wrong

Derek Whayman This article analyses the nature of knowing receipt. It finds its previous characterisations as a form of unjust enrichment or trustee-like liability wanting in the face of newer authority and complex commercial situations. It argues that knowing receipt is a gains-based profit-disgorging wrong and this best describes its remedies.

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