

# CASE BACKGROUND

## **GSE Bonds Antitrust Litigation, 19-cv-1704 (S.D.N.Y.)**

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### **Government-Sponsored Enterprises (“GSE”)**

GSEs are meant to enhance the flow of credit for specific sectors of the economy such as financing homes, education or farming.

The GSE market is imperative to public investments, as most every state, local and municipal authority is limited, due to varying state laws, as to which types of investment vehicles that can be used.

GSE bonds are low-risk investments, only marginally higher in risk than a U.S. Treasury bond. GSE bonds also provide a marginally higher yield than comparable securities backed in full by the United States Treasury, so they provide an attractive option for public entities who need to maintain their liquidity of funds while garnering a larger return than a comparable money market account or U.S. Treasury bond.

### **Complaint Filed Against 16 Banks**

In 2019, the Pennsylvania Treasury filed a class action lawsuit alleging price-fixing schemes of GSE bonds by 16 large banks between 2009 and 2014.

Banks included were: Barclays Capital Inc., BNP Paribas Securities Corp.; Citigroup Global Markets Inc.; Credit Suisse Securities (USA) LLC; Deutsche Bank Securities Inc.; First Tennessee Bank, N.A. and FTN Financial Securities Corp.; Goldman Sachs & Co. LLC; J.P. Morgan Securities LLC; Merrill Lynch, Pierce, Fenner & Smith Inc.; UBS Securities LLC; Morgan Stanley & Co. LLC; HSBC Securities (USA) Inc.; Nomura Securities International, Inc.; TD Securities (USA) LLC; Cantor Fitzgerald & Co.; and SG Americas Securities, LLC.

GSE bonds in the suit included those from the Federal National Mortgage Association (“Fannie Mae”), the Federal Home Loan Mortgage Corporation (“Freddie Mac”), the Federal Home Loan Bank, and the Federal Farm Credit Bank.

One cooperating co-conspirator turned evidence of the price-fixing agreements over during a Department of Justice investigation. Chat logs between 27 bond traders were obtained and included in an amended suit.

### **Pennsylvania’s Stake**

During the period covered by the litigation, Pennsylvania’s state agencies transacted \$63 billion in GSE bonds.

Pennsylvania Treasury was appointed class representative in the case.

## **Unique Settlement**

Essentially every institutional investor participates in the GSE market, so the implications of this suit and its settlements were far-reaching.

Pennsylvania Treasury, focused not just on the recovery of financial assets (\$386.5 million) from the accused large banks, but required a commitment by these entities to improve their antitrust compliance programs to ensure the integrity of the GSE bond market and prevent future market manipulation.

Following the meet-and-confers process with the banks, a final report was issued outlining antitrust protections and best practices to ensure the integrity of the GSE market.

## **Litigation Timeline**

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| 3/19/2019  | Pennsylvania Treasury formally files a class action complaint against 16 large banks alleging price-fixing of GSE bonds.   |
| 5/2/2019   | Pennsylvania Treasury is appointed lead counsel in the case.   |
| 9/4/2019   | Motion to dismiss was granted for 11 of 16 banks due to insufficient evidence. Pennsylvania Treasury had one week to amend the complaint with sufficient evidence against the 11 defendants. |
| 9/10/2019  | Pennsylvania Treasury filed its third amended complaint which included additional chat logs citing each of the 16 defendants.  |
| 9/11/2019  | Deutsche Bank is the first bank to settle, agreeing to pay \$15 million and improve antitrust compliance.  |
| 9/24/2019  | First Tennessee Bank settles, agreeing to pay \$14.5 million and improve antitrust compliance.   |
| 11/14/2019 | Goldman Sachs settles, agreeing to pay \$20 million and improve antitrust compliance.  |
| 12/16/2019 | 13 remaining banks settle, Barclays agrees to pay \$87 million while remaining banks agree to payments totaling \$250 million, all agree to improve antitrust compliance.                    |
| 12/2021    | Initial Report & Preliminary Observations Delivered  |
| 06/2023    | Final Report   |