

BENEATH THE TIP OF THE ICEBERG — GLOBAL FINANCIAL CRISIS, BANK BAILOUTS AND THE SCM AGREEMENT

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ABSTRACT

Massive bailouts of banks have been conducted by many countries in the aftermath of the global economic crisis. Nonetheless, the full extent of the legal implications of the bank bailouts, particularly from the perspective of the SCM Agreement, has not received adequate attention. Instead, bank bailouts have been treated the same as other ordinary bailouts of corporations. In so doing, unintended seeds for future subsidy disputes have arguably been left unattended in the course of carrying out continuous bailouts of financial institutions across the globe. Given the abruptness and magnitude of the recent financial crises, bank bailouts seem to be both inevitable and necessary. However, the current SCM Agreement does not provide for a specific exception for an economic crisis or financial crisis. It may be necessary to contemplate an exception clause covering an economic emergency or a financial crisis. It is time to initiate a meaningful discussion in this regard.

KEYWORDS: *global financial crisis, economic crisis, bank bailout, SCM Agreement, indirect subsidy, public fund*

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