

Argentina in court to fight debt ruling

By **Jude Webber**
in Buenos Aires

With a December 15 deadline looming, Argentina will appeal today for US judges to suspend an order for it to pay \$1.3bn to holders of defaulted debt.

It will request a sweeping review of a court ruling that could trigger a new default and rock future sovereign restructurings.

Lawyers spent the weekend drafting the government's filing to an appeals court after last week's order by New York judge Thomas Griesa that it must pay US funds that spurned restructurings in 2005 and 2010. Buenos Aires, which calls the funds "vultures", will be seeking to convince the court to scratch Judge Griesa's interpretation of a "*pari passu*" or "equal step" clause in the bonds, unpaid since Argentina's default on nearly \$100bn in 2001.

Last month, the appeals court largely endorsed his reading but asked him to clarify two points – the payment mechanism and the effect on third parties. This led to last week's order and prompted a front-page picture in the pro-government newspaper *Página/12* yesterday of the octogenarian judge beside a vulture, with the headline, "Twins".

Incensed by comments from the government that Argentina would not pay anything to the "holdouts", despite an affidavit that it

would obey him, the judge sent his order back to the appeals court, but lifted a stay on payment.

Argentina was thus ordered to pay \$1.3bn to the holdouts when it pays holders of restructured bonds on December 15 and to deposit the money in an escrow account pending the appeal

court ruling. Judge Griesa ordered Argentina not to change its payment mechanism, and said third parties helping it would be considered aiders and abettors.

"The stay is the main thing," said Mario Blejer, a former Argentine central bank president. "Gaining time is important at this stage to avoid falling into an involuntary default."

Argentina faces a political dilemma. Complying with Judge Griesa's order would require it to break its own law, which prevents it from reopening the restructuring. Obeying the order, if upheld on appeal, would be seen as an impossible climbdown for the government, which says it cannot pay holdouts in full after persuading holders of 93 per cent of the defaulted debt to swallow a harsh writedown.

But failing to comply could mean a technical default – perhaps as early as mid-January.

Argentina is expected to argue that the funds used to pay restructured creditors are protected by the Foreign Sovereign Immuni-

ties Act; that third parties should not be dragged into the dispute; and that the ruling rewards speculators and would ensure no one would ever take a restructuring "haircut" again.

"Argentina may argue a violation of FSIA, but it is not clear that it stands to succeed in having the escrow condition dropped," said Vladimir Werning, a JPMorgan economist. "Legal specialists' opinion continues converging around the view that the odds are stacked against Judge Griesa's ruling being overturned [on appeal]."

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