



GOVERNOR OF PUERTO RICO
Ricardo Rosselló Nevares

April 2nd, 2018

The Honorable Rob Bishop
Chairman, Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Bishop:

I write in response to your March 29, 2018 letter to Chairman José B. Carrión III and the members of the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board” or “Board”).

EXECUTIVE SUMMARY

I am deeply dismayed that your letter (which callously pays lip service to the people of Puerto Rico as second-class citizens) expresses primary concern regarding a “lack of creditor engagement” on the part of the Oversight Board, instead of expressing support for Puerto Rico and her people (whom you refer to as your “American brethren”). By demanding that the Board usurp the function of Puerto Rico’s elected Government, your letter shows complete disregard for Puerto Rico’s constitution, its laws and the will of the 3.4 million American citizens who live there.

Despite your apparent desire to turn back the clock many decades to a time when the federal government simply imposed its will upon our Island and appointed its officials, the autonomy of the people of Puerto Rico and their duly elected Government must be respected, as Congress recognized in crafting PROMESA.¹ I cannot and will not permit you to elevate concerns of bondholders on the mainland above concern for the well-being of my constituents. Your letter purports to brush the Government of Puerto Rico to the side in the name of economic exigency, but I am confident that you would not have so rankly disregarded the prerogatives afforded the elected Government of any of the 50 states.

Your letter contains a number of misstatements, mischaracterizations and inaccuracies to which I am compelled to respond. As explained more fully below, the Board is not statutorily empowered to take over the role of the elected Government of Puerto Rico, which itself has worked tirelessly with the Board in order to collaborate on a fiscal plan that will ensure Puerto Rico’s ability to thrive. The Government recognizes that structural reforms are key to Puerto Rico’s

¹ “PROMESA” means the *Puerto Rico Oversight, Management, and Economic Stability Act of 2016*, codified at 48 U.S.C. §§ 2101-2241.

future success; it does not need the Board to substitute its judgment for our own in that regard. Notwithstanding your complaint regarding the expense associated with Puerto Rico's ongoing Title III proceedings, it is our Government and our people that are bearing the burden of that cost. We are taking many steps to impose necessary restraint (in sharp contrast to the creditors whose interests you advocate). But our desire to manage costs does not warrant taking away the Government's own voice and own representation in its own restructuring process.

My administration has engaged both creditors and the Board in an attempt to achieve as many consensual resolutions as possible throughout this process and will continue to do so. But grandstanding and one-sided letter-writing campaigns have no place in ensuring the people of Puerto Rico's future successes.

Indeed, Mr. Chairman, the congressional record reveals that Congress intended the Board and the Government to "work together as partners for prosperity, not as petty rivals for power."² While PROMESA's framework is "fraught with the potential for mutual sabotage," these negative possibilities have motivated the parties to work together for positive change.³ Your letter is truly disturbing in its reckless disregard for collaboration and cooperation in favor of an anti-democratic process akin to a dictatorial regime imposing its will by imperial fiat and decree.

The Committee on Natural Resources (the "Committee") now faces a fork in the road. Down one path, the Committee can support the PROMESA process, which as we note below, has resulted in significant progress, including approval and certification of fiscal plans and budgets for the Commonwealth and its instrumentalities. By choosing this path, the Committee will afford the Commonwealth an opportunity to achieve confirmation of a plan of adjustment. Upon the Oversight Board's certification of the revised fiscal plan, we believe that the Title III court should be petitioned to compel the Board to file a plan of adjustment with the goal of the Commonwealth emerging from Title III by year end. This would be a landmark achievement, allowing the Government to emerge from Title III with a blueprint for ending the fiscal, economic, and humanitarian crises that have plagued Puerto Rico.

Down the other path lies obstructionist behavior that would undermine the duly elected Government's authority and legitimacy. The Committee takes this reckless path at the cost of delaying Puerto Rico's emergence from its decade long fiscal and economic crisis. Sidelining the elected Government will result only in chaos and confusion, which bondholders will seek to capitalize on to further undermine the statutory foundation of the restructuring process. In fact, as noted below, bondholders are currently pursuing this strategy by challenging PROMESA's constitutional underpinnings. If their ploy is successful, it will jeopardize months of progress, crippling the Government and Oversight Board's ability to restructure Puerto Rico's debts. Although our steady progress remains unacknowledged by the Committee, the Oversight

² H.R. Rep. 114-602(I) at 111 (2016).

³ See Opinion and Order Denying Urgent Motion of FOMB to Confirm Appointment of a Chief Transformation Officer, *In re The Fin. Oversight and Mgmt. Bd. for Puerto Rico*, Case No. 17 BK 3283-LTS (D. P.R. Nov. 16, 2017) [ECF No. 1820] at 20 (the "CTO Order").

Board should be well positioned to file a plan of adjustment on behalf of the Commonwealth in short order.

I can assure you that the people of Puerto Rico, and those citizens with close ties to the Island residing in the mainland United States (leaving behind their friends and family), are watching these events closely. If the Committee, led by you, Mr. Chairman, persists on this ruinous path, the people of Puerto Rico and their brothers and sisters on the mainland will know who to hold accountable.

* * *

The Oversight Board Cannot Bypass The Elected Government Of Puerto Rico. Your letter argues that the Board has a statutory duty to “mandate reform,” but you either fundamentally misunderstand or intentionally misstate the Board’s role relative to that of Puerto Rico’s elected Government. As the district court presiding over Puerto Rico’s Title III cases has held, in a ruling which no party sought to appeal, “Congress did not grant the [Oversight Board] the power to supplant, bypass, or replace the Commonwealth’s elected leaders and their appointees in the exercise of their managerial duties whenever the Oversight Board might deem such a change expedient.”⁴

Instead, PROMESA reserves to the elected Government certain powers that are fundamental to the notions of sovereignty and self-rule.⁵ Congress gave the Oversight Board limited powers to achieve its purpose of aiding Puerto Rico towards financial recovery. Nowhere does PROMESA grant the Oversight Board the power to mandate any reforms regardless of the view of the elected Government, much less the power to regulate Puerto Rico’s private sector through measures like labor reform.

In enacting PROMESA, Congress did not create a control board—as it did for the District of Columbia—with plenary policymaking power. Congress expressly rejected such a model in favor of an Oversight Board with more circumscribed powers.⁶ Indeed, the only section of PROMESA that contemplates Oversight Board involvement in specific policy decisions or Government operations is section 205, which allows the Oversight Board to make non-binding “recommendations” to the Government “on actions the territorial government may take to ensure compliance with the Fiscal Plan, or to otherwise promote the financial stability, economic growth,

⁴ See CTO Order at 14.

⁵ See PROMESA §§ 303 (“this title does not limit or impair the power of a covered territory to control, by legislation or otherwise, the territory or any territorial instrumentality thereof in the exercise of the political or governmental powers of the territory or territorial instrumentality, including expenditures for such exercise”), 305 (providing that the Title III court “may not . . . interfere with—(1) any of the political or governmental powers of the debtor”).

⁶ H.R. Rep. 114-602(I), 2016 WL 3124840, at *111 (“After intensive negotiations, the bill establishes a board that is robust but reasonable. Its powers are far less potent than the powers that Congress conferred upon the board that it established for the District of Columbia”).

management responsibility, and service delivery efficiency of” Puerto Rico.⁷ A discussion draft of the bill that would become PROMESA empowered the Board to “impose its recommendations over the objection of the Puerto Rico government,” but that “anti-democratic provision” was removed.⁸ Instead, Congress granted the Governor of Puerto Rico “significant flexibility to adopt sound recommendations and to decline to adopt unsound recommendations.”⁹ The Oversight Board’s sole remedy where the Government declines to adopt a recommendation is the requirement that the Government explain its decision to the U.S. President, Speaker of the House, and Majority Leader of the U.S. Senate.¹⁰

Your letter entirely ignores this carefully crafted statutory framework, admonishing that fiscal plans are not “advisory documents” or “mere suggestions.” Quite so—but nor is a fiscal plan a means for the Oversight Board to wrest rightful authority from the elected government of Puerto Rico. Your letter nonetheless urges the Oversight Board to first certify a fiscal plan unilaterally and then impose that fiscal plan on the elected Government without any regard for the law or the facts. That is not what Congress intended.

The Government And The Board Have Worked Together Iteratively To Make Significant Progress To Achieve Certification Of A Fiscal Plan. Permit me to dispel your apparent perception that the Government’s progress towards achieving a certified fiscal plan has not been sufficiently rapid. While you complain that no new fiscal plan has yet been certified, the Board and the Government have been hard at work in fulfilling their respective mandates under PROMESA to achieve a path forward for Puerto Rico’s recovery. This process is necessarily an iterative one.

As you are aware, PROMESA requires that the Oversight Board approve a fiscal plan to serve as the blueprint for restructuring efforts and reforms necessary to achieve fiscal responsibility.¹¹ Fiscal plans must cover at least a five-year period and include (i) projections of anticipated future government revenues and (ii) a broad plan for future government expenditures in various areas.¹² As Judge Swain has expressly observed in presiding over the Commonwealth’s Title III proceedings, the process for developing and certifying fiscal plans is an “interactive process,” which looks “first to the territorial government, not the [Oversight Board], for origination and refinement.”¹³

Following the unprecedented destruction brought by Hurricanes Irma and María in September 2017, my administration has worked tirelessly—together with the Board and our

⁷ PROMESA § 205(a).

⁸ H.R. Rep. 114-602(I) at 114 (2016).

⁹ *Id.*

¹⁰ PROMESA § 205(b)(3).

¹¹ *Id.* §§ 101(d)(1), 201(c)(3), (e), 202(c)–(f).

¹² *Id.* § 201(b)(1); 48 U.S.C. § 2141(b)(1).

¹³ CTO Order at 10.

respective advisors—to revise those fiscal plans to reflect our new reality. The Oversight Board and the Government have adopted an aggressive timeline to achieve revisions. Throughout that process, my administration has worked together with the Oversight Board to ensure that the Government meets deadlines and the process advances.

On February 28, 2017, 58 days after I took office, I submitted the Government’s initial fiscal plan proposal to the Oversight Board. After receiving the Oversight Board’s feedback on our proposed plan, the Government continued exchanging information with the Board and collaborating on the common goal of certifying a fiscal plan that provided for sustainable economic recovery and long-term solvency, while ensuring the well-being of the people of Puerto Rico. By March 13, 2017, these discussions resulted in a revised version of the fiscal plan that the Oversight Board certified as compliant with the requirements established under PROMESA as well as the additional principles articulated by the Board.

With the March 13, 2017 Fiscal Plan in place, the Oversight Board was able to commence Title III cases for the Commonwealth, COFINA, HTA, and ERS in May 2017. (PREPA’s Title III case was filed in July 2017.) For the following five months, the Title III cases moved forward at a rapid pace until September 2017, when the hurricanes struck the Island. The aftermath of these storms left no corner of Puerto Rico untouched—full failure of the power grid; damage to the water system; ports and airports rendered unusable; roads washed away; and virtually all communications systems out of service. Supplies were limited and the ability to get even critical items to the Island was difficult due to the substantial infrastructure damage.

The reality of the conditions on the ground left no doubt that the March 13, 2017 Fiscal Plan would need to be changed significantly, with new assumptions and revisions to reflect Puerto Rico’s future growth trajectory. The devastation highlighted the importance of infrastructure revitalization as a core component of a successful restructuring, in conjunction with other fiscal and structural reforms. Although the storms altered the dynamics of the restructuring process, both the Government and Oversight Board agreed that the Title III proceedings should not be unnecessarily delayed.

At its tenth public meeting held in San Juan on October 31, 2017, the Oversight Board passed a resolution requiring the Government to submit revisions to the March 13, 2017 Fiscal Plan by January 24, 2018 to adjust for Puerto Rico’s post-hurricane economic reality. At the same time, the Board passed a resolution establishing nine guiding principles it would use to evaluate the fiscal plan revisions in addition to the 14 criteria under PROMESA section 201(b)(1). The Government has been mindful of these principles in developing the new fiscal plan. In addition to the Board’s guiding principles, the new fiscal plan proposal is grounded in the Government’s vision for the socioeconomic transformation of Puerto Rico based on the Government’s own strategic goals and objectives.

On January 24, 2018, the Government submitted its proposed revisions to the March 13, 2017 Fiscal Plan (the “January 24, 2018 Proposed Plan”). On February 5, 2018, the Board sent the Government a notice of violation, stating that the January 24, 2018 Proposed Plan required certain revisions before the Board could certify it. After further discussions with the Government,

the Board extended the submission deadline, and the Government timely submitted its revised Fiscal Plan for Puerto Rico, on March 23, 2018 (the “New Fiscal Plan”). On March 28, 2018, the Board sent the Government a letter identifying further areas where the Board believes the New Fiscal Plan should be revised and has requested the Government to submit a revised version of the New Fiscal Plan by April 5, 2017. The Government fully intends to comply with this deadline.

The Elected Government Recognizes That Structural Reforms Are An Essential Element To The Fiscal Plan. You assert that my administration’s New Fiscal Plan circumvents the core purposes of PROMESA by implementing “intentional misinterpretations of the statute” that indicate a “lack of respect for the Congressional requirements of the Fiscal Plan.” These assertions could not be further from reality. The Government’s New Fiscal Plan includes myriad structural reforms designed to attract private capital investments and achieve strong, sustainable, economic growth. This package of new structural reforms represents Puerto Rico’s most significant set of economic reforms in 50 years, and includes:

- **Tax Reform and Incentive Code** to address inequality and reduce the cost of doing business in Puerto Rico, while providing economic development incentives, exemption, subsidies, grants, and credits based on the return on investment to Puerto Rico. These reforms are also necessary after the adverse effect of the recent federal tax law changes on Puerto Rico.
- **Regulatory Reform** to reduce unnecessary regulatory burdens, consolidated public service and utility agencies, deregulate land freights, and deregulate occupational licensing, among other things.
- **Power Sector Reform** to restructure PREPA operations and services to clients and allow for greater competition in energy generation on the Island.
- **Welfare Reform** to implement a local EITC program to drive integration into the formal economy, protect vulnerable segments, and promote self-sustainability. Our Fiscal Plan requires people to start working to receive benefits if they are in their productive years and are able-bodied.
- **Implementation of New Government Model** as a blue print for the optimization of Government spending to provide services while improving quality of the services offered. The Government aims to achieve savings by reducing expenses and increasing revenues while avoiding new taxes and focusing on compliance initiatives. Savings will be achieved through the elimination of duplicative processes, digitization, scale efficiencies, and lean management practices, with the goal of reducing the number of agencies from 118 to approximately 35.
- **Establishing the Office of the Chief Financial Officer** to ensure fiscal responsibility, promote long-term economic sustainability, and enable optimal resource allocation in accordance with the revised fiscal plan and annual budget. This reform aims to give more transparency to public finances by creating a centralized office that will have

visibility and supervision over all fiscal matters, correcting the problem of “informational silos” that has harmed Puerto Rico in the past.

After implementing these measures, the New Fiscal Plan achieves a \$5.6 billion surplus over six years. The structural reforms in the New Fiscal Plan are forecasted to produce additional economic growth of 0.8% by fiscal year 2023, while also achieving \$1.45 billion in savings from government right-sizing measures over that time. These substantial improvements certainly cannot be characterized in good faith as purposefully circumventing the purposes of PROMESA. And all the cost-cutting measures necessary to achieve these savings are solely at the expense of the people of Puerto Rico, who will receive significantly less Government support.

The Government and the Oversight Board’s efforts to adopt lasting structural reforms make Congress’s inaction all the more glaring. The Congressional Task Force on Economic Growth in Puerto Rico (the “Task Force”) established by PROMESA submitted a report to the House of Representatives and the Senate on December 20, 2016, recommending numerous steps for Congress to take “to help Puerto Rico’s economy stabilize and grow.”¹⁴ These recommendations include health care, tax policy, and entitlement reforms that are urgently needed to address Puerto Rico’s structural deficits and put Puerto Rico on equal footing with the mainland United States. Congress has taken no meaningful action on any of the Task Force’s recommendations.¹⁵ In the absence of Congressional leadership on these issues, the Government has taken the mantle to address structural deficits by, among other things, seeking to implement a local EITC program.¹⁶

In stark contrast to what the elected Government of Puerto Rico and the Board agree should be the key components of a viable Commonwealth Fiscal Plan, your letter suggests that a “good start” would be for the Board to determine what constitute “essential public services”—distinctly echoing what Puerto Rico’s creditors have unsuccessfully argued in the Title III proceedings. However, PROMESA does not require that the Board define what public services are essential in order to certify a fiscal plan. The Oversight Board has authority to certify fiscal plans in its “sole

¹⁴ Congressional Task Force on Economic Growth in Puerto Rico, Report to the House and Senate, 114th Congress at 8 (Dec. 20, 2016) (cited herein as “Task Force Report at ___”).

¹⁵ In fact, Congress has actively contradicted the Task Force’s recommendations to Puerto Rico’s detriment. In passing tax reform legislation last year, Congress ignored entirely the Task Force’s plea that Puerto Rico not be “relegated to an afterthought in congressional deliberations over federal business tax reform legislation.” Task Force Report at 36. The product of Congress’s efforts will add unnecessarily to the economic headwinds facing Puerto Rico by placing the Island at a competitive disadvantage in the Caribbean and relative to the mainland United States.

¹⁶ The Task Force recommended that Congress explore ways to adopt the EITC to the unique circumstances prevented in Puerto Rico. *Id.* at 32.

discretion,”¹⁷ and its certification decisions are not reviewable by any court.¹⁸ On this point, the Title III court has consistently sided with the Oversight Board and the Government.¹⁹

The Government Is Entitled To Full Representation And Participation In The Title III Proceedings. Your letter further purports to profess concern for the fees incurred in connection with the restructuring cases and related litigation, which you attribute to “triple representation.” Under PROMESA, the Oversight Board is the debtor’s representative for purposes of the restructuring cases.²⁰ But the duly elected Government, as the representative of the people of Puerto Rico, is entitled to participate fully in those cases. Congress expressly recognized as much when it authorized the elected Government to retain its own professionals in connection therewith.²¹

The Title III court has held that the elected Government has standing to appear and be heard on all matters in the restructuring cases.²² Far from being duplicative, the elected Government has an essential role to play. While the Government has never sought to represent any of the Title III debtors in litigation (except when specifically requested by the Board), many creditors have elected to sue non-debtor defendants that the Board has no statutory authority to represent. Some of these defendants include non-debtor Government entities, including the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”), and Government Officials, including myself, the AAFAF Director, the Treasury Secretary, and the Office of Management and Budget Director. While counsel for the non-debtor defendants have always worked cooperatively with the Board’s counsel to avoid duplication of effort, including by joining Board briefs, the Government cannot and will not forfeit its responsibility for the defense of non-debtor agencies and officials.

The Government is fully aware of the high cost of the Title III cases. As required under PROMESA, the Government must cover the entire cost of the Title III proceedings, including the

¹⁷ PROMESA § 201(b)(1).

¹⁸ *Id.* § 106(e).

¹⁹ *See, e.g.*, Opinion and Order Granting Motion to Dismiss Plaintiffs’ Complaint Pursuant to Fed. R. Civ. P. 12(b)(1) and (b)(6), *In re The Fin. Oversight and Mgmt. Bd. for Puerto Rico (Assured Guar. Corp. v. Commonwealth of Puerto Rico)*, Adv. Pro. Nos. 17-155-LTS, 17-156-LTS (D. P.R. Jan. 30, 2018) [ECF No. 125]; Opinion and Order Granting Motion to Dismiss Plaintiffs’ Complaint Pursuant to Fed. R. Civ. P. 12(b)(1) and (b)(6), *In re The Fin. Oversight and Mgmt. Bd. for Puerto Rico (Ambac Assur. Corp. v. Commonwealth of Puerto Rico)*, Adv. Pro. No. 17-159-LTS (D. P.R. Feb. 27, 2018) [ECF No. 156].

²⁰ PROMESA § 315(b).

²¹ *Id.* § 316(a) (providing that the Title III court may award professional fees to representatives of the debtor, Oversight Board, and any official committees appointed by the Title III court).

²² *See* CTO Opinion at 16 (“Nor, contrary to the Oversight Board’s argument that the government lacks standing even to object to the FOMB’s Motion, does section 108 prevent the Governor from participating in the instant motion practice and seeking court determinations regarding the FOMB’s authority under PROMESA.”).

professional fees and expenses of the Oversight Board,²³ its appointed agents, the Government, all official committees, and each of their respective professionals.²⁴ Critically, because the Title III cases are paid for with the tax dollars of Puerto Rico residents, the financial burden of the Title III cases is borne solely by the people of Puerto Rico. As their representatives, we have the utmost incentive and desire to minimize the costs related to these proceedings.

In contrast to several creditor groups, who have driven up professional costs by choosing to pursue meritless legal challenges to the very existence of the Oversight Board itself, the elected Government of Puerto Rico has worked tirelessly to reduce the cost of litigation associated with the Title III proceedings. For example, while not a Title III debtor, AAFAF has voluntarily submitted its counsels' fees to the fee examiner, including fees for non-Title III matters. The Government has worked closely with the court-appointed fee examiner to ensure that fees are appropriate, meeting with the fee examiner to voice the Government's concerns and request reductions in various professionals' fees. The fee examiner applauded these efforts in his report,²⁵ noting that AAFAF has "actively encouraged . . . dialogue" between the elected Government's officials and the fee examiner that "allows AAFAF to incorporate some of the bankruptcy fee metrics into its internal controls process."²⁶ These efforts have yielded reductions in fees paid to professionals not only for the elected Government, but also for the Official Committee of Unsecured Creditors (the "Creditors' Committee") and the Official Committee of Retired Employees of the Commonwealth of Puerto Rico (the "Retirees' Committee").

Importantly, it is the elected Government that must implement the plan of adjustment approved by the court. The Government's involvement is therefore critical to ensuring that the proposed plan is feasible.²⁷ As the Title III court explained, while the Oversight Board is the only entity that can propose a plan of adjustment, a feasible plan of adjustment must "be premised on a functioning and credible government structure that will execute the plan of adjustment long after the [Oversight Board] is dissolved."²⁸ In addition, to confirm a plan of adjustment the Oversight Board must obtain "any legislative, regulatory, or electoral approval necessary under applicable law."²⁹ The Oversight Board cannot force the Government to legislate, regulate, or seek electoral approval from the people of Puerto Rico. Thus, the Oversight Board must collaborate with the elected Government to confirm a plan of adjustment.

²³ See PROMESA § 107(b) ("The Oversight Board shall use its powers with respect to the Territory Budget of the covered territory to ensure that sufficient funds are available to cover all expenses of the Oversight Board.");

²⁴ See *id.* § 316(a) ("the court may award to a professional person employed by the debtor (in the debtor's sole discretion, the Oversight Board (in the Oversight Board's sole discretion), a committee . . . , or a trustee appointed by the court" reasonable compensation).

²⁵ See Fee Examiner's Initial Report, *In re the Fin. Oversight and Mgmt. Board of Puerto Rico*, No. 17 BK 3283-LTS (D.P.R. Mar. 1, 2018) [Dkt. 2645] (the "Fee Examiner's Report").

²⁶ Fee Examiner's Report at 20.

²⁷ PROMESA § 314(b)(6) (the plan of adjustment must be "feasible").

²⁸ CTO Order at 18.

²⁹ PROMESA § 315(b)(5).

Notably, your letter cites no example where the Government has overstepped its role with respect to the fiscal plan process. And no court has reached any conclusion to that effect. In contrast, the Oversight Board has on multiple occasions attempted to usurp the elected Government's sovereign powers, leading to unnecessary and costly litigation. During the last year, the Board has engaged in a number of efforts that can only be interpreted as seeking to undermine the Government of Puerto Rico. Some of the most egregious examples are the following:

- **Attempt to Seize Control of the Puerto Rico Electric Power Authority (PREPA):** In October 2017, the Board sought to install its hand-picked appointee to seize control of PREPA. The district court presiding over the Title III cases resoundingly rebuffed this effort, holding that the Board cannot “supplant, bypass, or replace the Commonwealth’s elected leaders and their appointees in the exercise of their managerial duties whenever the Oversight Board might deem such a change expedient.”³⁰
- **Using Puerto Rico Taxpayer Dollars to Lobby for Control of Disaster Aid:** More recently, the Board conducted meetings with the Federal executive and legislative branch officials at various times concerning Puerto Rico’s disaster relief funding without my administration’s knowledge. Additionally, the Board has employed lobbyists—paid from Puerto Rico taxpayer funds—to advocate for legislation that would restrict Puerto Rico’s access to federal funding and augment the Board’s powers at the expense of the elected Government, effectively overruling the District Court’s decision in the PREPA Title III case that rejected the Board’s attempt to seize control of PREPA.

These actions are deeply troubling to us and should be troubling to the U.S. Congress because they go well beyond the boundaries of power and authority between the Board and the Government that Congress enshrined in PROMESA.³¹ Any independent, objective inquiry will prove that the Government of Puerto Rico has sought to collaborate with the Board cooperatively and in good faith throughout its existence and has in no way sought to undermine or sabotage the Board’s proper exercise of its powers and authority under PROMESA.

As further evidence of our commitment to dialogue and collaboration with the Oversight Board and the PROMESA process, I extended an invitation to Board members to meet with me at Fortaleza in late January to discuss our views and differences with respect to the fiscal plan in the hope of reaching consensus on all issues. Following the January meeting, I attended two successive meetings held in New York with Board members to further narrow our differences on fiscal plan issues.

³⁰ CTO Order at 14.

³¹ *See, e.g.*, PROMESA § 303 (reserving to the Commonwealth its political and governmental powers).

The Government of Puerto Rico is committed to the goals of PROMESA to achieve fiscal sustainability, responsibly restructure our debts, restore access to capital markets and to return the Island to economic growth. However, the Government of Puerto Rico cannot permit its authority to lead its people to be usurped by the Board and its members. We will not allow you or the Board to dictate public policy; that is the exclusive role of the elected Government.

Creditor Engagement Has Been Substantial Throughout Puerto Rico's Restructuring Process. Your letter takes issue with the Oversight Board's perceived "inability and unwillingness to reach consensual restructuring agreements" with creditors. But both the Oversight Board and the Government have been engaged in an ongoing process with all major creditor constituencies, including the Creditors' Committee, Retirees' Committee, and various ad hoc groups.

In addition to our frequent dialogue with the Board, we have engaged in informational meetings with various creditor groups concerning financial information and the publicly disclosed fiscal plans. Through discovery in the Title III cases and related litigation, the Government has made hundreds of thousands of documents available. In addition, the Government has voluntarily provided creditors' financial advisors with access to information through an electronic database. The Government has made the following reports available:

- **Cash Flow Report:** Shows actual inflow and outflows from the Puerto Rico Treasury's single account.
- **Cash v. Liquidity Plan, Vendor and Payroll:** Compares payroll and vendor outlays to the liquidity plan on an agency-by-agency basis.
- **Actual to Budget Component Unit Report:** Shows variance for operating receipts and disbursements for several component units of the Government, and, where applicable, indicates how Hurricanes Irma and María impacted the analysis.
- **Treasury Single Account Outlays v. Budget:** Compares collections and outflows to budget broken out by source of revenue and component unit for budgetary appropriations.
- **Disaster Related Reporting:** Details amounts paid to municipalities and various agencies in connection with disaster relief efforts and reflects budget reallocation for such efforts.

Despite the voluminous information the Oversight Board and the Government have provided, creditors still claim that they do not have sufficient information to meaningfully engage on consensual restructuring agreements. However, these assertions are completely unfounded and disingenuous.

Contrary to your claims, we have also sought consensual resolutions with creditors whenever possible. As your letter acknowledges, my administration negotiated in good faith with PREPA's creditors and submitted PREPA's Amended and Restated Restructuring Support Agreement ("PREPA RSA") to the Oversight Board for certification on April 6, 2017. After the Oversight Board denied our request for certification of the PREPA RSA in late June 2017,

PREPA's Title III case was filed. Subsequent to the Title III filing, PREPA's operations were devastated by the September storms resulting in a need to reevaluate the operational, financial and demographic assumptions underlying any PREPA restructuring. While the lack of certainty around the assumptions has made the process extremely challenging, my administration has still engaged with creditors to establish regular informational calls and share substantial information on the progress of restoration and recovery efforts, financial performance and progress on operational initiatives.

In addition, the Government is currently in the process of implementing a consensual restructuring with GDB creditors. On May 15, 2017, after months of extensive and good faith negotiations, GDB, AAFAF and a majority of GDB's financial creditors entered into a Restructuring Support Agreement (the "GDB RSA"). The GDB RSA contemplates an organized and comprehensive restructuring of GDB pursuant to the collective creditor action provisions of Title VI of PROMESA. The parties to the GDB RSA reflect the diversity of GDB's financial creditors. More than 375 unique parties have signed the GDB RSA, the vast majority of which constitute on-island creditors. Indeed, more than 300 on-island bondholders and an additional 50 on-island credit unions have entered into the GDB RSA. The GDB RSA is also supported by the Ad Hoc Group of GDB Bondholders, which holds more than \$1 billion of GDB public bonds.

In July 2017, the Oversight Board unanimously adopted a resolution certifying the GDB RSA, and the transactions contemplated thereby, as a "Qualifying Modification" under Title VI of PROMESA. In the fall of 2017, the parties to the GDB RSA were making substantial progress in implementing the GDB RSA when Hurricanes Irma and María made landfall in Puerto Rico. Over the past several months, the Government has engaged in constructive negotiations with GDB's creditors to amend the GDB RSA to, among other things, provide additional relief to municipalities as they recover from the severe damage and devastation caused by the hurricanes. On March 26, 2018, the Government announced that they had reached an agreement with a substantial portion of the GDB RSA parties, including the Ad Hoc Group of GDB Bondholders, on an amendment to the GDB RSA. Under the amendment, solicitation of the Qualifying Modification is expected to commence this summer.

* * *

For the foregoing reasons, I emphatically reject the allegations in your letter claiming that my administration has not been working closely to achieve the mandates of PROMESA. Although the situation facing Puerto Rico is unprecedented, we are relentlessly striving to develop and implement creative strategies to ensure that the people of Puerto Rico can realize a bright and prosperous future. Regrettably, your letter embodies everything that is wrong with this process and only serves to reinforce the dismissive and second-class colonial treatment Puerto Rico has suffered throughout its history as a territory of the United States, which undermines our efforts to address the Island's fiscal, economic, and humanitarian crises. From the Government's perspective, we believe a fair and balanced approach towards all of Puerto Rico's stakeholders is required. To the contrary, your letter sends a message which seems to

unfairly and disproportionately favor the treatment of mainland bondholders over the well being of the 3.4 million U.S. citizens in Puerto Rico.

The Committee fails to acknowledge that PROMESA incorporates much of Chapter 9 of the U.S. Bankruptcy Code, which allows for the restructuring of bondholder debt. To date, the bondholders have not had to bear any of the Title III costs while recklessly racking up enormous fees in litigation that are paid for solely by the people of Puerto Rico. The time has come to put aside the charade of self-serving letter writing campaigns on behalf of bondholder constituencies. Rather, the bondholders must bear their fair share of the burdens of Puerto Rico's restructuring pursuant to Title III plans of adjustment filed with and approved by the District Court.

My administration stands ready to continue dialogue with the bondholders to negotiate a fair restructuring of the bondholders' debt, but we will not be thrown into submission by false allegations and innuendo that the Government has not acted in good faith or in a transparent manner.

Very truly yours,



Governor Ricardo Rosselló Nevares

cc: Hon. Raúl Grijalva
Hon. Jenniffer González-Colón
José B. Carrión III
Andrew G. Biggs
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