MOVING TOWARDS LEGAL AND
REGULATORY CONVERGENCE IN THE
FINANCIAL SECTOR

Suhadini Wickremasinghe
Partner (Capital Markets),
Sudath Perera Associates

Globalization of economies often forces nations to accede to the move towards financial integration. The increased demand for capital flows and the intensified competition for attracting financial capital from abroad have to a large extent had a consequential effect on the domestic financial regulatory and legal landscape. The rapid flow of capital across borders drives the pace of regulatory convergence. In other words, the regulatory landscape and the legal framework has also been demand driven particularly in the context of emerging markets. Although market forces can propel regulatory harmonization, it should not be left to market forces alone. Failures associated with market forces led initiatives are known too well for regulatory harmonization to be left solely to be determined by the pressures of the market forces. The belief that market is self correcting and therefore the government must adopt a hands off policy approach has not only failed to produce the desired results, but has caused widespread crises across nations. This is evident from the series of financial crises the world has been through. Therefore national policymakers should strike caution in shaping domestic regulatory and legal financial framework.

Foreign investors look for global standards in making their investment decisions. This economic and commercial reality has caused national policy makers to seriously re look at their national policies and legislation in aligning itself with the global standards. It may also be argued that capital would move towards markets with regulatory arbitrage as opposed to a well regulated market. However this may not necessarily be the sole determining factor of the growth of financial markets. Regulatory arbitrage, on the other hand may trigger unwarranted capital flight out of a country by the rapid movement of short term capital flows.

It may not even be a question of whether legal transplant is good or bad for a country, but rather to be competitive the legal infrastructure needs to be reshaped. This paper will evaluate the merits and demerits of legal transplant in the context of financial sector regulatory harmonization. The paper will evaluate the process of regulatory harmonization using the examples of implementation of international codes and standards and global best practices in the Sri Lankan legal reform agenda.
This paper will consider an examination of the law reform in the financial sector with particular emphasis on the preparation of a new law for the capital markets in Sri Lanka. This would involve a discussion on the influences and the sources that underlie the policy direction of preparing new legislation to exemplify the impact of global and regional laws, practices and realities that a domestic jurisdiction is faced with. These practices are adopted not as a matter of a legal requirement but more as a consequence of global economic pressures in being aligned with global standards and codes of practices particularly advanced by international financial institutions and other international agencies.

The global macro-economic environment

The global financial architecture has undergone considerable changes in the aftermath of the financial crisis that unfolded in 2007-2008.

The present economic thinking has identified policies such as financial sector deregulation and capital market liberalization as having contributed to the creation and rapid diffusion of the crisis. Part of the reason for inadequate financial regulation was the lack of appreciation of the limits of the market mechanism and the over dependence on market self-correction. According to economists this has led to what is called the prevalence of “market failures.” Such failures can have disproportionately large spillover effects on the real economy.

The recent crisis reflects problems that run deeper than the monetary policy considerations and financial regulations. It has exposed broader flaws in the understanding of the functioning of markets. There was a widespread belief that unfettered markets are, on their own without any government intervention are quickly self-correcting and efficient. However the recent market failures were evident to the fact that such market mechanics did not intervene to prevent or mitigate a crisis that engulfed the financial sector. The inability of market forces to correct such failures in an expeditious manner could not only stem the dispersion of a systemic crisis but also could not prevent it from spilling over into the real economy.

The financial crisis has clearly demonstrated the severe impact that real and financial externalities can have on an economy. The failure of financial markets had substantial negative externalities on the production economy at a global level. In a globally integrated world, the actions of any one country have effects on others. Too often, these externalities are not taken into account in national policy decisions. Developing countries need to put in place structures to help protect them from regulatory and macroeconomic failures in the developed countries.

Developing countries must take concrete measures to safeguard their economies from the excesses of market failures in the global financial sector. The increased flow of capital

---

1 Report of the Commission of Experts of the President of the United Nations General Assembly on Reforms of the International Monetary and Financial System, September 21, 2009
2 ibid
3 ibid
across borders exposes developing economies to persistent volatilities inherent in the global economy. It is paramount that the national economic and legal policy frameworks take note of these global realities in framing its national regulatory policies.

**Global Financial Integration**

In recent times the movement of global financial capital across borders has set the pace of globalization of financial economies. The free movement of financial capital across borders with largely liberalized capital accounts across countries has led to increased convergence of global markets. In looking closer at the greater financialization of the global economy, it can reasonably be observed that increased cross border trade facilitation has largely contributed towards the growth of financialization. Trade facilitation created greater space for innovation in financing trade transactions. Methods of financing slowly gained globally recognized methods and standards being established that has become greatly acceptable to the global financial sector\(^4\). Trade liberalization has largely precipitated the emergence and the growth of financial facilitation as a global phenomenon. Financial integration has been propelled over the years through the increase of financial intermediation services and the free movement of capital across borders. In the present context, it can be seen that movement of financial capital and integration of financial markets grow independently of convergence of global economies and other global markets.

The aspect of accelerated convergence of financial markets has largely influenced the emergence of a common body of soft law instruments influencing national jurisdictions. Customarily, hierarchy of sources of public international law lays down international treaties and conventions as the primary source of public international law. Even international conventions have to be ratified by nations for its full adoption into national law. Except for certain countries that follow a monist approach towards the adoption of international law, i.e the mere accession or ratification of an international convention without having to enact national legislation for its enforcement, other countries like Sri Lanka follow a dualist model where international law has to be given effect to by the enactment of special legislation in Parliament.

In recent times with accelerated convergence of markets, different governmental and nongovernmental actors on the international plane have commenced drafting codes of standards and practices applicable to international economic and commercial activity. The standards issued by the BASL Committee on banking supervision, the code on corporate governance issued by the Organization for Economic Cooperation and Development (OECD), and the 38 Principles and Standards issued by the International Organization for Securities Commissions (IOSCO) are examples of these codes and practices that have become acceptable at a global level and have become a significant influence in the domestic legal and regulatory reform agenda.

Market driven regulatory convergence

There are several factors that influence a process of regulatory convergence. Market behaviour and policies influence and shape the regulatory framework. The flow of capital also dictates certain regulatory measures that need to be in place to ensure the smooth flow of capital in and out of a country. Private contracts have also exerted considerable influence in shaping global regulatory architecture. Similarly, private contracts have also shaped financial institutions and its transactions. It has to a certain degree harmonized practices and acceptable methods of transactions. The widespread dissemination of transaction documents and the practices have invariably received acceptance of the wider global community which transform into globally accepted best practices and standards. This in turn mounts pressure on national economies to meet these regulatory standards in order to be competitive in the market.

A shared regulatory framework aids in attracting business into a country and particularly to emerging markets. Companies seeking listing on a stock exchange would look for a standard regulatory compliance framework in order to attract more investors as this would have greater potential in creating investor confidence. As a matter of practice, companies primarily list in their own jurisdictions. However, an increasing number of companies are seeking secondary listings abroad in foreign jurisdictions. Generally the receiving country where the secondary listing is being sought relies on the regulatory framework of the home country where the company was primarily listed to be the main regulator for the company. As a consequence the receiving country defer regulation of such companies to the home country regulator. If the regulatory framework of a nation was not acceptable across borders, a foreign jurisdiction would not entertain applications from foreign companies to be listed on their own exchange. This may become a necessary condition that has to be fulfilled for the smooth flow of business. It is the pressure of business growth that may also sometimes drive harmonization of the financial regulatory architecture.

The impact of global ranking and rating systems on the convergence of financial regulation

Another key element that drives integration of the regulatory framework across borders is the establishment of global indexes and global ranking and rating systems. These systems operate on a globally accepted set of norms and practices. Sovereign ratings would have a significant bearing in attracting foreign investments and raising the business profile of a country.

The Doing Business Index of the World Bank Group is a key indicator in this space. The Doing Business Index encourages economies to compete towards more efficient regulatory reforms. The Index offers measurable benchmarks for reforms and serves as a point of reference for researchers, academics and the global business community. Doing Business offers comprehensive national reports on the business environments of countries under survey. The sample size of the survey is 190 countries. These reports present data on ease of doing business.
for each country and make recommendations for improvements. They serve as a guide for the
global business community and as an indicator for improvements in the regulatory environment.
The Index is based on a study of 11 sectors which include sectors such as starting a business,
dealing with construction permits, registering property, enforcing contracts, resolving insolvency
and labour market regulation.

Sri Lanka in currently ranked at 100 out of 190 countries which is an improvement from
the previous year. Sri Lanka has scored 61.22 in comparison to a South Asian comparison of
56.71 for ease of Doing Business 2019\(^5\). The ease of Doing Business captures the gap of each
economy from the best regulatory performance observed on each indicator. Each indicator for
an economy is assigned a score and a ranking. Sri Lanka has obtained the lowest ranking in the
area of enforcement of contracts in the Doing Business 2019 index. This can be understood in
consideration of the lengthy laws delays observed in Court. As a result business contracts prefer
to use alternative adjudicative fora for dispute resolution. It is common to find an arbitration
clause on private contracts and particularly with foreigners as the forum for dispute settlement
as a replacement for Sri Lankan Court system.

In the category of protecting minority investors, Sri Lanka has fared better than the South
Asian region. While the South Asian regional score stood at 61.67, Sri Lanka scored a 66.67.
In comparing it with previous years of the ease of Doing Business Index, it can be seen that
the economy has converged towards the standards prescribed by each indicator of the Index.
Primarily an economy would strive towards meeting its regional average with goals set on the
global top ranking economies.

The indicator relating to enforcement of contracts assesses the time and cost taken to
resolve commercial disputes in a country. It particularly evaluates if each economy has adopted
good practices that promotes quality and efficient administration of disputes by Courts. According
to the Index the resolution of a commercial dispute filed in a court of the first instance (without
appeals) would take about an average of three and a half years. This is below the South Asian
region average of 3 years. However both these scores are in stark contrast to the average time
taken by OECD economies which takes only one and a half years. The time taken in the South
Asian region and particularly in Sri Lanka can act as a detriment to the promotion of business
in Sri Lanka. It is important that business communities can have confidence in the Sri Lankan
judicial system. Administration of justice and the efficient dispensation of cases would have a
greatly advantageous impact on business in Sri Lanka if achieved. It has been recommended in
the past that Sri Lankan judiciary must digitalize the work of court registries which in turn would
lead to greater transparency and enhance efficiency in the administration of cases. However Sri
Lanka is yet to make significant progress in this arena. These developments can be viewed as
positive effects of global and regional regulatory convergence that would benefit the national
economy as a whole.

The final indicator on labour market regulation has not been assessed and included in the Index scores or the country rankings. However, it looks at certain aspects which may be of significance to business employers. It looks at questions on whether employee redundancy is possible in Sri Lanka and whether Sri Lanka entertains Fixed Term Contracts. An emerging economy like Sri Lanka that has experienced stagnation in the labour market in recent times will have to be careful in reviewing labour policies in Sri Lanka that would have a severe impact on the middle income earners.

Presently the labour laws in Sri Lanka are employee centric as opposed to flexible hire fire policies which may be more common in the developed world. In reviewing its labour policies, economic conditions of wage earners will have to be balanced out against business interest in adopting the global standards that indexes like ease of doing business may allude to. The delicate balance would undoubtedly have a spillover effect on the overall health of the labour force in Sri Lanka.

Sri Lanka has adopted certain business reforms in line with the recommended global standards for business. This includes introduction of a pre-trial conference as part of case management techniques used in Court. Further stamp duty on new issue of shares was removed as a measure to encourage greater foreign investments in Sri Lankan business enterprises. Sri Lanka has also introduced an electronic filing system for payment of company taxes. This would make the system far more efficient than the manual process that was in place.

The improvements or the changes adopted are based on global best practices to ensure Sri Lanka remains competitive in the global market. There are clearly positive and progressive steps taken to ensure that the Sri Lankan economy remains attractive to the international business community. However, it is equally important to ensure that Sri Lanka has the necessary physical infrastructure and human resources and the technical know-how in place to support the developments that have taken place. The long term viability of this improvement would ultimately depend on the available resources and capacity. There has to be a cost-benefit analysis that precedes the implementation of the developments.

National policy makers must be in charge of the internal regulatory framework and the timing of the implementation of significant improvements in the country. It cannot be purely driven by market demand, international agencies and global standards. However for this to happen there must be a carefully thought out long term national economic plan that is flexible enough to recognize the importance of adopting global practices that would be greatly advantageous to the national economy.

The polar ends of merits and demerits of convergence of regulatory environments have to be carefully weighed out by national economies in the rush to adopt global best practices. It is important for the national economy to develop its own identity and build its internal resources to be able to negotiate at an international plane to enter into transactions that are beneficial to the domestic economy and be in a position to influence the adoption of global regulatory convergence in a manner that is healthy for a national economy.
Financial Action Task Force regulations

Sri Lanka in line with the recent recommendations of the Financial Action Task Force (FATF) has amended or is in the process of amending its legislation in an effort to combat money laundering and terrorist financing.

Under the FATF Recommendations, financial institutions must perform customer due diligence (CDD) in order to identify their clients and ascertain information relating to doing financial business with them. CDD requirements are intended to ensure that financial institutions can effectively identify, verify and monitor their customers and the financial transactions in which they engage, in relation to the money laundering and terrorist financing risks that they pose\(^6\). FATF recommends that, all financial institutions conform to Anti Money Laundering and Combating Terrorist Financing (AML/CFT) requirements and implement CDD measures, particularly in identifying and verifying the identity of their customers to the level of beneficial ownership\(^7\).

These measures have recommended that financial institutions must take reasonable measures to verify the identity of the beneficial owner and be satisfied that it knows who the beneficial owner is. It has been recommended for companies and similar arrangements, structures and measures should be put in place to fulfill this requirement\(^8\).

“Industry feedback highlights a number of practical difficulties regarding identification and verification requirements, most of which arise pursuant to the lack of national legislative or regulatory requirements being in place. For instance, in a normal CDD scenario, the FATF recommendations do not require information to be gathered on matters such as occupation, income or address, which some national AML/CFT regimes require, although it may be reasonable in many circumstances to seek some of this information so that effective monitoring for unusual transactions can occur. Similarly, although a majority of countries specify the use of a passport or government-issued identification card as one of the methods that can be used to verify the identity of customers, the FATF recommendations do allow countries to use other reliable, independent source documents, data or information. This flexibility is particularly relevant for financial inclusion, since low income migrant workers, for example, often lack standard identification documents. Rigid CDD requirements that insist on government-issued identification documents, adopted by some countries or financial institutions, have acted as barriers to these disadvantaged populations obtaining access to the formal financial system”\(^9\).

As much as these requirements should be implemented and followed, the element of local feasibility of implementation should be evaluated. These regulations must not be implemented in a way that is likely to operate as barriers to marginalize vulnerable communities as stated in the FATF recommendations quoted above.

\(^{6}\) FATF Guidance Anti Money Laundering and Terrorist Financing measures and financial inclusion.

\(^{7}\) ibid

\(^{8}\) ibid

\(^{9}\) ibid
FATF has identified Sri Lanka as a high risk jurisdiction for money laundering and terrorist financing activities. Sri Lanka is in the FATF grey list. This would impair the reputation of Sri Lanka globally as a destination for illicit money.

Sri Lanka in an attempt to move itself out of the grey list has already commenced introducing amendments to its statute books. The Trust Ordinance was amended to ensure that all beneficial owners of trusts are disclosed. The Trust Ordinance was amended imposing duties on relevant governmental offices dealing with the registration of trusts to maintain a register of every express trusts and to submit the register to the Finance intelligence Unit of the Central Bank. Obligations on maintenance of records of a trustee have also been extended to express trusts under the new amendments. A trust instrument that is created in writing is known as an express trust.

Similar amendments requiring disclosure of beneficial ownership is currently being proposed to the Companies Act. International community has recognized the need for higher standards of disclosure of account holders for any funds or monies. Offshore financial centers make it easier for foreign monies to be parked without much scrutiny. A lot of illicit money is being laundered through the conventional banking sector or stock exchanges. This needs a global effort to combat money laundering efforts. There should be an efficient surveillance system to monitor monies that transfer across borders. It is a *sine qua non* to have common regulatory structures to deal with illegal currency flows. If standards are lowered across borders black money can just pass through without any scrutiny in to drug trafficking, terrorist financing and similar activities.

Another important facet of regulatory convergence is the nature of financial flows across borders and the common regulatory concerns on how to manage such flows. If a nation fails to follow the global regulatory standards across borders, illegal trades would channel their money through countries that adopt lenient regulatory systems.

It is in this context that the Financial Intelligence Unit of the Central Bank is working towards amending the necessary laws to bridge the regulatory gaps at present. The implications must be understood and implemented by banks and other financial institutions including stock exchanges and central depositories in achieving the desired results.

The changing financial regulatory landscape

The global financial crisis that unfolded in 2008 precipitated a wide legal reform agenda across the world. Dodd-Frank Wall Street Reform and Consumer Protection Act commonly known as the Dodd Frank Wall Street reform is a key piece of legal reform in the financial sector that the Obama administration in the United States of America adopted in the aftermath of the global financial crisis. This had a spillover effect across the borders. Emerging economies in the South Asian and South East Asian countries followed suit in upgrading their respective law books. Malaysian Securities Commission introduced overarching changes to Capital Market
Services Act\textsuperscript{10} in response to the crippling effects that securities markets suffered in the face of the financial crisis. Singapore introduced similar changes to their Singapore Futures Act\textsuperscript{11} with an overhauling amendment in 2015. Pakistan enacted a new law\textsuperscript{12} in 2015 to regulate the Securities Market. The Securities and Exchange Commission of Sri Lanka (SEC) prepared a new bill to regulate the capital market which was tabled in Parliament in December 2017 which is awaiting enactment.

The Colombo Stock Exchange (CSE) is a frontier market looking to strategically position itself regionally to attract foreign capital flows. The regulatory framework should strike a healthy balance between regulation and facilitation of market growth. Financial markets are an important aspect of the national economic framework particularly to mobilize foreign capital flows into the country. Investors should have confidence in the local market to facilitate such entry. It is important that the CSE is perceived as a market driven by strong fundamentals which is not disproportionately inflated. It is important that the exchange is perceived as creating a level playing field for all types of investors. Generally, investors will prefer to invest their funds in alternatives that they have greater confidence in. In the long run a market that is well regulated will naturally attract more funds both internationally and domestically.

The regulatory framework should serve this greater interest in developing the capital market of Sri Lanka. The regulatory framework should be founded on creating transparency and accountability in the markets. It becomes a \textit{sine qua non} to achieve a healthy balance between regulatory intervention and market trends in shaping the regulatory policy. A disclosure based regulatory regime with a strong interventionist mandate to protect interest of investors supported by an efficient enforcement regime will have to be put in place to achieve this end.

It is in this backdrop the SEC has framed its law for the present needs and future challenges facing capital market regulatory landscape.

**Methodology employed in preparing the proposed new law for Capital Markets in Sri Lanka**

The proposed new law on capital markets in its diagnostic phase has taken into consideration the policy concerns of IOSCO, G20 and the Financial Stability Board on financial sector reforms.

IOSCO being the standard setting institution for capital markets has set out the basic principles and standards for international regulators to meet.

\textsuperscript{10} Capital Markets Services Act 2007 (Act 671) (as amended)
\textsuperscript{11} Singapore Futures Act No.42 of 2001 (as amended)
\textsuperscript{12} Securities Act,2015
The gap analysis identified a consolidated set of proposed amendments which has been standardized and benchmarked against IOSCO principles to be aligned with international best practices. In the process of preparing the draft amendments the SEC also looked at laws adopted by comparative and advanced jurisdictions. The laws of Malaysia, Singapore and Hong Kong were some of the jurisdictions that were looked at in the exercise of drafting the proposed amendments. The Gap analysis is based on IOSCO principles and standards.

The IOSCO objectives for securities regulators are investor protection, maintenance of fair and efficient markets, management of systemic risk and framing the proper regulatory architecture to meet these ends. The proposed amendments employed the 38 principles and standards of IOSCO as the financial regulatory benchmarks for the draft amendments.

A brief discussion on the core objectives of IOSCO will introduce the spirit of the law which the draft amendments were based on.

1) The protection of investors

Investors should be protected from misleading, manipulative and fraudulent practices. Investors in the securities markets are susceptible to market misconduct and their ability to take action against such misdeeds is limited. It is necessary to put in place a neutral and impartial enforcement regime for redress and compensation for such improper behaviour.

It is also imperative that the regulator maintains a system of full disclosure and close surveillance on the conduct of market intermediaries. Regulators should maintain a comprehensive system of inspection and compliance of market participants. Regulatory framework should also ensure that accounting standards are met and rules of business conduct are set out and are strictly adhered to.

2) Ensuring that markets are fair, efficient and transparent

Market fairness is closely linked to investor protection and equitable treatment among different types of investors. Mandating exchanges to formulate rules of trading helps ensure market fairness. Regulation should be sufficiently geared to detect, deter and penalize market malpractices and unfair trading. Regulation should aim to ensure that investors are given fair access to market facilities and the market and price formulation.

3) The reduction of systemic risk

Risk taking is an essential element in an active market. It is imperative that an effective risk management system together with sufficient capital and other prudential requirements are in place to absorb the risk component to ensure stability of the financial sector. Regulatory infrastructure must be in place to allow for the absorption of risk and a continuous check is maintained on excessive risk taking. Regulatory framework must provide for efficient and accurate...
clearing and settlement systems. There must be effective and legally secure arrangements for default handling. The legal infrastructure must also provide for remoteness of insolvency laws to ensure the smooth functioning of the securities clearing and settlement. Although regulators cannot prevent financial failures of market intermediaries, adequate rules should be formulated to reduce the risk of failure to minimize the risk of systemic disruptions.

4) The Regulatory Environment

The SEC has taken the following regulatory concerns into consideration to strike the proper balance between regulation and capital market growth. In examining the draft law and the policy papers underlying the proposed amendments, it is observable that the following IOSCO policy attributes were considered in developing the draft law;

a) No unnecessary barriers to entry and exit for markets and products;

b) Markets should be open to the widest range of participants who meet the specified criteria;

c) The balance between the development policy of the capital markets and the impact regulation would have on it;

d) Equal regulatory burden to be shared proportionately on all participants making financial commitments.

The methodology adopted in the law reform process on the proposed new law for capital markets demonstrates clearly the scale of influence global benchmarks and standard setters have on the local legal reform agenda. In 2017, IOSCO carried out a country review of the implementation of IOSCO principles in Sri Lanka. The review identified significant shortcomings in the Sri Lankan regulatory framework. IOSCO findings concluded that Sri Lanka is broadly compliant with 11 IOSCO principles, partly compliant with 17 principles and completely non compliant with 6 principles\textsuperscript{13}. The review has also noted the importance of implementing the proposed legislation as a matter of priority.

From an economic perspective, it would become imperative on Sri Lanka to implement the recommendations made in the country assessment to ensure confidence in Sri Lanka’s capital market particularly among foreign investors.

The implications of legal transplant

The globalization of laws is a process preceded by the globalization of economies and politics. Globalization may primarily be a process of economic convergence. It has also significantly influenced political process and the system of governance. It has also led to the

\textsuperscript{13} Country Review: Democratic Socialist Republic of Sri Lanka IOSCO Objectives and Principles of Securities Regulation Detailed Assessment of Implementation, June2017
spread of democratic values particularly articulated through human rights principles that have also culminated into international codes and conventions. These international conventions are being promulgated by international agencies such as the United Nations and the more commercial codes and conventions by International Financial Institutions. Law is a critical instrument in managing the process of globalization of economies and politics and has become a force to reckon with in terms of how the process of economic and political globalization is being advanced.

In evaluating how national legal reform agenda is being influenced by these global processes, it is important to first understand the traditional process of law making of a sovereign nation. Traditionally, the Constitution of a country is viewed from the perspective of a sovereign nation and the dominant force being the national identity of a nation state. However in recent times Constitution making is seen more from a comparative perspective. As a consequence constitutional law can be studied from an international viewpoint and is significantly influenced by a global set of values on human rights principles. The inclusion of political and civil rights inspired by global human rights processes has also paved way for constitutions to recognize the freedom to enter into commercial transactions with foreign countries and the adoption of international treaties. This is in keeping with the liberal economic policies that are widely being followed across borders.

States are under severe pressure to converge towards a unification of laws. The argument in favour of this momentum is that when one country has already adopted a system that works, it need not be reinvented elsewhere but rather borrowed. This leads to the argument for legal transplant which is the process of movement of legal norms and rules from one country to the other in the process of law reform. Generally this flow had been from the developed world to the developing world.

This process of legal transplant has also strengthened the justification for the emergence of regional trade blocs and Free Trade Agreements. Commercial law reform process is one that is heavily influenced by international harmonization, which in turn provides legal and economic certainty of transactions. This phenomenon attracts more global capital and produces economic benefits for States. The significance of the role of the increasing financialization of economies cannot be underscored in this process. This free flow of capital across borders through unified globally accepted financial payment systems and the increasing investments in share capital across borders has brought with it a set of universal rules that must be adopted to enable such flow of capital into domestic economies. The practical realities of unified application of systems will in turn influence the flow of rules and regulations that follows such a system across borders.

---

Conclusion

Arguably, law reform and regulatory convergence in the long run will stabilize and strengthen national economies which in turn would be expected to stimulate economic growth. However, this must be appreciated in the context of the economic realities of each nation. There can be fears of systemic rejection of legal transplant. A legal reform agenda must first undertake a feasibility study, a gap analysis and a diagnostic phase prior to borrowing any set of laws or rules from a foreign country. The successful implementation of a legal reform agenda lies in the customization of the legal reform programmes, which would be acceptable to the national economy. That would help achieve the desired results of a legal and regulatory convergence agenda. The reality behind the making of international rules and regulations by international financial and other agencies is that it is mostly dominated by the developed countries. Emerging economies like Sri Lanka would not have much negotiating power at the table to influence the outcome of these processes. Most often the experiences of global standards and practices are likely to be the outcome of experiences and the interests of the developed and advanced nations. The context in which rules were developed may not necessarily be the circumstantial reality of emerging economies. Therefore it is paramount that international regulatory architecture should be viewed for the value it brings with it, but the implementation should be carefully studied and adapted to local conditions. A variety of domestic economic factors would determine the successful implementation of a harmonized regulatory scheme.