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U.S. Court Expands How Creditors May Enforce Judgments Against Sovereigns

Creditors pursuing claims against sovereign states may find new opportunities. A recent U.S. court decision opens the door to recoveries once thought out of reach, reinforcing the value of well-planned, globally coordinated strategies to maximize returns and speed up enforcement.

A recent decision by the U.S. District Court for the Southern District of New York in a dispute between Argentina and certain of its creditors marks a significant expansion in how creditors may enforce judgments and arbitral awards against sovereign states. In a move with potentially far-reaching implications, the court endorsed the ability of U.S. federal courts to order a sovereign to repatriate and “turnover” assets held outside the United States.

This ruling breaks new ground by applying judgment-enforcement tools available under New York state law to enforcement actions against sovereign states, even though enforcement against sovereign property is limited by U.S. federal law, specifically the Foreign Sovereign Immunities Act (FSIA). The court held that if a sovereign holds property abroad that it controls or can repatriate, a U.S. court may compel the sovereign to bring those assets within the jurisdiction to satisfy a judgment—even if the property itself is not physically located in the United States. Other U.S. courts had previously suggested that the FSIA precludes enforcement against sovereign property located outside the United States.

Implications for Sovereign Creditors

This recent decision, which is being appealed by Argentina, potentially enhances the enforcement arsenal for creditors holding judgments or arbitral awards against sovereigns, especially in cases where attachable U.S.-based assets are limited or deliberately obscured.

This tool gives creditors a chance to gain even more benefit from taking a judgment or arbitral award to the United States and shift the burden of enforcement onto the sovereign itself, rather than conducting a country-by-country asset chase. Moreover, by validating the U.S. court’s authority to order turnover of foreign-based assets (at least where New York

state law can be applied), this decision supports a broader, more assertive enforcement playbook:

- **Build a Clear Record of Control.** To leverage this evolving interpretation of the FSIA, creditors should proactively gather evidence of a sovereign's direct or indirect control over foreign-based assets. That includes government ministries, central banks, and state-owned enterprises that can be shown to act as the sovereign's "alter ego."
- **Pursue Alternate Pathways.** Investors should prioritize high-impact strategies, including seeking judicial discovery to uncover commercially used sovereign assets worldwide and tracing assets held by state-owned entities connected to sovereign obligations. These approaches not only broaden the avenues for recovery but also enhance the appeal and potential market value of the claim for investors considering an early exit.
- **Structure Settlements to Withstand Default.** Sovereigns have a track record of breaching post-judgment settlement deals. When entering settlement negotiations, creditors should include enforceable protections—such as escrow mechanisms, jurisdictional stipulations, or waivers of defenses—to guard against future default and enhance the creditors' enforcement prospects relative to before a settlement was negotiated.

This recent ruling from a New York district court continues to expand the toolkit for creditors by potentially bringing offshore and other sovereign assets abroad within U.S. reach. Paired with creative enforcement tactics, this shift strengthens the strategic options available for pursuing recovery against sovereign debtors.

About Kobre & Kim

Kobre & Kim is a conflict-free global law firm focused on disputes and investigations, often involving fraud and misconduct. The firm's team:

- Acts on behalf of creditors to monetize high-value judgments and arbitration awards, with most of our matters involving awards and judgments with face values of over US \$100 million to several billion USD.
- Has extensive experience enforcing arbitration awards and judgments against sovereign governments and their related entities, understanding the unique issues and opportunities in such enforcement campaigns, and successfully recovering tens of billions of USD.
- Through its integrated global team, it can act in jurisdictions across North and South America, EMEA, Asia, and key offshore financial centers, strategically coordinating cross-border proceedings.