

United States Court of Appeals For the First Circuit

Nos. 25-1745, 25-1748, 25-1749, 25-1750, 25-1751

IN RE: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative for the Commonwealth of Puerto Rico; THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative for the Employees Retirement System of the Government of the Commonwealth of Puerto Rico; THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative for the Puerto Rico Highways and Transportation Authority; THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative for the Puerto Rico Electric Power Authority (PREPA); THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of the Puerto Rico Public Buildings Authority,

Debtors,

THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative for the Commonwealth of Puerto Rico,

Debtor, Appellee,

CAROL FLATON, in the capacity of Claims Reconciliation Monitor;
RAMON ORTIZ, in the capacity of Claims Reconciliation Monitor,

Interested Parties, Appellees,

v.

SIG STRUCTURED PRODUCTS, LLC; ALLIANCE BERNSTEIN LP; ARISTEIA CAPITAL, LLC; BNY MELLON INVESTMENT ADVISER, INC.; CAPITAL RESEARCH AND MANAGEMENT COMPANY; COLUMBIA MANAGEMENT INVESTMENT ADVISERS, LLC; DELAWARE MANAGEMENT COMPANY, a series of Macquarie Investment Management Business Trust; ELLINGTON MANAGEMENT GROUP, LLC.; GOLDMAN SACHS ASSET MANAGEMENT LP; INVESCO ADVISERS, INC.; MACKAY SHIELDS LLC; MFS INVESTMENT MANAGEMENT; OLD ORCHARD CAPITAL MANAGEMENT LP; ONE WILLIAM STREET CAPITAL MANAGEMENT LP; RUSSELL INVESTMENT COMPANY; T. ROWE PRICE; TOWER BAY ASSET MANAGEMENT; ASSURED GUARANTY INC.;

U.S. BANK NATIONAL ASSOCIATION, in the capacity as PREPA Bond
Trustee; NATIONAL PUBLIC FINANCE GUARANTEE CORPORATION;
GOLDENTREE ASSET MANAGEMENT LP; SYNCORA GUARANTEE, INC.,

Respondents, Appellants.

APPEALS FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

[Hon. Laura Taylor Swain,* U.S. District Judge]

Before

Rikelman, Howard, and Dunlap,
Circuit Judges.

G. Eric Brunstad, Jr., with whom Stephen D. Zide, David A. Herman, and Dechert LLP were on brief, for appellants SIG Structured Products, LLC; Alliance Bernstein LP; Aristeia Capital, LLC; BNY Mellon Investment Adviser, Inc.; Capital Research and Management Company; Columbia Management Investment Advisers, LLC; Delaware Management Company, a series of Macquarie Investment Management Business Trust; Ellington Management Group, LLC.; Goldman Sachs Asset Management LP; Invesco Advisers, Inc.; Mackay Shields LLC; MFS Investment Management; Old Orchard Capital Management LP; One William Street Capital Management LP; Russell Investment Company; T. Rowe Price; and Tower Bay Asset Management.

Michael C. McCarthy, Clark T. Whitmore, John T. Duffey, and Maslon LLP on brief for appellant U.S. Bank National Association.

John K. Cunningham, with whom Glenn M. Kurtz, Claudine Columbres, Isaac Glassman, Thomas E. MacWright, Thomas E. Lauria, Michael C. Shepherd, Jesse L. Green, White & Case LLP, Lydia M. Ramos Cruz, Ramos Cruz Legal, Susheel Kirpalani, Eric Kay, Quinn Emanuel Urquhart & Sullivan, LLP, Rafael Escalera, Carlos R. Rivera-Ortiz, and Reichard & Escalera were on brief, for appellants GoldenTree Asset Management LP and Syncora Guarantee, Inc.

Miguel A. Estrada, with whom Lochlan F. Shelfer, Gibson, Dunn & Crutcher LLP, Howard R. Hawkins, Jr., Casey J. Servais, William J. Natbony, Thomas J. Curtin, and Cadwalader, Wickersham & Taft LLP were on brief, for appellant Assured Guaranty Inc.

* Of the Southern District of New York, sitting by designation.

Mark D. Harris, with whom Martin J. Bienenstock, Brian S. Rosen, Elliot R. Stevens, Timothy W. Mungovan, John E. Roberts, Adam L. Deming, and Proskauer Rose LLP were on brief, for appellee Financial Oversight and Management Board for Puerto Rico.

Georg Alexander Bongartz, with whom Eric D. Stolze, Luc A. Despins, Pedro A. Jimenez, and Paul Hastings LLP were on brief, for appellees Carol Flaton and Ramon Ortiz.

September 23, 2026

RIKELMAN, Circuit Judge. This appeal requires us to interpret § 510(b) of the Bankruptcy Code, which mandates the subordination of any claim "for damages arising from the purchase or sale" of a security of a debtor or its affiliate. 11 U.S.C. § 510(b). A trustee filed a proof of claim for \$8.5 billion in Puerto Rico's bankruptcy-type restructuring proceedings asserting that the Commonwealth violated bondholders' statutory and constitutional rights. The district court concluded that § 510(b) applied to the trustee's claim and thus classified it as a subordinated claim. We affirm.

I. BACKGROUND

A. Statutory Background

In 1941, Puerto Rico enacted the Puerto Rico Electric Power Authority Act (the "Authority Act"). See P.R. Laws Ann. tit. 22, § 191 (2026). The Authority Act established the Puerto Rico Electric Power Authority (PREPA), a public utility corporation charged with managing the Commonwealth's energy resources. See id. § 193(a). It also authorized PREPA to finance its operations by issuing revenue bonds and pledging its "entire gross or net revenues and present or future income" to secure repayment of those obligations. Id. § 206(e)(1); see also id. § 196(o). At the same time, the statute expressly provided that the Commonwealth was not liable for payment of the principal or interest on PREPA's revenue bonds. See id. § 210 (stating that

the "bonds and other obligations issued by [PREPA] shall not be a debt of the Commonwealth" nor "shall [the Commonwealth] be liable thereon").

The Authority Act did grant bondholders several statutory protections, however, to facilitate PREPA's access to the capital markets. Most importantly for our purposes, it memorialized a promise by the Commonwealth not to impair PREPA's ability to repay the bonds. Specifically, the Authority Act included a covenant by the Commonwealth not to "limit or alter the rights or powers" vested in PREPA until it repaid its outstanding bonds, including any accrued interest (the "Statutory Covenant"). Id. § 215. The Authority Act also permitted the appointment of a trustee to enforce "any covenants made to secure, to pay, or in relation to the bonds" for the benefit of PREPA's bondholders. Id. § 206(e)(12).

In 1974, PREPA executed a trust agreement with the trustee at the time (the "Trust Agreement").¹ See In re Fin. Oversight & Mgmt. Bd. for P.R., 121 F.4th 280, 290 (1st Cir. 2024). Under that agreement, and as permitted by § 196 of the Authority Act, PREPA issued several series of bonds and pledged its present and future net revenues as security to the bondholders. It also

¹ Appellant U.S. Bank National Association is the current trustee, and we refer to it, acting in its capacity under the Trust Agreement, as the "Trustee" throughout this opinion.

agreed to maintain rates sufficient to satisfy operating expenses and debt-service obligations.² Notably, the Trust Agreement specified that the revenue bonds were payable solely from PREPA's net revenues and that the Commonwealth was not liable on the bonds.

B. The Commonwealth's Title III Proceedings

In 2016, to address the Commonwealth's fiscal crisis, Congress enacted the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), which created a restructuring framework modeled on relevant aspects of federal bankruptcy law. See 48 U.S.C. §§ 2101-2241; id. § 2161(a) (incorporating substantial portions of the Bankruptcy Code into PROMESA). Among other things, PROMESA established the Financial Oversight and Management Board (the "Board") and "empowered [it] to place Commonwealth entities into bankruptcy-type restructuring proceedings," known as "Title III proceedings." In re Fin. Oversight & Mgmt. Bd. for P.R., 121 F.4th at 292.

The next year, the Board filed a restructuring petition on behalf of the Commonwealth, initiating the Commonwealth's Title III case. Two months later, PREPA defaulted on its obligation to pay the bondholders under the Trust Agreement, and

² Our court recently held that the Trust Agreement grants bondholders a lien on PREPA's present and future net revenues. See In re Fin. Oversight & Mgmt. Bd. for P.R., 121 F.4th at 301. This appeal does not directly concern PREPA's liability to repay those bonds.

the Board filed a separate Title III restructuring petition on PREPA's behalf. See In re Fin. Oversight & Mgmt. Bd. for P.R., 899 F.3d 13, 18 (1st Cir. 2018). Although PREPA is a public corporation of the Commonwealth, the two entities have proceeded in separate Title III cases.

On behalf of PREPA's bondholders, the Trustee filed a general unsecured proof of claim for \$8.5 billion in the Commonwealth's Title III case. Separately, the Trustee filed a proof of claim for the same amount in PREPA's Title III case, reflecting the face value (that is, the principal and interest) of the then-outstanding revenue bonds.

In its proof of claim in the Commonwealth case, the Trustee alleged that the Commonwealth interfered in multiple ways with PREPA's ability to repay the revenue bonds. For example, the Trustee pointed out that the Commonwealth enacted a statute limiting PREPA's independent ability to set rates for its services to satisfy its bond obligations and requiring it to receive approval for any rate changes from a separate Energy Commission. See P.R. Laws Ann. tit. 22, § 196(1) (2026) (as amended by Act 57-2014 and Act 4-2016).

Based on those allegations, the Trustee asserted multiple discrete causes of action within its proof of claim, including claims that the Commonwealth breached the Statutory Covenant and violated the Takings and Contracts Clauses of the

U.S. and Puerto Rico Constitutions. See id. § 215; U.S. Const. amend. V; id. art. 1, § 10, cl. 1; P.R. Const., art. II, §§ 7, 9. Critically, the Trustee also asserted that the Commonwealth granted the Statutory Covenant and related protections as a "material inducement for investors to purchase" PREPA's revenue bonds. Thus, the Trustee sought \$8.5 billion for the Commonwealth's alleged impairment of those statutory and constitutional rights.

In 2022, the district court³ confirmed the Commonwealth's Plan of Adjustment ("the Commonwealth Plan"), which restructured the Commonwealth's debt and specified the recoveries for its various creditors. The Trustee did not file an objection.

The Commonwealth Plan divides claims against the Commonwealth into multiple classes entitled to different distributions. Classes 64 and 58 are central to this appeal. Class 64 is composed of "Section 510(b) Subordinated Claims," defined as:

Any Claim . . . against the Debtors' [sic] or their Assets arising from or relating to (a) rescission of a purchase or sale of an existing security of a Debtor or an Affiliate of a Debtor, (b) purchase, sale or retention of such a security, or (c) reimbursement, indemnification or contribution allowed under

³ In Title III proceedings, the lower court is commonly referred to as the "Title III court." See In re Fin. Oversight & Mgmt. Bd. for P.R., 121 F.4th at 292. For simplicity, we refer to it as the "district court" in this opinion.

section 502 of the Bankruptcy Code on account of such Claim.

The parties agree that this definition substantially incorporates § 510(b) of the Bankruptcy Code, such that any claim that falls within the scope of § 510(b) of the Code is properly categorized as a Class 64 claim. The Commonwealth Plan does not provide for any distribution to holders of Class 64 claims, so the bondholders would recover nothing under that Plan if the district court correctly concluded that the Trustee's proof of claim falls under § 510(b) (although the bondholders would still have potential claims against PREPA under PREPA's plan set out in its Title III case).

Separately, Class 58 of the Commonwealth Plan covers "General Unsecured Claims," which are defined as those claims not falling into other classes; by definition, claims categorized as Class 64 Section 510(b) Subordinated Claims are excluded from Class 58. General Unsecured Claimants stand to recover roughly twenty percent of their asserted damages under the Commonwealth Plan if the Trustee's claim on behalf of the bondholders is excluded; if the Trustee's claim is included, however, they would recover about five percent.

The Board filed a timely objection to the Trustee's \$8.5 billion general unsecured claim in the Commonwealth's Title III case. In response, the Trustee maintained that the

Commonwealth violated its statutory promise not to impair PREPA's ability to repay the bonds -- a promise that it again described as "induc[ing] the purchase of PREPA's bonds." And the Trustee repeated its assertions that the Commonwealth "negatively impacted the Trustee's and [PREPA] Bondholders' rights under the Trust Agreement and Authority Act." The district court then stayed any litigation related to the Trustee's proof of claim.

In 2025, the Board moved to enforce the Commonwealth Plan by seeking a determination that the Trustee's proof of claim constituted a Class 64 Section 510(b) Subordinated Claim under the Plan.⁴ To support its motion, the Board asserted that the Trustee's claim sought damages that arose from the bondholders' purchase of the PREPA revenue bonds. Thus, the Board maintained that the Trustee should not be classified as a Class 58 General Unsecured Claimant, and, as a result, was not entitled to any recovery on its \$8.5 billion claim from the Commonwealth's bankruptcy distribution.

The district court granted the Board's motion to enforce. After concluding that the motion was not time-barred, the court turned to the merits and held that the Trustee's proof of claim was properly classified under the Commonwealth Plan as a Class 64 Section 510(b) Subordinated Claim, not a Class 58 General

⁴ The district court lifted the litigation stay to permit the Board to file the motion to enforce.

Unsecured Claim.⁵ Rejecting the Trustee's argument that the phrase "arising from" in § 510(b) should be read narrowly, the court noted that other federal circuit courts had interpreted § 510(b) to cover claims that share a "causal link" with the purchase or sale of the relevant security. The court then emphasized the allegation in the Trustee's proof of claim that the Commonwealth breached promises made to "induc[e]" the bondholders to purchase those bonds. As a result, the court concluded that § 510(b) applied to the Trustee's claim because it sought damages that "ultimately relate[d]" to those initial purchases.

In reaching its ruling, the district court specifically addressed the bondholders' constitutional causes of action. It concluded that there was no basis for treating those alleged claims differently because § 510(b) "unambiguous[ly]" applied to the proof of claim as a whole and the Trustee waived any argument that the bondholders' constitutional claims could not be impaired. Thus, the court classified the proof of claim as a Class 64 Section 510(b) Subordinated Claim that would receive no distribution under the Commonwealth Plan.

⁵ The Trustee and the bondholders involved in this case pursued a narrow argument before the district court: that the Trustee's claim should be classified in Class 58, not Class 64, of the Commonwealth Plan. Thus, the district court's review was limited to the question of which of those two classes was the better fit for the Trustee's claim.

The Trustee and multiple bondholder groups timely appealed.⁶

II. DISCUSSION

On appeal, the Bondholders challenge the district court's ruling on procedural grounds, arguing that the Board's motion to enforce was filed too late, and on substantive grounds, contending that the court misinterpreted § 510(b). We ultimately reject both arguments.

A. Timeliness of the Motion to Enforce

To begin, the Bondholders maintain that the district court should not have considered the Board's argument that the Trustee's proof of claim met the definition of a Section 510(b) Subordinated Claim. In their view, the Board's request that the court treat the proof of claim as a Class 64 claim was untimely because the deadline for objecting had passed.

The district court rejected the Bondholders' position and concluded that the Board properly raised the classification issue via a motion to enforce the Commonwealth Plan, which could be filed at any time. But the court also held that, even if it were to view the Board's motion to enforce as a formal objection,

⁶ The appellants filed five separate notices of appeal, which we consolidated at their request. We refer to the appellants collectively as the "Bondholders" throughout the remainder of this opinion. Meanwhile, we refer to the appellees, which include the Board and two claims reconciliation monitors, simply as the "Board."

it would construe the motion to include a request for leave to amend the Board's earlier, timely objection under Federal Rule of Civil Procedure 15(a) and grant leave to amend on that basis.

We affirm the district court's ruling based on its alternative holding granting the Board leave to amend its previous objection.⁷ The Bondholders do not dispute that the court was authorized to treat the Board's filing as a motion to amend that earlier objection. They also do not contest that Federal Rule of Civil Procedure 15(a) governs the court's decision to permit amendment of the Board's objection or that we review that decision for abuse of discretion. Instead, the Bondholders insist that the court should have rejected the Board's filing because it was unduly delayed and prejudicial.

Rule 15(a)(2) provides that "court[s] should freely give leave [to amend] when justice so requires." Fed. R. Civ. P. (15)(a)(2); see also Fed. R. Bankr. P. 7015 (applying Rule 15 to adversary bankruptcy proceedings). Nevertheless, "[i]n appropriate circumstances," courts may deny leave to amend -- for example, if there is "undue delay, bad faith, futility, [or] the absence of due diligence on the movant's part." Palmer v. Champion Mortg., 465 F.3d 24, 30 (1st Cir. 2006).

⁷ As a result, we need not decide whether the Board correctly raised its request through a motion to enforce the Commonwealth Plan.

We are unpersuaded by the Bondholders' undue delay and prejudice arguments. The district court found that the Board sought to resolve the classification issue as soon as it could, and the Bondholders' only challenge to that finding is to assert (without any support) that filing an objection a year after a deadline constitutes "quintessential[] undue delay." But we have rejected such an approach to evaluating undue delay, emphasizing that the inquiry "is not simply a matter of counting days." Amyndas Pharms., S.A. v. Zealand Pharma A/S, 48 F.4th 18, 37 (1st Cir. 2022). And given that the district court stayed all litigation related to the Bondholders' classification argument almost immediately after they raised it (in their response to the Board's timely initial objection), we see no basis to overturn the court's conclusion that the Board did not unduly delay.

As to prejudice, the Bondholders contend that the district court's ruling permitting the Board to amend its previous objection led to increased litigation costs, but that contention does not establish prejudice sufficient to warrant reversal. Virtually any amendment would lead to more litigation, and the Bondholders have not cited any case law to suggest that a court abuses its discretion when it permits amendment simply because additional litigation would ensue.

Thus, on this record and given the arguments before us, we cannot conclude that the district court abused its discretion

in considering the Board's request to treat the Trustee's proof of claim as a Section 510(b) Subordinated Claim.

B. Section 510(b)

Turning to the merits, the Bondholders press three main arguments concerning § 510(b)'s application to the Trustee's proof of claim. First, they argue that the proof of claim does not seek damages "arising from the purchase or sale" of a security within the meaning of § 510(b) because, in their view, the claim targets "post-sale malfeasance." Second, the Bondholders maintain that even if § 510(b) could be read to encompass the Trustee's claim, the canon of constitutional avoidance requires adoption of their narrower construction of the provision. And third, they argue that even if the Trustee's claim is subject to subordination under § 510(b), the district court erred in classifying the claim as falling below Class 58 General Unsecured Claims.

Because this dispute centers on a purely legal question concerning the proper interpretation and application of 11 U.S.C. § 510(b) to the Trustee's proof of claim, our review is de novo. See In re Savage, 169 F.4th 45, 53 (1st Cir. 2026) ("The interpretation of the Bankruptcy Code is a legal question that we review de novo."); In re Fin. Oversight & Mgmt. Bd. for P.R., 178 F.4th 747, 753 (1st Cir. 2026) ("We . . . review[] the Title III court's factual findings for clear error and its legal conclusions de novo.").

1. Section 510(b)'s Reach

Section 510(b) provides, in relevant part:

[A] claim arising from rescission of a purchase or sale of a security of the debtor or of an affiliate of the debtor, for damages arising from the purchase or sale of such a security, or for reimbursement or contribution allowed under section 502 on account of such a claim, shall be subordinated to all claims or interests that are senior to or equal the claim or interest represented by such security

11 U.S.C. § 510(b) (emphasis added). The parties agree that the PREPA revenue bonds constitute "securities" within the meaning of the Bankruptcy Code and that PREPA is an "affiliate" of the Commonwealth for purposes of § 510(b).⁸ See id. § 101(2), (49)(A)(iv); 48 U.S.C. § 2161(c)(1). Thus, the key inquiry on appeal turns on a single statutory question: whether the Trustee's proof of claim seeks "damages arising from the purchase or sale" of the PREPA revenue bonds. 11 U.S.C. § 510(b).

"As usual," when tasked with construing a statute, "we must start with the text of the statute itself." Washington v. HUD, 171 F.4th 473, 490 (1st Cir. 2026) (quoting Teles de Menezes v. Rubio, 156 F.4th 1, 12 (1st Cir. 2025)). Generally, we construe the words in a federal statute based on their plain and ordinary

⁸ The Bondholders initially argued to the district court that the PREPA revenue bonds were not securities subject to § 510(b), but they abandoned that position below and did not press that argument on appeal. It is thus waived. See Shash v. Biogen, Inc., 84 F.4th 1, 10 n.9 (1st Cir. 2023).

meaning at the time that Congress enacted the statute. See Watson v. Republican Nat'l Comm., 146 S. Ct. 2165, 2172 (2026). But in doing so, we must read those words in the context of the particular provision, surrounding provisions, and the statutory scheme as a whole. See City of Providence v. Barr, 954 F.3d 23, 31 (1st Cir. 2020); see also Gundy v. United States, 588 U.S. 128, 141 (2019) ("It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme." (quoting Nat'l Ass'n of Home Builders v. Defs. of Wildlife, 551 U.S. 644, 666 (2007))).

When "interpreting a statute," courts aim "to determine whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case." Robinson v. Shell Oil Co., 519 U.S. 337, 340 (1997) (emphasis added). Thus, as long as it is "plain to anyone reading [the statute] that it encompasses the conduct at issue," we need not resolve if the statutory provision would be unambiguous in all potential situations. United States v. Sargent, 103 F.4th 820, 826 (D.C. Cir. 2024) (citation modified) (quoting Salinas v. United States, 522 U.S. 52, 60 (1997)).

The Bondholders insist that our previous decisions construing the phrase "arising from" in other statutes weigh in their favor. See, e.g., Aguilar v. U.S. Immigr. & Customs Enf't,

510 F.3d 1, 10 (1st Cir. 2007) (analyzing "arising from" in the immigration law context). Those cases "recognized that the term 'arising from' requires more than a weak or tenuous connection to a triggering event." Id. We consider their analysis as we interpret the meaning of § 510(b) in light of its unique statutory context.

With these principles in mind, we reject the Bondholders' front-line position that the "plain text" of § 510(b) encompasses only those claims alleging misconduct at the time of the security transaction itself and does not extend to claims concerning "subsequent intervening wrongdoing." To start, nothing in § 510(b)'s text limits its application to claims alleging misconduct at the moment a security is issued. Nor do legal dictionaries published at the time that Congress enacted § 510(b) suggest that the phrase "arising from" carries any such temporal limit; rather, they define "arise" to mean "to originate," "to spring up," or "to come into being." Arise, Black's Law Dictionary (4th ed. 1968). Thus, those definitions support reading the phrase to require a causal relationship between the securities transaction and the asserted damages but do not indicate that the misconduct leading to the alleged damages must have occurred at

the time of the transaction.⁹ And our case law, although not exactly on point, does not suggest otherwise. Cf. Aguilar, 510 F.3d at 10 (declining to read "arising from" to "sweep within its scope claims with only a remote or attenuated connection to the removal of an alien").

Other circuit courts to consider the issue have rejected the temporal limit that the Bondholders urge us to read into the statute. For example, in In re Geneva Steel Co., the U.S. Court of Appeals for the Tenth Circuit applied § 510(b) to bondholders' fraud-in-the-retention claims, even though the claims arose from the debtor's post-transaction conduct rather than from fraud inducing the purchase itself. See 281 F.3d 1173, 1178-80 (10th Cir. 2002). Similarly, in In re Telegroup, the U.S. Court of Appeals for the Third Circuit rejected the argument that a debtor's post-transaction breach of contract occurred too late to fall within § 510(b). See 281 F.3d 133, 141-43 (3d Cir. 2002); id. at 141 (finding no "meaningful basis as a matter of Congressional policy" to distinguish "between actionable conduct that occurred at the time of the purchase of the security and actionable conduct

⁹ The Bondholders invoke the Supreme Court's decision in Howard Delivery Service, Inc. v. Zurich American Insurance Co., 547 U.S. 651, 655, 667 (2006), for the proposition that statutory departures from the Bankruptcy Code's baseline goal of equal distribution should be construed narrowly. That principle, however, does not provide support for inserting a temporal limit into § 510(b) that does not appear in its text.

that occurred after the purchase"). The U.S. Courts of Appeals for the Second, Ninth, and Fifth Circuits have adopted similar understandings of § 510(b).¹⁰ See In re Med Diversified, Inc., 461 F.3d 251, 255-56 (2d Cir. 2006); cf. In re Betacom of Phx., 240 F.3d 823, 829-31 (9th Cir. 2001) (subordinating a claim alleging misconduct that "surround[ed]" a securities sale but did not occur at the time of such a sale); In re SeaQuest Diving, LP, 579 F.3d 411, 420-22 (5th Cir. 2009) ("[T]he rescission category [of § 510(b)] also extends to claims arising from post-issuance conduct.").

Like our sister circuits, we hold that § 510(b) does not categorically exclude claims based on post-purchase misconduct. See 4 Collier on Bankruptcy ¶ 510.04[3] (16th ed. 2026) (observing that courts "generally interpret[] the provision broadly" such that a claim subject to mandatory subordination "need not flow directly from the securities transaction or arise contemporaneously with the purchase or sale of a security").¹¹

¹⁰ We acknowledge that many of our sister circuits have found Section 510(b) to be ambiguous. For the reasons we explain, however, we conclude that the Trustee's proof of claim fits comfortably within Section 510(b)'s scope even if there may be some ambiguity as to the outer limits of the provision's reach. See Robinson, 519 U.S. at 340.

¹¹ The Bondholders suggest that courts are more divided on this issue than they actually are. For example, they cite In re Amarex, Inc., 78 B.R. 605, 610 (W.D. Okla. 1987), and In re Angeles, 177 B.R. 920, 927 (Bankr. C.D. Cal. 1995), for the proposition that "claims . . . based on malfeasance occurring

Thus, we reject the Bondholders' front-line position that § 510(b) applies only to claims alleging misconduct at the time of the securities transaction.

We now move to the Bondholders' back-up arguments for why we should adopt a narrow interpretation of § 510(b), which we also find unpersuasive. First, the Bondholders suggest that the statute targets specific causes of action not at issue here, such as "violat[ions of] securities laws in connection with the [security] issuance," "market[ing]" fraud, and "fraudulent inducement in the purchase or sale" of a security. Because, in their view, the Trustee's proof of claim alleges statutory and constitutional violations distinct from the typical causes of action subject to subordination, the Bondholders contend that § 510(b) does not apply here.

We see nothing in the text of § 510(b) to support the Bondholders' position that it is restricted to certain causes of action. See 4 Collier on Bankruptcy ¶ 510.04[3] (noting that § 510(b) encompasses "a wide variety of causes of actions arising out of securities transactions"). And other federal circuit court

after the actual securities transaction has taken place are not subordinated under Section 510(b)." But the Tenth Circuit squarely rejected the holding of both cases, instead concluding that § 510(b) applied to claims alleging fraud after the security issuance, and other circuit courts have followed suit. See In re Geneva Steel, 281 F.3d at 1179, 1181-82 & n.5; 4 Collier on Bankruptcy ¶ 510.04[3].

decisions confirm that a claimant cannot avoid subordination under § 510(b) simply by pleading a different legal theory or redefining the claim's character. See In re Lehman Bros. Holdings Inc., 855 F.3d 459, 478-80 & n.29 (2d Cir. 2017) (subordinating breach of contract and restitution claims asserted by debtor's former employees where the employee stock plan formed "part of the causal link leading to the alleged injury," and the employees' various legal theories were "functionally equivalent" to damages claims covered by § 510(b)). Thus, we see no reason to categorically exclude the Trustee's proof of claim from § 510(b)'s reach simply because the Trustee alleges statutory and constitutional violations.

Second, the Bondholders contend that § 510(b) is intended primarily to address the risk of double recovery or priority skipping by preventing investors from lodging "duplicative" claims -- one claim for repayment of the security itself and another claim for acquisition-related damages -- against the "same debtor," which is not the case here. That may be a common application of § 510(b), but the provision expressly extends to securities issued by "an affiliate of the debtor" as well.¹² 11 U.S.C. § 510(b). And the Bondholders concede

¹² The Bondholders suggest that the "affiliate" language in § 510(b) applies only to situations in which a creditor brings "the very same . . . claim" against a debtor and its affiliate. But again, nothing in the statute's text establishes such a limit.

that PREPA is an affiliate of the Commonwealth. Thus, we see no textual basis to support that restrictive interpretation either, which would treat the existence of two claims against the same debtor as a prerequisite to subordination.

And third, the Bondholders argue that the Trustee does not seek "damages" within the meaning of § 510(b) because the amount claimed corresponds to the unpaid principal and interest on the PREPA bonds. As the district court noted, § 510(b) does not subordinate ordinary bond-repayment claims -- that is, claims for payment of the bond's principal and interest -- because such claims seek payment for the securities themselves, not "damages arising from" their purchase. See 4 Collier on Bankruptcy ¶ 510.04[6] ("[C]laims of noteholders for payments required by the note, based upon the instrument itself, are not claims . . . subject to subordination under section 510(b).").

But the Trustee's claim against the Commonwealth is not an ordinary bond repayment claim; only PREPA is obligated to repay the bonds (and indeed, the Trustee lodged a proof of claim for repayment of the bonds in PREPA's separate Title III proceeding). And the Authority Act and Trust Agreement expressly disclaim any liability on the Commonwealth's part to repay those bonds.¹³ See

¹³ For that reason, we also reject the Bondholders' contention that our holding would require subordination of every claim against a guarantor of an affiliate's bonds. Although we need not decide

P.R. Laws Ann. tit. 22, § 210 (2026). Instead, in its proof of claim, the Trustee seeks compensation for the Commonwealth's alleged impairment of separate statutory protections that the Bondholders allege induced them to purchase the bonds. That the Trustee measures the alleged loss to the Bondholders by reference to unpaid principal and interest does not render § 510(b) inapplicable to the claim.¹⁴

To be sure, although we reject the Bondholders' cramped reading of § 510(b), we recognize that the statute's scope is not limitless. Section 510(b) does not subordinate all claims raised by purchasers or owners of securities, nor do we understand "arising from" to encompass every possible claim that bears any incidental connection to an earlier securities transaction.¹⁵ See

whether § 510(b) could ever apply to a guaranty claim, we can easily distinguish this case because the Commonwealth expressly did not accept any obligation to repay the PREPA revenue bonds. See P.R. Laws Ann. tit. 22, § 210. Nor does the Trustee's proof of claim even seek payment on a Commonwealth guarantee; it alleges impairment of separate protections that accompanied the bond purchase.

¹⁴ To the extent that the Bondholders suggest that § 510(b) does not apply to any claims that are based on a "fixed debt," we reject that assertion. As the Bondholders conceded in the district court, the text of § 510(b) plainly applies to damages arising from the sale of any "security," including fixed-debt instruments like the PREPA bonds. 11 U.S.C. §§ 510(b), 101(49) (A) (iv).

¹⁵ For this reason, to the extent the district court understood § 510(b) to encompass any claim whenever it "ultimately relate[s]" to a securities transaction, regardless of the nature of the claim or degree of causal relation, we do not agree.

In re Telegroup, 281 F.3d at 144 n.2 ("Congress did not intend to subordinate every claim brought by a shareholder, regardless of the nature of the claim."); In re Khan, 846 F.3d 1058, 1064 (9th Cir. 2017) (reasoning that § 510(b) cannot extend to "every transaction that touches on or involves stock in a corporation").

Section 510(b)'s text does not specify the minimum connective tissue necessary for subordination. See, e.g., In re Telegroup, 281 F.3d at 138 ("[Section] 510(b)'s language alone provides little guidance in delineating the precise scope of the required nexus."). And as the Board acknowledges, ambiguity exists at the "outer reaches" of § 510(b). But we need not define those "outer reaches" in this case.

Even if § 510(b) is "ambiguous as applied to some situations," we conclude that the Trustee's proof of claim -- based on its own allegations -- fits comfortably within the provision's scope. Sargent, 103 F.4th at 826 (quoting Ass'n of Battery Recyclers, Inc. v. EPA, 208 F.3d 1047, 1056 (D.C. Cir. 2000)). The claim alleges that (1) the Commonwealth granted the Statutory Covenant and related protections specifically "to induce investment in" the PREPA revenue bonds, (2) the Bondholders were in fact "material[ly] induce[d] . . . to purchase" the bonds based on those protections, and (3) the Commonwealth subsequently impaired those same protections. According to the proof of claim, then, the Statutory Covenant and the other provisions in the

Authority Act induced the Bondholders to purchase the bonds. Thus, we cannot accept the Bondholders' assertion that the Trustee's claimed damages bear only a tenuous relationship to the securities transaction. Instead, the Trustee's own allegations support a finding of a sufficient causal nexus to bring the claim within § 510(b)'s ambit. See In re Am. Hous. Found., 785 F.3d 143, 155, 157 (5th Cir. 2015) (concluding that there was a "nexus or causal relationship" between the investor's claim and the transaction because it was "clear from the record that the guaranties, at least in part, induced [the investor] to make th[o]se investments," and the claims were therefore properly subordinated under Section 510(b)).

The Bondholders resist this conclusion by asserting that even under a "broad" reading of § 510(b), independent acts of "malfeasance" fall outside of its reach. As support, the Bondholders lean heavily on the Ninth Circuit's decision in In re Khan. In that case, the claimant had acquired stock, but then "many years later," the debtor converted and fraudulently transferred those shares (in essence, it stole the stock). In re Khan, 846 F.3d at 1065. The court concluded that the claimant's injury arose from the debtor's subsequent conversion -- not from the earlier purchase of the securities -- and thus held that § 510(b) did not apply. See id.

Critically, however, In re Khan did not establish that any intervening misconduct by a debtor severs the connection required by § 510(b). Rather, In re Khan recognized that § 510(b) ceases to apply when a later and independent wrong displaces the securities transaction as the source of the claimed damages. In that case, the claimant's purchase and ownership of the stock explained merely how he came into possession of the property that the debtor later stole. But nothing about the later conversion claim depended on a right or protection that allegedly induced the claimant to buy the securities. See id. Conversely, here, the Trustee's own proof of claim alleges that the Commonwealth impaired rights that it had granted to "induce[]" the Bondholders to purchase the PREPA bonds. Thus, the purchase of the securities is not merely part of the historical background, as it was in In re Khan. It is instead central to the Trustee's asserted claim for damages because the very protections the Commonwealth allegedly impaired induced that purchase.

In sum, because the proof of claim here alleges that the Commonwealth impaired rights that induced the Bondholders to purchase the PREPA revenue bonds, we conclude that the Trustee's

claim seeks "damages arising from the purchase or sale" of securities within the meaning of § 510(b).¹⁶

2. Canon of Constitutional Avoidance

The Bondholders alternatively contend that, even if § 510(b) could be read to permit subordination of their proof of claim, we should reject that reading of the provision based on the canon of constitutional avoidance. According to the Bondholders, interpreting § 510(b) to permit subordination of a claim that alleges violations of the Takings Clause and Contracts Clause would permit the Commonwealth to use PROMESA and the Bankruptcy Code to avoid paying constitutionally required compensation or some other constitutionally required remedy. Because Class 64 Section 510(b) Subordinated Claims receive no distribution under the confirmed Commonwealth Plan, the Bondholders argue that construing § 510(b) to apply here would effectively extinguish otherwise valid constitutional causes of action.

The canon of constitutional avoidance is "a tool for choosing between competing plausible interpretations of a statutory text" to avoid constructions that raise serious doubts about the statute's constitutionality. Clark v. Martinez, 543

¹⁶ Because we affirm on the basis of § 510(b) itself, we do not reach the Board's alternative contention that the Commonwealth Plan's definition of Section 510(b) Subordinated Claims -- which includes not only claims that "arise from" but also those that "relate to" the securities transaction -- independently requires Class 64 treatment of the Trustee's proof of claim.

U.S. 371, 381 (2005). "It 'has no application in the absence of [statutory] ambiguity.'" Warger v. Shauers, 574 U.S. 40, 50 (2014) (quoting United States v. Oakland Cannabis Buyers' Coop., 532 U.S. 483, 494 (2001)).

Importantly, "[s]potting a constitutional issue does not give a court the authority" to leverage the constitutional avoidance canon to "rewrite a statute as it pleases." Jennings v. Rodriguez, 583 U.S. 281, 298 (2018). Instead, courts must first employ the ordinary tools of statutory interpretation. See id. at 296. Only if those tools leave the statute genuinely susceptible to multiple reasonable constructions does the canon of constitutional avoidance become relevant. See id.

The canon of constitutional avoidance does not alter our analysis here.¹⁷ Although we recognize that the outer limits of § 510(b) may be susceptible to ambiguity, as we explained, the Trustee's proof of claim fits comfortably within the provision's scope. The text of § 510(b), coupled with the consensus view of our sister circuits construing that provision, forecloses the Bondholders' proposed construction as applied to the facts of this case.

¹⁷ We assume, without deciding, that the Trustee's proof of claim raises constitutional questions that could justify invoking the constitutional avoidance canon, if the statute were sufficiently ambiguous as applied to the proof of claim.

Section 510(b) does not establish any carve-out for claims asserting constitutional causes of action, nor can we "rewrite [the] statute" to create such a carve-out. Jennings, 583 U.S. at 298. Rather, § 510(b)'s application turns on whether the claimed damages bear the requisite causal relationship to the purchase or sale of the security; it does not depend on the particular legal theory pleaded or the timing of the alleged misconduct. See 11 U.S.C. § 510(b). Because the Trustee's proof of claim seeks to recover damages for injuries to the very rights that induced the Bondholders' purchase of PREPA revenue bonds, it sits squarely within § 510(b)'s scope, despite the constitutional nature of the asserted causes of action.

The parties dispute whether the Bondholders waived their constitutional objection altogether by conceding in the district court that the Trustee's proof of claim should be treated as a Class 58 General Unsecured Claim only.¹⁸ The district court concluded that because the Bondholders consented to treatment as

¹⁸ Despite the district court's repeated inquiries, the Bondholders did not seek any alternative classification for their constitutional causes of action outside of Class 58 (General Unsecured Claims), even though the Commonwealth Plan provided a separate class for other claims with a "constitutional character" to receive "full payment." Thus, the sole merits question before the district court was whether to treat the Trustee's proof of claim as falling under Class 64 or Class 58. And our review is even narrower, asking only whether the Trustee's proof of claim seeks "damages arising from" the PREPA bond purchase within the meaning of § 510(b).

General Unsecured Claimants under the Commonwealth Plan, they accepted impairment of their constitutional causes of action. But agreeing to substantial impairment does not necessarily amount to waiving an objection to complete nonpayment. And the Bondholders vigorously opposed Class 64 classification in the district court precisely because it would yield zero distribution under the Commonwealth Plan.

In any event, the constitutional avoidance canon does not alter our holding because § 510(b)'s text does not permit the statutory construction that the Bondholders seek. See Warger, 574 U.S. at 50. And because our review is limited to the narrow question of interpreting § 510(b)'s text, we do not reach the merits of the Bondholders' constitutional claims, including whether the Commonwealth effected a taking and, if so, what compensation the Constitution would require. Those questions are not before us. Instead, we conclude only that the constitutional nature of the Trustee's asserted causes of action does not place its proof of claim outside of § 510(b)'s scope.

3. Level of Subordination

Finally, the Bondholders maintain that even if § 510(b) were to apply to the Trustee's proof of claim, the claim must not be "demoted" to less than General Unsecured Claimant priority. As support, they point to § 510(b)'s text, which subordinates those claims defined in the subsection "to all [other] claims or

interests that are senior to or equal the claim or interest represented by [the] security" at issue. 11 U.S.C. § 510(b). In the Bondholders' view, even though the Trustee filed a general unsecured creditor claim in the Commonwealth's bankruptcy, § 510(b) mandates subordination only to claims "senior" or "equal" to their secured interest in the PREPA bonds -- resulting in its classification as a General Unsecured Claim.

The Board contends that the Bondholders have forfeited and waived this argument. According to the Board, the Bondholders forfeited this argument because they failed to raise it to the district court. See In re Watson, 403 F.3d 1, 7 (1st Cir. 2005) ("A party's failure to raise an issue in the bankruptcy court forfeits its right to raise that issue for the first time on appeal in this Court."). Normally, a forfeited argument is subject to plain error review, but because the Bondholders did "not attempt to satisfy" the plain error standard in their opening briefs, the Board contends this argument is waived altogether. Mullane v. DOJ, 113 F.4th 123, 137 (1st Cir. 2024); see also In re Fin. Oversight & Mgmt. Bd. for P.R., 7 F.4th 31, 40 (1st Cir. 2021) (declining to consider appellants' nondelegation doctrine argument "because they never raised the issue before the Title III court" and "no exceptional circumstances warrant[ed] consideration of th[e] argument for the first time on appeal").

In response, the Bondholders make two points -- neither of which persuade us that they did in fact raise this "level of subordination" argument to the district court. For starters, they maintain that this argument "is merely subsidiary to" -- and not separate from -- their assertion that § 510(b) would not mandate subordination of the Trustee's proof of claim at all. We disagree. As the Bondholders implicitly acknowledge, the question of whether § 510(b) mandates subordination is analytically distinct from any question about the level of subordination that § 510(b) requires. The first inquiry focuses on whether damages "aris[e] from" a securities transaction, whereas the second inquiry focuses on what "the claim or interest represented by such security" means. 11 U.S.C. § 510(b). That second inquiry implicates different considerations and arguments that the Bondholders never presented to the district court.

Next, the Bondholders assert that because the Board offered an alternative argument in its brief on appeal for treating the Trustee's proof of claim as falling under Class 64, they "are entitled to respond." See Wills v. Brown Univ., 184 F.3d 20, 27 (1st Cir. 1999) ("Reply briefs are to counter the appellee's arguments"). But here, the Bondholders debuted their "level of subordination" argument in their opening briefs, not in response to the Board's brief, despite failing to present it to the district court. See In re Fin. Oversight & Mgmt. Bd. for P.R.,

7 F.4th at 40. And in any event, as we have explained, our holding does not rest on (or even address) the Board's alternative argument to which the Bondholders purport to respond. See supra note 17.

Thus, we conclude that the Bondholders have waived any challenge to the district court's ruling as to the level of subordination that applies to the Trustee's proof of claim.

III. CONCLUSION

For all these reasons, we **affirm** the district court's order.