Current Development

CHI. & WTO REV. 2015:2; 269-288
http://dx.doi.org/10.14330/cwr.2015.1.2.05
pISSN 2383-8221 • eISSN 2384-4388

CWR
China and WTO Review

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

Lin Zhang*

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

* Assistant Professor at Korea University School of Law. LL.B./LL.M. (Shandong Univ. of Sci. & Tech.), Ph.D.(UHK). http://orcid.org/0000-0001-9237-4939 The author can be contacted at: linzhang@korea.ac.kr / Address: Room 431, Korea University School of Law, 145, Anam-ro, Seongbuk-gu, Seoul 136-701 Korea.

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

Securities Commissions ("IOSCO") and the International Association of Insurance Supervisors ("IAIS") possesses the potential to reinforce the functions of those regulatory structures to consolidate financial stability.

2. Interrelationship between Law, Financial Stability and Economic Performance

It is duly acknowledged that a stable and well-operating financial market can push an economy forward.[6] Enterprises are the atoms consisting of the organic body of market so that their growth and expansion may lead the economic development. In enterprises, fundraising is a critical issue for the sustainable development regardless of their scales.[7] Stable financial market is just to satisfy the fundraising demand of enterprises by matching them with persons and institutions with money.[8] Further, the sound and stable financial market as the intermediary between enterprises and varieties of investors contributes to the growth of the economy. Such correlation between financial stability and economic development is accurately described by Raghuram Rajan and Luigi Zingales as follows:

> Capitalism, or more precisely the free market system, is the most effective way to organize production and distribution that human beings have found. While free markets, particularly free financial markets, fatten people's wallets, they have made surprisingly few inroads into their hearts and minds. Financial markets are among the most highly criticized and least understood parts of the capitalist system. The behavior of those involved in recent scandals like the collapse of Enron only solidifies the public conviction that these markets are simply tools for the rich to get richer at the expense of the general public. Yet, as we argue, healthy and competitive financial markets are an extraordinary effective tool in spreading opportunity and fighting poverty. Because of their role in financing new ideas, financial markets keep alive the process of' creative destruction'-whereby old ideas and organizations are constantly challenged and replaced by new, better ones. Without vibrant, innovative financial markets, economies would invariably ossify and decline.[9]

A mere fact, however, is that financial market is not always stable, but is often shaken by unpredictable factors leading to national, regional or global financial crises. Due to instinctive greed and bounded rationality of human beings, it is extremely difficult to completely eliminate financial crises.[10] What the mankind can effectively do is to reduce the frequency of financial tsunamis by inventing ingenious institutions. Among the group of institutions aiming for tackling financial crises and maintaining financial stability, law plays an irreplaceable role as recognized by the international community after the ravage of financial crises during the period from the late 1980s through the whole 1990s. At that time, 'financial crisis' was always used as a keyword in international political summits, annual governmental reports, quantitative and qualitative surveys conducted by different research institutions, the mainstream media and even civilians' daily conversations.[11] It was a reflection of the then situation around the world that a series of financial crises broke out one after another in developed as well as developing, emerging and transition economies. Although those financial crises were originated in the US, Mexico and Europe, they actually brought the financial turbulence in the developing countries and totally demolished their financial market. Beginning in Thailand in the mid-l997, a contagious financial crises quickly and heavily battered Indonesia, South Korea, Malaysia, the Philippines, Russia, Brazil, Argentina, and Turkey.[12] Such sweeping financial disaster eventually alarmed the international community to swiftly take concrete measures to recover from the crises. In this process, each country began to work together to prevent financial instability in the future. Their collaboration and communication adopted two main action plans. First, most States agreed to lay down bottom standards of regulating the financial market by international law.[13] Second, owing to their weakness of capital liquidity, special attention was paid and support has been given to developing, emerging and transition economies.[14] In terms of the above two directions, it is clear that international law has been regarded as an integral tool to restore and maintain financial stability. For these effective roles of international law, the bottom standards for financial surveillance should be well adapted and enforced by the domestic legislations. Moreover, in order to protect their financial vulnerability, developing, emerging and transition economies should reinforce their civil and financial law systems and efficiently enforce these laws within their territories. It is mainly because a full-fledged system of civil and financial law and an efficient set of law enforcement institutions can purify the financial market and consolidate financial stability by cracking down various kinds of financial misconducts.[15] The 1997 Asian financial crisis is a glaring example in this regard, when the majority of the victim countries of the regional financial crisis lacked a well-established system of civil and financial law as well as sophisticated law enforcement models to regulate financial activities.[16] Consequently, speculative acts were pervasive in their financial sectors which were then easily manipulated by the gigantic multinational hedge funds and immediately collapsed.[17]

It has already been shared that law reinforces economic development partially via its efficacy to maintain financial stability. Indeed, economic development is a permanent concern for the human beings. For a long time, people have been searching for the factors that push economy continuously forward. Prior to the end of World War II, economic development was mainly attributed to the geography of a nation.[18] Then, people began to explore the importance of institutions in economic recovery and growth which has been further deepened due to the subsequent financial crises. Douglas North said that institutions are "the rules of the game in a society or, more formally, are the humanly devised constraints that shape human interaction."[19] Today, no one doubts that economic development is the result of the synergy of multiple institutions, including law as integral and fundamental ground. Law secures liberty, property and contract. It also guarantees governments and markets to be transparent, honest and responsive.[20] These infrastructural preconditions are essential to economic development, which reveals part of the reasons for the sustainability of current major commercial jurisdictions in the world despite their economies alternately go through ebb and flow.

To sum up, law, financial stability and economic development are closely interrelated. Economic development is always the primary concern for every country as well as its people. For continuous economic development, a stable financial market is vital and fundamental because it can finance new projects, incubate innovations, reduce poverty and increase exports. Human experiences tell, however, that financial market is often shaken and challenged. Since a series of financial crises, people have realized the important role of law in preventing and resolving financial instability and risks. With the bottom standards agreed by the international community and its domestic adaptation, a set of game rules are finally introduced to regulate varieties of financial activities. These game rules cover the whole spectrum of the financial market such as market entry, information disclosure, elimination of misconducts, etc.[21] Based on the continuous confidence and enthusiasm of investors, both financial market and whole economy are able to make big strides ahead.

3. Financial Regulatory Systems in Hong Kong, Mainland China, the US and the UK

In the course of current global efforts for regulating financial market, it should be observed that the lax regulation on derivative transactions ought to be tightened through stringent domestic and international law.[22] Unbundled derivative transactions were indeed the direct cause of the latest financial crisis.[23] It should be, however, questioned whether financial regulatory structures as a whole, as opposed to the deficient derivative regulation, is a systematic failure of the whole financial market. This part will compare the financial regulatory structures of our representative jurisdictions including the US, the UK, Mainland China, and Hong Kong. The comparison here aims to lay the intellectual foundation for in-depth academic discussions in this regard in the future.

A. Treatments of Financial Conglomerates

Today, it is apparent that the financial regulatory structures in sovereign States are closely related to the different treatments they give to financial conglomerates. Therefore, prior to comparing the financial regulatory structures in these four selected jurisdictions, their distinctive treatments of financial conglomerates should be outlined first.

The four selected jurisdictions here represent the following three mainstream models for treating financial conglomerates around the world: (1) the universal banking model; (2) the strict sectoral separation model; and (3) the financial holding company model.[24]

Financial institutions are generally permitted to conduct any sort of financial activities including banking service, securities and insurance business, without setting up independently capitalized and supervised subsidiaries.[25] Currently, the UK adopts this model, which is principally ascribed to the long-term ‘universal banking' tradition in Europe.[26] A bank in the UK is not only allowed to provide investment and commercial banking services, but also offer securities and insurance services.[27] Since the British colonial period, Hong Kong has replicated the UK in this aspect. Pursuant to financial legislation of Hong Kong, cross-sector financial activities are permissible for financial institutions incorporated within its jurisdiction.[28]

Just like its literal meaning, the strict 'sectoral separation model' refers that a financial institution is only authorized to provide a specific kind of financial service, *e.g.*, banking, securities and insurance as ascertained by the regulatory bodies.[29] In other words, under this separation model, banks can only be engaged in banking activities, while broker-dealers or insurance companies are only allowed to focus on securities-related transactions or insurance schemes, respectively. This separation model is mainly adopted by transitional economies, such as Mainland China, in which financial conglomerates were strictly forbidden by the Central Government.[30] In the 1990s, clear boundaries were drawn among different financial sectors in terms of binding laws and regulations. Since then, however, with the *ad hoc* approval of the Central Government, some Chinese financial institutions have started to provide cross-sector services.[31] Even today, the cross-sector practice is still marginal and exceptional in China in comparison to the dominating separation model.

According to the "financial holding company model," it is lawful for a financial institution to control a number of subsidiaries which possess independent legal personality and undertake assorted financial activities through new incorporations, takeovers, contractual arrangements and other approaches.[32] The US is leading this model nowadays, although she once complied with the strict sectoral separation model as a result of the Glass-Steagall Act, also known as the Banking Act of 1933.[33] This situation, however, was changed in 1999 with the enactment of the Gramm-Leach-Bliley Act which has replaced the separation model with the financial holding company model. Since then, financial conglomerates under the new model have sprung up and entered the American society.[34] Up to now, almost every American financial giant has become a jack-of-all-trades. The influential City Group, *e.g.*, controls a number of subsidiaries whose business covers the whole spectrum of the financial sector, and it has thus generated billions of profits for the financial empire prior to the 2008 financial crisis.[35]

B. Financial Regulatory Structures

Basically in tandem with their different treatments of financial conglomerates, these four jurisdictions provide different regulatory structures for the domestic financial market which are respectively termed as the "integrated regulation model" and the "sectoral regulation model." Apart from them, a novel concept of the functional regulation has recently been put into practice by several countries in Europe, as well.

The integrated regulation model denotes that a single regulatory body shall be in charge of supervising all the segments of a domestic financial market.[36] This model well matches the universal banking model because it enables the regulator to take quicker actions to tackle varieties of contingencies with a wholesale financial institution and to avoid transaction costs incurred by other regulators through coordination. The UK had adopted this model with the Financial Services Authority as the single financial regulator from 2001 to 2013.[37] Pursuant to the Financial Services Act of 2012, the Financial Services Authority was abolished on April 1, 2013. Since then, its role has been taken over by the Bank of England's Financial Policy Committee, the Prudential Regulation Authority and the Financial Conduct Authority.[38]

Table 1: Financial Regulatory Structure in Mainland China, Hong Kong, the US, and the UK

	Mainland China	Hong Kong	US	UK
Treatment of Financial Conglomerates	Sectoral Separation	Universal Banking	Holding Company	Universal Banking
Financial Regulatory Structure	Sectoral	Sectoral	Sectoral	Sectoral (Integrated before April 1, 2013)

Source: Compiled by the author

The sectoral regulation model points out that each segment of a domestic financial market is supervised by a separate regulatory body.[39] Empirical evidence has already shown that it is well compatible with the strict sectoral separation model which is adopted by the Mainland China.[40] In Mainland China, *e.g.*, the China

Banking Regulatory Commission is responsible for regulating the banking sector, while the China Securities Regulatory Commission and the China Insurance Regulatory Commission are responsible for regulating the securities sector and the insurance sector, respectively. In addition, some countries, like the US, which have practiced the financial holding company model, are also showing their preference to the sectoral regulation model. An the federal level in the US, the Federal Reserve is in charge of regulating the banking sector; the Securities and Exchange Commission is authorized to monitor all the aspects of the securities industry and the newly-created Federal Insurance Office is responsible for putting the insurance sector under its surveillance.[41] Interestingly, despite Hong Kong has replicated the British-style universal banking model for treating financial conglomerates, it did not correspondingly transplant the integrated regulation model for monitoring its financial market. Instead, Hong Kong has followed the sectoral regulation model in this regard. The Hong Kong Monetary Authority is the sole banking regulator there. Meanwhile, the Securities and Futures Commission and the Office of the Commissioner of Insurance are separately regulating the securities and the insurance industry.[42]

Apart from the integrated regulation model and the sectoral regulation model, a brand new concept of the functional regulation has recently emerged in several countries in Europe, such as France and the Netherlands. The core idea of the functional regulation model can be summarized as 'Twin Peaks' structure which is put forth by M. Taylor.[43] Under the 'Twin Peaks' structure, two cross-sector regulators will be created for a domestic financial market. One regulator is responsible for financial stability and the other one is in charge of protecting financial consumers.[44]

4. Financial Stability and Informal International Law Triggered by the International Financial Organizations

The advent of informal international law is the latest trend in the global governance.[45] As far as the global financial market is concerned, three international organizations such as the BIS, the IOSCO and the IAIS play influential roles in formulating informal international law. The BIS, *e.g.*, released its latest version of "Core Principles for Effective Banking Supervision" which consists of a set of soft provisions in 2012.[46] Likewise, the IOSCO revised and updated its "Objectives and Principles of Securities Regulation" in 2010, and the IAIS refined its "Insurance Core Principles, Standards, Guidance and Assessment Methodology" in 2011.[47] These three documents, which are part of informal international law, altogether present a systematic set of standards for sovereign States to review and amend their financial regulatory structures, which would be beneficial for them as a whole to prevent the outbreak of the next global financial crisis. As financial conglomerates and the sectoral separation regulatory model are becoming more prevalent, it will be more desired for the sovereign States to study and absorb these three pieces of informal international law in a comparative setting so as to avoid potential conflicts that may arise if the three files are scrutinized by different regulators in a discrete way. As a matter of fact, since 1996, the BIS, the IOSCO and the IAIS have collectively sponsored the 'Joint Forum' to deal with the issues common to the banking, securities and insurance sectors.[48] More importantly, in 2001, the Joint Forum released a report titled, "Comparison of Core Principles" which compared the earlier versions of the above three pieces of informal international law respectively issued by these three organizations.[49] More than a decade has already passed and the core principles of these three informal international laws have been revised in a number of instances. It is, therefore, significant to compare their latest core principles to provide sovereign States with updated information in this regard. What is important to point out here is that the comparative dimensions as included in the report of "Comparison of Core Principles" are never outdated, despite of the contents under each dimension of the report having turned old. The following segment encapsulates the comparison of the six dimensions drawn by the report such as pre-conditions, supervisory system, supervised entity, ongoing supervision, prudential standards, and markets and customers.

A. Pre-conditions

The BIS, the IOSCO and the IAIS have firmly realized that effective supervision cannot take place without the synergy of some prerequisites. Each of these organizations has thus laid down a set of pre-conditions for effective supervision in its core principles. In particular, the BIS includes six external elements in its

"Core Principles for Effective Banking Supervision (2012)"[50] such as sound and sustainable macroeconomic policies, a well-established framework for financial stability policy formulation, a well-developed public infrastructure, a clear framework for crisis management, recovery and resolution, and effective market discipline and mechanisms for providing an appropriate level of systematic protection (or public safety net).[51] Likewise, the IOSCO regards an effective legal, tax and accounting framework as a pre-condition in its "Objectives and Principles of Securities Regulation (2010)."[52] The IAIS puts emphasis on three factors in this aspect which include a policy, institutional and legal framework for financial sector supervision, a well-developed and effective financial market infrastructure, and efficient financial markets in its "Insurance Core Principles, Standards, Guidance and Assessment Methodology (2011)."[53]

Even though all these international financial organizations have paid attention to pre-conditions for effective supervision in their core principles, each of them shows its special emphasis in this regard. *E.g.*, the BIS specially states that nations should cultivate sound and sustainable macroeconomic policies as a pre-condition for effective banking supervision.[54] In contrast, the IOSCO and the IAIS only focus on well-functioning infrastructures for effective supervision which are also valued by the BIS. They do not, however, refer to macroeconomic policies.[55]

B. Supervisory System

These international financial organizations clearly spell out their respective supervisory objectives in their core principles. The BIS puts its emphasis on the prevention of systematic risks and the maintenance of financial stability.[56] This objective reflects the close relationship between banking and macro-economies. Conversely, besides projecting a light on the prevention of systematic risks, the core principles of both the IOSCO and the IAIS include the protection of customers and ensuring markets to be fair, efficient and transparent.[57]

These three international organizations refer to supervisors' authorities in their core principles, as well. In this regard, first, they all have highlighted the importance of operational independence of the regulators.[58] In terms of their definition, 'independence' does not mean to strictly bind the financial regulators from communicating with regulated entities. Instead, this kind of communication could be acceptable as long as the regulators can keep their neutrality in the process.[59] Second, the IOSCO and the IAIS list the essential conditions for the regulators to fulfill their duties, such as adequate powers, legal protection and financial resources.[60] Third, all the three organizations acknowledge that the supervisory staff should be with high professional and moral standards and be accountable to the public.[61] Fourth, the three international organizations realize that the regulators ought to possess power to take remedial actions, especially when facing unpredictable contingencies.[62] Finally, all of them require that the supervisory activities be transparent to both the regulated entities and the public.[63]

Table 2: Financial Stability Supplied by the Three International Financial Organizations

	BIS	IOSCO	IAIS
Pre-conditions	Section III	Foreword and Section F	Introduction
Supervisory System	Section V	Section A	CP 1
Supervised Entity	CP 5	Section F & H	CP 4
On-going Supervision	CP 3	Section D	CP 23
Prudential Standards	CP 14-29	Section E,F,G,H&I	CP 10
Markets & Consumers	CP 29	Section I	CP 21-22

Source: Compiled by the author.

C. Supervised Entity

The core principles of all these three organizations provide that the national supervisors are empowered to grant licenses to market players who intend to engage in the field of banking, securities or insurance business within their jurisdictions.[64] In the meantime, all the three sets of core principles require that the permissible scope for activities in the field of banking, securities or insurance be clearly demarcated by the municipal laws and regulations and the national supervisors be authorized to add or remove items from the list of permissible activities within their jurisdictions.[65] In addition, these principles stress that the regulated entities should immediately inform the national supervisors when they make any contract for transferring their ownerships.[66] Moreover, the BIS and the

IAIS hold that the national supervisors should enjoy the authority to approve or reject such ownership transfers of the supervised entities.[67] Last, well-devised and transparent corporate governance is emphasized and recommended by all the three sets of core principles. They list a series of corporate governance standards, respectively, which is believed to be necessary for the regulated entities to comply with.[68]

D. Ongoing Supervision

Group-wide supervision is equally emphasized by the core principles of these three organizations. Despite their similarity in this regard, each of them shows different focus on concrete strategies. *E.g.*, the core principles of the BIS stress that the banking supervisors should regulate the banking sector on the basis of 'consolidation.'[69] By contrast, the core principles of the IAIS and the IOSCO do not expressly refer to consolidated supervision even though they insist that the supervisors in the two sectors be granted diverse approaches to keep track of the supervised entities.[70] In addition, all the three sets of core principles hold that supervisors in these sectors should perform effective daily motoring and conduct on-site inspection to the regulated entities because it is not possible for the supervisors to achieve effective supervision just by means of reviewing the reports prepared by regulated entities.[71]

In relation to the mutual information exchange, all the three sets of core principles recognize that it is very important and necessary for supervisors to share information between each other, both domestically and internationally.[72] The core principles of the BIS point out that the national supervisors ought to specially enhance cooperation and information exchange with the host country supervisors.[73] Similarly, the core principles of the IOSCO hold that the national supervisors should design information-sharing mechanisms to assist the foreign supervisors in acquiring their required information.[74] The core principles of the IAIS also put emphasis on the important role played by well-devised communication channels to enhance the synergy between the domestic and foreign supervisors.[75] Apart from information-sharing, these principles stress on the importance of maintaining confidentiality of non-public information by the supervisors in the three sectors because it is crucial to exchange the information for effective supervision.[76]

E. Prudential Standards

The financial market is always surrounded by risks on different levels. Against this backdrop, the core principles of these three organizations highlight that financial firms must well devise their own risk management systems in proportion to their sizes and degrees of risk exposure.[77] Moreover, all the three sets of core principles project light on the essential role played by the internal controls which mainly refer to the framework of check and balance within an entity in the prudential operation of the financial firms.[78] In addition, all the principles put emphasis on the adequate flow of the supervised financial firms. They explicitly point out that their capital adequacy ought to match the aggregate risks generated by them.[79] Last, lawful and professional accounting and auditing practice by the financial firms is highly recommended by the principles.[80] Despite their similarity in this aspect, one may reveal a small difference among these. The core principles of the BIS and the IOSCO pay attention to adopting international accounting and auditing standards by the financial firms, while the IAIS puts more emphasize on the importance of actuarial to insurance companies than the common business accounting and auditing standards because of the harsh requirement of insurance companies on the accuracy of loss estimation in process of compensation.[81]

F. Markets and Consumers

The core principles of these three organizations regard the fairness and integrity of markets as one of the objectives of effective supervision.[82] To achieve this objective, all the principles point out that the national supervisors should take the full responsibility to crack down on a series of financial misconducts, such as money laundering, frauds, and market abuses.[83]

In addition, the core principles of the IOSCO and the IAIS say that the national supervisors should put more weight on consumer protection.[84] Especially, the core principles of the IOSCO specify the general rules on investor protection for collective investment schemes, market intermediaries and the secondary markets.[85] Likewise, the core principles of the IAIS hold that domestic supervisors should set forth minimum rules to govern the deals between the insurers and consumers within their jurisdictions so as to enhance consumer protection. An example is the provision of timely and thorough information for the consumers by the insurers throughout the whole period of an insurance contract, from signing to termination.[86]

Finally, all the three sets of core principles recognize the significance of prompt information disclosure and transparent information for effective supervision.[87] The core principles of the BIS, *e.g.*, suggest that the commercial banks should publish their financial reports to the public on a regular basis.[88] As mentioned above, the core principles of the IAIS also insist that the insurers be instructed by national supervisors to disclose material information to the consumers on a prompt and timely basis in order to facilitate their understanding to the magnitudes of risks which they are exposed to.[89] Similarly, the core principles of the IOSCO stress on the importance of high-quality information disclosure mechanism for the investors to make swift adjustments in the volatile securities market.[90]

5. Conclusion

Since the outbreak of the 2008 financial crisis, distinguished corporate and financial law scholars have attempted to search for the measures suitable to prevent the next financial earthquake through their scholarly contributions. By reviewing these literatures, it is evident that their initial focuses were on tightening regulation of the previously unbundled derivative transactions through municipal and international law. Nevertheless, the representative financial regulatory structures of the sovereign States, *e.g.*, Hong Kong, China, the US and the UK and informal international law created by the BIS, the IOSCO and the IAIS did not get adequate attention from them. Under such circumstances, the author hopes that the research would partially fill in that gap. Additionally, it is expected to add new angle into the existing literatures regarding the interrelationship between law, financial stability and economic performance.

References

1. D. Arner, *The Global Credit Crisis of 2008: Causes and Consequences*, 43 Int'l Law. 91 (2009); Permanent Subcommittee on Investigations of United States Senate, Wall Street and the Financial Crisis: Anatomy of a Financial Collapse, US Senate Committee on Homeland Security & Governmental Affairs (Apr. 13, 2011), *available at* http://www.hsgac.senate.gov//

imo/media/doc/Financial_Crisis/FinancialCrisisReport.pdf?attempt=2; McKinsey Global Institute, Debt and Deleveraging: The Global Credit Bubble and Its Economic Consequences, McKinsey (Jan. 2010), *available at* http://www.mckinsey.com/insights/global_capital_markets/debt_and_deleveraging_the_global_credit_bubble_update; Financial Stability Board of International Monetary Fund, The Financial Crisis of Information Gaps (May, 2010), *available at* http://www.imf.org/external/np/g20/pdf/053110.pdf (all last visited on Aug. 1, 2015).

2. D. Arner, Financial Stability, Economic Performance and the Role of Law (2007).
3. J. Batten &P. Szilagyi, The Impact of the Global Financial Crisis on Emerging Financial Markets 3 (2011).
4. *Supra* note 2, at 13-50.
5. L. Stout, *Derivatives and the Legal Origin of the 2008 Credit Crisis*, 1 Harv. Bus. L. Rev. 1-38 (2011).
6. *Supra* note 2, at 13-50.
7. H. Hansmann, R. Kraakman& R. Squire, *Law and the Rise of the Firm*, 119 Harv. L. Rev. 1354-99 (2006).
8. *Id.*
9. R. Rajan & L. Zingales, Saving Capitalism from the Capitalists: Unleashing the Power of Financial Markets to Create Wealth and Spread Opportunity 1 (2003).
10. H. Simon, *Bounded Rationality and Organizational Learning*, 2 Org. Sci.125 (1991).
11. W. Hunter, G. Kaufman & T. Krueger, The Asian Financial Crisis: Origins, Implications and Solutions xiii (1999).
12. *Id.*
13. J. Head, *The Asian Financial Crisis in Retrospect: Observations on Legal and Institutional Lessons Learned after a Dozen Years*, 5 E. Asia L. Rev. 31 (2009).
14. *Id.* at 53-62.
15. B. Black, *The Legal and Institutional Preconditions for Strong Securities Markets*, 48 UCLA L. Rev. 781 (2001).
16. *Supra* note 13, at 37-46.
17. *Id.* at 46-9.
18. R. Gordon, *Did Economics Cause World War II?* 1 (Nat'l Bureau of Econ. Research, Working Paper No. 14560, 2008), *available at* http://www.nber.org/papers/w14560.pdf (last visited on Aug. 1, 2015).
19. D. North, Institutional Change and Economic Performance 3 (1990).
20. D. Landes, The Wealth and Poverty of Nations: Why Some are So Rich and Others So Poor 217-8 (1998).
21. *Supra* note 15.
22. *Supra* note 5.
23. M. Jickling, *Causes of the Financial Crisis (R40173)* (Jan. 29, 2009), *available at* http://

digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1605&context=key_workplace (last visited on Aug. 1, 2015).
24. *Supra* note 2, at 195-226.
25. R. Buckley & D. Arner, From Crisis to Crisis: The Global Financial System and Regulatory Failure 114 (2011).
26. *Id.*
27. *Id.*
28. N. Chan, Keynote address at the opening session of the Asian Banker Summit 2011 on Universal Banking-Hong Kong's Perspective, Apr. 7, 2011, *available at* http://www.bis.org/review/r110408c.pdf (last visited on Aug. 1, 2015).
29. *Supra* note 2, at 281.
30. Fan Liao, *Competition, Conflict and Coordination: Choice of Regulatory Model for Cross-Sector Financial Operation* [竞争、冲突与协调 - 金融混业监管模式的选择], 45 J. Peking U. (Phil. & Soc. Sci.) [北京大学学报(哲学社会科学版)] 109 & 113 (2008). <available only in Chinese>
31. *Id.* at 115.
32. *Supra* note 2, at 281.
33. Banking Act of 1933, Pub. L. No. 66-73D, 48 Stat. 162 (1933), *available at* https://fraser.stlouisfed.org/scribd/?item_id=15952&filepath=/docs/historical/ny%20circulars/1933_01248.pdf#scribd-open (last visited on Aug. 1, 2015).
34. Gramm–Leach–Bliley Act, Pub. L. No. 106-102, 113 Stat. 1338 (1999) (codified as amended in scattered sections of 12 U.S.C. and 15 U.S.C.), *available at* http://www.gpo.gov/fdsys/pkg/CRECB-1999-pt6/html/CRECB-1999-pt6-Pg8982.htm (last visited on Aug. 1, 2015).
35. Citigroup, Annual Report 2007, *available at* http://www.citigroup.com/citi/investor/quarterly/2008/ar07c_en.pdf (last visited on Aug. 1, 2015).
36. *Supra* note 25, at 114.
37. HM Treasury, A New Approach to Financial Regulation: the Blueprint for Reform, June 2011, *available at* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/81403/consult_finreg__new_approach_blueprint.pdf (last visited on Aug. 1, 2015).
38. *Id.*
39. *Supra* note 2, at 281.
40. *Id.*
41. Z. Biedermann, *The History of American Financial Regulation*, 57 Pub. Fin. Q. (2012).
42. D. Arner, B. Hsu & A. Roza, *Financial Regulation in Hong Kong: Time for a Change*, 5 Asian J. Comp. L. 1 (2010).
43. M. Taylor, "Twin Peaks": A Regulatory Structure for the New Century, 20 CSFI 18 (1995), *available at* http://www.opengrey.eu/item/display/10068/572554 (last visited on Aug. 7, 2015).

44. *Id.*
45. *See generally* J. Pauwelyn et al. eds., Informal International Lawmaking (2012).
46. Bank for International Settlement, Core Principles for Effective Banking Supervision, *available at* http://www.bis.org/publ/bcbs230.htm (last visited on Aug. 1, 2015).
47. International Organization of Securities Commissions, Objectives and Principles of Securities Regulation, June 2010, *available at* https://www.iosco.org/library/pubdocs/pdf/IOSCOPD323.pdf; International Association of Insurance Supervisors, Insurance Core Principles, Standards, Guidance and Assessment Methodology, Oct. 1, 2011, *available at* http://iaisweb.org/modules/icp/assets/files/Insurance_Core_Principles__Standards__Guidance_and_Assessment_Methodology__October_2011__revised_October_2013_.pdf.pdf (all last visited on Aug. 1, 2015).
48. For details, *see* The Joint Forum, *available at* http://www.bis.org/bcbs/jointforum.htm (last visited on Aug. 1, 2015).
49. Bank for International Settlements Basel Committee on Banking Supervision, The Joint Forum, Core Principles Cross-Sectoral Comparison, Nov. 2011, *available at* http://www.bis.org/publ/joint03.pdf (last visited on Aug. 1, 2015).
50. *Supra* note 46.
51. *Id*. § III.
52. Securities Commissions, *supra* note 47, at Foreword and § F.
53. Insurance Supervisors, *supra* note 47, at 4.
54. *Supra* note 2.
55. *Supra* notes 33 & 34.
56. *Supra* note 46.
57. Insurance Supervisors, *supra* note 47, at CP 1.Securities Commissions, *supra* note 47, at §A.
58. *Supra* note 37.
59. *Id.*
60. *Supra* note 37.
61. *Supra* note 37 .
62. *Id.*
63. *Id*.
64. *Supra* note 46 at CP 5. Insurance Supervisors, *supra* note 47, at CP 4. Securities Commissions, *supra* note 47, §§ F & H.
65. *Id.*
66. *Id.*
67. *Id.*
68. *Id.*
69. *Supra* note 46, at CP 3. *See also* Insurance Supervisors, *supra* note 47, at CP 23; Securities Commissions, *supra* note 47, § D.
70. *Id.*

71. *Id.*
72. *Id.*
73. *Id.*
74. *Id.*
75. *Id.*
76. *Id.*
77. *Supra* note 46, at CP 14-29. *See also* Insurance Supervisors, *supra* note 47, at CP 10; Securities Commissions, *supra* note 47, §§ E, F, G, H & I.
78. *Id.*
79. *Id.*
80. *Id.*
81. *Id.*
82. *Supra* note 46, at CP 29. *See also* Insurance Supervisors, *supra* note 47, at CP 21-22; Securities Commissions, *supra* note 47, § I.
83. *Id.*
84. *Id.*
85. *Id.*
86. *Id.*
87. *Id.*
88. *Id.*
89. *Id.*
90. *Id.*