

# **Creditor Committees in Sovereign Debt Restructurings: Understanding the Benefits and Addressing Concerns**

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December 2014

## **INTRODUCTION**

It is not difficult to argue that creditor committees are the single most useful tool for addressing current concerns about sovereign debt restructuring. Sovereign creditors are frequently concerned that restructurings inadequately address their commercial and process concerns, in some recent cases leading to restructurings that impose concessions that unfairly impinge their interests. Sovereign issuers are frequently concerned that their ability to achieve important creditor concessions is impaired when their debt is in the form of widely-held bonds, and real creditors may be hard to identify and to locate for purposes of understanding concerns and preferences. Both constituencies are concerned by what is currently labelled “the holdout problem”, which describes the ability of some bondholders not to agree to a proposed restructuring, and instead to seek to collect on their un-restructured claims, potentially disrupting others’ agreed objectives.

Many stakeholders and experts are debating how to address these concerns. Proposals range from IMF-required debt re-profiling, to enhanced collective action clauses, to revised clauses, to an independent forum of experts, to a system of mandatory mediation. Each of these ideas has merits and drawbacks, and there would seem to be sense in examining all possibly useful tools.

I contend, however, that most key players in the field are paying too little attention to creditor committees, even though such committees are the tool that

## KNOWN BENEFITS

**Committees Streamline a Restructuring Process for Issuers.** The formation of a representative committee provides an issuer a credible and user-friendly, single forum in which to make proposals and to advance its interests. If a committee includes representatives of the key stakeholders, and if it is well-advised, the committee can work to build inter-creditor consensus, removing the complexity of that task from the issuer. In addition, consensus is usually speedier via a committee, as most creditors will usually feel they can trust “a group of their own” more readily than they can trust the issuer. This dynamic enables an efficient process that imposes less administrative burden on the issuer. The recent cases of Greece and Belize, while perhaps subject to criticism for other reasons, have demonstrated how committees can form and serve this useful purpose in modern sovereign bond restructurings.

**Committees Redress Information Imbalances.** A primary reason for creditors to organize in connection with a restructuring exercise is to counteract the natural information imbalance that exists between issuers - who are closely familiar with the details of their own affairs - and creditors , who are not close to the day-to-day governance of an issuer. In order to ensure an issuer shares a

and in diminishing the attraction of a creditor holdout strategy, the supportive views of a well-crafted and well-informed creditor committee are unmatched. If creditors understand that a committee has been close to the design of the proposed terms, that the committee consists of creditors whose

the IMF, the World Bank, and INSOL International generally advocate. At

Still, it would seem to be sensible to study establishing a supervisory body that would observe issuer-committee restructuring efforts

## CONCLUSION

Practical experience working with creditor committees over the past several decades affirms their constructive approach, as well as their utility to a good faith issuer that really wants to achieve consensus on a fair and sustainable debt restructuring. Certainly, the committee process can raise concerns, and effort to address those concerns is worthwhile. Standardization and even supervision would seem to be worth exploring. But it is on those topics where the energy of debate should be directed, and not on a continued debate about whether committees should be used at all. Committees are too valuable to the restructuring process, and in time they will be found to exceed any of the other tools under discussion for addressing identified risks and achieving prompt, fair, and sustainable debt restructuring.



IMF, subject to earlier termination upon completion of the bond-related deal;

provided the Committee engages legal advisors within [\_\_] days of its formation, execute a letter agreement with one legal advisory team (using a form document to be designed) containing the government's commitment to pay the reasonable cost of the advisory team's services;

either publish all documents in accordance with the "Publication Guidelines" below or execute a confidentiality agreement with representatives



- e. Consistent with market practice, the Committee shall cooperate with the government in each reasonable way so as to maximize the speed of the restructuring process and to minimize its cost.
4. **Publication Guidelines.** Unless the government shall fully comply with the “Committee Guidelines” above:
- a. The government shall provide to the IMF written permission (using a form document to be designed) to publish on the IMF website (i) every document that the government provides to the IMF from and after the Commencement Date through the date of publication of the exchange offer or equivalent, except to the extent that a confidentiality-bound standing committee of investor