INTERNATIONAL FINANCIAL AND MONETARY LAW

SECOND EDITION

ROSA M. LASTRA

OXFORD

INTERNATIONAL FINANCIAL AND MONETARY LAW

SECOND EDITION

ROSA MARÍA LASTRA
Professor of International Financial and Monetary Law
Centre for Commercial Law Studies
Queen Mary University of London

OXFORD
UNIVERSITY PRESS

OXFORD
UNIVERSITY PRESS

Great Clarendon Street, Oxford, OX2 6DP,
United Kingdom

Oxford University Press is a department of the University of Oxford.
It furthers the University's objective of excellence in research, scholarship,
and education by publishing worldwide. Oxford is a registered trade mark of
Oxford University Press in the UK and in certain other countries

First Edition published in 2006
Second Edition published in 2015

Impression: 1

Published in the United States of America by Oxford University Press
198 Madison Avenue, New York, NY 10016, United States of America

British Library Cataloguing in Publication Data
Data available

Library of Congress Control Number: 2014946121

ISBN 978–0–19–967109–0

Printed and bound by
CPI Group (UK) Ltd, Croydon, CR0 4YY

INTERNATIONAL FINANCIAL AND MONETARY LAW

SECOND EDITION

FOREWORD

By Charles Goodhart

When Professor Rosa Lastra completed her earlier book on *Legal Foundations of International Monetary Stability* (OUP, 2006), I very much doubt whether she then expected that so much would change in the subsequent eight, or so, years that a major rewrite, a re-assessment, would be necessary, as indeed it is. It is, perhaps, symptomatic that the word *Stability* has been dropped from the title of the new book. It was not, however, as if everything had been totally stable and constant prior to 2006. As I wrote in my Foreword then, 'Over the past fifty years [1960–2006] this simpler structure [of national and international financial systems] has dissolved and been reformulated in a much fuzzier and more complicated system.' But that reformulation into a more liberal, global and market-oriented system seemed complete by 2006. In 2006 the 'Great Moderation' was still working, and Central Bankers, who were deemed to have made it work, were widely applauded. New financial innovations were supposed to have made the system safer. In efficient markets, bankers should control risk for themselves, so only 'light touch' regulation should be necessary; the golden eggs laid by such bankers were so widely rewarding that the increasing share appropriated by top management was barely noticed, or even treated as a condign incentive. The euro had seamlessly replaced the prior national currencies, and the 'nay-sayers' disconcerted. The IMF's role was narrowing to looking after emerging economies, and, as these regained strength after the 1997/98 South East Asian crisis, there were concerns whether the IMF would be making enough loans to earn the money to pay its staff!

One only has thus to recall the financial circumstances of 2005/6 to realize what an enormous amount has changed since the onset of the Great Financial Crisis in 2007/8, plus the subsequent travails in the eurozone. Concepts and ideas have changed; institutional roles have been altered at a breathtaking speed, for banks, investment banks, central banks and the IMF (who could have foreseen the Troika ten years ago?), and also for market structures. This has necessarily been driven and accompanied by a whirlwind of new financial regulations, the Dodd-Frank Act, more EC financial Directives than I can count, or remember, and a complete recasting of the regulatory structure in the UK, involving centralisation of regulation in the Bank of England at the same time as partial separation (ring-fencing) of the major commercial banks.

This process of institutional and regulatory change remains ongoing. Nevertheless its pace may now slow. In the US the political face-off between Republicans and Democrats will prevent most legal initiatives over the next few years. Elsewhere fading memories of the Great Financial Crisis, and the need to underpin a sluggish European recovery with additional bank credit expansion, may lessen the enthusiasm for further tougher bank regulations; there will be a need to digest what has been force-fed to the financial system in recent years. Having embarked on the most extraordinary practices of unconventional monetary policies (UMP), central banks, or at least those where recovery has become established, are looking forward to clawing their way back to normality, or perhaps to the 'new normal',

whatever that may be. So there may now be something of an inflection, a hiatus, in the pace of institutional and regulatory change.

In short, the present is a good moment to take stock of the recent momentous changes to *International Financial and Monetary Law*, and there is no one better qualified and able to do so than Rosa Lastra. She is primarily an (excellent) lawyer, and this is primarily a legal tome. But no one could do justice to this broad subject without a wide range of interdisciplinary skills, especially economics, international relations, politics, and current history, and a thorough knowledge of the context in the Eurozone, the USA and the UK, plus the relevant international bodies in Basel (eg, BIS, FSB) and Washington (IMF). Rosa has all these skills and knowledge in abundance. Indeed, I do not know of anyone else with an equivalent, and so necessary, skill set.

In additional to sheer ability, Rosa has drive, dedication and great management skills. I marvel that anyone could bring up four lovely teenage children, run a happy home, undertake a full professorial teaching and administrative load, and still find the time and space to do as much excellent research and writing as she has done.

Charles Goodhart
London School of Economics

FOREWORD

By Thomas C. Baxter, Jr.

More than 15 years ago, Rosa María Lastra demonstrated to me her expertise about central banking and her clear-eyed analysis in a rather dramatic fashion. She was testifying as an expert on behalf of the Federal Reserve Bank of New York before the Iran–United States Claims Tribunal in The Hague, and the Tribunal was considering whether the New York Fed acted independently of the United States Government in implementing the Algiers Accords. The Algiers Accords are the legal agreements that resulted in a kind of trade between Iran and the United States. But this was no ordinary trade—it was a trade that affected countries and the lives of individuals. I should probably also mention that I was no ordinary observer. I was there in my capacity as the general counsel of the Federal Reserve Bank of New York.

In this trade, Iran received assets that had been frozen as the result of an Executive Order issued by President Carter, and the United States received 51 Americans who had been held hostage in Iran. The case concerned interest that the Iranians claimed to be owed on their frozen assets during the pendency of the freeze order. To discredit Professor Lastra's direct testimony, a series of lawyers representing Iran stood up and attempted to cross-examine the diminutive, youthful expert who appeared on behalf of the Federal Reserve Bank. She spoke perfect English with a beautiful Spanish accent. Her demeanor in her direct testimony was courtroom perfect, and she answered every question clearly, concisely, and confidently.

On cross-examination, each lawyer for Iran took a turn, no doubt expecting to elicit some type of concession that would be useful to the claimant, the Central Bank of the Islamic Republic of Iran. As I recall the scene, there were six lawyers and each one failed in a wonderful sequence. I remember wishing there were more lawyers to represent Iran, and even considered ceding the Federal Reserve's time to Iran. Professor Lastra, even before her global reputation had become established as a monetary lawyer, showed her characteristic capability. She never became rattled or upset, and she established a clear rapport with the international legal experts who sat on the Tribunal. The Italian judge seemed especially taken with Professor Lastra, and at times even seemed somewhat protective (although Professor Lastra needed no protection). She seemed almost to relish being questioned about a topic on which she was clearly the master. Her core topic—central bank independence—was a topic that Professor Lastra owned.

Since that time, Professor Lastra has become the world's foremost authority on central bank independence. In addition, she has studied and written about so many other legal issues that affect central banks and monetary lawyers. Of course, events and circumstances have created an enormous opportunity for Professor Lastra. During the last 15 years, central banks throughout the world have become so much more significant from a public policy perspective. For example, the Great Recession has made the Federal Reserve much more prominent and recognizable to the public, underscoring the organization's exceptional crisis management capabilities and also highlighting some things that were not done as well in

the prelude to the crisis. Similarly, in the Eurozone, the emergent European Central Bank has achieved incredible success with the introduction of the Euro, seamlessly and flawlessly replacing a plethora of legacy currencies. But a sound and stable Euro was not enough to avoid the financial crisis that afflicted the Eurozone, a crisis so challenging that it nearly led one member state, Greece, to consider returning to the Drachma.

Like many in academia, Professor Lastra observes the successes and failures of central banks, the ups and downs of those who participate in the financial services industry, and the global struggle to restore and maintain financial stability. But she is so much more than just an observer. With respect to a number of discrete issues, Professor Lastra has offered her advice and counsel to some of the crisis protagonists and to the Parliament. Accordingly, her perspective is not that of someone who sits in an ivory tower. It is the perspective of someone who is deeply thoughtful and independent, to be sure, but not so detached as to lose perspective on the practical considerations that make policy executable.

This reference to the practical prompts my recollection of the occasion when I first met Professor Lastra. It was at Harvard Law School and Professor Lastra was interviewing with the New York Fed for a possible position in our Legal Group. While I have a somewhat hazy recollection of the interview itself, Professor Lastra occasionally reminds me of one important practical detail that arose during our interview. Professor Lastra was bound and determined to work at a central bank in her first job since graduating law school, and she was as focused and determined in the interview as she was in answering cross-examination questions from Iranian lawyers at The Hague. At some point in the interview, I innocently inquired whether Professor Lastra was a U.S. citizen. At that time, citizenship was a requirement for all of our legal positions. Professor Lastra remembers that the interview took a downhill turn when she candidly admitted she was not a U.S. citizen. Yet the story has a happy ending because Professor Lastra's Federal Reserve interview gave rise to another interview with an organization that did hire non-U.S. citizens. Through an amiable personal style and a hyperintensive focus, Professor Lastra was able to parlay her Federal Reserve interview into a legal position at the International Monetary Fund (IMF) in Washington. The Fund experience enriches Professor Lastra's manuscript in many places.

Professor Lastra's experience at the IMF also helped to season her analysis of how this international organization has affected various events, including the crisis in the Eurozone. And, once again, her scholarship shows a blending of the theoretical and the practical. Nowhere is this more manifest than in the discussion about the new-found emphasis on financial stability. This concept, financial stability, brings together microprudential supervision and macroprudential supervision, and emphasizes again the importance of central banks. As the IMF has documented, there are the potential dangers of conflict, but the more important hazard is where micro and macro policy makers proceed in blissful ignorance of each other.

Vision is a word that is tossed about with some frequency. Professor Lastra is not only well grounded in financial events that have occurred in recent history. She also has her eyes on an emerging future, especially within Europe. Her analysis of the single supervisory mechanism, an innovation that promises to reform banking supervision in Europe in the same manner as the ECB has reformed Eurozone monetary policy, is exceptional in identifying the potential promises and likely pitfalls. It could not be more timely and draws on all of Professor Lastra's strengths.

I am sure that central bankers, supervisors, international monetary organizations, and the people affected by them (ie, all of us) will benefit from the wisdom that appears on the pages that follow of the second edition of *Legal Foundations of International Monetary Stability, International Financial and Monetary Law*. I know that I have.

Thomas C. Baxter, Jr.
General Counsel
Federal Reserve Bank of New York
New York, New York

PREFACE

The genesis of the first edition, entitled *Legal Foundations of International Monetary Stability*, can be traced back to the early 1990s, for the reasons outlined below. The need for a second edition, renamed *International Financial and Monetary Law*, became apparent in the context of the Global Financial Crisis and its aftermath, given the major changes at the national, European, and international level in the fields of central banking, monetary law and financial regulation. This second edition is not merely an update (though, of course, the volume has been substantially updated); it is a fundamental revision of the architecture that safeguards monetary stability and financial stability domestically, at the EU level and globally.

Writing a preface is something an author both dreams about and fears. One aspires to encapsulate in a few introductory paragraphs the essence of one's research, the thrust of one's argumentation, acknowledging the people, works, and events one should remember. One worries about failing in that task.

To begin, let me explain the rationale for the new title. On the one hand, it reflects the revised contents of this second edition and, on the other hand, it addresses the issue of the intended audience, the readership for this volume. This is a book for lawyers and economists, for experts and students in banking and financial law, and for specialists in international monetary law (a rapidly evolving branch of international economic law), but it is also a book for the central banking fraternity and for regulators and supervisors nationally and internationally.

The definition of money, as I explain in the first chapter, can be narrowly understood (currency in circulation or monetary base) or broadly understood (other monetary aggregates that include a broader range of financial assets). Monetary law can also be construed in narrow terms (the discipline covering money, exchange rates and related issues) or in broader terms (extending also to the study of the law and regulation of financial markets and institutions). From an institutional perspective, my study encompasses both the analysis of the 'international monetary system' (the official arrangements relating to the balance of payments—exchange rates, reserves, and regulation of current payments and capital flows) and of the 'international financial system' (comprising the international financial institutions—formal and informal—and the various public and private actors in the so-called 'global financial market' which is not a huge global homogenous market, but rather more like a spider's web or a radial web with multiple interconnections and linkages, in which national markets permeate each other and in which a few of the players tend to dominate the scene). Though a restricted focus can be at times advantageous, I generally favour a wider interpretation of monetary law/international monetary law to comprehend the fundamental changes that have taken place in the last decades. Institutions such as the International Monetary Fund appear to be struggling somehow to try to sort out how the international financial system relates to the international monetary system (as well as differentiating between what is public and what is private). Central banks, on the other hand, appear more

comfortable dealing with the interaction between the monetary system and the financial system. The second edition of *International Financial and Monetary Law* encompasses both the 'monetary architecture' and the related 'financial architecture'.

Following an analysis of money and monetary sovereignty, this book commences with the study of central banks. Logically and chronologically this is a sensible choice, since central banks are key actors in the international monetary and financial system. The twin mandate of central banking is safe money and sound banking (in the words of Vera Lutz Smith), or, in modern terminology, monetary stability and financial stability. These two goals, which are fundamental for any contemporary nation, also have a European (regional) dimension—hence the need to re-assess the role of the European Central Bank in the context of Banking Union—and an international dimension, thus leading us to the analysis of the role and mandate of the IMF and the evolving international financial architecture. We need to remove the dust from our old ideas in the field of central banking.

This book examines the role of public authorities at different levels (multi-level governance or inter-jurisdictional approach) and also considers the role of financial markets, in particular the interaction between regulators and regulatees. Markets, much derided by some commentators, are always part of the solution. Though certainly not untainted by the crisis, the trouble with markets is not markets per se, but the expectations and behaviour of market participants (and their regulators).

These problems are not new though. In the first edition of the *Financial Times* of 13 February 1888 (reprinted on the occasion of its 150th anniversary on 13 February 2013), a piece of news entitled 'Russia and Finance' beautifully summarizes the fickleness associated with markets, *plus ça change?*:

> We are all waiting on the tip-toe of uneasy expectation for the next move. Markets, as sensitive as the magnetic needle, turn now this way, now that, and there is, no rest; speculators hesitate, investors wait for the golden moment which means to them buying in at war prices, and certain manufacturers rub their hands complacently and mentally, saying with Iago, not no matter which suffer, they gain. But pause a little, are we—can they be so certain that they profit and we escape?

Back to the origins of this book: In the early 1990s, I was fortunate enough to work at the Legal Department of the International Monetary Fund in Washington DC at a time of momentous changes. The break-up of the Soviet Union in December 1991 and the collapse of communism had given rise to a wave of monetary legal reforms, with the establishment of central banks, new currencies and a commercial banking system based upon the principles of a market economy; the Maastricht Treaty on European Union, signed in 1992, had laid out the legal framework for the creation of a single currency and of a European Central Bank. These historic events re-kindled the interest in the study of the legal framework of money and finance, and encouraged me to analyse the rather novel subject of central banking law.

Monetary and financial law is characterized by the existence of overlapping jurisdictions. This is particularly clear in the European Union, where national developments in monetary and financial law overlap with developments at the EU level and with international developments and obligations imposed by membership in international organizations. A recurrent topic in my study is the juxtaposition of areas of jurisdiction: national law

versus international financial markets, national fiscal policies versus supranational monetary policy, etc.

This book analyses in a systematic and comprehensive manner how national, European, and international developments in monetary law and related aspects of financial regulation have dramatically changed this dynamic field of law over the last decades. At the national level (Part I of the book), the central bank is typically the key monetary institution in a country. At the European level (Part II of the book), the European System of Central Banks is the central monetary institution for the Member States that have adopted the euro as their single currency. At the international level (Part III), the International Monetary Fund is the central international monetary institution. There is a certain symmetry among the three parts of the book (which has been preserved in the second edition) each one of them commencing with a historical chapter, analysing then the framework of the 'monetary architecture' and ending up with a consideration of the 'financial architecture' with regard to the functions of financial supervision (micro and macro) and surveillance, regulation, and crisis management, including lender of last resort and resolution.

In examining the legal foundations of international monetary stability, it is important to emphasize that the law typically reflects a notion of monetary stability that focuses primarily on its internal dimension (ie, price stability, keeping inflation under control), while it tends to refer to the external dimension of monetary stability (ie, the stability of the currency vis-à-vis other currencies, which is, in turn, influenced by the choice of exchange regime) in rather ambiguous terms. Exchange rate issues have always haunted the economics profession. The pendulum has swung between fixed and floating, and continues to do so.

To some extent, the 'stability culture' itself is a relatively modern phenomenon. The emphasis on price stability (inflation control) is a development that needs to be understood in a historical context: that provided by the country experiences, economic policies, and economic thinking that prevailed in the second half of the twentieth century. The renewed emphasis on financial stability, increasingly seen as a public good nationally and internationally, is one of the responses to the financial crisis. Indeed, in the aftermath of the global financial crisis, the monetary authorities—the central banks—have altered the 'stability regime': no longer stability (in the sense of strict focus on inflation control) but flexibility (a dual or multiple mandate with greater attention to growth and employment) is the new creed. Of course, this current trend may change again once inflation and inflationary expectations return (perhaps with a vengeance).

From a methodological point of view, my approach is a combination of public international law, commercial law, regulatory law, and the inter-disciplinary dialogue between law and economics. The legal approach provides order, clarity and rationalization to the study of money and finance, as well as attention to detail. However, I am deeply aware of the difficulties of any multi-dimensional study. Stigler wrote in his *Memoirs of an Unregulated Economist*: 'One cannot communicate effectively with other people unless one uses the language to which they are accustomed.' The challenge remains, in my opinion, to establish such an effective inter-disciplinary communication in the field of social sciences.

Two main developments affecting the legal framework of central banks are analysed in depth in the first part of the book: the issue of independence and corresponding

accountability of central banks and other financial authorities, and the institutional framework for the conduct of supervision (macro and micro), regulation and crisis management (lender of last resort, deposit insurance, resolution, and insolvency). Since the near-collapse of the financial system in 2008, the status of central independence and the institutional balance in the pursuit of financial stability have been revisited. 'Architectural' reforms have granted a more relevant role to systemic risk control through the embracement of the concept of macro prudential supervision and through the establishments of committees or councils for financial stability. My study aims to provide a source of reference for national developments in monetary and financial law in both developed and developing countries.

The European Central Bank is the institution at the centre of the European System of Central Banks in charge of the management of the single currency. It is an independent institution enshrined in the framework of EU law. Despite the oneness of monetary policy in the European Union, this exclusive competence remains geographically limited to a part of the Union: the Member States that have adopted the euro. The asymmetries between monetary policy and fiscal policy and between monetary policy and financial regulation and supervision proved to be an inherent source of strain on EMU during the twin financial and sovereign debt crises in the euro area. The advent of banking union—addressing the inconsistency between a centralized monetary policy and decentralized banking supervision and crisis management—has fundamentally changed the European financial architecture in the direction of greater centralization, with the ECB firmly at the helm of the Single Supervisory Mechanism. However, the supervision of capital markets and insurance undertakings remains decentralized, while economic governance reforms post-crisis, important as they are, still fall short of a true fiscal union.

The differentiated integration and the bewildering complexity that characterize the EMU structure are a key theme in Part II of the book. The European project of integration was born out of hopes and fears: the fear of France for Germany and the fear of Germany for itself (in the words of the editor of *Die Zeit*, Josef Joffe: 'It is tough to be Germany, the country in the middle that has always been too strong for Europe but too weak to dominate it', *Financial Times*, 22 March 2013), the fears of wars and divisions, and the hopes of peace and prosperity, bringing forces together to build a better future. And those hopes and fears remain at the heart of any further integration.

There are two contrasting views that will determine the future of the EU: one regards integration as a political project which may require economic sacrifices, while the other considers the process of integration from the perspective of its economic benefits. In the United Kingdom, where the latter view is clearly dominant (the economic benefits of the single market and free trade are generally welcome, while political integration and the expanding regulatory framework are not) the long shadow of a referendum not only casts uncertainty, but also puts into question the very commitment of the UK to the Union. I for one firmly believe that the future of the UK lies at the heart of Europe. And the EU, of course, benefits greatly from the tradition of liberalism, openness, accountability, transparency, and a global outlook that an engaged UK brings to the table of European negotiations.

The third part of this book analyses the law governing international monetary relations. The challenges that the international monetary and financial system faces in the twenty-first century are very different from the challenges the Bretton Woods institutions—the

International Monetary Fund and the World Bank—confronted when they started operations in Washington DC in 1946. These challenges, particularly the ones encountered by the International Monetary Fund, are examined in Part III.

The unique nature of the responsibilities of the Fund, the economic character of most of its functions and operations, the idiosyncratic and rather opaque terminology that applies to its activities and financial structure (derided by Keynes as 'Cherokee' language), and the specific knowledge required to understand the legal aspects of those activities (a knowledge that is traditionally the reserve of Fund lawyers and of a few academics who venture into its study) explain the relatively thin body of doctrine dealing with the complex issues of public international monetary law.

The worldwide change from fixed to floating exchange rates, following the collapse of the par value regime, also meant a more profound change in the nature of the IMF. It signified the shift in emphasis from being primarily a rule-based international monetary institution focusing on issues such as exchange rate stability and convertibility, to becoming an international financial institution with a broader array of responsibilities (and greater degree of discretion), encompassing not only monetary issues, but also other financial issues, such as the regulation and supervision of banking and capital markets, financial reform, debt restructuring and others. The evolution of the Fund over the last three decades has affected the exercise of surveillance, the practice of conditionality and its crucial role as international lender of last resort.

An analogy can be made between the role of the central bank at the national level and the role of the IMF at the international level. A central bank is typically entrusted by national law to maintain monetary stability in the domestic jurisdiction. The IMF is the international institution entrusted by an international treaty (the IMF Articles of Agreement) to promote stability in the international monetary order. The evolution of national central banks in recent years is characterized by the increasing importance and attention given to the goal of financial stability, as part of the mandate of the central bank (with or without supervisory responsibilities). By analogy, the interpretation of the mandate of the IMF (according to the broad enumeration of goals in Article I of the Articles of Agreement) has been expanded over the last years, and the pursuit of international financial stability has become an important objective in the international financial architecture.

The IMF is not only the international monetary institution par excellence; the IMF is also at the centre of the international financial system. This central role is key to understand the legal framework for the prevention and resolution of international financial and sovereign debt crises.

The process of international financial standard setting (the growth of soft law) that I critically examine in the last chapter of the book is a key feature of the evolving 'international financial architecture'. The IMF, however, is not the only international financial standard-setter, nor is it the most relevant one. This regulatory function is shared by a number of formal international organizations, informal groupings and fora of an international character (with the Financial Stability Board, the Basel Committee on Banking Supervision and other Committees that have grown under the auspices of the Bank for International Settlements, playing a significant role), professional associations and other

entities. However, the IMF is uniquely placed to monitor the compliance with standards through its function of surveillance and through its assessment of the health of the financial sector (via the Financial Sector Assessment Program (FSAP), and the Reports on the Observance of Standards and Codes (ROSCs)) and to provide countries with the incentive to observe those standards through the design of conditionality.

The final revisions of this manuscript were completed on 19 June 2014, though it was possible to include a few relevant subsequent developments during production.

The process of writing a book is characterized by a certain solitude. Hence, it is with heartfelt gratitude that I acknowledge the feedback, advice, and support received from colleagues and friends in the course of its preparation. To all those that I thanked in the first edition, Charles Goodhart and Gaspar Ariño (my intellectual fathers), Lee Buchheit, Thomas Baxter, René Smits, Antonio Sainz de Vicuña, Sean Hagan, Geoffrey Miller, Joseph Norton, Charles Proctor, Hal Scott, Howell Jackson, Stephen Breyer, Jordi Canals, Forrest Capie, Sam Cross, François Gianviti, Karel Lannoo, María Nieto, Pierre Panchaud, Charles Proctor, Dirk Schoenmaker, Geoffrey Wood, Chiara Zilioli, Harald Benink, and the other member of the European Shadow Financial Regulatory Committee, and my CCLS colleagues and friends, I must also add now my thanks to John Jackson, Thomas Cottier, Diego Devos, Philip Wood, Charles Randell, Claus Zimmermann, Nusret Cetin, Anamaria Viterbo, Luis Garicano, David Bholat, Costanza Russo, Gabriel Gari, Jeremy Pam, Graham Nicholson, Jean-Victor Louis, Mark Jewett, Stefan Gannon, Ross Cranston, William Blair, and MOCOMILA (Monetary Committee of the International Law Association) colleagues. A special mention to René Smits for all his suggestions concerning Chapters 6 to 11, and to the staff of the IMF Legal Department under the direction of Sean Hagan (in particular Katharine Christopherson, Yan Liu, Nadia Rendak, Gabriela Rosenberg, Eric Robert and Amanda Robin Kosonen) for their careful reading and insightful comments regarding Chapters 12 to 14.

We have a saying ('refrán') in Spain that states: 'Dime con quien andas y te diré quien eres' (tell me who you hang out with and I will tell you who you are), commending good friendships and warning about less desirable ones. This 'refrán' comes to mind when I acknowledge the influence of all those who have inspired and informed my views over the years. I feel truly privileged to have come across and befriended so many wonderful and influential thinkers and experts. Needless to say, errors and limitations remain mine alone.

My editors and publishers at Oxford University Press encouraged my writing with courtesy and patience. Apostolos Gkoutzinis and Rodrigo Olivares Caminal were excellent research assistants in the first edition (and the two have done remarkably well since then: Apostolos is today a partner at Shearman & Sterling, while Rodrigo is now a Law Professor and one of the leading scholars in sovereign debt law). For this second edition I have counted with the competent research assistance of Samuel Dahan, Tatjana Nikitina, Lucia Satragno, Enmanuel Cedeño-Brea, and Andrea Miglionico.

Over the years, my students in Columbia University in the City of New York and at the Centre for Commercial Law Studies, Queen Mary University of London—a rainbow of nationalities and cultures—have been a constant source of inspiration. The future belongs to them and I thank them all.

A debt is always owed to one's parents, and here I must thank my own for their dedication to me and to my siblings throughout the years. As they grow older, I treasure their very presence ever more. And last, but not least, very special thanks to my husband, Mats Kummelstedt, and to our four children, Alejandro, Eric, Roberto and Anna (they have grown so much in the last eight years!), since it is their enthusiasm, their wit and their joy that keep me going. To them I dedicate my work.

Rosa María Lastra
London, 19 June 2014

TABLE OF CASES