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Law, Financial Stability and Economic Development: With Special References to the Financial Regulatory Structures in Hong Kong, Mainland China, the UK and the US

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After the catastrophic financial crisis in of 2008, a significant portion of the legal academia in the globe has started to concentrate on the interrelationship between law, financial stability and economic development. Through reviewing the voluminous literature in this field, it is figured out that the scope of law has been largely confined to strengthening regulation of the pre-crisis unbundled derivative transactions and enhancing cooperation among sovereign States by making formal sources of international law. Few discussions have been made to scrutinize the existing regulatory structures for the domestic financial markets of sovereign countries and demonstrate the potential possessed by informal international law in reinforcing the efficacy of these regulatory structures. By comparing the financial regulatory structures in Hong Kong, Mainland China, the UK and the US and the core principles of the BIS, the IOSCO and the IAIS, this article attempts to fill in the above research gap to some extent.

Keywords: Law, Financial Stability, Economic Performance, Finance Regulatory Structure, Informal International Law, Core Principle

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1. Introduction

Since the devastating financial crisis of 2008, the interrelationship between law, financial stability and economic development has been a point at issue for all the stakeholders, i.e., academia, financial sector, governments and international organizations across the world.[1] Thus far, a consensus has been basically reached worldwide that the financial market has substantial influences on the economic development, either positively or negatively.[2] In order to lead economic development, the financial market should devise a group of institutions well to maintain its stability at major commercial as well as emerging and transitional sectors.[3] Retrospecting the previous financial crises, it is evident that the law plays a crucial role for consolidating financial stability, but also propelling economic development.[4]

It is well recognized that financial crisis is one of the biggest threats to the stability of the market. The priority for stabilizing financial market thus lies in preventing the financial crises. Reflecting the catastrophic 2008 financial crisis, distinguished economists and financial lawyers from all over the world have similarly argued that the unbundled derivative transactions which are deemed to give rise to the latest global recession since 2008 ought to be stringently regulated by domestic and international law in order to avoid the coming financial earthquake.[5] Little attention, however, has been paid to reviewing the existing regulatory structures for the domestic financial markets of each countries and to demonstrate the potential of informal international law in reinforcing the efficacy of these regulatory structures.

The primary purpose of this research is to fill in the gap between the current regulatory structure of the financial market and the meaningful functions of international law. This paper consists of five parts including short Introduction and Conclusion. Part two will sketch out the interrelationship between law, financial stability and economic development as the theoretical framework. Part three will compare and review the regulatory structures of the domestic financial markets of three selected sovereign countries including the US, the UK, Mainland China, and Hong Kong. Then, Part four will demonstrate that informal international law made by three leading international financial organizations including the Bank for International Settlement ("BIS"), the International Organization of