

Jens-Uwe Franck

Marktordnung durch Haftung

Legitimation, Reichweite und Steuerung der Haftung auf Schadensersatz zur Durchsetzung marktordnenden Rechts

[Market Order Through Liability. Legitimation, Scope and Calibration of Damage Liability in Enforcing Market Regulation.]

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Using damage liability to enforce market regulation has become increasingly commonplace in Germany and Europe, especially when it comes to securities regulation and competition law. Jens-Uwe Franck analyses the fundamental issues of this development and, using the standard model of optimal sanctions, identifies the systematic risks of over- and under-deterrence accompanying this method of private enforcement. These insights and a range of examples provide a basis for discussing the potential of damage liability to minimise risks of regulatory failure.

Jens-Uwe Franck ist Inhaber des Lehrstuhls für Bürgerliches Recht, Handels- und Kartellrecht an der Universität Mannheim.



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