

R.U.F.O.: PRUDENCE IS NEEDED...

We have read with concern many statements affirming that the Government of Argentina should not worry about the possibility of violating the famous R.U.F.O. provision when negotiating payment with the so called “vulture funds”, because the Government would be obeying a judgment rather than voluntarily negotiating better terms in the payment.

This interpretation is dangerous. Any legal interpretation of the scope of the term "voluntary negotiation" clause of R.U.F.O. will not be undisputed. The term will be subject to interpretation according to the circumstances. Ironically, similar situation of interpretation was the one that has brought us to the current situation. Precisely, the interpretation of Judge Thomas Griesa on the pari passu enforcement time and method and its extraterritorial extension of its judgment prove that everything is possible.

It has also been said that the judge or the vulture funds would have reacted differently if the Government of Argentina or their lawyers had adopted a more "friendly" strategy and language. It is worth saying that the legal standards that a Judge applies, does not change by the way in which he is addressed, in the United States or in general anywhere in the developed world. In the pari passu case both Judge Griesa and the appellate court strictly followed the criteria that the letter of the contract is the law for the parties. This criterion would not have changed if the attitude of Argentina's lawyers would have been different. As to the vulture funds it is quite clear that their business is to maximize the return of their investment for which total victory provides them a position of "maximum strength" for negotiations. To think otherwise is "naïve".

The Government has very limited alternatives, but the fact is that one of them is not a rush for payment. The truth is that Argentina must now demonstrate that it has exhausted all levels to:

- a) first meet their contractual obligations to the restructured bondholders,
- b) second, it has exhausted all levels of judicial and non-judicial options, and
- c) third, chose the option that leaves the Government less open flanks, even at the risk of a technical default.

If there is something that everyone should be sure that will happen if the Government does not act with prudence and avoid the possibility of violating the R.U.F.O. clause, is that claims and legal actions, with or without foundation, will mushroom as a result of any settlement to be reached. The illusion that if you simply comply with the payment, Argentina will live a period of peace and access to the capital market without further problems, is unclear and will depend on a

host of shrewd bondholders and their lawyers, whose activity takes place in a country that is the "paradise" of trials. This is not a criticism, it is a reality.

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