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*THE INTEGRATION OF EUROPEAN
FINANCIAL MARKETS*

THE REGULATION OF MONETARY OBLIGATIONS

The process of integration of financial markets offers one of the most interesting examples of the effects of globalisation. The case of European financial markets is particularly significant in this regard. To a large extent, the process of integration has proceeded in the absence of comprehensive legal regulation, and has rather been constructed on the basis of sectorial provisions dictated by the needs of cross-border transactions. This development explains why one of the remaining obstacles to the completion of the integration process is represented by the so-called 'legal barriers'.

The removal of these legal barriers entails not only a series of regulatory choices, but also important consequences on the possible harmonisation of laws regulating the discipline of the markets and of the transactions taking place on those markets. Furthermore, the implementation of this integration process is carried out by new subjects embodying legal sovereignty over the markets and their regulation.

An analysis of this process of integration of the markets from a legal point of view provides an opportunity to highlight the role of globalisation as the key element favouring the circulation of rules, models, and especially the development of new regulatory sources. The methodological approach is that of identifying the sources which regulate the different legal institutes involved in market transactions and providing a cross-section of the forms of regulation, competences and policy issues that characterise these sources – an imaginary journey through the different floors of a multi-storey building representing financial markets.

A critical approach to financial markets cannot ignore the very serious disruptions which have taken place across world markets starting from the so-called 'subprime crash' in 2007 and which have led to a wider, global financial crisis. Many of the central issues involved in the financial crisis are beyond the scope of this study. The problems of regulation and supervision of the markets, for example, require more detailed *ad hoc* studies that will not form the main focus of this analysis (although regulatory issues cannot be ignored, as they constitute a necessary compass to frame the wider picture of the evolutionary trends of the markets, and the wide discrepancy between the existing regulatory tools

and the reality of financial transactions across global markets is a problem of great topicality). Rather, what will be examined in more detail is the problem of the legal foundation of many of the financial instruments involved in the recent crisis (and which are often accused of causing this crisis). This is especially true for those complex instruments of structured finance which are the outcome of securitisation processes that are not always transparent. Furthermore, the problems related with the default of many of these securities, especially asset-backed securities (such as collateralised-debt obligations known as CDOs), which in turn have led to a more general fall in the confidence of the market in securitised titles and an ensuing contraction of access to credit, have highlighted that the legal differences in the rights lying at the basis of the securitised titles are often the key to understanding the weak link in the system.

A few examples of the weight of legal disparities in the overall reasons which can be identified as the causes of the recent financial crisis can be found in the first place in the fact that securitisation involves the commercialisation of debt (through mechanisms which convert, for example, mortgage securities or corporate bonds from illiquid assets to liquid financial instruments, which in turn transfer credit risk from intermediaries to consumer-investors), and the way in which the underlying debt is structured necessarily affects the probabilities of realisation of the credit; that in the case of asset-backed securities (and more specifically in the example of mortgage-backed securities) there are disparities in the conditions for the granting of mortgages (as has been the case, precisely, in the 'subprime' titles) and these differences are often also due to implementation of political directives; that there are disparities in the composition of the portfolios which make up collateralised-debt obligations and other structured titles; there are differences in the criteria with which securities are rated (differences which are also due to the multi-layered structure of many of these titles, each representing different assets carrying their own conditions and documentation and often made up of unique combination of underlying assets, with the consequence that each title can be sold and rated on the basis of disparate evaluations on future interest rates and defaults); often the ways in which securities are recorded and traded, for example, through indirect holding systems, create problems in identifying to whom the underlying securities belong. All of these problems involve the legal discipline of the securities, and more specifically their trading, their recording and their realisation. This study aims precisely at identifying these legal sources, which are not always vested in the form of national laws.

As will emerge further from the conclusions of this research, which aims at providing a cross-sector analysis of the legal sources regulating financial instruments and markets, a pre-eminent role in the determination of the content of many of these instruments is indeed

played by rules developed by market operators. Discipline and content of important financial instruments are left to the contracts setting the conditions for their sale and trade. This source will be referred to as *financial lex mercatoria*.

The study proceeds from an examination of the discipline of market transactions and of the institutes at the root of these transactions, of the type of legislative sources in force, and of the subjects acting as legislators.

The institute which can serve as a paradigmatic point of reference for the observation of the changes taking place in the legal regulation of financial markets is represented by the notion of monetary obligation. An examination under different perspectives of the regulation of monetary obligations allows the tracing of trends emerging from the legal integration process of financial markets. By starting from the root of financial regulation (that is to say money) and by proceeding with an analysis first of one of the legal institutes that is most closely affected by money (debt and payment obligations), and then, at a further level of complexity, with an analysis of transactions in financial instruments (representing a complex form of exchange of monetary obligations), the legal integration process can be assessed at different levels.

The analysis of these single institutes clearly cannot be carried out without considering the macro-economic and regulatory context in which transactions take place. Indeed, the study of the legal discipline of monetary obligations in their broadest construction has to be conducted against the background of the political process of implementation of the European Economic and Monetary Union and has to take into consideration the regulatory debates ensuing from the economic integration of the markets.

The study can therefore be roughly divided into two areas of focus: the first part concentrating on the micro-discipline of money, debts, payments and financial instruments; and the second part analysing the macro-context of integration of the markets, the persistence of legal barriers and options for their removal, and the development of new legal sources as a consequence of the transfer of monetary and political sovereignty.

Finally, the link between the two areas consists in trying to assess the consequences of the changes at the macro-level of regulation on the micro-level of legal discipline of monetary obligations, with special focus on the emergence and growing importance of soft law.

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Foreign Claims Settlement Commission, <i>Alois Szpunar v. Poland</i> , 8 May 1963, <i>F.C.S.C. Rep.</i> , p. 471	32
International Chamber of Commerce Case n. 369/1932, <i>Journal du Droit International</i> 1974, p. 902.....	32

International Chamber of Commerce case n. 1641/69, <i>Journal du Droit International</i> , 1974, p. 888	163
International Chamber of Commerce Case n.1512/71 in <i>Journal du Droit International</i> , 1974, p. 905	31
International Chamber of Commerce Case n.1717/72, <i>Journal du Droit International</i> , 1974, p. 890	30
International Chamber of Commerce Case n. 1990/72, <i>Journal du Droit International</i> , 1974 p. 897	31
International Chamber of Commerce Case n. 2152/72, in <i>Journal du Droit International</i> , 1974, p. 889	164
International Chamber of Commerce Case n. 2216/74, in <i>Journal du Droit International</i> , 1975, p. 917	31
International Chamber of Commerce Case n. 2291/75, in <i>Journal du Droit International</i> , 1976, p. 989	30
International Chamber of Commerce Case n. 2404/75 in <i>Journal du Droit International</i> , 1976 p. 995	31
International Chamber of Commerce Case n. 2520/75, <i>Journal du Droit International</i> , 1976, p. 993	31
International Chamber of Commerce Case n. 3131/79, <i>Pabalk v. Norsolor, Rev. Arb.</i> , 1983, p. 525	157
Permanent Court of International Justice, <i>Serbian and Brazilian Loan Cases</i> , 1929, Ser. A Nos. 20–21 p. 44	31, 33, 157
U.S.-Japanese Property Commission, <i>Continental Insurance Company</i> , 20 August 1960, R.S.A. XIV, p. 475	33