1. **Introduction**

Recent decades have seen a rapid expansion in direct, routinized purposive interaction between public officials from government agencies of different countries that share a common sphere of authority and expertise (such as competition, securities, public health, security and policing, fisheries or the environment), a phenomenon that I shall refer to in this chapter as “transnational regulatory networks”. Cooperation of this kind has facilitated cross-border investigations and law enforcement; policy development and standard setting; as well as capacity building and information sharing. They are networks in the sense that this type of cooperation is based on relatively loosely structured, horizontal ties developed over time through repeat interaction amongst multiple players rather than via centrally coordinated *ex ante* agreement. As such, this cooperation is most commonly structured—when it is formally structured at all—by informal or non-legally binding agreements (e.g. MOUs), and involves regular peer-to-peer cooperation between participating agencies that is based on trust and not directly controlled by the head of the executive or the foreign ministry of respective governments.¹

Thus defined, the concept of transnational regulatory networks describes a broad range of contemporary cooperation occurring at an international level across multiple fields of regulation. In the first section of this chapter, a number of general features of such transnational regulatory networks will be identified; the second section will provide a concrete example of such a network, namely the development of a global network of securities regulators, and examine some of the “network effects” that may arise as a result of the proliferation of this kind of global regulation.

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¹ Networks can include not only officials from public agencies, but also quasi-public bodies and a wide range of formally private bodies that are nonetheless centrally involved in global governance.
2. Transnational Regulatory Networks

Legal scholars from a range of intellectual backgrounds have examined transnational regulatory networks; for example those influenced by Keohane and Nye’s work in political science; Luhmann’s systems theory; and Foucault’s work on governmentality. Moreover, the extensive literature associated with Kingsbury and Stewart have also extensively discussed this issue from the perspective of administrative law.

This isn’t the occasion for a comprehensive review of this diverse literature; rather I would like to point to certain general observations about such networks that might be seen as providing points of convergence in the extant debate.

2.1. Transnational Regulatory Networks Are Best Understood as a Historically Specific and Concrete Institutional Form

Late modernity is characterized by a plurality of actors and a plurality of mechanisms of governance, and transnational regulatory networks should be primarily regarded as a historically specific and concrete institutional form that exists alongside—sometimes cooperatively, sometimes competitively—these other governance mechanisms.

Although examples of transnational regulatory networks can be found from the early decades of the twentieth century (in the field of drug control or anti-trusts, for example), such networks have developed rapidly in the last three decades—in the context of an increasingly interconnected world.


For example, the 1936 Convention for the Suppression of the Illicit Traffic in Dangerous Drugs facilitated the creation of new national agencies to coordinate international efforts at drug control.