

Facilitating Economic Recovery and Sustainable Growth Through Reform of the Securities Class?Action System: Exploring Arbitration as an Alternative to Litigation

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INTRODUCTION

In the aftermath of the global economic collapse of 2008, policymakers from around the world have been considering regulations designed to reduce the risk of future economic turmoil. Their focus has been on powers and procedures designed to reduce systemic risk and to help ensure financial stability in the world markets. Although policymakers should explore prophylactic measures and use counterfactual reasoning, they should not confine their analysis to preventing the next crisis. Regulating against the risk of unpredictable disaster—a so-called “black swan”—is imprecise and, if done improperly, can hinder economic growth. Along these lines, policymakers must be cautious to avoid a regulatory overreaction to the current economic problems. In an effort to promote long-term economic prosperity, policymakers should avoid the temptation to overregulate in the near term.

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