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Gramercy files $1.3bn claim against Peru

Robin Wigglesworth in New York and Andres Schipani in Bogotá

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A US hedge fund has filed a $1.3bn claim against Peru over the government's alleged refusal to repay long-defaulted local bonds at a reasonable rate, arguing that it amounts to expropriation and falls foul of a free-trade agreement with the US.

Gramercy, an emerging markets-focused hedge fund, has snapped up about 20 per cent of bonds originally issued to landowners after their property was seized by a leftwing junta led by General Juan Velasco following a 1968 coup.

But the junta soon defaulted on the "Agrarian Reform" bonds and since then Peruvian holders have been fighting through the local judicial system to get repaid. The courts have long agreed that the bonds should be repaid, but a succession of Peruvian governments have baulked at the cost of doing so in full and adjusted for inflation.

In 2013 the country's highest court reaffirmed a previous ruling that an adjusted value was required, but controversially accepted the government's methodology that in practice slashed the $5.1bn value to as little as $12m, according to creditors.

Gramercy on Monday evening formally filed a "notice of intent to commence arbitration" under a US-Peruvian trade pact. There will now be a 90 day cooling-down period for negotiations, which the hedge fund does not expect to be fruitful. After that a three-person tribunal will be assembled to hear the case.

Although pursuing claims through free trade agreements can be arduous and time-consuming, James Taylor, Gramercy's chief legal officer, said the hedge fund is prepared to fight for years to come.

"The commencement of an arbitration claim in a neutral forum will thwart the Humala administration's attempt to unjustly erase this debt from Peru's history," he said.

The Peruvian government did not respond to a request for comment.

Some legal experts have questioned whether Gramercy will win or be able to enforce an arbitration claim, but the money manager's willingness to start a legal scrap has been reinforced by rising controversy around the 2013 Constitutional Court ruling.

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>
> - James Taylor, Gramercy's chief legal officer

In a formal complaint to the public prosecutor's office in Lima, retired judge Carlos Mesía Ramírez said he signed what he said was at the time a majority agreement in favour of the bondholder.

But at the last minute the court narrowly ruled in favour of the government's settlement argument, and the initial draft ruling was abruptly changed into an altered dissenting opinion, the former judge wrote in the complaint, a copy of which was seen by the FT and verified by the plaintiff.

Óscar Urviola, president of the court at the time of the decision, said: "The Constitutional Tribunal acted through a decision which is valid, and in compliance with the internal legal rules of this country."

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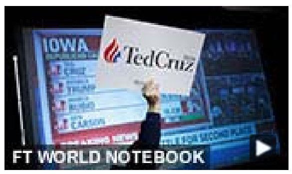

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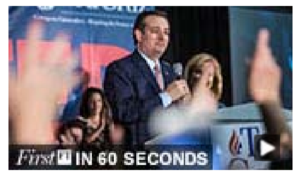

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