

## Sovereign Debt Restructuring Update

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On March 29, 2013, the Republic of Argentina proposed an alternative payment formula to the U.S. Court of Appeals for the Second Circuit that, if accepted, would allow Argentina to resolve litigation with creditors holding defaulted bonds. The proposal was filed in response to the court's directive in *NML v. The Republic of Argentina*, No. 12-105(L) (2d Cir. Mar. 1, 2013), that Argentina submit in writing to the court the precise terms of any alternative payment formula and schedule for repaying defaulted bond debt as well as exchange bonds to which it is prepared to commit in lieu of the ratable payment formula ordered by a U.S. district court in *NML Capital, Ltd. v. Republic of Argentina*, 2012 BL 329726 (S.D.N.Y. Nov. 21, 2012). That ruling, which was appealed to the Second Circuit, required Argentina to pay \$1.3 billion to holdout bondholders no later than December 15, 2012. The ruling came on the heels of the Second Circuit's decision in *NML Capital, Ltd. v. Republic of Argentina*, 699 F.3d 246 (2d Cir. 2012), where the court upheld a lower court order enjoining Argentina from making payments on its restructured debt without making comparable payments to holdout bondholders. Argentina received a temporary reprieve of its obligation to make payments to holdout bondholders on November 28, 2012, when the Second Circuit stayed the ruling until it rules on Argentina's appeal.

In its March 29 proposal, Argentina offered holdout bondholders a choice of bonds equal to the debt's value at the time of the country's 2002 default or discount bonds, the same terms offered to bondholders during a 2010 debt restructuring. Holdout bondholders, who are seeking full

payment immediately, have previously rejected this offer. Moreover, the par-value option would be limited to investors holding less than \$50,000 in face value bonds, effectively meaning that the hedge fund plaintiffs involved in the litigation could be compensated under Argentina's proposal only by taking a big cut to their possible recovery.

On April 2, 2013, the Second Circuit directed holdout bondholders to submit a response to Argentina's latest proposal no later than April 22.