

Buenos Aires Loves NYC Judge Rescuing Argentines From Default

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By Drew Benson

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U.S. District Judge Thomas Griesa can walk down the streets of New York unrecognized, even after handling Chrysler LLC's bankruptcy and a trademark lawsuit last year by film director Woody Allen.

In Argentina, where for more than seven years a return to international capital markets has rested on his rulings, the 79-year-old, semi-retired judge is a star. Buenos Aires newspapers kept his face on front pages as judgments for defaulted bonds in his court piled up to about \$6.4 billion. When he agreed not to impede an \$18.3 billion bond swap, they portrayed him as a hero.

Now, Argentine officials are wagering enough investors will accept the debt exchange to stem the flow of cases through Griesa's court and shrink the class action lawsuits, returning the country to global markets for the first time since the government's record 2001 default on \$95 billion of debt.

"If there is a very high participation rate, obviously litigation will decrease," said Hal Scott, who heads Harvard Law School's international finance systems program and has written about Argentina's default. "The question is going to be: who's left?"

Griesa, who handles all U.S. lawsuits involving defaulted Argentine debt, rejected a bid by class-action lawyers on April 26 to block the government from offering the swap directly to their plaintiffs. He said creditors had a right to participate since "litigation, after all these years, hasn't even begun to yield judgments which get paid. To me, it's immoral."

Soccer Jersey

Alongside a digitally-altered picture of the judge wearing a national soccer team jersey, newspaper *Ambito Financiero* ran a front-page headline the next day: "Griesa Is Argentine."

Two days later, Economy Minister Amado Boudou, 47, said that in the wake of Griesa's ruling, lawsuits would be more difficult to pursue because "Argentina's plans to end the 2001 default are now being taken into account."

Noah Kupferberg, a law clerk for Griesa at the U.S. District Court for the Southern District of New York, said the judge declined to comment.

President Cristina Fernandez de Kirchner opened the debt swap May 3, five years after her husband and predecessor, Nestor Kirchner, offered creditors about 30 cents on the dollar, the harshest restructuring terms since at least World War II, according to Arturo Porzecanski, an international finance professor at American University.

Higher Yields

Since the terms of the swap were announced April 14, the yield investors demand to buy Argentine bonds over U.S. Treasuries has climbed 213 basis points, or 2.13 percentage points, to 8.14 percentage points. The spread for major emerging market economies has climbed 116 basis points to 3.46 percentage points over the same period.

Boudou said May 19 that about \$8.5 billion, or 46 percent, of the eligible debt has been tendered in the restructuring so far. The offer, as measured in net-present value terms, was worth about 42.5 cents last week, according to RBS Securities Inc. The restructuring closes June 7.

Creditors have filed about 140 individual and 18 class action lawsuits in the U.S., winning judgments totaling about \$6.4 billion, Argentina said in a prospectus filed with the U.S. Securities and Exchange Commission on April 28. As much as \$4 billion of defaulted debt remains in the hands of investment funds pursuing litigation, Boudou said in a May 21 interview on Canal 7 television.

Nixon Nominee

Griesa, named to the federal bench by former President Richard Nixon in 1972, wasn't as lauded in April when he gave Kenneth Dart's EM Ltd. investment fund and Elliott Management Corp.'s NML Capital the go-ahead to seize \$105 million in Argentine assets held at the Federal Reserve Bank of New York. Then, Griesa was caricatured with a vulture on his shoulder in Buenos Aires-based business daily El Cronista.

"Griesa's something of a celebrity in Argentine politics," said Federico Thomsen, a Buenos Aires-based political and economic analyst. "He's a name any politician can mention to either say how scandalous the Kirchners are or to criticize the vulture funds" that are suing Argentina, Thomsen said.

Boudou dubbed Griesa a "serial embargoer" of Argentine assets on Jan. 12 after he blocked the Fed account. Fernandez, 57, repeated the moniker during a speech in which she accused "vulture funds" that bought up the defaulted bonds of trying to derail the debt exchange.

'Funeral'

After years of hearings, Griesa's courtroom "is like a funeral" now, said Howard Sirota, a Belle Harbor, New York-based lawyer representing a class action that has a \$2.2 billion judgment. "The atmosphere is one of weariness, frustration, resignation -- that it's impossible to collect from a foreign nation."

Sirota, who's argued dozens of cases in Griesa's courtroom since 1981, said he'll continue to seek attachments, adding he wouldn't take on the case if someone brought it to him today. "Argentina has demonstrated that it won't pay," he said. "It's a rogue nation that's defying the law."

Argentine assets abroad will remain exposed to seizure by creditors who have judgments from Griesa as long as Argentina restructures less than 100 percent of its debt, said Anna Gelpern, a law professor at American University in Washington whose research on international capital flows includes Argentina's restructuring.

Doubling Reserves

"There is less noise" as the pool of holdouts shrinks, Gelpern said in a phone interview. "But that makes those who remain that much more credible because they are actually asking for an amount that Argentina could pay -- and pay under the table if it needed." Argentine foreign currency reserves have more than doubled to \$48.8 billion since the 2005 settlement.

Boudou said May 19 that the government hasn't decided whether to sell up to \$1 billion in bonds due in 2017 as part of the swap.

"Any money raised by a new bond sale by Argentina will be subject to attachments" by creditors, said American University's Porzecanski. "These guys are salivating because they see the prey coming back into the arena."

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