

Finance for your clients: Harmonisation of Capital Markets

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National Report of Argentina

Diego Chighizola
Alem 928, 7°
City of Buenos Aires, Argentina

Jennifer Maxwell
Blake, Cassels & Graydon LLP
London, England

Xavier Costa Arnau
Roca Junyent
Barcelona, Spain

1. Briefly describe the level of integration of the capital markets at the infra-national, national and supra-national levels.

On November 29, 2012, the Argentine Congress passed the new Securities Law which modifies the public offer regime. The aim of such amendment was, among others, (i) to integrate the capital markets at a national level through IT mechanisms, which inter-connect computing systems of the different markets and (ii) to promote the creation of new stock exchanges around Argentina.

Although these amendments, securities are mostly traded in the Mercado de Valores S.A., the Buenos Aires Stock Exchange, and in the *Mercado Abierto Electrónico S.A.* or "MAE." an over-the-counter market, also located in Buenos Aires.

Among the stock markets, the Merval is by far the most prominent. However, there are currently six stock markets in Argentina: (i) *Mercado a Término de Buenos Aires*; (ii) *Mercado a Término de Rosario*; (iii) MAE; (iv) *Mercado Argentino de Valores*; (v) Merval; and (vi) *Mercado de Valores de Córdoba*.

2. Which measures have been adopted (or are foreseen) in your jurisdiction to support access to finance by small and medium sized enterprises (“SMEs”)? Measures might include (i) supporting venture capital and equity financing; (ii) lowering information barriers; (iii) enhancing access to public markets; (iv) supporting equity financing; (v) facilitating infrastructure investment; and/or (vi) promoting innovative forms of corporate financing.

One of the purposes of the New Securities Law is to promote the access of small and medium-sized companies to the capital market.

Following this criteria, the Securities and Exchange Commission of Argentina (*“Comision Nacional de Valores”* or *“CNV”*), has recently updated the corresponding regulatory framework for SMEs.

The CNV provided a specific definition in order to determine whether a company incorporated in Argentina is considered small or medium-sized, based on its total annual income and determines the maximum amount that this average can reach for the company to be considered a small or medium-sized company, depending on the main commercial activity performed by the entity.

Notwithstanding the aim to enlarge the field of the regulation, certain companies are excluded from the category of small or medium-sized companies. Indeed, some specific entities are precluded from the application of this special regime. Such restrictions affect: (i) banking entities; (ii) markets that count with an authorization of the CNV; (iii) entities that provide public services; (iv) entities controlled by or related to a company or economic group which is not suitable with the aforementioned definition of small or medium-sized companies. The main underlying reason for this provision is to prevent big companies for conducting fraudulent transactions.

In order to supplement this regulation, and with the aim of providing additional financial assistance to the small and medium-sized companies, the CNV enacted Resolution No. 641/2015, which novelty is the creation of the “Financial Assistance Office for small or medium-sized companies.” This new office, acting under the authority of the “Development and Investor's Protection Management” and the “Development and Study of the Capital Markets Deputy Management” (under the CNV), will be in charge of providing direct legal, accounting and financial assistance to those companies included in the aforementioned regime,

to ease and encourage the access of small and medium-sized companies to the capital markets.

Additionally, the CNV lowered the information requirements to SMEs and simplified the procedure to obtain the public offer authorization.

- 3. Has your jurisdiction adopted (or are there any trends indicating that may do so in the future) any measures to remove barriers to cross-border investment? Measures could include (i) improving market infrastructure; (ii) fostering convergence of insolvency proceedings; (iii) removing cross-border tax barriers; (iv) strengthening supervisory convergence.**

No. Still behind other neighbour countries on this.

- 4. Have specific measures been adopted (or are foreseen) to increase choice and competition in cross-border retail financial services and/or insurance?**

No.

- 5. Capital markets harmonisation aims to facilitate companies' access to finance, particularly for SMEs by promoting more diversified funding channels that are complementary to bank financing. Is non-bank financing significant in your country? Please consider the role of private equity, venture capital, alternative finance, loan-originating funds, etc.**

During the last 5 years as a consequence of the default on the sovereign debt and the hurdles associated with the restructuring that followed, the main common channels of cross-border financing were hampered. Still we have seen activity by PE, although no specific regimes governing PEs were put in place other than general transparency regulations that were very few times enforced.

- 6. While loans traditionally represent the bulk of the banking assets, most financial entities also invest in capital markets. Do financial institutions in your jurisdiction invest highly in the capital markets? Are bonds and equity investments a significant proportion of the assets of financial institutions in your jurisdiction?**

With respect to financial institutions, yes, but by far sovereign debt issued by the Argentine Government.

The most significant players in the capital markets are insurance companies which were obliged by the former government to invest in bonds and equity.

- 7. Harmonisation requires standardisation, particularly in terms of credit information. Is SME credit information easily available in your jurisdiction? Is your jurisdiction adopting any measures to boost availability and standardisation of SME credit information at the national and supra-national levels?**

No.

- 8. Is there any recent or proposed legislation in your jurisdiction aimed to establish a framework for simple, transparent and standardised securitisation? Examples might include measures (i) to simplify prospectus requirements; (ii) to increase/decrease the information required to be provided to investors before making an investment decision; or (iii) to reduce barriers for smaller firms to access capital markets. If there have been no recent developments, please describe the current situation of securitisation in your jurisdiction.**

No. The Securities Law was amended on 2013.

Although the Securities Law was intended to make a comprehensive modification of the public offer regime established by Law No. 17,811, in general terms it does not introduce substantial changes, except for the applicable regime to Markets, Stock Exchange and Agents and the powers conferred to the CNV

One of the most significant amendments introduced by the Securities Law refers to the powers of the CNV. Section 20 entitles the CNV to (i) appoint supervisors with powers of veto of the resolutions adopted by the board of directors and (ii) separate the board of directors for a period of 180 days when, as determined by the CNV, the interests of the minority shareholders and/or security holders are infringed.

In addition, the Securities Law eliminates the markets' self-regulation and empowers the CNV to authorize, supervise, monitor, act as disciplinary authority and regulate participation in the capital markets.

Finally, one of the purposes of the new Securities Law is to promote the access of small and medium-sized companies to the capital market. Therefore, the CNV has recently updated the corresponding regulatory framework for SMEs (described in 2 above)

9. In your experience as a banking/capital markets lawyer, have you detected in your jurisdiction any unnecessary regulatory burdens, interactions, inconsistencies and/or rules that have unintended consequences which threaten the ability of the companies to finance themselves?

Yes, many. The new government has already promised that the regime as a whole will be revisited so as to catch up with international trends.

Derivatives regulation is probably a very significant area where regulation is almost inexistent.

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