

<b>Institution:</b> Queen Mary University of London (QMUL)
<b>Unit of Assessment:</b> C20 (Law)
<b>Title of case study:</b> Reforming financial regulation and resolution
<p><b>1. Summary of the impact</b></p> <p>Professor Lastra's research on central banking, financial regulation and cross border resolution of banking crises has had a significant practical effect in setting the agenda for the reform of the law in these areas nationally and internationally. As a result of her work, international organizations such as the International Monetary Fund, international standard-setters such as the Financial Stability Board, European institutions such as the European Central Bank and the European Commission, and national institutions such as the Bank of England have initiated or revised rules and policies aimed at reforming financial regulation and enhancing stability.</p> <p><b>2. Underpinning research</b></p> <p>Rosa Lastra is Britain's leading scholar in central banking law and a world expert in financial regulation and financial crisis management. Since she joined Queen Mary in 1996 she has been arguing that the internationalisation of financial markets requires the internationalisation of the law that regulates such markets. Lastra's books, <i>Legal Foundations of International Monetary Stability</i> (2006) [RAE 2008 submission], <i>Central Banking and Banking Regulation</i> (1996) and <i>Cross Border Bank Insolvency</i> (2011) provide a template for understanding why and how financial regulation and resolution need to change to respond to the needs of today's society. They also set the principles to assess the independence and accountability of central banks and financial regulatory agencies, where her work is pioneering, and the appropriate legal framework for national central banks, the European Central Bank, and the International Monetary Fund.</p> <p>Lastra's research fills critical gaps in international financial law and addresses cross border issues. As she argues in <i>Cross Border Bank Insolvency</i> and other publications, the disconnection between global markets and national law was highlighted and threatened to cause serious problems following the sudden and disorderly closure of Lehman Brothers in September 2008. She explores the causes of this disconnection and provides the basis to help create a sound framework for the pursuit of financial stability in the UK, the EU and internationally. In the aftermath of the financial crisis such a framework – including an end to the pervasive 'too-big-to-fail' policies – is essential for the welfare of society.</p> <p>As a result of her work, laws and policies relating to the scope and functions of central banks, financial regulatory reforms and the resolution and insolvency of financial institutions, have changed or are in the process of changing at the national level, at the European level and at the international level (mostly by way of soft law standards). Though the transition from soft law to hard law can be a lengthy process, Lastra's call for an adequate regime on cross border resolution and insolvency has been followed by the European Commission in the Draft Directive on Recovery and Resolution published in June 2012.</p> <p>Her research in international economic law, where she has joined efforts with Professor Thomas Cottier of the World Trade Institute (Bern) and Professor John Jackson of Georgetown University (widely regarded as one of the fathers of international trade law) since 2010 [culminating in the co-edited book <i>International Law in Financial Regulation and Monetary Affairs</i>, listed in REF 2014 submission], contends that the conspicuous absence of formal international law concerning money and finance – in stark contrast with trade regulation under WTO law – was a significant contributing factor to the global financial crisis that commenced in 2007. One distinguishing feature of her work at Queen Mary lies in the fact that she has built bridges between law and economics, trade and finance, financial regulation and resolution, EU law and monetary law, and between banking crises and sovereign debt crises.</p>

**Impact case study (REF3b)****3. References to the research**

Lastra, *Central Banking and Banking Regulation*, London: Financial Markets Group, London School of Economics, 1996, 329, ISBN: 0753007258 (authored book)

Lastra, *Legal Foundations of International Monetary Stability*, Oxford University Press, 2006 (authored book).

Lastra, *Cross Border Bank Insolvency*, Oxford University Press, 2011 (edited book).

Lastra, Thomas Cottier and John Jackson (editors), *International Law in Financial Regulation and Monetary Affairs*, Oxford University Press, 2012, listed in REF 2014 submission.

Lastra, "Cross-Border Bank Insolvency: Legal Implications in the Case of Banks Operating in Different Jurisdictions in Latin America", *Journal of International Economic Law*, JIEL, Volume 6, Issue No. 1, 2003, pp. 79-110 (article).

Lastra, "The Evolution of the European Central Bank", *Fordham International Law Journal*, Volume 35, Number 5, June 2012, pp. 1260-1281 (article), listed in REF 2014 submission.

**4. Details of the impact**

Lastra's work has global reach and significance: it has informed financial legislative reforms, policy debates and deliberations amongst legal practitioners in the United Kingdom and further afield.

**National impact**

Lastra has influenced UK government policy in response to the financial crisis. In 2009 the European Union Committee (Subcommittee A) of the House of Lords conducted an inquiry into the future of EU financial regulation and supervision and appointed Lastra as Specialist Adviser. Lastra wrote many of the questions put by the Committee to expert witnesses and contributed to the writing of the final report. The Committee chair specially thanked her contribution: "My thanks and those of the committee are due to our special adviser, Professor Rosa Lastra, without whom I do not think we would have found our way through the complications of the subject..." (see [2] in section 5 below).

In 2011 Lastra was invited to give oral evidence to the Treasury Committee of the House of Commons on the accountability of the Bank of England. The Committee's report, published in November 2011, acknowledges her input.

In 2012, she was asked to give written and oral evidence to the House of Lords European Union Committee, Subcommittee A, with regard its inquiry into the Banking Union proposals. She was also asked to give written and oral evidence to the joint Parliamentary Commission on Banking Standards, appointed by both Houses of Parliament to report on professional standards and culture of the UK banking sector, and their implications for regulation and for Government policy and to make recommendations for legislative and other action. The report of the Parliamentary Commission on Banking Standards and the report of the House of Lords European Union Committee, both acknowledging Lastra's input, were published in December 2012.

**International impact**

Lastra has also contributed to the design of international financial soft law. In 2009-10 she acted as Technical Assistance Advisor to the IMF to perform research and writing for a Board paper dealing with legal and policy issues associated with cross-border bank insolvency following the G20 mandate to the IMF in the aftermath of the global financial crisis. This drew upon her published research (2003, 2007, 2008, 2009). The Board approved the paper with a proposed framework for enhanced cooperation in this area in July 2010. Her work is recognized in the first footnote of the paper (see [5] in section 3 below) and in a letter (see [3] in section 5 below) acknowledging

Lastra's "important contribution to the IMF's work on cross border banking resolution", which "has played a large role in shaping the set of recommendations that have been adopted by the FSB" ([www.financialstabilityboard.org/publications/r\\_111104cc.pdf](http://www.financialstabilityboard.org/publications/r_111104cc.pdf)).

### European impact

Lastra's work has helped shape the development of EU law. In 2011, Lastra provided legal consultancy services to the European Central Bank at the request of the ECB General Counsel on issues pertaining to the eurozone crisis. She was invited to contribute on the basis of her published research (2006). Lastra has argued (1996, 2003, 2006 and 2012) that the ECB should adopt a supervisory role, which has become a cornerstone of the Banking Union.

In April 2012, Lastra was invited – on the basis of her 2011 book and earlier publications – to provide an expert legal view to the European Commission (DG Markt) as part of the Commission's proposals for a European framework to resolve cross border banking crises. Lastra took part in a workshop of experts in banking and insolvency law on 19 April 2012 in Brussels. The consultation process culminated in the publication of a Draft Directive on Recovery and Resolution on 6 June 2012. The Head of Financial Stability Unit at DGMarkt acknowledged Lastra's contribution in a letter dated 19 June 2012 thanking her for her "very valuable and pertinent contributions" to the process [See [1] in Section 5 below].

### Informing judicial decisions in high-profile international cases

Lastra's *Central Banking and Banking Regulation* was referred to in a brief of the United States of America, (p.14, amicus curiae in Case No 10-1487-cv(L) US Court of Appeals for the 2nd Circuit *NML Capital Ltd v Banco Central de la Republica Argentina* [5 July 2011]). The implications for the theory of sovereign immunity are at stake as subsequent litigation has evidenced.

### Enhancing public understanding of complex financial issues

Lastra has provided expert commentary in the media on issues related to the financial crisis contributing to improving public understanding of complex financial matters. She has been interviewed by Hugh Dixon (Reuters), Bloomberg, Deutsche Welle, and Wall Street Journal among others. In December 2012, Lastra was invited to appear BBC World Service's programme 'In the Balance' which dealt with the banking black hole of debt in Europe.

## 5. Sources to corroborate the impact (indicative maximum of 10 references)

### Individuals

1. Head of Financial Stability Unit at the European Commission Directorate General Internal Market and Services (letter acknowledging the impact of Lastra's work in shaping the development of banking and insolvency law in the EU). The reference to the Draft Directive is found in [http://ec.europa.eu/internal\\_market/bank/docs/crisis-management/2012\\_eu\\_framework/COM\\_2012\\_280\\_en.pdf](http://ec.europa.eu/internal_market/bank/docs/crisis-management/2012_eu_framework/COM_2012_280_en.pdf)
2. Baroness in the House of Lords (acknowledging the impact of Lastra's work in the inquiry conducted by the House of Lords into the future of EU financial supervision and regulation): transcript of the 2009 inquiry into the future of EU financial regulation and supervision in the House of Lords: <http://www.publications.parliament.uk/pa/ld200809/ldhansrd/text/91110-0012.htm#09111084000124> The link to the video is: <http://www.parliamentlive.tv/Main/Player.aspx?meetingId=5093>
3. General Counsel of the International Monetary Fund (letter acknowledging the international impact of Lastra's work).

### Judicial citations

4. 2011 brief of the United States of America, (p.14, amicus curiae in Case No 10-1487-cv(L) United States Court of Appeals for the 2<sup>nd</sup> Circuit *NML Capital Ltd v Banco Central de la Republica*

**Impact case study (REF3b)**

Argentina [5 July 2011])

International impact

5. *Resolution of Cross-Border Banks—A Proposed Framework for Enhanced Coordination* (2010). Lastra's contribution is noted in page 1, [www.imf.org/external/np/pp/eng/2010/061110.pdf](http://www.imf.org/external/np/pp/eng/2010/061110.pdf)

Reports of the House of Lords and House of Commons (national impact)

6. House of Commons, Report on the Accountability of the Bank of England HC 874 (21st report of Session 2010-12) 8 November 2011. Lastra's contribution is noted in pages 7, 17, 32, 55-56 and 66, [www.publications.parliament.uk/pa/cm201012/cmselect/cmtreasy/874/874.pdf](http://www.publications.parliament.uk/pa/cm201012/cmselect/cmtreasy/874/874.pdf)

7. House of Lords European Union Committee, 7th Report of Session 2012–13, European Banking Union: Key issues and challenges ([www.publications.parliament.uk/pa/ld201213/ldselect/ldeucom/88/88.pdf](http://www.publications.parliament.uk/pa/ld201213/ldselect/ldeucom/88/88.pdf)). Lastra's contribution is noted in pages 19, 21, 31, 36, 39, 41

8. House of Lords & House of Commons Parliamentary Commission on Banking Standards ([www.publications.parliament.uk/pa/jt201213/jtselect/jtpcbcs/98/98.pdf](http://www.publications.parliament.uk/pa/jt201213/jtselect/jtpcbcs/98/98.pdf)). Lastra's contribution is noted in pages 98, 111

Media reports

9. Deutsche Welle, German international broadcaster (editor: Michael Knigge) [www.dw.de/dw/article/0,,16087817,00.html](http://www.dw.de/dw/article/0,,16087817,00.html)

10. BBC World Service, In the Balance, [www.bbc.co.uk/programmes/p0121841](http://www.bbc.co.uk/programmes/p0121841)