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 legislation, or are they allowed discretion (but are accountable for its exercise)?
  – Varying boundary between primary and secondary legislation
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
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
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
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
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