

EMTA Talking Points on Proposed Laws to Mandate Debt Relief

These proposed laws are an unfortunate example of good intentions run amuck, and in a very self-defeating way they fly in the face of the rule of law and the sanctity of contracts.

Vulture-bashing is even more popular than bashing banks, but while satisfying for some, neither makes for good policy. Mandating debt relief from the private sector sounds good until you stop to think that the poorest countries need more economic growth and development, and discouraging private sector lending and investment is one of the quickest and easiest ways to prevent that from occurring.

One can hypothesize the worst scenarios where vultures wheel in the sky and then swoop down and take food from the mouths of orphans, but the real world just doesn't work that way. Designing a law that limits the enforceability of valid debt claims simply does very little good, if any, and it wreaks havoc on the foundations of longer-term economic development and growth that is so desperately needed by the poorest countries.

The benefits of these proposed laws have been greatly exaggerated, while their adverse consequences have been greatly underestimated or ignored. There is very little evidence that they would result in much debt reduction (the instances of so-called vultures enforcing their debt claims are very few) or that any such debt relief would result in any benefits to the truly needy. On the other hand, the proposed laws would damage the secondary market in debt claims and thereby increase financing costs and discourage the private sector lending that often makes economic development possible. Moreover, the proposed laws would create the type of moral hazard that erodes key values like debtor country responsibility and commitment to building the infrastructure and attitudes that support economic development.

Sanctity of contract and the rule of law exist for fundamentally important reasons that have withstood the test of time and built civilization. By anchoring expectations, they are at the foundation of economic development that enables one man (or woman) to invest in the efforts of another. Accordingly, they are not abstract principles that should be set aside lightly as a result of some sort of popularity contest, even if the contest is in some ways well-intentioned. To do so is to ignore the longer-term risks of moral hazard and a resulting culture of corruption, which is the real enemy of the poorest countries, not the largely imaginary spectre of swooping vultures.

EMTA is the trade association for the Emerging Markets trading and investment community. With over 150 diverse members, EMTA's interests include supporting the development of local markets and integrating them into the global capital markets. Key to this aspect of EMTA's mission is the successful economic development of these countries. In response to legislation previously proposed by HMT, EMTA prepared a detailed analysis of the pros and cons of this type of law, based on consultations with a wide range of interested market participants, that concluded as follows:

“implementing the Legislative Proposal is likely to have various adverse effects for HIPC's generally, including harming their long-term prospects for development and economic growth, and their further integration into the international financial system. Sanctity of contract and the rule of law, as

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cornerstones of the commercial marketplace, and indeed of English law generally, are far too important to the functioning of the capital markets to be set aside in this context....As a result, the Emerging Markets trading and investment community strongly believes that the Legislative Proposal needs to be completely rethought, if not abandoned altogether. How best to promote development in HIPC's is an important question that raises broader issues. We do not believe that the Legislative Proposal contributes to this goal."