

Update on Argentina's debt situation

Much has been said about Argentina's debt restructuring and litigation in US courts. Here is what you need to know.

1

Argentina has never repudiated its debt.

- After a default in 2001, Argentina successfully restructured 92.4% of its debt in 2005 and 2010. **Argentina has honored every payment to its exchange bondholders and will continue to do so.**
- A minority of bondholders, led by the so called "vulture funds," bought debt for pennies on the dollar many years after the default with the sole purpose of suing Argentina for the face value of the bonds plus interest. **They have refused to negotiate and have systematically rejected all offers made by Argentina.**
- **Argentina is committed to a fair, equitable, legal and sustainable solution taking into account the interests of 100% of its bondholders.**

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Over the past 10 years Argentina's Government has negotiated with its creditors, honored its commitments, and reduced its debt.

- A new Government took office in Argentina in 2003, two years after Argentina's default.
- After two successful exchanges, Argentina restructured its debt with 92.4% of its creditors.
- Argentina cancelled early all of its obligations with the IMF (2006).
- Argentina cancelled its obligations with holders of ICSID awards (2013).
- Argentina reached a final agreement with Spanish oil company Repsol (2013).
- Argentina reached a final agreement with the Paris Club and has made its first payment according to schedule (2014).
- Public debt as a percentage of GDP declined from 166% in 2002 to 40% today, with public debt in foreign currency with private creditors standing below 9%.

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Argentina is committed to honoring its debts. Argentina is not in default and will not default on its debts.

- An unprecedented court ruling by a New York District Judge (which the US Supreme Court declined to revise) established that the litigants, representing 1% of bondholders, were entitled to privileged treatment. Interfering with the debt restructuring accepted by 92.4% of Argentina's bondholders, the ruling stated that Argentina could not pay these creditors unless the litigants were paid face value of their claim plus interests, consecrating inequality amongst creditors.
- **The ruling also empowered the litigants to block exchange bondholders from collecting the payments duly deposited by Argentina, that are rightfully theirs.**
- Argentina has deposited all due payments. That money belongs now to the exchange bondholders who are being blocked from collecting their payments.
- **Argentina wants to pay, can pay and will pay, as it has done since 2003.**

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Thousands of US creditors are affected. Vulture funds representing 1% of Argentina's bondholders are blocking payments to 92.4%.

- The ruling is affecting the rights of thousands of US and international bondholders who are not part of the litigation and are unable to collect payments that are rightfully theirs and duly made by Argentina.
- **Thousands of US tax payers that own Argentine bonds are being damaged by the litigants, who are domiciled in tax havens to avoid paying taxes in the US.**
- Given that the ruling oversteps US jurisdiction, it has spurred a torrent of cross litigation across parties and across jurisdictions, for example under UK and Belgium courts.
- According to experts, the ruling of the NY court **may lead countries not to see the US as a suitable jurisdiction under which to issue sovereign debt.**

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The international community overwhelmingly supports Argentina's position.

- The international community has denounced the **negative systemic consequences** of this erroneous ruling for the international financial system, sovereigns around the world and the State of New York as a financial center.
- The international community has overwhelmingly condemned the predatory behavior of the vulture funds and the harmful consequences of their actions for the global financial system.
- **Experts have agreed that this ruling will render future sovereign debt restructurings impossible.** Unlike private companies, Sovereigns will have no opportunity to recover from a debt crisis.

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The ruling is of impossible compliance.

- While paying the litigants would amount to US\$1.5 billion, Argentina would have to face payments for more than US\$15 billion in the immediate future to the rest of the holdouts.
- Offering the vulture funds a privileged treatment over the overwhelming majority of its creditors would be **against Argentina's own legislation.**
- **It would also trigger the Rights Upon Future Offers (RUFO) clause, in force until the end of 2014.** The exchange bondholders would have the right to demand the same conditions as the vultures. This would prompt claims against Argentina for more than US\$120 billion (or up to US\$500 billion according to some experts). Argentina cannot pay all bondholders what the vulture funds are demanding for themselves.

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Economic logic was turned upside-down.

- a. The ruling marks the definitive split between risk and yield. If a court can ban defaults by ordering that defaulted bonds are paid at full face value plus interest, then there is no default risk to be compensated, and interest rates would no longer make economic sense.
- b. Creditors are rewarded for the risk of default through higher interest rates payments. The higher the interest rate, the higher the possibility of default.

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Argentina has a reasonable and fair offer on the table that would give litigants a 300% profit.

- Argentina has made all holdouts a concrete offer to join 92.4% of its creditors.
- **This would imply a 300% profit for the litigants.**
- Instead, the litigants refuse to negotiate and want no less than a 1600% profit. **For them it is either a 1600% profit or they will hold Argentina's bondholders hostage, try to derail a successful debt restructuring and damage the international financial system.**
- If the litigant vulture funds were willing to negotiate and take the offer accepted by the overwhelming majority of creditors, this litigation would come to an end.

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Vulture funds abuse legal systems, harass sovereigns and damage the international financial system.

- Led by NML Capital Ltd., a Cayman Islands hedge fund, plaintiffs in this case are primarily vulture funds that represent a small proportion of the 7% of holdouts.
- **Vulture funds exploit the absence of a sovereign bankruptcy regime and seek windfall profits by buying distressed debt at steep discounts, then suing to enforce its original terms while ignoring any restructuring efforts and harassing good-faith creditors in the process.**
- They follow a strategy of legal harassment, abusing the legal systems around the world.
- **They never lent money to Argentina. They have never negotiated and have rejected all offers made by Argentina since 2005.**
- **As shown by public registries, the litigants have spent millions of dollars in lobbying and campaigns that utilize false and outright misleading information against Argentina.**
- On July 31, 2014, more than 100 economists, including many Nobel laureates, urged the US Congress to legislate to mitigate fallout from a court judgment against Argentina in favor of vulture funds.

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The ruling is at odds with Argentina's sovereignty and the US Foreign Sovereign Immunities Act.

- The NY Court's pari passu orders are a mechanism designed to circumvent immunities protected by the U.S. Foreign Sovereign Immunities Act (FSIA).
- **The ruling runs contrary to the text, structure, history and purpose of the FSIA.**
- Argentina requested the International Court of Justice (ICJ) to institute proceedings against the United States because the ruling also violates international law obligations.

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The Argentine Congress has enacted a law to guarantee debt service and provide holdout creditors a new opportunity to join 92.4% of bondholders.

- On September 11, the Argentine Congress passed the Sovereign Payment of the Restructured Debt Law.
- The three main points addressed in the bill were the following: empowering the Ministry of Economy to appoint a new trustee to ensure bondholders can collect; an offer to debt holders to voluntarily change the law that governs their bonds to other legislations; and, lastly, to make deposits for 7.6% of the bondholders that decided not participate in either of the restructuring processes carried out by Argentina in 2005 and 2010.