

In this work I will define the subject and the scope of the area of financial derivatives law and cover the main international treaties concerning transactions involving financial derivatives.

I also provide a survey to the master agreements which arise from this area and are made by the very participants of the derivatives transactions.

First I focus on defining the concept of financial derivatives. I take a brief look into history, which is essential for general understanding of the subject.

I examine the Vienna Convention of International Sales of Goods and its connection to financial derivatives, focusing on the scope of its application, particularly with regards to commodity derivatives which are settled by physical delivery.

I am going to clarify if Vienna Convention of International Sales of Goods does or does not apply to financial instruments other than physically settled commodity derivatives because it is not within the intended scope of the Vienna Convention which is implying the Article 2(d) that it should apply to financial instruments other than the physically settled commodity derivatives which can be covered by the definition of goods under the Vienna Convention. This matter is investigated thoroughly in this work.

Second I examine another international treaty the Hague Securities Convention.

The Hague Securities Convention is important for several reasons. It lowers the need for taking other jurisdictions into account has in fact been present all along. Far from creating any new conflict of legal issues, the Hague Securities Convention simply clarifies and resolves the conflicting issues that have been murky and intractably present ever since the emergence of intermediated securities holdings.

Moreover, all solutions, that the Hague Securities Convention brings about, tend directly toward simplifying transactions and reducing the number of implicated jurisdictions. As the list of jurisdictions ratifying the Hague Securities Convention gets under way and expands, the number of bodies of possibly applicable law will diminish.

The Hague Securities Convention is particularly helpful in complex transnational derivatives transactions because the parties of the contract can be assured that the applicable law is that of a particular jurisdiction, irrespective of the forum.

Then I take a look at master agreements which are recently gaining vast popularity in large international derivatives transactions. Namely, I will investigate the matter which is covered by the ISDA Master Agreements.

These master agreements have some very interesting aspects. They originate directly from the international practice and customary law governing this area.

I also address the vital matter which is essential for the international derivatives transactions. I explore the possibility for the state party to impose transborder capital restrictions to foreign investors. I examine whether capital transfer restrictions are permissible and the conditions under which they are. This part of my work addresses certain aspects of the state sovereignty that are usually used when a country is facing economic crisis or balance of payments difficulties, nonetheless this power is constrained by general international law and modern investment treaties in order to prevent or minimize abuse of the right and protect the interests of the foreign investors.

Finally, I examine the conditions under which it is possible and permissible for states to impose such a restriction and the means of protections and compensation for foreign investors in such a case.