



MINISTERIO
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05

Tesoro Público

Legal and regulatory framework for developing government bond markets

**Second OECD-China forum on public debt management and
Government Securities markets**

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AGENDA

- **Legal framework.**

The development of the Central Administration debt market

The general public debt framework.

- **Primary market regulation.**

- **Regulation of the government securities market.**

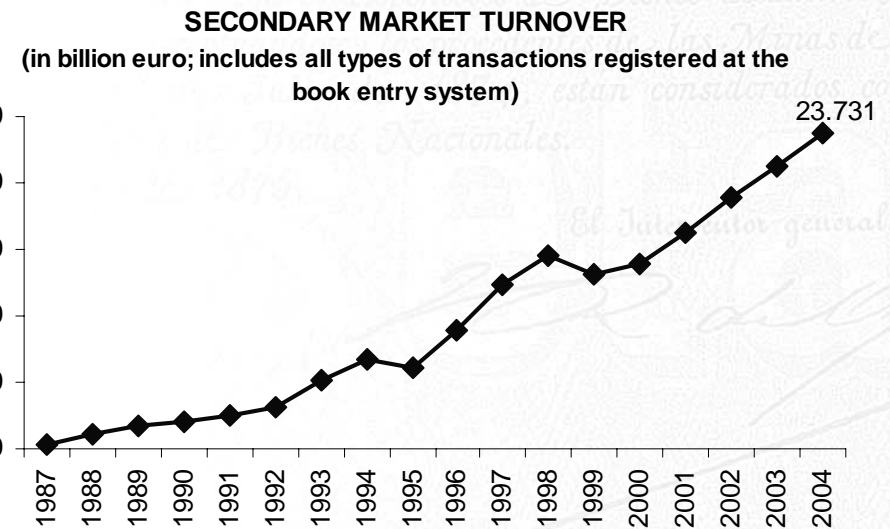
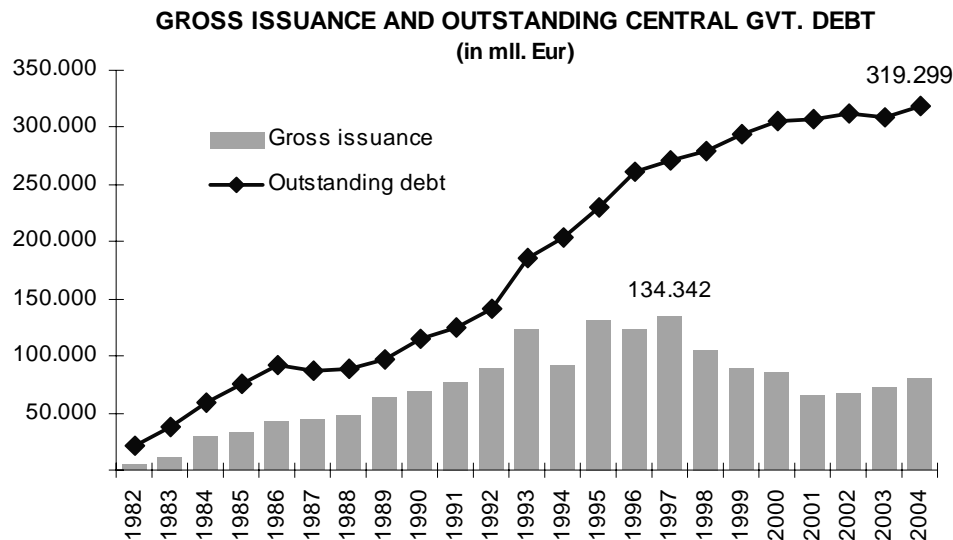
- **Supervision of the government securities market.**

- **Final remarks.**



The market development

- The development of the Spanish debt market starts from the first half of the 80's.
- The growing deficits and, consequently, larger outstanding debt volumes encouraged the Treasury and the Bank of Spain to set up an efficient, transparent and liquid secondary market for the debt.
- As Spain joined the E.M.U., the fiscal consolidation process and debt management strategy implied a lower gross issuance but the activity on the secondary market kept growing





The market development: the general framework

- Government debt issuance:
 - The Spanish Treasury (Ministry of Economy and Finance).
 - The Bank of Spain acts as financial agent of the Treasury.

- Government securities market:
 - Shared regulatory capacities: Spanish Treasury, Bank of Spain (BoS) and CNMV (Securities Market Supervisor).
 - BoS acts as market regulator and has, until 2003, operated the book entry and settlement system.
 - CNMV and BoS in charge of supervising the debt securities markets and their participants.
 - Close cooperation among different agencies is in place through different mechanisms.



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- **Legal framework.**

- **Primary market regulation.**

Legal basis for the government's borrowing authority.

Key guidelines for the primary market.

- **Regulation of the government securities market.**

- **Supervision of the government securities market**

- **Final remarks.**

Primary market regulation

- Art 135 of the **Spanish Constitution** grants the Government the right to issue public debt.
 - Debt issuance must be regulated by an Act approved by the Congress.
 - Annual interest and redemption payments of outstanding public debt must always be included in the Central Govt. Budget.
- The **General Budgetary Act (1988 ref in 2003)** defines:
 - The concept of public debt and the definition and functions of the Public Treasury.
 - Information disclosure commitments related to public debt issuance.
 - Empowers the Minister of Economy and Finance to manage the Central Government debt.
 - Defines issuance procedures and debt management operations.
 - Defines the rights granted to the tenors of public debt and the generic properties of G.S.
- Every year the **Annual Budget Law** sets a **ceiling** to the growth of the Central Government (CG) debt. This limit is proposed by the Treasury based on net forecasted figures for the CG deficit, the net change in financial assets of the government and the net change in the cash position of the Treasury's account at the BoS.
- Every year a **Ministerial Order** signed by the Ministry of Economy and Finance specifies the securities to be issued, auction features and issuance calendar.
- Issuance and debt management operations are published in the **Official Gazette**.



Primary market guidelines

■ General objective:

- Meet the Central Government funding needs at the lowest possible long term cost.

■ Secondary objectives:

- Ensure an acceptable level of risk for the debt portfolio.
- Set up cost efficient and reliable issuance procedures.
- Be predictable and transparent.
- Promote the liquidity of the CG debt market.
- Promote a diversified distribution of the debt portfolio.
- Promote the competition in and competitiveness of the primary market.
- Promote the development of the financial markets.
- Provide the market with a risk free term structure.

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- Legal framework.
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- **Regulation of the government securities market.**

Legal basis for the government's securities market.

The structure of the government's securities market.

- **Supervision of the government securities market**
- **Final remarks**

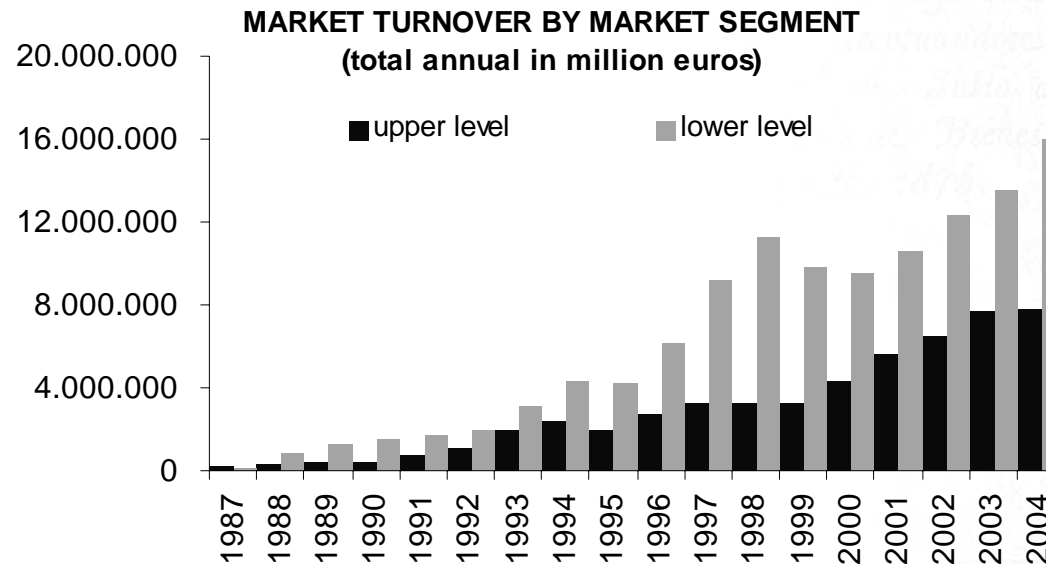
Secondary market regulation

- *The **Securities Market Act** (1988 reformed in 1998)* regulates the secondary markets for financial securities:
 - The public debt market is defined as a regulated market. As such, market access (for securities and participants), information and publicity disclosures and the type of transactions and market procedures are defined in this law.
 - BoS is appointed regulator of the Government debt market.
 - An Advisory Board of the debt market is set up.
 - Access to the market is restricted by institutional (credit institutions, investment firms, international financial institutions, central securities depositories and national central banks are let in), solvency and technical and managerial capabilities criteria required.
 - Different solvency standards are set for direct account holders and custodians.
 - Membership is based on formal opinions made by the CNMV and the BoS and is granted by the Ministry of Economy and Finance.



Secondary market regulation

- **The *Securities Market Act* (1988 reformed in 1998)** regulates the secondary markets for financial securities:
 - A national book entry system (B-ES) first regulated in a decree of 1987 is incorporated. Initially set up and managed by the BoS and since 2003 merged with the stock market book entry system to create IBERCLEAR.
 - The B-ES has two layers: Upper level -wholesale side of the market, direct account holders at the system- and the lower level -custody agents serving final investors-.

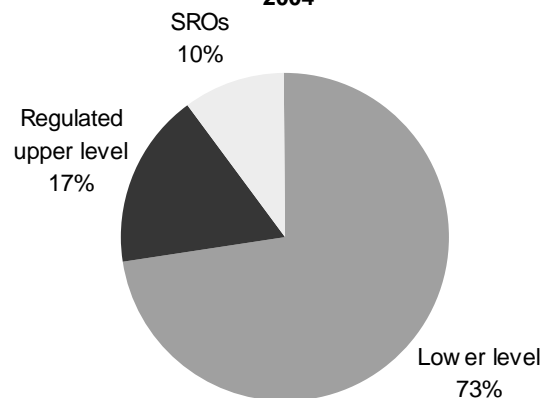


Secondary market regulation

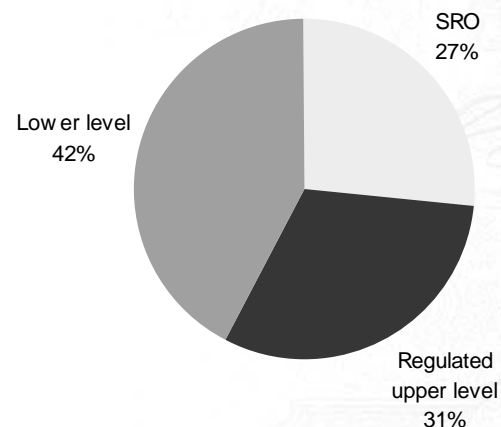
- **The *Securities Market Act* also allows, since its amendment of 2002, the set up of SROs.**
 - Currently there are 2 Automatic trading systems (SENAF and MTS Spain) with self regulatory powers in government debt trading.
 - Around 30% of the government securities traded between market members are crossed in the existing ATS. In 2004 10% of the secondary market bonds turnover took place in ATS.
 - SROs are licensed by a decision of the Cabinet, after positive report issued by the CNMV.
 - The BoS must also issue a positive report of the book of rules of each SRO.
 - Each SRO has a ruling body chosen by its members empowered to organize and supervise trading as well as to arbitrate in their conflicts.

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BONDS TURNOVER BY MARKET SEGMENT IN
2004



LETRAS TURNOVER BY MARKET SEGMENT IN
2004





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Key legal policy issues.

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Public debt market supervision

- Shared responsibilities between BoS and CNMV.
- CNMV is entrusted with overall supervision, inspection and enforcement powers in relation with securities markets and their participants.
- BoS has supervisory and inspection powers with respect to participants in the Spanish market for Government debt and to credit institutions.
- *The Securities Market Act* mandates that CNMV and BoS must coordinate their activities:
 - Main principle: prudential supervision of a financial institution operating in the securities market corresponds primarily to the supervisor where the financial company is registered. Issues dealing with the functioning of the securities market correspond to CNMV.
 - To reinforce coordination: CNMV and BoS must document the coordination scheme under a Memorandum of Understanding plus a system of cross membership in their Boards of Directors exist.
- Until 2003, throughout the development and maturity of the debt market, the BoS was entrusted with the management and supervision of the book entry system. Now Iberclear is responsible and must provide any information required to ensure adequate supervision of the market.

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Final remarks

Given the important role of public debt market and its special nature, the Spanish Government promoted its development via a clear regulation, a high level of coordination among the different public entities involved and the following objectives:

- **To satisfy the government funding needs at the lowest possible long term cost given an acceptable risk level.**
- **To guarantee the integrity and efficiency** of the primary and secondary government securities market.
- **To ensure its transparency and the protection of investors.**
- **To promote the liquidity** of the Spanish debt market.

