

Securities Industry Association

CAPITAL MARKETS HANDBOOK

Third Edition

John C. Burch, Jr.

Bruce S. Foerster

Editors

CORPORATE FINANCE SERIES



ASPEN LAW & BUSINESS



Securities Industry Association

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CAPITAL MARKETS HANDBOOK

Third Edition

edited by

**John C. Burch, Jr.
and Bruce S. Foerster**



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ABOUT THE AUTHORS

John C. Burch, Jr., born and educated in Nashville, Tennessee, graduated from Vanderbilt University in 1966 after service in the U.S. Army. He began his business career that year with the Bank of New York. He entered the investment banking business with Loeb Rhoades & Co. in 1970. In 1976 he returned to Nashville to accept a position with J. C. Bradford & Co. He joined Equitable Securities in 1982 and headed its Equity Syndicate Department for sixteen years until his retirement in 2001.

He has been active in the Securities Industry Association, chairing the SIA Syndicate Committee and serving as Chairman of the Southern/South Central District. He is also a NASDR arbitrator and a member of the Nashville Securities Dealers Association and the Association for Investment Management and Research. For thirty years he has been involved in all aspects of capital markets including institutional sales, trading and research and investment banking for natural gas utilities. He is listed in *Who's Who in America* and *Who's Who in Finance and Industry*. John recently formed an advisory/consulting firm, Capital Markets Advisors, LLC.

John and his wife Susan live in Nashville and raised three children—Frances (1970), Christina (1972) and John (1977).

Bruce S. Foerster, a midwesterner by birth and upbringing, earned an AB in English at Haverford College in 1963 and an MBA in Management Information and Control at the University of Pennsylvania's Wharton School in 1971. Sandwiched between these academic pursuits were seven years of active duty as a commissioned officer in the U.S. Navy (followed by twenty years in the Naval Reserve with retirement as a Captain).

Bruce spent twenty-three years with five different Wall Street firms from 1972-1994, in increasingly senior positions in equity and

fixed income capital markets. In 1995, he founded South Beach Capital as a corporate financial advisory firm and served as an independent director of a group of mutual funds, a non-industry governor of the Philadelphia Stock Exchange and a director of several public and private companies. In April 1999, his firm merged with a Milwaukee broker-dealer, Collopy & Company, to become South Beach Capital Markets Incorporated—an investment bank—headquartered in downtown Miami.

Bruce lives in Miami. His oldest child from his first marriage, Samantha (1975), lives in San Francisco, and her mother, Suzanne, lives in Charleston, South Carolina. Otto (1982) and Lucy (1984) live with their mother, Gail, in Miami Beach.

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FOREWORD TO THE THIRD EDITION

Technology, globalization, competition, consolidation, and demographics are reshaping the securities industry's role in the global economy. Information technology enables securities professionals to provide more services and more complex financial strategies to issuers and investors as the intermediary roles that firms and markets play are redefined. Financial markets throughout the world are increasingly linked to each other. U.S. holdings, for example, of foreign securities continue to reach new highs as foreign holdings of U.S. stocks also set records. Meanwhile, the "baby boomers," within 11 years of starting to retire at age 65, are moving away from being spenders to being savers and investors. In 1990, one in five American families held stocks, bonds, mutual funds or other securities; by 1995, that ratio had dropped to one in three; by 2001, the ratio was better than one in two.

Our industry is on the leading edge of these changes, raising capital to help finance growth and innovation. Our success and global pre-eminence result from the high level of trust and confidence that the public has in the U.S. capital markets. Enhancing the public's trust and confidence continues to be the Securities Industry Association's most important goal. Our initiatives include "best practices" to guide securities professionals in their relationships with customers, investor education materials, and industry education programs.

The *Capital Markets Handbook* is one of many Securities Industry Association "best practices" initiatives. It is designed to help firms train their capital markets professionals and to be used as a desk reference manual. It addresses a need that had long been left unserved since the cessation (in the 1960's) of publication of *Fundamentals of Investment Banking* under the sponsorship of one of the SIA's predecessors—The Investment Bankers Association of America. It is also the basis and foundation upon which we have structured our Capital Markets Program (CMP), an intensive three day course for capital markets practitioners.

CAPITAL MARKETS HANDBOOK

The industry's response to our first two Editions has been very positive, and we hope you find this Third Edition even more useful. As always, we welcome your comments.

Marc E. Lackritz
President
Securities Industry Association
Washington D.C.
August 2001

PREFACE TO THE THIRD EDITION

Since reader/user reaction to our first revision (the Second Edition) was enthusiastic, and because the practice of investment banking constantly changes, our publisher Aspen Law and Business suggested a second revision (this Third Edition).

With the blessing of Donald D. Kittell at SIA, we plunged into the task, trying to make the Handbook even more useful to professional practitioners. Since the publication of the Second Edition, the securities industry has come under close scrutiny from both congress and the financial media with an intensity perhaps not seen since the period immediately after the filing of a civil anti-trust suit against 17 leading investment banks in 1947 by the United States Attorney General (a suit dismissed in its entirety by the presiding Judge Harold R. Medina in 1954).

Our purpose here, as it has been in the prior editions, is not to opine on alleged (or actual) misbehavior by any individual firm(s) or by the investment banking industry in general, or to speculate on the outcome of any congressional hearings in this regard. Rather, it is to attempt to create a Handbook that helps industry practitioners become more professional in their day-to-day pursuit of excellence in offering first rate service to both issuer and investor clients alike.

Once again we owe many debts of gratitude for the help, encouragement and support that all authors and editors require to maintain the energy necessary to produce a document such as this one.

"Thank you"—at Aspen: our many friends but particularly John J. Eldridge, Publisher, Law & Business I, Aspen Law & Business, Richard H. Kravitz, Executive Vice-President and Group Publisher, Aspen Law & Business, Ronald V. Sinesio, Editorial Director, and especially Laurel Binder-Arain, our editor; at SIA: Marc Lackritz, President; Don Kittell, Executive Vice President and our mentor and father confessor and Judy Chase, Vice President and our facilitator; at South Beach Capital: Susan L. Walcutt, our tireless scribe and unof-

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ficial editor; at home: unconditional love and support is the balm that heals all wounds, and thus it is to family that we have turned for generous doses in time of need.

We truly enjoy the interplay that production of this work inevitably thrusts upon us. Our relationship has grown and flourished. But putting aside all lofty prose, this Handbook continues to be for you the user. Please do not hesitate to point out errors and omissions (for which, as Editors, we take full responsibility), and we welcome your suggestions for inclusion of new topics or deletion of dated material.

John C. Burch, Jr.
Nashville, Tennessee

Bruce S. Foerster
Miami, Florida

August 2001

PREFACE TO THE SECOND EDITION

When our publisher proposed accelerating the time schedule for this edition, Bruce quickly realized that the only way to cope with the enormity of the editing task and the short time frame for completion of it would be to take on a co-editor. John Burch was the logical choice given his significant contributions to the First Edition and his infectious enthusiasm for the project dating from inception. Our partnership melds disparate abilities, a shared love for the business and a common goal—helping investment bankers, both in corporate finance and in capital markets, become ever more skilled practitioners.

We have many people to thank, most of whose names already appear in the Acknowledgements to the First Edition. Specifically, we owe deep gratitude to the many talented people at our publisher, Aspen Law & Business. This opus never would have come to fruition without the enthusiastic support and vision of Richard H. Kravitz, Publisher and Senior Vice President and the understated but firm leadership of Ronald V. Sinesio, Group Editorial Director—“thank you, Rick and Ron.” Additionally, we thank the other members of the Aspen staff with whom we worked directly: Ramona C. Baxter, Marketing Manager; Laurel Binder-Arain, Editor; Betsey Cohen, Managing Editor; Marc P. Gallant, Director of New Product Development; and Larry Teator, Bulk Sales Manager.

The continued support of Marc Lackritz, Don Kittell and George Monahan of SIA has been gratifying and invaluable—“thank you” again. Lastly, we both thank our families for their support and encouragement. Friends and business acquaintances readily provide kudos when one experiences success, but it is to family where one always goes for nurturing and psychic replenishment in times of stress.

Lastly, we repeat the close of the Preface to the First Edition, modified slightly to reflect our partnership. As editors, we were fortunate enough to work with many talented people who deserve the bulk of whatever credit users of this handbook bestow on its creators.

CAPITAL MARKETS HANDBOOK

With regard to mistakes, errors, and omissions, all editors must absorb full responsibility, and we do so readily. Revisions will speak to the users' criticisms. This handbook is for your use to help enable you to become more professional participants in an exciting business.

John C. Burch, Jr.
Nashville, Tennessee

Bruce S. Foerster
Miami, Florida

October 2000

PREFACE TO THE FIRST EDITION

The securities industry has been good to my family and me, providing a livelihood for most of my adult years. Those years have been intellectually and financially both challenging and rewarding. Editorship of this handbook allows me the opportunity to give back something to the business and to the next generation of investment banking professionals.

In the Acknowledgements section, the reader will find the names of all who helped me either in fostering my fascination for the many legal, regulatory, and procedural nuances of the securities business or in putting together this opus. However, special thanks go to the Securities Industry Association—Marc Lackritz and Don Kittell, who patiently believed in the project, and George Monahan, who provided me with administrative backup, encouragement, insightful criticism, and unflagging support over the two-year production process—and to my wife, Gail, and our children Samantha, Otto, and Lucy—who all have been indelibly affected by the time I devoted to the business of investment banking at their expense. Their understanding and unconditional love for me takes my breath away.

As editor, I was fortunate enough to work with many talented people who deserve the bulk of whatever credit users of this handbook bestow on its creators. With regard to mistakes, errors, and omissions, all editors must absorb full responsibility, and I do so readily. Revisions will speak to the users' criticisms. This handbook is for your use to help enable you to become more professional participants in an exciting business.

Bruce S. Foerster
Miami Beach, Florida
May 1999

ACKNOWLEDGEMENTS TO THE FIRST EDITION

The Editor thanks the people listed below who were instrumental in bringing this project to fruition—particularly Charles L. Bennett, John C. Burch, Jr. and William H. Dowson, all of whom did heavy lifting in manuscript adaptation, production, and editing.

Also, Michael T. Ott for his early support and consistent encouragement; SunTrust Equitable Securities for its gracious hospitality, cooperation, and technical support in hosting drafting sessions, printing and binding drafts and Laurie Ford Hinkle and Ray Ryan of its capital markets group for editing and research; Edmund J. Cashman and Charles R. Treuhold for early document review; Richard B. duBusc for review with regard to the fixed income side of the business; Ross M. Langill for trial draft review; and J. Scott Coburn, under whose chairmanship of the SIA's Syndicate Committee this opus came to life.

SIA

Linda Connelly

Lenore C. Dittmar

Doreen Giletto

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Pamela J. Moran-Walcutt

Susan L. Walcutt

Thanks also to all the people listed below who at one time or another helped fuel my interest in either the technical, procedural, or legal aspects of the investment banking business; encouraged me to teach elements of this business to the next generation; or contributed directly to the completion of this Handbook. My sincere apology to all whom I neglected to mention.

Industry

Silas R. Anthony, Jr.

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Howard L. Blum, Jr.

Ruth Braun