Sound Practice in Debt Management Legislation

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The Institutional Context

- Legislation is only one component of the governance structure – but a key one
  - Defines and focuses powers, but also limits abuses and establishes accountabilities
- But legislation reflects institutional needs and practices of countries concerned
  - Common law v. civil law – huge difference in extent of codification
  - How far are ministers' and officials' roles and responsibilities specified in legislaiton, or are they allowed discretion (but are accountable for its exercise)?
  - Varying boundary between primary and secondary legislation

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Some Trade-offs

- Allow for innovation in financial markets
  - Several debt managers currently unable to use swaps
  - Constraints on e.g. dematerialisation of securities
- Debt managers need to be flexible and responsive
- Argues for reliance on professionalism and accountability within high level regulatory framework
- But
  - Depends on administrative background and history, and relationship between executive and parliament
  - In LICs a well defined framework may strengthen debt managers in relation to capricious politicians

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The Essential Requirements

- Specify authority to borrow, also give guarantees etc
  - Allowing for delegation to the executive
  - Identify sole borrowing authority, i.e. Minister of Finance, and Minister's powers, potentially allowing delegation to officials
- Issues of scope: central or general government or public sector
- Specify borrowing purposes (defined broadly)
- Set clear high-level debt management objectives
- Require preparation (and publication) of debt management strategy
- Priority appropriation for debt interest
  - In some English-speaking countries, inc in Constitution, but law is sufficient
- Identify mandatory reporting and audit requirements
- Range of other issues, eg
  - Roles of other institutions and the relationship with other governmental bodies: e.g. central bank; establishing a DMO or a Public Debt Committee
  - Cash management powers

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Some Tricky Issues – Parliament

- Strongly recommended that parliamentary control does not extend to individual borrowing decisions
  - Adds a potentially cumbersome, time-consuming and over-politicised step in decision-making process
  - Time is often of the essence for market borrowing
- More appropriate for parliament to approve the legislation and hold ministers and officials accountable for the debt management strategy and its execution
- Instead reassure Parliament
  - Sound legislation and a strong governance framework with clear objective-setting, borrowing authority, reporting, accountability and audit provisions
  - Provide an opportunity to discuss the debt strategy, e.g. as part of the annual budget discussions, and to vote on the annual borrowing resolution
- Compromises
  - Less problematic for loans and credits [may also be covered by treaties]
  - Approve parameters of a borrowing programme

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Some Tricky Issues – Borrowing Limits

- Limits or targets in primary legislation (e.g. debt/GDP – as for eurozone supplicants who include Maastricht's 60%) rarely make sense
  - If too low they may constrain responses at the time of financial stress, given the time lags involved in passing new legislation.
  - If too high, they may not be meaningful.
- If they are to be included, must be:
  - Realistic – and accepted as such
  - Underpinned by adequate political commitment, with appropriate compliance mechanisms in place
- Preference:
  - An annual borrowing limit set consistently with the financing requirement implied by the annual budget
  - Ideally flows from debt strategy and annual financing plan
  - Limit would be specified in the annual budget law or resolution.
    - May not be exactly the same as the financing requirement, some flexibility needed
    - Update if budget updated

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The Legislative Vehicle

- Wide range: constitution, fiscal responsibility act (FRA), budget act, financial administration act, etc
- Preference for integrated debt management act – improves coherence and accountability
- Some areas of overlap
  - Annual net borrowing limit may be set under budget law
  - FRA covers different issues than a GDMA
    - FRA's focus is fiscal policy: may include path for debt
    - Borrowing limits better in FRA not GDMA
    - Both should include accountability reporting
- Use secondary legislation for operational and potentially ephemeral issues

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