The Credit Roundtable

THE VOICE OF THE BUYSIDE

May 15, 2023

Dear Sir or Madam,

We are the Credit Roundtable, an organization comprised of U.S. institutional investors who manage a substantial portion of the US fixed income market and are active as primary investors in sovereign debt. Our constituents manage investments including pension savings for large swathes of the U.S. market, and are collectively responsible for over $5 trillion of fixed income assets.

We write on behalf of our members to express our strong opposition to Senate Bill S4747 and Assembly Bill A2970. Both bills compel investors who hold foreign sovereign debt to take mandatory reductions on their debt instruments, limiting their recovery to an amorphous burden sharing standard, and no more (and potentially considerably less) than the arbitrary amount that the U.S. federal government is willing to recover when it restructures its own debt claims held against a foreign sovereign. The bills apply not just prospectively, but also retroactively.

We cannot emphasize enough the dangers these bills pose to the very governments the bills seek to help, the economy, New York State, and the rules-based international order. It is essential that the Legislature pause consideration of these bills to hear from all relevant stakeholders.

These bills will cripple emerging markets and raise the cost of borrowing by foreign sovereigns and foreign corporations alike. Our analysis suggests borrowing costs for emerging market sovereigns could rise meaningfully if these laws pass in their current form. The impact would be regressive with the poorest countries experiencing the highest increase in borrowing costs.

New York law is the gold standard of the commercial world because it enforces contract terms to the letter. Foreign states issue debt in New York, rather than in their own countries, because investors trust New York law and New York courts as neutral arbiters. New York will lose that hard-won reputation the moment these bills are enacted. No country has enacted any law like these bills before. Pension funds and retail investors will see the face value of foreign bonds materially reduced or potentially wiped out. This will make emerging market sovereign debt unmarketable in New York. Creditors will demand higher coupon payments and security before agreeing to subject themselves to New York law. That in turn will cripple the market for even private sector bonds, as emerging market companies' borrowing costs are tied to that of their governments.

These destabilizing effects could not come at a worse time. As worldwide interest rates have skyrocketed, so have bank failures. Meanwhile, Congress is threatening a U.S. default. Imposing a mandatory foreign sovereign debt default, as the bills would effectively do, sends the last message markets need right now.

All this will harm New York's economy and tax base. Because the bills will raise the cost of borrowing in New York, foreign states will respond by issuing bonds in other jurisdictions. So as much as the authors hope to change international debt markets, all they will get is capital flight from New York. That will cost the State at least hundreds of millions of dollars in tax revenue contributed by the thousands of professionals who work on sovereign debt markets.

The bills also ignore all the work the international community has done to manage sovereign debt issues. Thanks to the IMF and the Obama administration's tireless efforts, virtually all New York bonds contain clauses that encourage creditors to accept voluntary restructurings. Because of this work, private sector bondholders have not impeded international sovereign debt restructurings in well over a decade. The bills ignore this progress and, in fact, could discourage the United States government from taking part in future debt initiatives if doing so carries spillover consequences for private investors and pension funds.

In summary, the bills threaten the global financial system and rules-based international order. It is essential that the Legislature slow down consideration of these bills and not rush them to enactment without hearing from all relevant stakeholders.

We welcome the opportunity to discuss our concerns, opinions, and recommendations in greater detail. Please direct any questions to Kelly Byrne Skarupa of The Credit Roundtable at kbyrne@taminc.com or (914) 332-0042.

Respectfully,

The Credit Roundtable

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