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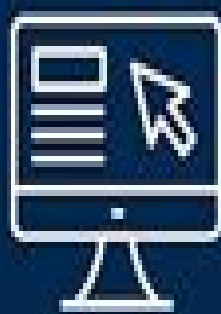
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Das Haftungskonzept Fehlerhafte Ad Hoc Mitteilungen

Richard Wichmann



Das Haftungskonzept Fehlerhafte Ad Hoc Mitteilungen:

Haftung am Sekundärmarkt für fehlinformationsbedingte Anlegerschäden Richard Wichmann, 2017-07-24

Fehlinformierungen der Kapitalmärkte durch Emittenten von Wertpapieren stellen ein andauerndes Problem dar wie etwa der VW Abgasskandal belegt. Richard Wichmann zeigt effiziente und de lege lata umsetzbare zivilprozessuale und materiell rechtliche Lösungen auf. Ihnen ist gemein, dass sie die derzeit zu geringe Aussicht auf eine erfolgreiche Geltendmachung von Anlegerschaden am Sekundärmarkt erhöhen. Zugleich werden Emittenten starker abgeschreckt, Informationspflichtverletzungen zu begehen. Im Fokus stehen die Erleichterung des Kausalitätsnachweises bei der Geltendmachung des Kursdifferenzschadens und der Anwendungsbereich bestehender Schadensersatzansprüche insbesondere 37 b WpHG. Zudem werden Lösungsansätze für Probleme bei der Schadensberechnung aufgezeigt. In der Gesamtschau ergibt sich ein stimmiges Konzept, das Anleger und Marktfunktionsschutz garantiert, ohne Emittenten übermassig zu belasten. Die Arbeit wurde 2016 mit dem Förderpreis der Stiftung Unternehmensfinanzierung und Kapitalmärkte für den Finanzstandort Deutschland ausgezeichnet.

Das Haftungskonzept für fehlerhafte Ad-hoc Mitteilungen Daniel Schwiete, 2015-06-26 Studienarbeit aus dem Jahr 2013 im Fachbereich Jura Zivilrecht Handelsrecht Gesellschaftsrecht Kartellrecht Wirtschaftsrecht Note 12 Punkte Humboldt Universität zu Berlin Rechtswissenschaften Veranstaltung Schwerpunktbereich Sprache Deutsch Abstract Die Skandale am Neuen Markt, die Stichworte sind hier Comroad, Infomatec und EM.TV und deren rechtliche Aufarbeitung offenbaren ein Defizit des deutschen Anlegerschutzes. Obwohl die Zivilgerichte festgestellt hatten, dass die Veröffentlichungen falscher Ad hoc Mitteilungen zur Manipulation der Marktpreise geführt und viele Anleger daraufhin erhebliche Schäden erlitten hatten, waren Schadensersatzforderungen nach allgemeinem Deliktsrecht gegen die Emittenten oder deren Organe nur selten erfolgreich. Dies erkennend schuf der Gesetzgeber 2002 durch das 4. Finanzmarktförderungsgesetz (FFG) mit den 37b c WpHG spezialgesetzliche Normen für die Kompensation von Schäden, die durch fehlerhafte oder unterlassene Ad hoc Mitteilungen verursacht werden. Ziel der nachfolgenden Darstellung ist es, das Haftungskonzept für fehlerhafte Ad hoc Mitteilungen, das nunmehr aus 37c und diversen anderen insbesondere deliktischen Ansprüchen besteht, vorzustellen und auf seine neuralgischen Punkte hin zu untersuchen. In diesem Zusammenhang ist insbesondere die IKB-Entscheidung des BGH vom 13.12.2011 zu berücksichtigen, in der die Tatbestandsmerkmale der 37b c erstmals hinsichtlich ihrer Struktur analysiert wurden.

Haftung für fehlerhafte Ad-hoc-Publizität Alexander Dirigo, 2011-01-01 Alexander Dirigo behandelt im Schwerpunkt den ersatzfähigen Schaden, die Anforderungen an die Kausalität und den Kreis der Anspruchsberechtigten bei der Haftung wegen fehlerhafter Ad hoc Publizität. Untersucht wird, ob die im Jahr 2002 eingeführten 37b, 37c WpHG sowie die Rechtsprechung des BGH zur Haftung aus § 26 BGB überzeugende Lösungen bieten. Bei der Untersuchung helfen unter anderem Vergleiche mit der bürogesetzlichen Prospekthaftung sowie mit der Sekundärmarkthaftung in den USA. Nach Ansicht des Autors ist bei den 37b, 37c WpHG nur der Kursdifferenzschaden

ersatzföhrig die haftungsbegründende Kausalität ist dagegen großzügiger zu handhaben. Insoweit lassen sich schon de lege lata sachgerechte Ergebnisse erzielen, jedoch sind Klarstellungen durch den Gesetzgeber zu empfehlen. Verbesserungsbedarf besteht bei der komplizierten Regelung der Anspruchsberechtigung. Die Rechtsprechung des BGH zur Haftung aus § 249 BGB, die strenge Anforderungen an die haftungsbegründende Kausalität stellt, jedoch den Schaden großzügig bemisst, verdient im Wesentlichen Zustimmung. *Rechtsfolgen fehlerhafter Ad-hoc-Mitteilungen im deutschen und US-amerikanischen Recht*
Michael Rimeck, 2005

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