

Upcoming Moritz conference to examine state of IPO process

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Many in the financial and legal communities believe the U.S. initial public offering process should be updated to take advantage of the Internet, while others feel the current system should go unchanged to maintain a premium market.

The two contrasting views will be explored today by experts from across the country at "IPOs in the Internet Age: The Case for Updated Regulations," a symposium hosted by the Entrepreneurial Business Law Journal at The Ohio State University Moritz College of Law.

Expert panelists from the legal practice, business sector and academia will discuss the present-day process and how it can be updated, as well as federal securities law and international law.

The first panel, "Current Regulatory Constraints on Internet IPOs," will discuss past and present regulations in the IPO process, and to what extent Internet use is permissible under current regulations.

Panelists include William Sjostrom, a professor at the College of Law of Northern Kentucky University; Victor E. Fleischer, an associate professor at the University of Colorado Law School; and James A. Fanto, a professor at Brooklyn Law School.

Panelists also will focus on successful ways IPOs have used the Internet, as well as various influences and their impact on the IPO process.

Dale Oesterle, a professor of business law at Moritz, said the current IPO system is hindered because it largely uses the same regulation process that was created in 1933.

Oesterle is a faculty advisor to the EBLJ and helped organize the symposium.

"It's based on a paper economy," he said, adding that the U.S. Securities and Exchange Commission should update regulations to allow IPO filings over the Internet.

Oesterle said the United States could benefit from a system similar to the Alternative Investments Market, a submarket of the London Stock Exchange with a more flexible regulatory system for smaller companies.

The AIM was launched in 1995 and has roughly 2,500 listings, while the United States has done little more than "nip-and-tuck" at its system, he added.

The number of IPOs has become stagnant because they are very expensive and smaller companies cannot afford to go public, he said.

Changing the system to allow IPOs over the Internet would allow smaller companies to get up and running at a lower cost.

"I think we are way behind the curve on this and the country would be healthier if we modernize the IPO process," Oesterle said.

Oesterle will be one of the panelists discussing "The Case for Updated Regulations: Capitalizing on the Internet as a Resource," along with Richard Booth, a professor at the University of Maryland Law School; Christine Hurt, an associate professor at the University of Illinois at Urbana-Champaign College of Law; and Greg Sichenzia, founding member of the prominent New York City-based securities firm Sichenzia Ross Friedman Ference.

Panelists will discuss how the Internet can be used to increase efficiency of the IPO process and alternatives to the process.

Oesterle said alternatives such as reverse-mergers and private investments in public equity, or PIPEs, are becoming increasingly popular because of the cost of the IPO process.

"They're becoming popular, and problematic," he said of the SEC's wariness of the transactions.

Sichenzia's firm is the leading U.S. firm handling such transactions, which he said works just the same for smaller companies who want to go public, but may not be able to afford it.

Reverse-mergers allow shareholders of a private company to purchase control of a public shell, and then merge the private company into the public company. PIPEs allow smaller companies to tap private investors for funding with the understanding that the debt will be converted into stock once it receives SEC approval.

"So at the end of the day, you end up in the same place," said Sichenzia.

The SEC may not have been comfortable when PIPEs and reverse mergers first emerged roughly seven years ago, Sichenzia added, but it has since become a more traditional way of going public.

"It's really become very mainstream," he said.

Sichenzia said he will bring a better understanding of the alternatives to the conference, as their processes and benefits are not typically discussed in a classroom setting.

According to Oesterle, the most common opposition to modernizing the IPO process and using alternatives is that it could bring the risk of fraud to the market.

Some say if fraud is introduced, the U.S. system will lose its premium standing in the world market, so no changes should be made to decrease regulatory interference. Oesterle, however, disagrees, and said amending the process would benefit areas such as Columbus by allowing more companies to go public because of the lower cost.

"We need to rethink the process," he said.

The symposium will also feature "A Commentary on the Current State of Affairs," by professor Donald C. Langevoort of the Georgetown University Law Center.

Former special counsel to the SEC, Langevoort is an expert in the field of securities law and will provide insight on the developing trends of the industry and what those developments mean to the practice of law.

The keynote address will be given by Peter B. Oh of the University of Pittsburgh School of Law.

Oh will discuss various international regulations that govern auction-based IPOs, and provide analysis on how the international regulatory framework can be used to critique the current U.S. IPO process.

The newest journal at Moritz with its first issue coming just last year, Oesterle said the EBLJ is trying to foster more interaction with the Columbus business community and the college.

All symposium papers will be published in Volume 2, Issue 2 of the EBLJ, scheduled for release in the fall.

For more information on the symposium, visit www.moritzlaw.osu.edu/eblj