Our sovereign debt practice
2023
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Countries all over the world without exception entered 2023 with high levels of debt, both in absolute terms and as a percentage of their GDP. Headline numbers do not include countries’ contingent liabilities, legal or de facto, to their SOEs, banking systems, health, pension and public utility systems. Fighting the Pandemic and supporting their battered economies has burdened and will continue to burden countries’ budgets.

Russia’s invasion of Ukraine has disrupted vital elements of global economic activity. The cost of debt is rising. Many of the contingent liabilities have crystallised. Budget deficits have mounted.

Countries will need large amounts to finance their deficits. Absolute debt numbers have risen and will continue to rise and percentages to GDP even more so. Many, not being able to finance themselves in their own currency, will face liquidity squeezes. Some will be insolvent and will need to restructure their debts. Many, not being able to finance themselves in their own currency, will face liquidity squeezes. Some will be insolvent and will need to restructure their debts. All will need to see their public debt return into a “safe asset” that underpins financial stability and protects and develops their political economy. All will have to do it mindful of the many challenges posed by the environmental challenges and an inextricably interconnected world.

How to raise funds, address illiquidity, successfully restructure, return sovereign debt into a “public good”, and set the world into a path of sustainable development are the large challenges of the coming years. The challenges have increased by the range and complexity of financing instruments, the range of stakeholders and the rise of regulatory sanctions. Law, regulation and best practice are necessary elements to any successful outcome. We at Allen & Overy have the understanding, the expertise, the size and the geographic reach to help with the resolution of these challenges. Any of our experts will be happy to speak with you.
A&O at a glance

Global leader

One of only six firms to act on more than 1.3 trillion worth of deals globally in 2021
(Sources: Refinitiv and Dealogic 2023)

- 2022 top overall adviser debt & equity capital markets
- 2022 leading lender adviser for syndicated loans across EMEA and APAC markets
- A&O rankings on bonds
- A&O rankings on loans
(Sources: Bloomberg, Refinitiv and Dealogic 2023)

Sovereign debt: A full-service capability

- Banking loans to sovereigns – sovereign guarantees
- Projects and asset finance (ECA backed loans, sovereign-guaranteed loans)
- Public International Law
- Financial services regulatory
- Debt capital markets & Bond Trustee
- Liability Management & Restructuring
- Litigation & Arbitration
- Derivatives CDSs & Repos
- Sanctions, Anti-Money Laundering & Investment Compliance
- Sustainability & ESG

Africa leader

60+ lawyers across Africa
On-the-ground presence through our 2 African offices

APAC leader

550+ lawyers across our APAC group
On-the-ground presence through our 13 APAC offices

Single firm:

590 Partners
2,490 other Lawyers
5,600 Total Staff
Over 40 offices globally

Close relations with domestic law firms in over 100 other jurisdictions.
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Our track record advising on sovereign debt

Over the years, we have amassed an extensive track record of advising on debt raised by sovereigns, central banks, municipalities and cities in all of the countries below, both in countries where we have an office (shaded blue) and where we don’t have a local presence.

Allen & Overy - the top overall adviser to issuers and managers in the global debt and equity capital markets in 2022, according to data by Refinitiv and Bloomberg.

A&O rankings on bonds

Allen & Overy - the leading lender adviser in loans transactions across EMEA and APAC in 2022, according to data by Bloomberg and Refinitiv.

A&O rankings on loans
Full-service capability

Debt capital markets

Sovereigns and supranationals continue to use the international capital markets with increasing frequency for their plain unstructured borrowing. Since our first sovereign bond issuance advising the Republic of Finland in 1979, we have advised on over 700 sovereign bond issuances by sovereigns, central banks, municipalities and cities over 40 years. We advised and continue to advise on many of the landmark transactions undertaken by sovereign and supranationals during this period, including Regulation S, 144A, fully SEC registered and Sukuk offerings. Our expertise ranges from bond issuances to liability management exercises, exit consents and exchanges in the context of restructurings. Our outstanding practice is also recognised more widely, as when we were called to represent the French Republic in its amicus curiae submission in the long-standing Argentina litigation before the New York courts, Republic of Argentina v NML Capital, Ltd.

Derivatives & Structured Finance

Our pre-eminent derivatives and structured finance regularly advise on structured transactions (including swaps, repos, CDS and other derivatives) involving sovereign bonds or state assets. We have advised ISDA for over 25 years including its Determinations Committee in the triggering of the CDSs, including in all cases of sovereign CDSs (including Greece being the most discussed instance).

Banking (loans to sovereigns)

Sovereign lending work has been a core practice of the firm since the early 1970s and despite capital markets having supplanted the loan markets as the main source of funding for sovereigns, we remain at the forefront with a practice which advises sovereigns and creditors alike. We have an extensive track-record of advising on loans from state-owned banks, commercial banks and sovereigns to other sovereigns, central banks, municipalities and state-owned-enterprises in over 125 countries.

Restructuring

Our restructuring team is known for providing pioneering solutions as well as delivering real commercial results, to banks, investors holding a broad range of credit instruments, insolvency officeholders/trustees and government institutions.

We acted in all phases of the Greek crisis, from the 2010 Eurozone rescue loan of EUR80bn, to the audit of the Greek debt, the two efforts for a private sector involvement (PSI), the official sector holdouts, the use of local law to retrofit CACs, the innovative co-financing of bondholders and the EFSF/ESM, the use of GDP linked warrants, the so called “Finnish collateral”, the structure of the privatisation entities, the first return to the markets in 2014, the bank recapitalisations, the imposition of capital controls, the official rescue financing of August 2015, and finally the second return to the markets.

During the Eurozone crisis we also had a major involvement in Ireland and Cyprus. We acted on the restructurings of the capital structures of all Irish banks. When Cyprus imposed capital controls we advised all London based banks (as a syndicate) on their legal position in relation to these controls (and we did the same when Greece imposed capital controls in 2015). We advised government entities on the handling of branches and subsidiaries of Cypriot banks in the UK.

We acted on the USD80bn global debt exchange offer by the Republic of Argentina. During the famous NY litigation between Argentina and its holdout creditors, we acted for the French Republic in its submission on the pari passu clause and subsequently for the trustees and paying agents whom the holdout creditors sought to enjoin from making payments to the consenting creditors.
Full-service capability

Projects and asset finance (ECA backed loans, loans with guarantees from sovereigns)

Our projects, infrastructure, energy and asset finance practice has extensive experience on transactions where sovereigns are asked to provide support to multilaterals or commercial creditors, including on loans with guarantees from sovereigns and ECA backed loans such as, the award winning financing of the government of Turkmenistan’s USD1.8bn ethane cracker and polyethylene plant in Kiyalny, Turkmenistan. Through financings to the energy sector in many countries, we understand the challenges of expanding energy capacity, maintaining reasonable rates for a national economy, and moving to decarbonisation.

Litigation & Arbitration

We are the only global elite law firm to have a litigation offering in Africa, the Middle East, Asia Pacific, Europe, the U.S. and the UK. Our litigation experience on sovereign matters is extensive. We regularly advise on matters of sovereign immunity, capacity and authority, validity of claims, preservation of rights, service on states, attachment of assets and other debt related claims before domestic courts.

Our sovereign disputes team includes lawyers who regularly advise on sovereign issues, both at the transaction stage and before national courts, international courts and arbitral tribunals. This team includes experts on both public international law and sovereign issues under various national laws, and specialist advisors on the documentation and investment mechanisms for a huge range of financial instruments, including equity and all forms of debt.

Public International Law

Our public international law practice advises sovereigns on the full range of contentious and non-contentious matters arising under public international law, and represents them before international courts and tribunals.

Trustee

Our corporate trustee team advises trustees, agents and custodians in all aspects of the capital markets arena, on new deals, amendments, restructurings and defaults, including litigation. During the famous litigation between Argentina and its holdout creditors, we acted for the trustees and paying agents whom the holdout creditors sought to enjoin from making payments to the consenting creditors.

Financial services regulatory

Advising sovereigns and government authorities, central banks and leading financial institutions, we have invested in building a large team that can cover the full range of financial services regulation. We have extensive experience in: bank regulatory regimes including in relation to prudential and tax treatment of banks’ sovereign debt holdings; bank recovery and resolution; derivatives; structured finance; payment systems; and regulatory consultations with regulators.

Sanctions, Anti-Money Laundering & Investment Compliance

Our team, which includes several former government officials in the U.S. and Europe, advises financial institutions, funds, corporates, sovereigns, and government agencies on a wide range of trade and sanctions-related issues. We work closely with regulators such as OFAC, OFSI, BEIS and BIS, amongst others, and have an in-depth understanding of how trade and sanctions matters play out in sovereign transactions.
The world of sovereign debt is turning on a number of novel pivots

As countries seek to address the challenges of higher debt costs, inflation & modest growth, all in the context of climate challenge & de-globalisation, the world of sovereign debt is turning on a number of novel pivots

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<th>Massive amounts of new capital needed. Much of the renewed global growth will come from countries with untapped potential. The capital required for a transition to sustainable growth in the planet will be vast. Who will offer it? What forms will it take? How will it serve these laudable goals? How will bonds, loans, derivatives, guarantees and contingent commitments evolve to meet specific sustainable goals and appeal to new classes of investors keen for genuine &quot;green&quot; and &quot;blue&quot; investments? We at A&amp;O are already working on all of these.</th>
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<td>Accounting – Transparency – Assets. What is the true perimeter of a sovereign's liabilities? How should a sovereign account for them? How should a sovereign account for its assets so as to put them to use for their long-term development? How should it address the requirements to be transparent on debt which is &quot;public&quot; with other legitimate interests in maintaining competition between its creditors and preserving confidentiality for matters of national interest? We at A&amp;O understand the diverse range of these liabilities, have worked for and designed State asset management entities and participate in the policy and technical discussions on transparency.</td>
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<td>A changing investor universe. The range and types of sovereign creditors has expanded. The commercial banks and bond investors (through large fund managers and specialised hedge funds), swap counterparties, trade creditors, Paris Club bilateral lenders, non-Paris Club bilateral lenders, their respective export credit agencies, a range of multi-laterals and pluri-laterals, and of course the Bretton Wood institutions, IMF and World Bank, constitute a diverse mosaic with different commercial and policy objectives. We act for most of these creditors and can offer guidance to sovereigns and their creditors where individual or co-ordinated action is required.</td>
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<td>A new focus on the needs of the domestic economy and the role of domestic credit. The liquidity squeezes caused by the Pandemic demonstrated how even the less developed countries have complex economies. Domestic credit plays an increasingly important role in the finances of sovereigns. Sovereigns' overall prosperity depends and affects their banking system, energy production and distribution as well as core utilities and SOEs, each with their own nexus of external and domestic financing and other agreements. Setting and maintaining this inter-relationship on a virtuous cycle is a core policy aim of good governance. We at A&amp;O have long experience in working with all these actors, both individually and systemically, and have helped them through in moments of extreme stress.</td>
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<td>Central banks, currencies and currency flows. As the economies of all countries become more complex, so do the requirements for the management and regulation of their currency and the credit-transmitting institutions. Central banks and regulators have to balance competing policy aims such as safeguarding financial stability and maintaining the flow of credit to grow the economy. At the same time they have to defend the sovereignty of their currencies and the authority and legitimacy of their institutions from the emerging world of crypto-currencies. Almost all major central banks are now considering issuing their own digital currencies. Large policy questions translate quickly in detailed rules and processes. We at A&amp;O work with central banks, regulators and regulated entities to help them develop and apply their core policy choices.</td>
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<td>Moments of stress. Sometimes sovereigns are faced with difficult choices which require adjustments and losses for both them (and their citizens) and their investors. Though no one relishes these moments of stress and conflict, these must also be addressed in a way which minimises overall losses of economic output and preserves the healthy tissues of the economy. We at A&amp;O deploy our collective experience and understanding of what are multifaceted challenges to help our clients reach constructive solutions. Where disagreements stand in the way, we help our clients pursue or defend their interests in the courts or in arbitral tribunals.</td>
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An end-to-end sovereign debt practice, rooted in history

Sovereign debt work has been a core practice of the firm since the early 1970s when all the debt raised by sovereigns was through the newly established syndicated loan market.

Since then the markets have evolved. Sovereigns rely principally on the bond markets for their direct funding. For their infrastructure and energy development, sovereigns rely on project finance, which in emerging markets is often accompanied by credit and guarantees from multilateral development banks and export credit agencies. Derivative instruments entered to provide stability and predictability to the post Bretton Woods regime of free capital flows and floating exchange rates. A group of advanced European economies decided to share monetary sovereignty with the introduction of the euro. A sovereign credit default swap market opened to offer protection to investors. Traditional “Paris Club bilateral lending” to less developed countries is now eclipsed by new bilateral lenders who are not members of the Paris Club. Regulatory changes have shifted the long-term exposures from banks to specialist funds and the bond markets. The sovereign creditor universe has become a very diverse ecosystem as the needs of sovereign borrowers have increased alongside the range and sophistication of legal instruments available to service them.

Legal instruments developed on the back of a shift in the legal position of sovereigns. In the U.S. the Foreign Sovereign Immunities Act (1976) and in the UK the State Immunity Act (1978) entrenched the growing legal position that sovereigns were not immune when engaging in commercial acts, of which borrowing was one. Bilateral Investment treaties created a bridge permitting private entities to take their investment disputes with states to arbitration. Banking and investment regulations, sanctions, AML and investment compliance added an additional regulatory layer of complexity. Sovereigns found themselves as defendants in the commercial courts of London, New York and elsewhere, as respondents in ICSID commercial arbitrations whilst the global finance system was co-opted to police and enforce regulation.

The proliferation of creditors, debt instruments and, in the case of the Eurozone, loss of monetary sovereignty, made sovereign restructurings much harder.

The Allen & Overy sovereign debt practice evolved alongside all these changes and led many of them. Today, through its global presence and its leading finance, litigation & arbitration, regulatory and compliance practices, Allen & Overy advises on the full spectrum of sovereign debt matters.

We act for arranging banks, creditors, official sector entities, central banks and sovereigns in debt raising, debt management, restructurings, structured and project financings, disputes before national courts, bilateral investment treaty arbitrations and regulatory matters.

We understand the role of bilateral lenders, multilateral development agencies, other international financial institutions and export credit agencies and regularly act alongside them in new financings and restructurings.

We understand organisations such as the IMF, the Paris Club and the ESM and the role they play when sovereigns are illiquid or need to restructure their debt.

We have been at the forefront of legal innovation, both in transactions and in policy proposals. We have used state contingent instruments such as GDP-linked warrants in the context of sovereign restructurings, hurricane clauses in the context of new financings and have designed new instruments such as GDP-linked bonds.

As the world seeks to meet the legacy of the Pandemic and the challenges posed on globalised and interconnected economies by the Russian invasion of Ukraine and its response to it, it will also focus on the longer term challenges of climate change and sustainable developments. We have worked on a host of sustainable development and ESG financings from the first Green bonds for the Republic of Poland to the IFC’s Forests Bond issue to official/private sector co-financing through a structured fund of SDG compliant sovereign bonds.

We have been at the heart of the most complex set of sovereign crises yet, those of the Eurozone (in Greece, Ireland and Cyprus) and of the most long lasting one, that of Argentina.

We participate in trade associations, such as the IIF, and contribute to the policy debates on sovereign debt through public presentations, publications, scholarly articles and participation in expert committees.

We are a single firm with a global presence in over 30 countries through a total of over 40 offices. On all these areas our advice is under the two principal pillars of the global financial markets, English and New York law, under the municipal laws of the other countries where we have offices, as well as under public international law. Through a close network of relationships with select firms, we can also work in practically all other jurisdictions around the globe.
Case study: Greece

The Greek debt restructuring did not only involve the EUR206 billion bond exchange, the largest ever in any restructuring, but also a series of other transactions with which Allen & Overy was directly involved.

2010
We advised the Dutch Ministry of Finance as co-ordinator of the Eurozone loan of EUR80bn to Greece.

2011
We diligenced on behalf of Greece all its debt instruments, bonds, loans and guarantees.

2011 and 2012
We acted for the joint lead managers in connection with the first PSI, a bond exchange proposed by a number of creditors. The first PSI collapsed and we subsequently advised the Steering Committee of Private Creditors of Greece in connection with a debt restructuring of its EUR255bn bond debt, reduced to EUR206bn following the non-participation of the official sector. The restructuring had a number of unique features all of which are also discussed in detail in our publications (see “How the Greek debt reorganisation of 2012 changed the rules of sovereign insolvency” Restructuring of Greek Sovereign Debt, and Using the Local Law Advantage in Today’s Eurozone).

- The use of local law to retrofit Greek law bonds with global collective action clauses.
- The recognition by the sovereign debtor of a bondholder’s committee able to negotiate effectively the terms of the new bonds issued as part of the restructuring.
- The handling of the massive official sector holdouts, principally by the ECB and the EU’s national central banks, as well as the EU Commission and the EIB.
- The use of a novel “co-financing” arrangement through which official and private sector creditors received rateable and equal ranking payments from the sovereign.
- The use of credit recovery instruments, in the form of GDP-linked warrants.
- The introduction for the first time of aggregated collective action clauses in new bonds issued by a sovereign.
- The timely triggering of CDSs which facilitated the bond exchange.

2013
We advised on behalf of the official sector on the structuring of a Sovereign Asset Development Fund that would manage all Greek state assets with a view to long-term development and returns.

2014
We advised the joint lead managers on the successful return of the country to the debt markets and all the Greek banks on the resetting of their capital structure.

2015
We advised a number of clients on the policies then followed by Greece which led to the bank closure and imposition of capital controls. We advised all London based banks (as a syndicate) on their position in respect of these capital controls. We subsequently advised official sector clients on the bridge financing provided to Greece by the EU Commission and the Eurozone countries.

2017 to date
We have been advising all the lead managers on all the bonds issued by Greece since its second return to the markets in 2017.

In addition we have continued to assist the Greek banks rebuild their capital structure, take steps to mitigate the “doom loop” between a sovereign and its banks and address the large stock of NPLs which were clogging banks’ balance sheets.
Thought leadership and market participation

We contribute to the discussions on the architecture on sovereign debt through our active market participation with organisations including:

We have written and published key articles in a number of publications including:

- "Using the Local Law Advantage in Today’s Eurozone" Capital Markets Law Journal Issue 4 October 2019
- "A Term Sheet for GDP-linked bonds" Sovereign GDP Linked Bond: Rationale and Design, 2018
- "Understanding Sovereign Debt Options and Opportunities for Africa" Published by African Legal Support Facility, Co-Author Yannis Manuelides
- English law and Jurisdiction Post Brexit: The Changing Geography of Finance and Regulation in Europe, 2017, edited by Franklin Allen, Elena Carletti, Joanna Gray and Mitu Gulati, European University Institute
- Restructuring of Greek Sovereign Debt: The European, Middle Eastern and African Restructuring Review 2017

Through our dedicated Global Law Intelligence Unit we have published a number of articles on sovereign issues:
- The pari passu clause and the Argentine case
- Understanding withdrawals from a currency union
- How protective are Ukraine’s international bonds?
- Ukraine: a brief primer on sanctions, expropriations and state break-ups
- Cyprus: the stone on the beach
- How the Greek debt reorganisation of 2012 changed the rules of sovereign insolvency
- The euro - the ultimate crib
- The euro and currency unions
- Sovereign state restructurings and credit default swap
Key contacts

For further information please contact a member of our sovereign debt team who will be able to assist and ensure your query is dealt with by the relevant member of the team. The team has been selected for its expertise and knowledge of acting for clients in key jurisdictions worldwide.
Key contacts

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Regional expertise: Asia Pacific and South Asia

Sigrid Jansen Specialist in restructuring and workouts of distressed debt. Advises on sovereign restructuring and other distressed assets, including sovereigns and state-owned enterprises on capital markets transactions. Sydney, Australia

Regional expertise: Latin America

Jane Jiang Extensive experience across international arbitration, litigation, debt restructuring and recoveries, and disputes concerning financial products and regulatory issues. 16 years’ experience at the firm. New York, New York

Regional expertise: Asia Pacific

Elizabeth Lackie Extensive experience across international arbitration, litigation, debt restructuring and recoveries, and disputes concerning financial products and regulatory issues. Sydney, New South Wales, Australia

Regional expertise: Europe and U.S.

Mark Learmen Extensive experience in capital markets, advising on cross-border and cross-border equity and debt capital markets financings. London, United Kingdom

Regional expertise: Asia Pacific

Jennifer Marshall Extensive experience in capital markets, advising on cross-border and cross-border equity and debt capital markets financings. Sydney, New South Wales, Australia

Regional expertise: Europe

Peter Malek Extensive experience in cross-border and cross-border equity and debt capital markets financings. London, United Kingdom

Regional expertise: Europe and U.S.

Arcaj Mohmedi Extensive experience in cross-border and cross-border equity and debt capital markets financings. Sydney, New South Wales, Australia

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Regional expertise:
Africa
Ligation and investigations expert. Recognised for his work advising domestic and multinational corporate clients in a broad range of contentious matters in South Africa, across the African continent and beyond, including a range of debt restructuring and insolvency issues.

Regional expertise: Africa and Europe
Head of Allen & Overy’s Africa Group. Project finance specialist with particular experience of multi-lateral, development finance institutions and export credit agency back stop financings.

Regional expertise: Africa, Europe, Middle East
Commercial arbitration and public international law specialist, with particular expertise in disputes arising across Africa and the Middle East. Clients include both sovereign States and wealth funds, as well as private investors.

Regional expertise: Asia Pacific, Singapore
Substantial experience advising financial institutions, corporates and funders for a broad range of capital market instruments including CHY-denominated debt products, corporate hybrid instruments, bank regulatory capital, medium term note programmes, sukuk, and equity-linked products, including convertible bonds, exchangeable bonds and pre-IPO convertible instruments.

Regional expertise: Asia Pacific, Hong Kong
Engaged in private and public placements and refinancing and restructuring transactions for Asian corporations and sovereigns.

Regional expertise: England & Wales
Qualified capital markets specialist. Leading expert in panda bond issuances in China acting for sovereigns, financial institutions and corporates.

Regional expertise: London
Qualified banking expert. Specialist in syndicated loans and acquisition finance transactions advising both banks and borrowers.

Regional expertise: Singapore, Asia Pacific
Qualified banking expert. Advisor to a broad range of financial institutions and corporates.

Regional expertise: Europe
Banking and finance specialist. Extensive experience advising on cross-border financings, sovereign loans and restructurings in emerging and growth markets.