

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NML CAPITAL, LTD.,

Plaintiff,

v.

THE REPUBLIC OF ARGENTINA,

Defendant.

- 03-cv-8845 (TPG)
- 05-cv-2434 (TPG)
- 06-cv-6466 (TPG)
- 07-cv-1910 (TPG)
- 07-cv-2690 (TPG)
- 07-cv-6563 (TPG)
- 08-cv-2541 (TPG)
- 08-cv-3302 (TPG)
- 08-cv-6978 (TPG)
- 09-cv-1707 (TPG)
- 09-cv-1708 (TPG)
- 14-cv-8601 (TPG)
- 14-cv-8988 (TPG)

AURELIUS CAPITAL MASTER, LTD.,
AURELIUS OPPORTUNITIES FUND II, LLC,
AURELIUS CAPITAL PARTNERS, LP, et al.,

Plaintiffs,

v.

THE REPUBLIC OF ARGENTINA,

Defendant.

- 07-cv-2715 (TPG)
- 07-cv-11327 (TPG)
- 09-cv-8757 (TPG)
- 09-cv-10620 (TPG)
- 10-cv-1602 (TPG)
- 10-cv-3507 (TPG)
- 10-cv-3970 (TPG)
- 10-cv-8339 (TPG)
- 14-cv-8946 (TPG)

BLUE ANGEL CAPITAL I LLC,

Plaintiff,

v.

THE REPUBLIC OF ARGENTINA,

Defendant.

- 07-cv-2693 (TPG)
- 10-cv-4101 (TPG)
- 10-cv-4782 (TPG)
- 14-cv-8947 (TPG)

(captions continue on following pages)

ORDER

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OLIFANT FUND, LTD.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	10-cv-9587 (TPG)
THE REPUBLIC OF ARGENTINA,	:	
	:	
Defendant.	:	
-----	:	
	x	
FFI FUND, LTD., et al.,	:	
	:	
Plaintiffs,	:	05-cv-3328 (TPG)
	:	14-cv-8630 (TPG)
v.	:	
THE REPUBLIC OF ARGENTINA,	:	
	:	
Defendant.	:	
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	x	

After signing an Agreement in Principle on February 29, 2016, the Republic of Argentina and the captioned plaintiffs have jointly requested that the court order the settlement payment mechanism outlined in Addendum A.

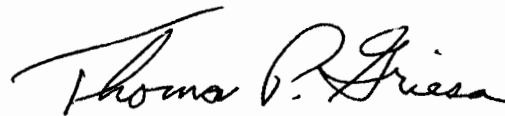
The Republic has signed agreements in principle with many plaintiffs that could result in settlements in various actions before this court. The settlements in all cases in the Argentina debt litigation present the court with extraordinary circumstances because the settlements are “of critical importance to the economic health of a nation.” *See EM Ltd. v. Republic of Argentina*, 131 F. App’x 745, 747 (2d Cir. 2005). Any attempt to attach, restrain, or otherwise encumber funds intended for settlement of any action would be contrary to the public interest. *See id.* (recognizing this court’s considerable discretion to deny

attachment and restraint of funds “connect[ed] with a restructuring of Argentina’s public debt to be accomplished through an issuance of new bonds”); *Capital Ventures Int’l v. Republic of Argentina*, 443 F.3d 214, 222–23 (2d Cir. 2006) (suggesting that this court could, in “extraordinary circumstances,” exercise its discretion to deny attachments that are “against the public interest”); *Capital Ventures Int’l v. Republic of Argentina*, 652 F.3d 266, 273 (2d Cir. 2011) (again suggesting that this court could deny attachments that might impede a “deal [that] will have a substantial effect on [the Republic’s] finances or its ability to access the capital markets”).

Accordingly, the court now “so orders” the payment mechanism outlined in Addendum A.

SO ORDERED

Dated: New York, New York
March 15, 2016

A handwritten signature in black ink, reading "Thomas P. Griesa". The signature is written in a cursive style with a large, sweeping initial 'T'.

Thomas P. Griesa
United States District Judge

ADDENDUM A
TO
AGREEMENT IN PRINCIPLE DATED AS OF FEBRUARY 29, 2016,
AS MODIFIED VIA EMAIL EXCHANGE ON FEBRUARY 28, 2016

In accordance with the Agreement in Principle, dated as of February 29, 2016, among the Republic of Argentina and each of the Plaintiffs named therein, as modified via email exchange on February 28, 2016 (as so modified, and as it may be amended from time to time hereafter, the “Agreement in Principle”) the following procedures shall govern the process of funding payments to the Plaintiffs under the provisions of paragraph 7 of the Agreement in Principle.

A. In accordance with the terms of the Agreement in Principle, the first monies raised through any capital-raises (except for capital-raises excluded pursuant to the third subparagraph within paragraph 7 of the Agreement in Principle, referred to herein as “Exempted Capital Raises”) by the Republic of Argentina up to the full amount to be paid to the Plaintiffs under the Agreement in Principle (other than interest accruing after February 29, 2016) (any such capital-raise, a “Capital-Raise”) will be paid by the financial institutions or other entities which fund, manage, syndicate or otherwise coordinate such Capital-Raise (such financial institutions referred to herein as “Facilitating Institutions”; where the Republic of Argentina is directly engaged in a Capital-Raise, the term Facilitating Institution refers to the Republic of Argentina itself) to the Plaintiffs in accordance with the procedures set forth in this Addendum A. The term “Capital-Raises” is to be interpreted broadly to include all raising of capital, whether domestically or internationally, whether taking the form of debt, equity or other securities, loans, repo transactions, derivative instruments, or some other form, whether public or private, and whether offered broadly or not but, in each case, shall not include Exempted Capital Raises.

B. The Republic of Argentina shall keep the Plaintiffs reasonably apprised on a current basis and in reasonable detail concerning the status of any and all Capital-Raises and, in furtherance of the foregoing, will (i) notify the Plaintiffs in writing of the identity of the Facilitating Institutions (including the contact information thereof, which shall include email addresses) upon the formal mandate thereof but, in any event, reasonably in advance of launch of marketing or syndication in respect of any Capital-Raise, the expected size of such Capital-Raise and the anticipated date of consummation of such Capital-Raise, in each case, reasonably in advance of the consummation thereof, and will notify Plaintiffs in writing in the event of and following any change in the Facilitating Institutions, such expected size or such anticipated date and (ii) provide to the Plaintiffs, on the basis that the Plaintiffs agree to maintain their confidentiality through the date the Capital-Raise is consummated or abandoned, draft underwriting agreement, offering memorandum or other material documentation with respect to any such Capital-Raise reasonably in advance of the execution thereof and, promptly upon execution of such documentation, executed copies thereof, in each case, in order to ensure compliance with this Addendum A. In the event that the Republic of Argentina determines to undertake an Exempted Capital Raise denominated in a currency other than the Argentine peso, the Republic of Argentina will notify the Plaintiffs in writing of such determination reasonably in advance of the consummation thereof (which notice shall set forth the amount of such Exempted Capital Raise in the applicable currency) and in the event of the consummation of such Exempted Capital Raise, the Republic of Argentina will promptly notify the Plaintiffs in writing of such consummation (which notice shall set forth the final amount of such Exempted Capital Raise in the applicable currency).

C. The Republic of Argentina will provide the Facilitating Institutions in respect of any Capital-Raise with a copy of this Addendum A and the Agreement in Principle, and will ensure that the definitive underwriting or other documentation relating thereto complies or is consistent with the provisions of this Addendum A.

D. Plaintiffs shall promptly prepare Schedule IA to this Addendum A, which shall set forth the allocation of the aggregate amount payable to the Plaintiffs as of February 29, 2016 under the Agreement in Principle among the individual Plaintiffs and promptly provide the Republic of Argentina with such Schedule IA. Schedule IA shall be signed by each of the Plaintiffs and, upon such signature, shall be incorporated herein by reference.

- a) If at any time payment of the amount, or remaining amount, due to the Plaintiffs (other than interest accruing after February 29, 2016, the payment of which is separately provided for in (Q) below) is made only in part, the Plaintiffs will promptly revise Schedule IA to reflect the payment in part.
- b) Nothing in this Addendum precludes payment to the Plaintiffs by the Republic of Argentina in any other manner which is in accordance with Schedule IA and which also provides for a cash payment by wire transfer of immediately available funds in U.S. dollars, but if payment is made in another manner in part, the Plaintiffs will appropriately modify Schedule IA.
- c) The Plaintiffs will promptly provide the Republic of Argentina with written notice of any changes to Schedule IA; provided that during the one business day period immediately preceding the consummation of a Capital Raise, a Plaintiff may not change the amount, or remaining amount, due to such Plaintiff with respect to the proceeds of any Capital Raise.

E. The Plaintiffs will promptly prepare Schedule II to this Addendum A which will set forth the identification of the accounts of each of the Plaintiffs maintained with one or more money center financial institutions located in the State of New York or elsewhere in the United States and reasonably acceptable to the Republic of Argentina¹ (the "Accounts"), and wiring instructions for payment into each of the Accounts and promptly provide the Republic of Argentina with such Schedule II, which shall be incorporated herein by reference. For operational convenience, a Plaintiff may designate on Schedule II the Account of an affiliate to receive payment on its behalf, provided it makes an indication to that effect on Schedule II. The Plaintiffs agree to provide promptly to the Facilitating Institutions all "know your customer" or other similar information reasonably requested by the Facilitating Institutions to allow such Facilitating Institutions to comply with applicable law and regulations.

- a) If at any time a Plaintiff changes its Account or wiring instructions, it will promptly revise Schedule II to reflect the change and will promptly notify the other Plaintiffs and the Republic of Argentina of such change; provided that during the one business day period immediately preceding the consummation of a Capital Raise, a Plaintiff may not change its Account or wiring instructions with respect to the proceeds of any Capital-Raise.
- b) The Republic of Argentina will maintain the confidentiality of Schedule II, and will not disclose Schedule II except as necessary to implement the procedures of this Addendum A, to persons who will agree to maintain the confidentiality of Schedule II.

F. All notices and other communications under this Addendum shall be in writing and shall be deemed given when actually received if (a) delivered personally by hand or via courier or (b) sent by e-mail, in each case, at the physical or email addresses—

¹ The following institutions shall be deemed to be reasonably satisfactory to the Republic of Argentina: The Bank of New York Mellon, Wells Fargo, State Street Bank & Trust Co, State Street Bank & Trust Co, Boston, Goldman, Sachs & Co., JP Morgan Chase, TD Bank, N.A., The Bank of Nova Scotia, HSBC Private Bank, and Citibank NA.

a) If to the Plaintiffs, as set forth in Schedule III (which shall set forth both physical addresses and email addresses for each Plaintiff), which such Schedule III the Plaintiffs will promptly prepare and deliver to the Republic of Argentina and which Schedule III shall be incorporated herein by reference. Notice shall not be effective with respect to any Plaintiff unless delivered to each address or e-mail address, as the case may be, listed on Schedule III with respect to such Plaintiff, provided that delivery to physical addresses of any notice pursuant to (L) shall not be effective. If at any time a Plaintiff changes its notice instructions, it will promptly revise Schedule III to reflect the change and will promptly notify the other Plaintiffs and the Republic of Argentina of such change; provided that during the one business day period immediately preceding the consummation of a Capital Raise, a Plaintiff may not change its notice instructions with respect to any Capital-Raise;

b) If to the Republic of Argentina, as set forth in Schedule IV (which shall set forth both physical address and email addresses for the Republic of Argentina), which such Schedule IV the Republic of Argentina will promptly prepare and deliver to the Plaintiffs, and which Schedule IV shall be incorporated herein by reference. Notice shall not be effective with respect to the Republic of Argentina unless delivered to each address or e-mail address, as the case may be, listed on Schedule IV, provided that delivery to physical addresses of any notice pursuant to (L) shall not be effective. If at any time the Republic of Argentina changes its notice instructions, it will promptly revise Schedule IV to reflect the change and will promptly notify the Plaintiffs of such change; and

c) If to the Facilitating Institutions, as provided to the Plaintiffs in accordance with (B) above.

G. No later than two business days after the Republic of Argentina provides notice to the Plaintiffs of the identity of the Facilitating Institutions as provided in (B) above, the Plaintiffs will provide written notice to the Facilitating Institutions for the Capital-Raise, with a copy to the Republic of Argentina, of Schedule IA, Schedule II and Schedule III as then in effect, and instruct the Facilitating Institutions to wire funds on the closing date in the amounts as provided in Schedule IA in accordance with wiring instructions as provided in Schedule II.

- a) The Plaintiffs will promptly provide the Facilitating Institutions with written notice of any changes to Schedule IA, Schedule II or Schedule III made prior to consummation of any Capital-Raise, it being understood that no changes to any schedule hereto with respect to such Capital-Raise may be made during the periods set forth (D)(c), (E)(a) and (F) above.
- b) The Facilitating Institutions will maintain the confidentiality of Schedule II, and will not disclose Schedule II except as necessary to implement the procedures of this Addendum A, to persons who will agree to maintain the confidentiality of Schedule II.

H. The Republic of Argentina will (a) provide written notice to the Plaintiffs within 24 hours of becoming aware of any attempt by any creditor of the Republic of Argentina to place a lien upon, encumber or otherwise attach the proceeds of any Capital-Raise or to enjoin such Capital-Raise and (b) use its reasonable best efforts to cause the Facilitating Institutions to agree in any material documentation with respect to any Capital-Raise to provide prompt notice to the Plaintiffs upon becoming aware of any attempt by any creditor of the Republic of Argentina to place a lien upon, encumber or otherwise attach the proceeds of any Capital-Raise or to enjoin such Capital-Raise.

I. The Plaintiffs will provide any notices or instructions to the financial institutions at which their respective Accounts are maintained, to the extent that such may be required by those institutions.

J. On the closing date of any Capital-Raise, without further instruction, the Facilitating Institutions will cause to be wired to each of the Plaintiffs to their respective Accounts in accordance with Schedule II, cash in immediately available funds, in United States dollars in an amount sufficient to pay the amounts owed to each of the Plaintiffs, as set forth in Schedule IA. The wire transfers will be initiated as promptly as operationally practicable on the closing date. The Facilitating Institutions will provide prompt written confirmation to the Plaintiffs of the initiation of the wire transfers, including the time of initiation, the amounts of the wire transfers and the federal reference numbers.

K. If the proceeds of a Capital-Raise are insufficient to pay the full amounts payable to the Plaintiffs as set forth in Schedule IA, the Facilitating Institutions will cause to be made a partial payment to each of the Plaintiffs pro rata in accordance with Schedule IA.

L. If the proceeds of a Capital Raise are in excess of the amount required to pay the Plaintiffs in full, as set forth in Schedule IA, the excess may be applied by the Facilitating Institutions as the Republic of Argentina directs, but only after first monies raised through such Capital-Raise have been wired to the Plaintiffs as contemplated by (J) above and the Facilitating Institutions have provided in writing to each of the Plaintiffs federal reference numbers for each wire made to each such Plaintiff's Account, together with the amount so wired and the Plaintiff's Account to which it was wired (such federal reference numbers and wire information, collectively, the "Wire Confirmation Information") and the other applicable requirements of this (L) have been met. After each Plaintiff has received Wire Confirmation Information, the Facilitating Institutions may initiate wires to pay other claims relating to the defaulted Argentine bonds pursuant to settlement agreements or agreements in principle in settlement of such claims ("Other Settled Claims").

The Facilitating Institutions may initiate wires or other transfers of Capital Raise proceeds (other than wires to the Plaintiffs as contemplated herein and in respect of the Other Settled Claims) only after each Plaintiff has confirmed in writing to the Facilitating Institutions and the Republic of Argentina that the receiving money-center financial institution at which its Account is held has received the payment in full of the amounts owed pursuant to the Agreement in Principle by Fedwire for crediting to such Plaintiff's Account. Each Plaintiff shall use its reasonable best efforts to confirm as expeditiously as possible that such Plaintiff's payments have been received. A Plaintiff shall be deemed to have made such confirmation unless such Plaintiff shall have notified the Facilitating Institutions in writing within sixty (60) minutes from that Plaintiff's receipt of Wire Confirmation Information that such Plaintiff is unable to confirm such receipt of funds. All notices pursuant to this (L) shall be given by email in accordance with (F).

For the avoidance of doubt and notwithstanding anything contained in this Addendum A to the contrary, no Plaintiff will be deemed to have been paid in full under the terms of the Agreement in Principle unless and until the full amount of the monies owed to such Plaintiff shall have been received by such Plaintiff via deposit into such Plaintiff's Account in U.S. dollars in immediately available funds.

M. Any payment made to the Accounts will be final and irrevocable, notwithstanding (in the case of any partial payment) any subsequent termination of the Agreement in Principle. Any amounts so paid shall be credited on a dollar for dollar basis against the receiving Plaintiff's claims which are subject to the Agreement in Principle. No such credit shall amend or otherwise modify any provision of the Agreement in Principle, including, but not limited to, paragraph 10 thereof which provides that in the event of a termination of the Agreement in Principle, the terminating Plaintiffs and the Republic of Argentina (with respect to the terminating Plaintiffs only) shall thereupon be restored to their respective prior positions as if there had been no Agreement in Principle. Notwithstanding the crediting of any partial payment, all uncredited claims shall remain in full force and effect.

N. The Facilitating Institutions and all other financial institutions participating in a Capital-Raise will be fully protected in relying on Schedule IA delivered to the Facilitating Institutions in accordance with (G) above, and any dispute of the Republic of Argentina regarding Schedule IA may be had solely with the Plaintiffs and will be resolved in accordance with paragraph 9 of the Agreement in Principle.

O. No disclosure made by the Republic of Argentina in any offering document with regard to the use of proceeds of a Capital-Raise will be inconsistent with these procedures.

P. The Plaintiffs and the Republic of Argentina will reasonably cooperate with the Facilitating Institutions to accommodate legal, logistical or other reasonable concerns of the Facilitating Institutions in connection with the implementation of this Addendum A.

Q. The following procedures will apply to the payment of interest accruing after February 29, 2016 by the Republic of Argentina to the Plaintiffs in accordance with paragraph 7 of the Agreement in Principle.

- a) Payments of interest accruing after February 29, 2016 will be made by the Republic of Argentina on the same business day that the corresponding payment to the Plaintiffs of the amounts due the Plaintiffs under the Agreement in Principle (other than such interest) is made. If such payment is made only in part, the amount of the interest accruing after February 29, 2016 will be payable in corresponding part to each of the Plaintiffs pro rata in accordance with Schedule IA.
- b) The Republic of Argentina will provide notice to the Plaintiffs of the payments of interest accruing after February 29, 2016 to each of the Plaintiffs no later than the time such payment is made. The notice will state the amount paid and the basis upon which the amount paid was calculated.
- c) All payments of interest accruing after February 29, 2016 by the Republic of Argentina will be made in cash, in United States dollars, in immediately available funds by wire transfer to the Accounts in accordance with the instructions set forth in Schedule II as then in effect.
- d) Plaintiffs shall promptly prepare Schedule IB to this Addendum A which shall set forth the amount of interest accruing after February 29, 2016, payable to each of the Plaintiffs on a daily basis for payments made from March 2, 2016 to April 14, 2016, assuming the full amount payable to the Plaintiffs under the Agreement in Principle exclusive of such interest is paid in full on one of those days and promptly provide the Republic of Argentina with such Schedule IB. Schedule IB shall be signed by each of the Plaintiffs and, upon such signature, shall be incorporated herein by reference.
- e) If at any time payment of the amount, or remaining amount, due to the Plaintiffs (other than interest accruing after February 29, 2016) is made only in part, the Plaintiffs will promptly revise Schedule IB to reflect the payment in part.
- f) The Plaintiffs will promptly provide the Republic of Argentina with written notice of any changes to Schedule IB.
- g) Schedule IB is provided for convenience only, and the amount of interest accruing after February 29, 2016 payable to the Plaintiffs will be governed by paragraph 1 of the Agreement in Principle, including with respect to interest accruing after April 14, 2016.

R. Upon the payment in full to the Plaintiffs of all amounts due under the Agreement in Principle, the Plaintiffs shall, at the election of the Republic of Argentina, either (i) deliver or irrevocably instruct to be delivered the defaulted Republic of Argentina bonds that are the subject of the Agreement in Principle to the Republic of Argentina or (ii) irrevocably instruct the cancellation of such bonds.

S. Notwithstanding anything to the contrary herein, all computations of amounts hereunder shall be in accordance with the Agreement in Principle and the aggregate amount of payments hereunder shall not exceed the amounts set forth in or contemplated by the Agreement in Principle, so long as the Agreement in Principle is in effect. As to the allocation of any such amounts, the Republic of Argentina and the Facilitating Institutions shall be entitled to rely on the Schedules hereto or other written instructions of all of the Plaintiffs.

T. No taxes shall be withheld by the Facilitating Institutions or the Republic of Argentina from any payments payable to the Plaintiffs in accordance with this Addendum A.