



July 30, 2020

**BY ECF**

The Honorable J. Paul Oetken  
United States District Court  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square, Room 2101  
New York, New York 10007

Re: *In re Mexican Government Bonds Antitrust Litigation*, No. 18-cv-02830 (JPO)

Dear Judge Oetken:

Plaintiffs respectfully submit *In re Eur. Gov't Bonds Antitrust Litig.*, 2020 WL 4273811 (S.D.N.Y. July 23, 2020) (“*EGB*”) (Marrero, J.), as supplemental authority in opposition to Defendants’ motions to dismiss the Second Consolidated Amended Class Action Complaint (“*SAC*” or “¶”) for lack of personal jurisdiction, improper venue, and failure to state a claim. ECF Nos. 176-91.

*EGB* concerned an alleged six-year conspiracy among at least six banks and their subsidiaries to fix the prices of debt securities issued by Eurozone countries’ central governments. 2020 WL 4273811, at \*2. In *EGB*, Judge Marrero sustained plaintiffs’ Sherman Act claims against three defendants and dismissed the claims against other defendants for reasons inapplicable here. The reasoning in *EGB* confirms that the Court should deny Defendants’ motions to dismiss.

**A. *EGB* Confirms That Plaintiffs Plausibly Allege Each Defendant’s Participation in an Unlawful Price-Fixing Conspiracy.**

Adopting this Court’s reasoning in *In re Mex. Gov’t Bonds Antitrust Litig.*, 412 F. Supp. 3d 380, 390 (S.D.N.Y. 2019) (“*MGB P*”), *EGB* recognized that statistical allegations of anomalous pricing support the existence of a conspiracy. *See EGB*, 2020 WL 4273811, at \*17 (“Following the reasoning of [*MGB I*], which considered similar claims of price fixing in government bond markets, the Court thus concludes that the market-wide statistics above need not be disregarded. They are suggestive of a conspiracy in the *EGB* markets.”). The court then considered a chart alleging that four defendants narrowed bid-ask spreads at the end of the class period and concluded that plaintiffs adequately alleged the involvement of those defendants in the conspiracy. *Id.* at \*18-20.

The *SAC* meets this standard. Plaintiffs here allege a substantial body of direct chat evidence (¶¶ 6 -7, 399-424, 427) and a 600-page regulatory finding implicating specific Defendants in a

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conspiracy to fix Mexican Government Bonds (“MGBs”) (¶ 375), alongside statistical allegations showing that the conspiracy impacted prices. ¶¶ 429-63.

**B. *EGB* Confirms That Plaintiffs Allege Antitrust Standing.**

Judge Marrero held that the *EGB* plaintiffs adequately pleaded antitrust standing by alleging direct transactions with “named Defendants at prices that had been artificially altered as a result of the price-fixing conspiracy.” *EGB*, 2020 WL 4273811, at \*12-14. The court rejected defendants’ argument that antitrust standing requires pleading “facts regarding specific transactions.” *Id.*, at \*13. This conclusion supports antitrust standing for all Plaintiffs here, because each Plaintiff alleges it transacted MGBs directly with a Defendant during the conspiracy. ¶¶ 9, 14-21, 501-03, 519-21.

**C. *EGB* Supports the Court’s Exercise of Personal Jurisdiction Over All Defendants.**

*EGB* found that Defendants’ in-forum sales of price-fixed bonds subject them to personal jurisdiction. *See* 2020 WL 4273811, at \*6 (“Because Foreign Defendants allegedly fixed the prices of these transactions to the detriment of Plaintiffs, Plaintiffs’ claims clearly arise from the same conduct that reflects purposeful availment of the forum.”) (citing *Charles Schwab Corp. v. Bank of Am. Corp.*, 883 F.3d 68, 82-83, 85 (2d Cir. 2018)).

The court also recognized that “allegations reflect[ing] that [a] New York-based affiliate [of a foreign defendant] sold EGBs that were sourced by [the foreign defendant], with [the foreign defendant’s] knowledge, at prices determined by [the foreign defendant]” suffice to indicate an “agency relationship” through which a foreign defendant avails itself of the U.S. market. 2020 WL 4273811, at \*7. Here, too, Plaintiffs allege in great detail the processes through which each Defendant sourced and priced all MGBs transacted in the U.S., utilizing their respective U.S. broker-dealer affiliates. ¶¶ 115, 139, 161, 181, 203, 221. Similarly, *EGB* held allegations that defendants’ U.S.-based subsidiaries operated within the same global business divisions responsible for trading relevant government bonds support the existence of an agency relationship. 2020 WL 4273811, at \*9-10. Plaintiffs here allege the same global divisional arrangement as to each Defendant. *See* ¶¶ 106-08 (Santander Mexico); ¶¶ 127-29 (BBVA-Bancomer); ¶¶ 151-52 (Citibanamex); ¶¶ 172-74 (Deutsche Bank Mexico); ¶¶ 193-95 (HSBC Mexico); ¶¶ 212-14 (Bank of America Mexico).

For the foregoing reasons, and those already submitted, the Court should deny Defendants’ motions to dismiss.

Respectfully,

/s/ Vincent Briganti  
Vincent Briganti