Welcome

The Institute for Corporate and Capital Markets Law is a scientific institution at Bucerius Law School. Its aim is to contribute to the national and international discussion in the areas of corporate and capital markets law.

Evening Lecture of the ICCML on "The United States SEC"

On 11 December 2019 the Institute for Corporate and Capital Markets Law (ICCML) invited to an evening lecture on the United States Securities and Exchange Commission (SEC). Prof. Dr. Thilo Kuntz, LL.M., in his function as Executive Director of the Institute, welcomed Professor Arthur Laby. Professor Laby is teaching at Rutgers Law School and serves there as Co-Director of the Rutgers Center for Corporate Law and Governance. The Institute was proud to present such a recognized expert in securities and investment law, who worked as Assistant General Counsel for the U.S. Securities and Exchange Commission.

The SEC – dreaded as “900 pound gorilla” or doubted as “paper tiger” – shapes the U.S. capital markets in a unique way. Professor Laby introduced the listeners to the institutional framework of the SEC as well as the interesting relationships between government and the work of the agency. Then the different subjects and strategies of regulation were covered. To satisfy the international context of the talk, Professor Laby gave insights into his work in the Office of International Affairs at the SEC. Participants
discovered the approach of the SEC to foreign private issuers and the collaboration with foreign agencies. Professor Laby concluded with remarks on the enforcement of the SEC and how the extraterritorial enforcement is established legally.

Practitioners, researchers, students and alumni attended the lecture with pleasure. By allowing a lot of questions, Professor Laby was able to develop a stimulating conversation with the audience. Although he noticeably suffered from the short amount of time available to cover such a big topic, participants learned a lot from his vast experience in the field.

Author: Max Winterhalder, Research Assistant at the Chair of Private Law II

Evening Lecture of the ICCML on "Succession Clauses in Family Businesses"

On 19 November 2019 the Institute for Corporate and Capital Markets Law (ICCML) invited to a lecture by Professor Susanne Kalss on an Austrian judgment about discriminating succession clauses. The lecture was complemented by a comment of Professor Jörn Axel Kämmerer on the German constitutional law perspective.

11th ICCML Forum

Corporate Boards – Current Trends and Issues

On 15 February 2019 the Institute for Corporate and Capital Markets Law (ICCML) hosted the 11th Hamburg Forum on corporate and capital markets law. Current trends and issues of corporate boards made up this year’s agenda.

Following the welcome address of the ICCML’s managing director Prof. Dr. Thilo Kuntz, LL.M., Prof. Dr. Christoph Seibt, LL.M., partner at the international law firm Freshfields Bruckhaus Deringer, opened the conference. His contribution dealt with how supervisory boards of internationally grouped stock companies are organized. Moreover, the longstanding expert made specific suggestions and provided best practice insights as regards the structuring of such corporate bodies. Prof. Dr. Ulrich Pidun,
director at Boston Consulting Group, underpinned those recommendations pointing to the findings of a broad survey on supervisory directors of German firms. Prof. Dr. Alain Pietrancosta of Université Paris I/Sorbonne followed-up providing an international perspective on difficulties concerning supervisory bodies. He also examined some recently enacted and currently discussed reforms on that issue under French law. The subsequent presentation of Prof. Kuntz took a regulatory view on how managing and supervisory bodies may be induced by statute to consider Corporate Social Responsibility in their decision-making. In doing so, he showcased regulatory approaches building upon the organizational structure and duties of such bodies. After that, Prof. Todd M. Henderson, Michael J. Marks Professor of Law of the University of Chicago Law School, expounded the considerations he made together with Stephen Bainbridge in their book „Outsourcing the Board“.

According to that, the supervisory bodies’ work could be assigned to board service providers. The conference concluded with the presentation of Prof. Hyeok-Joon Rho, LL.M., Seoul National University, on how South Korean law approaches the conflicts between majority and minority stockholders.

Researchers from three different continents as well as practitioners from Hamburg and beyond attended the conference. The plurality of participants set the stage for an intensive comparative exchange that did not miss out on practical matters.

Author: Max Winterhalder, Research Assistant at the Chair of Private Law II.

Translation: Janosch Engelhardt, Research Assistant at the Chair of Private Law II.

Third Christian Wilde Rememberance Lecture On 14 February 2019
In rememberance of Dr. Christian Wilde – member of the founding committee of Bucerius Law School,
longstanding partner at Freshfields Bruckhaus Deringer and an exceptional attorney for company law – the Third Christian Wilde-Rememberance Lecture took place on 14 February 2019.

Professor Dr. Christoph H. Seibt, LL.M., partner at Freshfields Bruckhaus Deringer and honorary professor at Bucerius Law School, opened the lecture by calling Christian Wilde as a person as well as his merits and achievements to the audience’s mind.

Afterwards, Dr. Andreas Rittstieg, Legal and Compliance Director of the internationally operating media firm Hubert Burda Media Holding KG, addressed the evening’s topic: „The advisory, supervisory and administrative board of family companies“.
First of all, Dr. Rittstieg pointed out the relevance of family businesses in Germany and set forth what characterizes them. Following a side note on family constitutions and governance codes Dr. Rittstieg turned to (voluntary) advisory boards and corresponding design options. After that he shed light on supervisory boards in stock companies and partnerships limited by shares as well as the supervisory and administrative board of a Societas Europaea (SE). Finally, Dr. Rittstieg gave a brief overview on hybrid company types and ways to combine disparate business entities.

At the end of the presentation the audience consisting of numerous practitioners as well as representatives from academia had the opportunity to ask questions.

Author: Christoph Rathert, Research Assistant at the Chair of Private Law II.

Translation: Janosch Engelhardt, Research Assistant at the Chair of Private Law II.

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Evening Lecture of the ICCML on "Debt Restructuring in the UK"

Lecture by and Exchange with Jennifer Payne

On 24 January 2019 the Institute for Corporate and Capital Markets Law (ICCML) invited interested audience to a lecture by and an exchange with Jennifer Payne, Professor at Oxford University and globally renowned researcher in the field of Corporate Restructuring.

Following the introduction by the ICCML’s managing director Prof. Dr. Thilo Kuntz, Payne gave an
overview about the basics of Corporate Restructuring in the UK and explained why Great Britain has been an outstandingly important venue for business reorganisations. Moreover, she pointed to the advantages and disadvantages of different courses of action and concluded by introducing the reform planned by the British government. Apparently, the British law is moving closer towards US bankruptcy law. Taking that up, Payne set out which changes for restructuring firms and their creditors result from the envisioned reform.

After the half-hour presentation the audience had the opportunity to ask questions and to discuss advantages and downsides of the upcoming reform. The exchange was continued later on the Law School’s South Lounge along with wine and pretzels.

Author: Martina Block (Student).

Translation: Janosch Engelhardt, Research Assistant at the Chair of Private Law II.

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**Evening Lecture of the ICCML on "Cum/Ex-Deals"**

Prof. Dr. Jens Blumenberg, Linklaters LLP, gave a talk on "Cum/Ex-Deals".

After media reports covered Cum/Ex-deals in recent weeks, the audience visiting the evening lecture of the Institute for Corporate and Capital Markets Law (ICCML) on 8 November 2018 had the opportunity to learn more about the backgrounds of such transactions.

We had the pleasure to welcome Prof. Dr. Jens Blumenberg, partner at Linklaters LLP and expert for tax law. Prof. Blumenberg explained what Cum/Ex-deals are: a tax scheme where stock transactions are conducted beyond the dividend deadline thus causing double refunds for capital gains taxes paid only once. Moreover, he distinguished such deals from so called „Cum/Cum“-deals.

With the help of illustrative charts and images Prof. Dr. Blumenberg expounded how the events leading to Cum/Ex-deals unrolled. In doing so, he kept several time periods apart which respectively were affected by legislative attempts to curb the tax scheme.

Having provided an overview about the relevant case law, Prof. Dr. Blumenberg adressed questions regarding the liability of the individuals involved and then turned to criminal law, administrative offences and the fining and punishing of companies.
Students participated along with interested practitioners in the lecture, which was followed by a lively exchange between the audience and the speaker.

10th ICCML Forum

Blockchain Related Issues

On 2 November 2018 the Institute for Corporate and Capital Markets Law (ICCML) hosted the 10th Hamburg Forum on Corporate and Capital Markets Law. The conference focused on the blockchain – a rising technology that thanks to digital „currencies“ such as Bitcoin has grown to become one of the most discussed issues among legal researchers within a period of a few years.

Speakers from academia and practice shed light on the technology from a corporate and capital markets point of view. Sebastian Förste, attorney at Winheller Rechtsanwälte & Steuerberater in Frankfurt a.M., gave the kick-off speech on technical aspects of blockchains. He gave an introduction to the functioning of Bitcoin and explained how smart contracts work using the example of Ethereum. Subsequently, the lawyer illustrated possible fields of action in legal practice.

After that the ICCML’s managing director Prof. Dr. Thilo Kuntz shared his thoughts on blockchain-based annual shareholder meetings. He pointed to the deficiencies of the current legal framework for annual meetings and continued discussing upcoming reforms. Building upon that Prof. Dr. Kuntz set forth how the communication with investors as well as the voting system might be implemented „on chain“. In doing so he also mentioned the legal limits of such ambitions.

Evening Lecture of the ICCML on "New Models of Collective Redress Mechanisms"

Dr. Thomas Paul gave a talk on "New Models of Collective Redress Mechanisms".
The issue "collective redress mechanisms" is constantly gaining momentum, not only due to the statute on collective redress actions lately enacted by the German Parliament, but also in view of an increasing
number of such cases tried before German courts.

On that matter the Institute for Corporate and Capital Markets Law (ICCML) hosted an evening lecture on 26 August 2018. Dr. Thomas B. Paul, partner at the international law firm Hengeler Mueller, gave the kick-off presentation, in which he talked about his own experience as an expert working on current antitrust class actions before German and European courts. Dr. Claudia Alfons, who was involved in the drafting of the government’s legislative proposal for collective redress mechanisms as a legal officer at the Ministry of Justice, complemented the previous talk from a law maker’s perspective.

Dr. Paul started off giving an overview about the status quo of collective redress mechanisms: In addition to statutory models he addressed practice-proven approaches including the legal representation of several plaintiffs and the bundling of claims by assigning them to a special purpose vehicle designed to bring a legal action. Afterwards, Dr. Paul provided an overview about the new model proceedings as well as an outlook on farther reaching plans of the European Commission referred to under the buzz word "New Deal for Consumers". The speaker concluded by categorizing the new model proceedings in terms of legal practice and policy. In doing so, he recommended bringing model proceedings for the purpose of collective redress. He furthermore advised against introducing a pertinent action for performance like the one envisioned by the European Commission.

Subsequently, Dr. Alfons took up the questions left unanswered by the Model Proceedings Act according to Dr. Paul. She illustrated the legislative procedure preceding the enactment of the Act and explained why the statutory text was designed the way it is. A lively debate ensued among the audience touching upon the expectable future itinerary of legal practice under the new law. The evening concluded with the traditional informal exchange along with pretzels and wine.

Evening Lecture of the ICCML on "Doing Business With China"

Dr. Annika Clauss, partner at Hengeler Mueller, gave a Talk on "Doing Business with China".
On 14 May 2018 the Institute for Corporate and Capital Markets Law (ICCML) hosted an evening lecture on "Doing Business with China". The institute was delighted to welcome Dr. Annika Clauss, LL.M. (Harvard), M.A., partner at Hengeler Mueller. The attorney and sinologist, who not only is in charge of China-related cases at her law firm, but also spent several longer stays in China, shared her professional experiences in doing business with China. Dr. Clauss focused on the differing negotiation cultures to be found in East and West as well as the conditions Chinese and German investors face abroad. Dr. Clauss gave a highly interesting insight in the ever changing investment regulation of the People’s Republic of China and the sublyng political views. A lively debate followed the presentation and touched inter alia upon current cases as well as expectable developments with respect to China’s foreign policy and possible European and German reactions. The evening concluded with the traditional informal exchange along with wine and pretzels.

Conference

"Multinational enterprises, corporate groups and supply chains in a globalised world"

The IUKR in collaboration with Deakin Law School’s Centre for Comparative and Corporate Governance (CCCG), co-hosted a conference on “Multinational Enterprises, Corporate Groups and Supply Chains in a Globalised World”, on 3-4 November 2017. The conference took place at Bucerius Law School.

The conference drew participants from Australia, Asia, Europe and the United Kingdom, including speakers from Deakin Law School, the Copenhagen Business School, Bristol Law School, the University of Sheffield, the University of Wolverhampton, the University of Auckland, the University of Münster, the University of Kassel, Seoul National University, the University of Copenhagen, and the University of Essex.

The participants addressed a variety of topics, for example the “Disclosure and Transparency in Group Context”, “Supply Chains and Regulation”, “Corporate Accountability of Human Rights Violations”,
“Transparency of Corporate Beneficial Ownership”, “Stakeholders and Shareholder Primacy”, and “The State Duty to Protect against Human Rights Violations through Transnational Business Activities.” The aim of the conference was to assess the so-called regulatory gap in supply chains which allows multinational enterprises to outsource not only the production but also the legal liability to suppliers.

The conference was jointly organised by Professor Jean du Plessis (Deakin Law School) and Professor Jörn Axel Kämmerer (Chair in Public Law, European Law and Public International Law at Bucerius Law School) as part of the 2017 International Corporate Governance and Law (ICGL) Forum. The ICGL unites leading corporate law and corporate governance scholars from around the world.

The event was co-sponsored by the German Alexander von Humboldt Foundation. The website for the conference can be found here.