Related laws of commerce

Q 2-02. In what way do financial laws affect sovereign debt markets?

The legal framework that has been discussed thus far may be extended to include regulation of market participants, market conduct, commercial practices, property and contracts, securities exchanges, self-regulating bodies, and rules for clearing and settlement. The laws that comprise this framework include both those that address debt issuance entities directly and those that address the structure of property and business practice of the broader commercial system.

Q 2-02.01. How do laws covering transactions involving collateral impact the debt process?

Laws may regulate transactions on the exchanges and how property is accounted for by counterparties; such laws address issues concerning pledged assets and collateral and secured transactions. The laws on pledges and on collateralized loans affect how repurchase agreements and loans are drafted and interpreted, and how the rights of the parties are sorted out when ownership and liability questions arise.

Government debt, with its presumed low risk and relative liquidity, is a principal asset offered as collateral. Demand for government debt (and, hence, its marketability) will be affected by the ways these laws affect transactions in pledged assets.

Q 2-02.02. What is the relationship between sovereign debt and banking laws?

Banking laws become particularly important when securities are traded under a book-entry system. Banks may provide a viable holding system for securities as accounting entries. Further, they may match, by virtue of their maintenance of funds accounts, the sale of securities with payment. Finally, they offer the means of transmitting payments of interest and redemption proceeds to investors.

Banking laws should be reviewed to assure that they do not pose impediments to financial institutions in servicing Government securities. For example, one of the major concerns historically has been the disparate capacities of securities dealers and brokers, on the one hand, and of commercial banks, on the other, to service the Government securities market. The major distinction has been the ability of banks to service both the funds and securities sides of transactions.

Countries sometimes differ in the kinds of banking or savings institutions that provide financial services for their communities.

Q 2-02.03. How do laws related to regulation of market participants affect the debt process?

To create a level playing field, specific laws regulate market participants.[1] Market agents are subject to laws and regulations that govern the licensing, examining and supervising of securities dealers and brokers. Participating financial firms are subject to requirements on financial structure to avoid capitalization problems.

Q 2-02.04. What are the concerns of laws and regulations that govern security exchanges?

Laws concerning *securities exchanges* are intended to provide a fair market in which all parties may participate without disadvantage. Such laws may provide authority for the government to oversee the exchanges on which trading occurs or to monitor organizations that provide central depository and clearing services. Oversight may include the means to address investor complaints.

Generally, regulatory approval of government securities should be excluded from the purview of any securities commission. Since few states issue debt directly into the exchanges, this guideline should be readily observed.

[1] Securities laws will also affect a system of primary dealers or the secondary market by prescribing practices for counterparties for trading securities.