

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

(caption continued on next page)

**STATEMENT OF THE AD HOC GROUP OF GENERAL OBLIGATION BONDHOLDERS,
AMBAC ASSURANCE CORPORATION, ASSURED GUARANTY CORP., ASSURED
GUARANTY MUNICIPAL CORP., THE MUTUAL FUND GROUP, NATIONAL PUBLIC
FINANCE GUARANTEE CORPORATION, AND THE PUERTO RICO FUNDS IN
RESPONSE TO DEBTORS' STATUS REPORT REGARDING (A) FINANCIAL
DISCLOSURES TO CREDITORS AND (B) STATUS OF SETTLEMENT DISCUSSIONS**

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474).

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE EMPLOYEES RETIREMENT SYSTEM OF THE
GOVERNMENT OF THE COMMONWEALTH OF
PUERTO RICO (“ERS”),

Debtor.²

PROMESA
Title III

No. 17 BK 3566-LTS

(Joint Administration
Requested)

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE PUERTO RICO HIGHWAYS AND
TRANSPORTATION AUTHORITY (“HTA”),

Debtor.³

PROMESA
Title III

No. 17 BK 3567-LTS

(Joint Administration
Requested)

² The last four (4) digits of ERS’s federal tax identification number are 9686.

³ The last four (4) digits of HTA’s federal tax identification number are 3808.

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TO THE HONORABLE COURT:

The Responding Creditors (as defined below) hereby submit this joint statement in response to *Debtors' Status Report Regarding (A) Financial Disclosures to Creditors and (B) Status of Settlement Discussions* (No. 17 BK 3283 Dkt. 350) (the "Status Report"), filed by the Financial Oversight and Management Board for Puerto Rico (the "Oversight Board" or "Board") on June 15, 2017.¹ This statement is submitted jointly by the following Responding Creditors:

- The Ad Hoc Group of General Obligation Bondholders ("GO Group"),² which holds approximately \$3 billion of bonds issued or guaranteed by the Commonwealth of Puerto Rico (the "Commonwealth").
- Ambac Assurance Corporation ("Ambac"), which holds and/or insures approximately \$1.3 billion of bonds issued by the Puerto Rico Sales Tax Financing Corporation ("COFINA"), \$564 million of bonds issued by the Puerto Rico Infrastructure Financing Authority, \$494 million of bonds issued by the Puerto Rico Highways and Transportation Authority ("HTA"), \$187 million of bonds issued or guaranteed by the Commonwealth, and \$137 million of bonds issued by the Puerto Rico Convention Center District Authority.
- Assured Guaranty Corp. and Assured Guaranty Municipal Corp. (together, "Assured"), which insure approximately \$5.4 billion of debt issued by Puerto Rico government entities, including approximately \$1.75 billion of debt issued or guaranteed by the COFINA, and approximately \$1.5 billion of debt issued by HTA.
- The Mutual Fund Group,³ which holds approximately \$3.4 billion in accreted principal amount of COFINA bonds, \$1.8 billion of bonds issued or guaranteed by the Commonwealth, and more than \$3.6 billion of other bonds issued by Puerto Rico instrumentalities.
- National Public Finance Guarantee Corporation (as reinsurer to, and administrative agent for, MBIA Insurance Corporation, "National"), insurer of (i) over \$690 million

¹ By submitting this joint response, the Responding Creditors do not waive their right to file a separate or supplemental response to the Oversight Board's Status Report.

² The members of the GO Group filing this objection are certain funds or entities managed or advised by Aurelius Capital Management, LP, Autonomy Capital (Jersey) LP, FCO Advisors LP, Monarch Alternative Capital LP, Senator Investment Group LP, and Stone Lion L.P.

³ The Mutual Fund Group consist of funds managed by OppenheimerFunds, Inc. and Franklin Advisers, Inc., and the First Puerto Rico Family of Funds.

of general obligations bonds issued by the Commonwealth; (ii) over \$1.1 billion of bonds issued by COFINA; and (iii) approximately \$706 million of bonds issued by the HTA.

- The Puerto Rico Funds,⁴ which as of May 31, 2017, held approximately \$617 million of bonds issued by COFINA and approximately \$717 million of bonds issued by the Employees Retirement System of the Government of the Commonwealth of Puerto Rico.

Because the Responding Creditors occupy different positions in the capital structure of the Commonwealth and its instrumentalities, their interests are diverse and, in certain respects, in conflict with one another. But all are united in their rejection of certain fundamentally misguided and misleading positions set forth by the Oversight Board in its Status Report.

The Oversight Board's Status Report rests on a breathtakingly overbroad conception of the Oversight Board's authority under the Puerto Rico Oversight, Management, and Economic Stability Act ("PROMESA").⁵ In the Board's view, PROMESA confers upon the Board a unilateral—and unreviewable—power to dictate the amount of revenues that will be available to service the debts of the Commonwealth and its instrumentalities, through the certification of a Fiscal Plan. All that is left for creditors to do, the Oversight Board asserts, is “negotiate to divide up the money available for debt service under the fiscal plan.” Status Report ¶ 24. The

⁴ The Puerto Rico Funds are the following Puerto Rico-based funds: Puerto Rico AAA Portfolio Bond Fund II, Inc.; Puerto Rico AAA Portfolio Bond Fund, Inc.; Puerto Rico AAA Portfolio Target Maturity Fund, Inc.; Puerto Rico Fixed Income Fund, Inc.; Puerto Rico Fixed Income Fund II, Inc.; Puerto Rico Fixed Income Fund III, Inc.; Puerto Rico Fixed Income Fund IV, Inc.; Puerto Rico Fixed Income Fund V, Inc.; Puerto Rico Fixed Income Fund VI, Inc.; Puerto Rico GNMA & U.S. Government Target Maturity Fund, Inc.; Puerto Rico Investors Bond Fund I; Puerto Rico Investors Tax-Free Fund, Inc.; Puerto Rico Investors Tax-Free Fund, Inc. II; Puerto Rico Investors Tax-Free Fund III, Inc.; Puerto Rico Investors Tax-Free Fund IV, Inc.; Puerto Rico Investors Tax-Free Fund V, Inc.; Puerto Rico Investors Tax-Free Fund VI, Inc.; Puerto Rico Mortgage-Backed & U.S. Government Securities Fund, Inc.; Tax-Free Puerto Rico Fund, Inc.; Tax-Free Puerto Rico Fund II, Inc.; Tax-Free Puerto Rico Target Maturity Fund, Inc.; and UBS IRA Select Growth & Income Puerto Rico Fund.

⁵ PROMESA has been codified at 48 U.S.C. §§ 2101-2241.

Oversight Board therefore contends that creditors may not even obtain discovery regarding the analyses, judgments, and projections that underlie the certified Fiscal Plan. *Id.* ¶ 28.

As we explain below, the Oversight Board's position fundamentally misunderstands PROMESA. Even if the Board were correct that the statutory requirements for certifying a Fiscal Plan are not subject to judicial review—a position that the Responding Creditors do not concede—it would not follow that the Board's proposed debt-service amounts are shielded from transparency to creditors and judicial scrutiny. To the contrary, in order for any plan of adjustment premised on the Fiscal Plan to be confirmed under Title III of PROMESA, the Board must demonstrate that it satisfies a number of separate confirmation requirements drawn from the Bankruptcy Code (but in certain key respects more protective of creditors than the analogous Code provisions). See 48 U.S.C. § 2174(b)(1)-(7). There is no question that, at confirmation, creditors will be entitled to challenge the assumptions, projections, and analyses that underlie the Board's proposed debt-service amounts. And it is this Court—not the Oversight Board—that will be responsible for resolving these challenges.

For this reason, the Fiscal Plan is plainly a proper subject of discovery. Access to information about the projections, assumptions, and analyses that underlie the Fiscal Plan is necessary for creditors to understand and challenge any plan of adjustment premised on the Fiscal Plan, which they are entitled to do. The Board's disclosures to date—which obfuscate, rather than reveal, this key information—are woefully inadequate, contrary to the misleading suggestions set forth in the Oversight Board's Status Report. What is more, public reports continue to show that the Commonwealth's finances are far better than reflected in the Fiscal Plan. Yet the Oversight Board has refused to make appropriate corrections to the Fiscal Plan; this money apparently disappears into the ether as the Oversight Board clings to its take-it-or-

leave-it stance toward financial creditors. To make matters worse, Commonwealth officials have been engaging in a mad dash to pay certain creditors before a restructuring plan is proposed—trade creditors, tax refund claimants, and others are being paid in full at a rapid rate, without any regard for lawful liens or priorities.

The Oversight Board’s insistence that it may dictate to creditors, rather than negotiate with them, also dooms any possibility for a consensual resolution of these Title III cases. Unless the Board abandons this destructive course, the result may be prolonged and costly litigation that is not in the interests of Puerto Rico or any of its stakeholders.

DISCUSSION

A. The Oversight Board Is Not Above The Law

The central theme of the Status Report is that, in the Oversight Board’s view, the Board is above the law. As the Board sees things, once the Board has certified a Fiscal Plan, the amounts it has proposed for debt service are set in stone. No creditor may object—no matter how blatantly unlawful the Fiscal Plan may be, or how obviously counterfactual are the assumptions on which it rests. Even this Court, the Board asserts, lacks authority to “second guess[]” the Board’s judgments. Status Report ¶ 26. That is an oddly pejorative label for judicial review.

The Board’s strident insistence that the Fiscal Plan’s lawfulness may never be challenged or reviewed is a tacit concession that the Fiscal Plan disregards PROMESA’s requirements and is indefensible on its merits. The Board appears to believe that it *must* be above the law, because if the law is brought to bear on the Fiscal Plan then the Fiscal Plan will not survive. And that is no surprise: The Fiscal Plan is invalid *on its face*, because it acknowledges that the Commonwealth has made *no effort at all* to differentiate essential expenditures from non-essential ones despite Congress’s directive that a Fiscal Plan endeavor to “ensure the funding of *essential* public services,” 48 U.S.C. § 2141(b)(1)(B) (emphasis added), not whatever level of public services the

Commonwealth's public officials may desire. See *Fiscal Plan for Puerto Rico* 6 (March 13, 2017) (corrected version), <https://juntasupervision.pr.gov/wp-content/uploads/wpdf/50/58f614473f619.pdf>. The Fiscal Plan also effectively acknowledges that the Commonwealth and the Board have not even attempted to comply with the statutory obligation to “respect . . . relative lawful priorities or lawful liens.” 48 U.S.C. § 2141(b)(1)(N); see *Fiscal Plan for Puerto Rico* 6.

Indeed, only recently—more than three months *after* certifying the Fiscal Plan—did the Oversight Board press the Commonwealth for an explanation of how it defines “essential services.” See Letter from Oversight Board to Governor Rosselló, June 16, 2017, at p. 3 (Ex. 1). Governor Rosselló quickly stated that he was “surprised” by the Oversight Board’s inquiry, stating that the Fiscal Plan had already been certified and that the Oversight Board had “in essence passed judgment on this on two different occasions.” *Governor ‘Surprised’ by PROMESA Board Questions on Essential Services*, Reorg Research (June 19, 2017) (Ex. 2). This exchange—and the Oversight Board’s belated recognition of the significance of the “essential services” issue to the Commonwealth’s treatment of its various debt obligations—are emblematic of the fundamentally flawed process underlying the Oversight Board’s certification of the Fiscal Plan.

The Board’s confidence that such blatant statutory violations cannot be challenged is misplaced. But even if the Oversight Board were correct that PROMESA’s requirements *for certification* of a Fiscal Plan are not subject to judicial review, that would not shield from

judicial inquiry the amounts proposed for debt service in the Fiscal Plan or the assumptions underlying that calculation.⁶

For any plan of adjustment to be confirmed, it must satisfy each of the statutory confirmation requirements under Section 314(b) of PROMESA. See 48 U.S.C. § 2174(b)(1)-(7). The Board must propose a plan of adjustment that satisfies each confirmation requirement. If it fails to do so, then these Title III cases ultimately will be dismissed. As this Court has observed, PROMESA does not create a structure in which the “fiscal plan as it exists could be implemented with [creditors] unable to do anything about it.” See 6/5/17 Tr. (No. 17-ap-151 Dkt. 50) at 21; see also *id.* (observing that the Board is “going to have to propose an adjustment plan that will either work or not work, and if it doesn’t work and the Title III fails” then the automatic stay will be lifted and creditors may pursue their pre-existing remedies).

Prominent among Section 314(b)’s safeguards is the requirement, incorporated from the Bankruptcy Code, that a plan be “fair and equitable” in order to be confirmed over the objections of an impaired, non-accepting class (colloquially, a “cramdown” plan). 11 U.S.C. § 1129(b)(1); see also 48 U.S.C. § 2161(a) (incorporating Section 1129(b)(1) by reference). In addition to importing the “absolute priority” rule, under which a senior class of claims must receive the

⁶ The Board’s position also rests on a mischaracterization of the adversary proceeding brought by Assured and National, describing it as an attempt to seek judicial review of the certification of the Fiscal Plan. See Status Report ¶¶ 25, 29 (referring to *Assured Guar. Corp., et al. v. Commonwealth of Puerto Rico, et al.*, Adv. Proc. No. 17-00125-LTS) (the “Assured/National Adversary”). Contrary to characterizations in the Status Report, the Assured/National Adversary does not seek review of the certification of the Fiscal Plan nor dismissal of the petition. Instead, the Assured/National Adversary seeks to stay any plan of adjustment in the Title III case until the Board submits a Fiscal Plan “in accordance with” Section 201(b) of PROMESA. See 48 U.S.C. § 2104(10), (22). Moreover, the Assured/National Adversary also alleges claims for violations of the Contracts, Takings, and Due Process Clauses of the U.S. Constitution, each based on the Commonwealth’s unlawful Fiscal Plan Compliance Law, and, in the Status Report, the Board concedes, as it must, that Section 106(e) does not apply to claims based on “rights under the United States constitution.” See Status Report ¶ 27.

value of its claims before any junior class of claims may receive any distribution under the plan, see 11 U.S.C. § 1129(b)(2), the fair and equitable requirement is also understood to have additional “important content” in municipal bankruptcy cases. 6 *Collier on Bankruptcy* ¶ 943.03[1][f][i][A] (16th ed.). In particular, a municipal debtor’s plan of adjustment may be approved only upon a factual finding that the recovery proposed for creditors is “the maximum that the [debtor] could reasonably pay.” *Lorber v. Vista Irr. Dist.*, 127 F.2d 628, 639 (9th Cir. 1942); see also 6 *Collier on Bankruptcy* ¶ 943.03[1][f][i][A] (“A plan under chapter 9 is fair and equitable if the amount to be received by the bondholders is all that they can reasonably expect in the circumstances.”) (citation omitted); H.R. Rep. No. 686, 94th Cong., 1st Sess. 32-33 (1977) (noting that the debtor “must exercise its taxing power to the *fullest extent possible* for the benefit of its creditors”) (emphasis added). Such an inquiry would necessarily analyze not only the revenue side of the equation but also expenses.⁷

Nothing in PROMESA overrides the requirement that the Commonwealth do all that is reasonably possible to maximize creditor recoveries if any proposed plan of adjustment is to be confirmed. To the contrary, this requirement is expressly incorporated. Nor does PROMESA commit that determination to the Oversight Board. Rather, *this Court* will determine based on the evidence adduced before it—not the Board’s *ipse dixit*—whether the confirmation

⁷ Our discussion of the Oversight Board’s obligation to maximize creditor recoveries in any plan of adjustment should not be taken as minimizing the importance of the other confirmation requirements imposed by Section 314(b) of PROMESA. Indeed, any plan of adjustment premised on the current Fiscal Plan would fail under multiple confirmation requirements, including the requirement that the plan be “in the best interests of creditors, which shall require the court to consider whether available remedies under the non-bankruptcy laws and constitution of the territory would result in a greater recovery for the creditors than is provided by such plan,” 48 U.S.C. § 2174(b)(6), and the absolute priority rule imposed by 11 U.S.C. § 1129(b)(2). It is the Board’s obligation to maximize creditor recoveries, however, that most starkly demonstrates the fallacy of the Board’s assertion of an unreviewable authority to dictate a fixed amount for debt service that must be divided among creditors.

requirements set forth in Section 314(b) have been satisfied. See 48 U.S.C. § 2174(b) (providing that “[t]he court shall confirm the plan if” the specified requirements are satisfied) (emphasis added).

Thus, in any contested confirmation proceeding, the Board will have to demonstrate to the Court’s satisfaction that the proposed plan of adjustment does all that is reasonably possible to maximize creditor recoveries. If the Board proposes a plan of adjustment premised on the current Fiscal Plan, then creditors will be entitled to challenge the assumptions, projections, and analyses that underlie the Fiscal Plan’s proposed debt-service figures.

For example, creditors can be expected to challenge the Fiscal Plan’s unduly pessimistic economic assumptions, which produce a dramatic contraction in projected governmental revenues—notwithstanding the fact that the Commonwealth’s general fund revenues have been trending upwards since 2011, and today are at an all-time high. See *Commonwealth Government General Fund Net Revenues*, http://www.aafaf.pr.gov/assets/t28_ae-2016.xlsx. Likewise, if the Oversight Board contends that no expenditure reductions beyond the illusory “cuts” that are proposed in the Fiscal Plan are reasonably possible, creditors will be entitled to challenge the assumptions and analyses that form the basis for that conclusion.⁸

For instance, creditors will certainly challenge the Fiscal Plan’s inclusion of a \$600 million “reconciliation adjustment,” an amount that grows each year and totals \$6.2 billion over the Fiscal Plan’s 10-year term (the “Reconciliation Adjustment”). Puerto Rico has not released audited financials beyond fiscal year 2014, and therefore the stated purpose of the Reconciliation Adjustment is to capture the claimed historical understatement of Puerto Rico’s expenses. In

⁸ In fact, there are no true expenditure reductions contemplated in the Fiscal Plan. The purported “cuts” are measured against hypothesized increases in future spending, rather than actual past spending.

particular, on February 15, 2017, the Oversight Board retained Ernst & Young (“E&Y”) to “bridge” Puerto Rico’s audited fiscal year 2014 financial statements to projected revenues and expenses for fiscal year 2017. On March 7, 2017—only three weeks after being retained, and one week before the March Fiscal Plan was certified—E&Y issued a report concluding that a “hypothetical extrapolation of historical general fund expenditures” suggested “a potential understatement of general fund expenditures” of \$360 million to \$810 million for fiscal year 2017.⁹ The Oversight Board quickly adopted these conclusions, and added \$585 million (the midpoint of the range) of as-yet unidentified expenses for the fiscal year 2017 projection—an amount that is then assumed to grow faster than the Puerto Rico economy (on a nominal basis) throughout the ten-year baseline projection, suggesting that the Commonwealth’s historical lack of financial control will persist under the watch of the Oversight Board. The Reconciliation Adjustment is an “expense” that is somehow “essential,” but not for any identifiable expenditure. The sole justification for the “expense” is the assumption that the cost of running Puerto Rico’s government cannot be reliably estimated by the government itself. In truth, this Reconciliation Adjustment is nothing more than a \$600 million annual slush fund that serves only to artificially increase the Commonwealth’s expenses and reduce the funds purportedly available for debt service.

More broadly, the current Fiscal Plan allocates only \$787 million to average annual cash available for debt service (intended to cover all issuers included in the Fiscal Plan) over the next 10 years, which amounts to approximately a mere 6.4% of local revenues.¹⁰ The evidence will

⁹ Ernst & Young Puerto Rico LLC, *Financial Bridge Analysis* 9 (March 7, 2017), <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/58c03d8708398.pdf>.

¹⁰ The \$787 million figure for average annual debt service corresponds to the numbers reported in the Commonwealth’s March 13, 2017 Fiscal Plan, but it does not take into account

show that this proposed debt-service ratio is anomalously low by reference to other jurisdictions in the United States and abroad,¹¹ guidance from international institutions,¹² and the 15% ceiling that the framers of the Puerto Rico Constitution deemed sustainable for general obligation debt. P.R. Const. art. VI, § 2. The Oversight Board will have to defend its contrary conclusion—a task that we believe will prove impossible.

Recent events clearly demonstrate the falsity of the crisis narrative that underlies the Board's defense of the Fiscal Plan. To be sure, the inadequate state of the Commonwealth's financial disclosures makes any fully reliable assessment of the Commonwealth's financial

additional reforms required by the Board in the form of amendments to the Fiscal Plan. See *Oversight Board Resolution (Fiscal Plan Certification)*, March 13, 2017, <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/58c6e140a43d4.pdf>. These amendments have not—even more than three months later—been incorporated into a revised Fiscal Plan. But the Board's counsel has acknowledged in open court that, once they are taken into account, the debt-service amounts yielded even by the Board's flawed approach would reach approximately \$900 million annually. 5/17/2017 Tr. (No. 17 BK 3283 Dkt. 207) at 22. Even so, in an apparent effort to bolster its crisis narrative, the Oversight Board has continued to reference the \$787 million figure in its pleadings. See No. 17 BK 3283 Dkt. 303, at ¶ 30.

¹¹ For example, publicly available sources report that the ratio of debt service to revenues is 20.78% in Rhode Island, 14.7% in Connecticut, 11.63% in Louisiana, and 10.27% in Colorado. See OpenGov, *CivicDashboards*, http://www.cividdashboards.com/state/rhode-island-04000US44/debt_service_ratio; http://www.cividdashboards.com/state/connecticut-04000US09/debt_service_ratio; https://www.cividdashboards.com/state/louisiana-04000US22/debt_service_ratio; https://www.cividdashboards.com/state/colorado-04000US08/debt_service_ratio. Debt service levels for similarly situated sovereign borrowers are significantly higher than what is proposed in the Fiscal Plan, with recent publicly available statistics for interest expense to revenues reporting 11.0% in Costa Rica, 10.5% in El Salvador, 14.1% in the Dominican Republic, and 24.2% in Jamaica. See World Bank, *Interest payments (% of revenue)*, <http://data.worldbank.org/indicator/GC.XPN.INTP.RV.ZS>. Although various economic and structural differences exist between U.S. States, various countries, and Puerto Rico, the magnitude of the differences in debt-service metrics is noteworthy.

¹² World Bank and International Monetary Fund guidelines provide that 18% to 22% of government revenues is a sustainable debt-service ratio level even for “low income countries” (*i.e.*, the poorest countries in the world, whose economies are not as developed as Puerto Rico's). See International Monetary Fund, *Factsheet: The Joint World Bank-IMF Debt Sustainability Framework for Low-Income Countries* (March 2016), <http://www.imf.org/external/np/exr/facts/pdf/jdsf.pdf>.

position impossible. But, as creditors have been explaining to the Oversight Board for months, the Board's claims are flatly contradicted by what little information has made its way into public view. In recent weeks, records from the Puerto Rico Department of Treasury, obtained only through litigation brought by the Center for Investigative Journalism, have revealed that the Commonwealth has a projected cash position of \$1.15 billion as of the end of this fiscal year (June 30, 2017), compared to \$291 million as forecast by the Fiscal Plan. See *Commonwealth Report Forecasts \$1.15B Treasury FY2017 Closing Balance*, Reorg Research (June 13, 2017) (Ex. 3); see also *The New \$1.15 Billion . . . And More*, El Vocero (June 15, 2017) (reporting projected liquidity of \$1.545 billion, including "contingency" funds) (Ex. 4). Thus, the true liquidity picture—which has emerged only by happenstance, rather than through any transparency on the part of the Board—represents an improvement of more than \$850 million above what was forecasted. Yet the Board continues to insist that its Fiscal Plan is infallible and requires no correction.

So too with federal healthcare funds appropriated by Congress. The Fiscal Plan assumed (unrealistically) that the federal government would provide zero incremental dollars for Puerto Rico's Medicaid program to replace expiring funding under the Affordable Care Act. Congress has in fact appropriated approximately \$296 million in incremental funding for Puerto Rico. Nonetheless, the proposed debt-service amounts in the Fiscal Plan have not been corrected to reflect this reality.¹³ Rather, this money has disappeared into the budgetary ether, and creditors are again told that the Fiscal Plan is not subject to discussion.¹⁴

¹³ On June 2, 2017, the Oversight Board made public its re-certification of the Fiscal Plan's revenue projection for fiscal year 2018. Among other things, the Board's adjustments to the revenue projections account for the incremental \$296 million of federal healthcare funding. The

* * *

In sum, PROMESA forecloses the Board's position that, entirely free from judicial review, it may ignore the requirements that PROMESA imposes on the Fiscal Plan, and may dictate an amount available for debt service that must be treated as a fixed economic pie, to be divided up among creditors. And all available evidence suggests that the true size of the pie is much larger than the Board and the Commonwealth will acknowledge. No matter how hard the Board may strive to insulate its indefensible decisions from judicial review, the Fiscal Plan will be the subject of vigorous litigation if these Title III cases are not resolved through a consensual agreement.

B. The Fiscal Plan Is A Proper Subject Of Discovery, And Disclosures By The Commonwealth And The Board To Date Have Been Woefully Inadequate

1. Creditors are entitled to discovery regarding the projections, assumptions, and analyses that underlie the Fiscal Plan. As a general matter, discovery in bankruptcy cases is exceedingly broad. Under Bankruptcy Rule 2004, creditors may obtain discovery into any matter regarding the "nature and extent of the bankruptcy estate, revealing assets, examining transactions and assessing whether wrongdoing has occurred." *In re Recoton Corp.*, 307 B.R. 751, 755 (Bankr. S.D.N.Y. 2004); see also, *e.g.*, *In re Washington Mutual, Inc.*, 408 B.R. 45, 50 (Bankr. D. Del. 2009). As discussed above, moreover, this information will be critical to the confirmation inquiry regarding any plan of adjustment premised on the Fiscal Plan. And given

Oversight Board has not, however, corrected the proposed debt-service amounts in the Fiscal Plan.

¹⁴ To be sure, the Oversight Board can be expected to produce reasons that these developments, and others highlighted by creditors, do not require corrections to the Fiscal Plan. But that only highlights the need for full discovery into the projections, assumptions, and analyses that underlie the Fiscal Plan. See pp. 12-15, *infra*. Creditors will not have any fair opportunity to respond to such arguments if the Fiscal Plan remains a black box.

the Oversight Board's insistence that the Fiscal Plan's proposed debt-service amounts are set in stone, there is no basis to delay transparency on these items.

Likewise, full transparency regarding the Fiscal Plan and the Commonwealth's financial information is absolutely necessary if there is to be any of hope of reaching a consensual resolution in advance of such confirmation proceedings, including through the mediation framework established by this Court. Indeed, at the very first hearing in these cases, the Court emphasized that "transparency is important in these proceedings" and expressed hope that the Debtors would make "progress on issues relating to the disclosure of information to creditors." 5/17/17 Tr. (No. 17 BK 3283 Dkt. 207) at 63, 147. Without such transparency, creditors cannot be assured that the recovery proposed under any consensual plan in fact represents a fair settlement of their claims. Settlement will accordingly be impossible.

Moreover, contrary to the Oversight Board's invocation of PROMESA to shield itself from creditors' information requests, creditor access to information is actually a fundamental tenet of PROMESA. Creditors are entitled to information that enables them to make informed decisions about potential restructurings; accordingly, both Titles III and VI of PROMESA ensure creditors access to such information. See, e.g., 48 U.S.C. § 2146(a)(2)(B) (providing that the issuance of restructuring certification and, consequently, Title III eligibility, requires that an entity has "made public draft financial statements and other information sufficient for any interested person to make an informed decision with respect to a possible restructuring"); *id.* § 2161(a) (incorporating the disclosure requirements of Section 1125 of the Bankruptcy Code to a Title III plan of adjustment); *id.* § 2231(f) (requiring delivery of certain information to creditors prior to soliciting votes on a bond modification under Title VI of PROMESA). In addition, as

public entities—and not private enterprises—the Debtors and the Oversight Board should never withhold information from creditors absent a compelling reason.¹⁵

The Oversight Board, however, has made clear that it will seek to stymie the critical discovery process. Based on its mistaken assumption that the amounts proposed for debt service in the Fiscal Plan must be taken as a given, the Board denies that creditors are entitled to any discovery that would support a challenge to these proposed amounts. Status Report ¶¶ 24-28.

The breadth of the Oversight Board’s position is illustrated by the June 13, 2017 response of the Board and AAFAF to informal discovery requests made by the GO Group and Assured shortly after the first-day hearing in these cases. For example, in response to a request for a “functional version of the macroeconomic growth model” employed to develop the Fiscal Plan, the Board agreed to provide underlying “raw data” but otherwise refused disclosure on the grounds (among others) that “certification of the proposed Fiscal Plan is not reviewable by any court.” Letter from Martin J. Bienenstock to Gary A. Orseck, June 13, 2017, at p. 4 (Ex. 5). The Board provided the same answer in response to requests for documents relating to growth rates for expenditure line items in the Fiscal Plan. See *id.* at 11-12.

These are not peripheral items. They go directly to the governmental revenues and expenditures that are projected in the Fiscal Plan—two core pillars of any fiscal analysis. Yet the Board insists that creditors should have no opportunity to understand and diligence the key assumptions that the Commonwealth and the Board relied upon in formulating the Fiscal Plan.

¹⁵ The Puerto Rico legislative and executive branches have gone to great lengths to ensure that citizens have access to information. For example, with certain exceptions, Puerto Rico law grants every citizen the right to inspect and copy any public document. See 32 L.P.R.A. § 1781. Recently, in Executive Order 2017-10, the Governor reinforced the Commonwealth’s public policy in favor of access to information, and outlined a procedure by which citizens can obtain such information.

That position is incorrect, and the Responding Creditors are confident that it will not prevail in these Title III cases.

The Board also has sought to limit disclosure on the ground that it will not “provide proprietary models created by outside consultants.” *E.g.*, Ex. 5, at p. 4. That limitation, too, is indefensible. The fact that the Commonwealth or the Board retained an outside consultant to formulate key assumptions for the Fiscal Plan—such as the macroeconomic growth estimates that flow through any number of revenue and expense line items in the Fiscal Plan—does not render them immune from discovery. If there is any legitimate “proprietary” interest at stake, it could be addressed through a standard protective order.

2. Given the Board’s crabbed view of its discovery obligations, it is perhaps unsurprising that the Board’s positive spin on the status of financial disclosures to creditors is just that—spin. While the Board maintains that “extensive financial information” has been provided to creditors through the Dataroom, the limited materials that have been provided are insufficient to allow creditors to diligence the Fiscal Plan. In fact, AAFAF has produced just 50 documents in the Dataroom, most of which consist of hardcoded Excel or PDF documents that do not reveal the underlying calculations. Additionally, many of the projected numbers in the Fiscal Plan lack any apparent backup. And while the Board states that a “live” version of the Fiscal Plan was provided to creditors on June 6, 2017 (Status Report ¶ 13), that document does little to remedy the Board’s inadequate disclosures.

Critically, the “live” model is incomplete and does not appear to be the Commonwealth’s working model. The “live” model is in fact 10 tabs of primarily summary output information, and includes links to other excel models that have either not been provided or, if provided, are in fact also hardcoded. The “live” model does not contain the information necessary for one to

determine how its numbers were calculated. As a result, the numbers and calculations are not auditable. In addition, prior to the “live” model, every Excel document that AAFAF provided contained only hardcoded figures, with no actual functionality. The effect of removing the functionality is to obfuscate the underlying assumptions that drive the Fiscal Plan’s projections.

For example, financial professionals would expect a true live model to permit an evaluation of the impact and reasonableness of the inputs that drive the cash flows projected in the Fiscal Plan. The “live” model provided to creditors by AAFAF falls far short of enabling this process. For instance, within the General Fund, income taxes, non-resident withholding taxes, alcoholic beverage taxes and motor vehicle taxes are all projected using a nominal GNP growth factor that is a hardcoded value in the “live” model. And while the Dataroom contains a PDF document that summarizes the general methodology used to project the GNP growth factor, it does not provide sufficient detail to allow the calculation of this crucial element to be recreated or even audited. Indeed, even if a financial professional were to attempt to recreate a calculation of the GNP growth factor based on this document, these efforts would be thwarted because it omits key details, such as how the baseline real GNP growth is derived for each fiscal year or the quantification of the impact of fiscal measures in the initial years of the Fiscal Plan.

Finally, the calculation of most purported expense-reduction measures proposed in the Fiscal Plan is inadequately explained. For the most part, the Fiscal Plan’s projections remain a black box, even within the “live” model, due to a combination of insufficient or missing supporting documents. Again, without the underlying backup for these projections, there is no way for creditors to diligence the Fiscal Plan’s proposal.

* * *

In sum, the Board's Status Report paints a misleading picture of the status of financial disclosures to creditors. The truth is that the Board is nowhere close to providing the sort of detailed and complete transparency that creditors are entitled to. If the Board does not reconsider its position, creditors will be forced to pursue costly litigation over their legitimate discovery requests.

C. The Board's Refusal To Engage In Settlement Discussions Will Make A Consensual Resolution Of These Title III Cases Impossible

Although the Oversight Board was ordered to provide the Court with an update regarding "the status of settlement discussions" with creditors, No. 17 BK 3283 Dkt. 213, its Status Report discusses only the status of a restructuring support agreement for the Government Development Bank for Puerto Rico, an entity that is not before the Court as a debtor. See Status Report ¶¶ 33-34. The Status Report says literally nothing about settlement negotiations with the creditors of the Title III debtors. Nor could it, because there are no ongoing settlement negotiations—only mounting litigation fostered by the Board's insistence that its Fiscal Plan is above the law and immune from scrutiny.

For many months prior to the filing of these Title III cases, creditors repeatedly urged the Oversight Board to engage in good faith negotiations that might have permitted the parties to reach an out-of-court restructuring. The Board refused these requests. Instead, on March 23, 2017, the Oversight Board proposed a mediation session to resolve a dispute regarding the status of portions of proceeds of the Commonwealth's sales and use tax ("SUT") that have been declared by statute to be the property of COFINA. 13 L.P.R.A. § 12.¹⁶ Although creditors

¹⁶ As the Court is aware, the status of these SUT revenues is a disputed issue in these cases, and the Responding Creditors have taken differing positions on that question. By submitting this

opposed mediation on the ground that it would only delay substantive negotiations, the Oversight Board refused to hold negotiations outside of mediation. Thus, on April 13, 2017—10 months after the enactment of PROMESA and only three weeks before expiration of the *extended* stay on creditor litigation imposed by Section 405 of PROMESA—the Oversight Board’s proposed mediation finally began. As creditors had predicted, this mediation did not lead to a resolution of the parties’ disputes, in large part due to the Board’s insistence that the Fiscal Plan is not subject to scrutiny or discussion. Then, as now, the Board refused to engage in any true negotiations.¹⁷

That is all of a piece with the Oversight Board’s overreaching view of its own authority. As the Board sees things, it has no reason to participate in good-faith negotiations: The Board dictates, and then creditors must “negotiate to divide up the money available for debt service under the fiscal plan.” Status Report ¶ 20.

As we have explained above, the Board’s position is manifestly incorrect. If it is not abandoned, however, it will frustrate any attempt to find a consensual resolution that would avoid the necessity of prolonged and costly litigation in these Title III cases. The Oversight Board must reach a consensual agreement with creditors, not dictate to them—and creditors must fully understand the assumptions, analyses, and rationales underlying the Fiscal Plan, so that the Government of Puerto Rico can reach an agreement with creditors and regain its desperately needed credibility with the capital markets. Indeed, a precedent in which the Oversight Board simply dictates the terms of any restructuring will have negative ramifications not only for Puerto Rico, but for the public finance market more generally, including other territorial issuers.

joint response, the Responding Creditors do not waive any argument, right, or claim with respect to this issue.

¹⁷ The Oversight Board left no opportunity for creditors to take advantage of Title VI of PROMESA and achieve consensual debt modifications outside of a Title III proceeding.

See *After Puerto Rico's Debt Crisis, Worries Shift to Virgin Islands*, N.Y. Times (June 25, 2017) (Ex. 6).

The Oversight Board also must be willing to correct the errors that creditors have identified in the Fiscal Plan. There will be no consensual resolution with any creditors in this case if the total amount available for debt service remains unchanged. The Oversight Board must, for the first time, be a *participant* in good-faith negotiations, and the Fiscal Plan must be put on the table. Continuation of the Board's current approach, by contrast, will make settlement impossible.

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Dated: June 26, 2017

Respectfully submitted,

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EXHIBIT 1

**FINANCIAL OVERSIGHT AND MANAGEMENT BOARD
FOR PUERTO RICO**



José B. Carrión III
Chair

Members

Andrew G. Biggs
Carlos M. García
Arthur J. González
José R. González
Ana J. Matosantos
David A. Skeel, Jr.

Natalie A. Jaresko
Executive Director

BY ELECTRONIC MAIL

June 16, 2017

Honorable Ricardo A. Rosselló Nevares
Governor of Puerto Rico
La Fortaleza
PO Box 9020082
San Juan, PR 00902-0082

Honorable Thomas Rivera Schatz
President of the Senate of Puerto Rico

Honorable Carlos J. Méndez Núñez
Speaker of the House of Representatives
of Puerto Rico

Dear Governor Rosselló Nevares, Senator Rivera Schatz, and Speaker Méndez Núñez:

As we continue to move towards our common goal of achieving an Oversight Board-approved and certified Commonwealth budget for fiscal year 2018 by June 30, 2017, I write to you out of concern that some of the progress we appeared to have made in the past few weeks as a result of the close and positive collaboration between the Board and the administration—and their respective teams of advisors—may be receding, and that the necessary resolve to attain the goals set forth in the certified fiscal plan may be waning.

It is equally of concern that some of the narrative taking hold in the public discourse fails to characterize adequately the truly dire fiscal situation the Commonwealth is facing, thus leading the public to underestimate the true nature and impact of some of the fiscal responsibility measures mandated in the fiscal plan and that, accordingly, will have to be incorporated in the budget. Stability can only be earnestly projected if the people know and understand the reality of Puerto Rico's fiscal situation and the serious steps being undertaken to address it.

Honorable Ricardo A. Rosselló Nevares

Honorable Thomas Rivera Schatz

Honorable Carlos J. Méndez Núñez

June 16, 2017

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A good example is the narrative that incorrectly asserts that the measures the Board approved in the way of amendments to the administration's proposed fiscal plan to ensure sufficient liquidity to pay for essential services during FY18—i.e., a furlough program and the Christmas bonus reduction or elimination—will not go into effect if only the administration's liquidity plan can reasonably be expected to generate additional cash reserves of \$200 million by June 30, 2017. In fact—as stated in the Board Resolution of March 13, 2017, certifying the fiscal plan—the \$200 million cash reserve requirement is in addition to the main requirement that the administration submit for Board approval, along with the proposed budget for FY18, implementation plans for the right-sizing or spending reduction measures that provide necessary certainty that the critical liquidity and budgetary savings required by the fiscal plan will be achieved by the administration.

The importance of the implementation plans for the right-sizing or spending reduction measures the administration commits to undertake cannot be overestimated. We stressed it again in our Unanimous Written Consent approving the submission of the Commonwealth FY18 budget to the Legislature when we noted that “the Board expects that the final budget will...reflect any necessary changes to align to achievable implementation plans for spending reductions, to ensure the budget is fully aligned to the Commonwealth's fiscal plan....”

Let me assure you those implementation plans will be evaluated fairly and responsibly. We need to make sure all the measures the administration has committed to undertake to generate the liquidity and budgetary savings necessary to fund essential services throughout FY18 can reasonably be expected to do just that.

Casual reference to a particular level of funding in the Treasury Single Account not only can be deceiving, but is bound to generate the confusion that we witnessed yesterday in the wake of certain press reports on the subject. Scant progress will be made towards the goal of ensuring the necessary liquidity to fund essential services in FY18 if we just focus on a certain balance in the Secretary's TSA in a particular moment in time—let alone tout it—and, more importantly, if implementation plans to produce the necessary budgetary savings during the fiscal year are inadequate or poorly executed. If that happens, Puerto Rico is all but certain to run out of money to fund the central government's payroll come November or December of this year.

Modest improvements in liquidity don't change the reality of the Island's fiscal situation. Under current law, beginning in July, Puerto Rico will face a worsening cash flow problem because of loss of federal funds and the depletion of pension funds' assets.

In short, the issue of liquidity needs to be understood in the context of the cash flow over time. That is precisely the importance of the liquidity plan. While the administration did submit a liquidity plan in line with the proposed budget, we have yet to achieve confidence

Honorable Ricardo A. Rosselló Nevares

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June 16, 2017

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in the ability of Puerto Rico to fund essential services in an uninterrupted manner throughout the fiscal year taking into account several risk scenarios.

On that note, we must reiterate our earlier requests urging the administration to make and communicate as soon as possible the necessary public policy determinations with respect to what it understands constitute “essential services” in the context of PROMESA. As you know, in light of Puerto Rico’s fiscal situation, a PROMESA-compliant budget needs to reflect appropriate allocations for the adequate funding of essential services, pension benefits, investments to spur growth and other PROMESA priorities. We can no longer afford business as usual.

As we have stated in the past, the Oversight Board supports a fair, orderly and equitable restructuring of Puerto Rico’s debt, but such restructuring will take time and will not solve by itself Puerto Rico’s considerable fiscal disarray. We need to work within the parameters of PROMESA that provide for restructuring to a sustainable debt level so we can fund essential services, pension benefits, and the capital investments necessary to spur economic growth.

Finally, let me urge you further to work with the Oversight Board in the establishment of an appropriate, consistent and reliable protocol for the submission and publication of the various financial reports—including, but not limited to liquidity, collections, actual vs. budget—the administration must regularly submit to the Oversight Board. Transparency is a guiding principle specifically mandated by PROMESA. It is also, I know, a guiding principle of the Governor’s administration. Let’s make sure that, together, we deliver to all interested parties, stakeholders and, most importantly, the people of Puerto Rico the accurate and timely financial information they deserve and have every right to expect.

Governor, Mr. President and Mr. Speaker, in the past five and a half months the Oversight Board has given the Government of Puerto Rico—sometimes upon its request, sometimes out of our own volition—latitude to facilitate compliance with the mandates of PROMESA. For example, of our own accord, we changed our own guidelines regarding the formulation of a fiscal plan to grant the administration one more year in which to effect the spending reduction and revenue enhancement measures leading to fiscal equilibrium. At the administration’s request, we extended the automatic stay against litigation provided by PROMESA. We certified the administration’s proposed fiscal plan, noting our reservations in the way of amendments thereto. In every instance, we have provided the accommodation that you have required for two basic reasons: first, because we believed it was the reasonable and prudent thing to do given your short time in office as a new administration and a new legislature and, second, because we were, and remain, convinced of your steadfast resolve to comply with the requirements of PROMESA for the benefit of the people of Puerto Rico.

Honorable Ricardo A. Rosselló Nevares

Honorable Thomas Rivera Schatz

Honorable Carlos J. Méndez Núñez

June 16, 2017

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Now we are at a critical juncture that requires that we collectively strengthen that resolve. I trust that, working together, we will successfully remove any potential roadblocks in our path towards successful implementation of PROMESA and the attainment of its goals of establishing fiscal responsibility, regaining access to markets, restructuring the public debt, strengthening economic competitiveness, and restoring opportunity to everyone in Puerto Rico.

The Oversight Board looks forward to continue working with your administration and the Legislature to accomplish the considerable remaining requirements and goals of PROMESA for the benefit of the people of Puerto Rico, its creditors and other stakeholders.

Sincerely,



José B. Carrión
Chair

Andrew G. Biggs
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CC: Natalie A. Jaresko
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EXHIBIT 2

Reorg Research

June 19, 2017 18:32

Reorg U.S.

[Puerto Rico](#)

Governor 'Surprised' by PROMESA Board Questions on Essential Services

Gov. Ricardo Rosselló said today that he was “surprised” by the PROMESA oversight board’s [letter](#) last Friday calling on the administration to define essential services because the board has already certified the commonwealth’s long-term fiscal plan and the fiscal year 2018 budget proposal. The governor said the letter is “contradictory” because it questions spending proposals that the board has already approved.

During a press conference this afternoon, the governor said he would be answering the board letter, which called on the administration to define what constitutes “essential services” in the context of PROMESA and to deliver implementation plans for government right-sizing and spending reduction measures. The letter to Rosselló and legislative leaders also raised concerns over “receding” progress and “waning” resolve on reaching PROMESA targets.

The governor said the PROMESA oversight board is the only entity with the power to approve the commonwealth fiscal plan and its annual budget proposals.

“They have certified a fiscal plan and they have certified the budget...Within the context of that decision they had to determine if essential services will be impacted or if they will be funded,” the governor said.

“They have the sole discretion to be able to reject anything related to those two processes, but they did not do it in either of the two cases. We were surprised when on this occasion they pointed to the elements of essential services when they in essence passed judgement on this on two different occasions,” the governor added.

Rosselló also criticized the letter’s call for renewed transparency and cooperation, saying the commonwealth fiscal team has been meeting “continuously” with the board and its advisors on a nearly daily basis. The PROMESA board submissions in the Title III proceeding have recognized the great transparency that our administration has had,” the governor added.

Elías Sánchez, the governor’s non-voting representative to the board, responded to last week’s board letter by saying that the administration “clearly understands the severity of the fiscal situation.”

Sánchez said in a written [statement](#) that most of the board concerns raised in the letter have been addressed during “nearly daily” meetings between the board and the government’s fiscal team, which have delved into budgetary specifics and the implementation plans to achieve the goals contained in Puerto Rico’s long-term fiscal plan.

Sánchez said he addressed the fiscal challenges mentioned in the board letter during a press conference last week, during which he discussed the steps the government has taken to address the insolvency of the retirement system and a projected decrease in federal healthcare funds for Puerto Rico. “We have taken extraordinary measures to be prepared in terms of liquidity,” the governor’s board representative said.

The PROMESA oversight board letter came in the wake of separate letters to PROMESA Board chairman José Carrión last week from [U.S. Sen. Tom Cotton, R-Ark.](#), and [U.S. House Natural Resources Committee Chairman Rob Bishop, R-Utah](#), the latter of whom steered the passage of PROMESA in Congress, that were critical of some of the board's moves to date.

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EXHIBIT 3

Puerto Rico

CORRECTION: Commonwealth Report Forecasts \$1.15B Treasury FY 2017 Closing Balance

Editor's Note: The story below has been amended to say that the Treasury Department's updated cash flow forecast included a cash balance of \$1.15 billion at the end of June, compared with \$291 million featured in the fiscal plan, representing an increase of \$859 million. A previous version of this article incorrectly stated the size of the cash balance increase.

Relevant Document:

[Treasury Single Account Cash Flow Report](#)

On Monday, the administration of Gov. Ricardo Rosselló released a cash flow report showing a \$1.4 billion actual cash balance in the Treasury Department Single Account as of May 26 and a re-forecast projected balance of \$1.15 billion at the close of fiscal year 2017 on June 30.

The re-forecast numbers show an increase in fiscal 2017 ending cash of \$859 million to \$1.15 billion, as compared with the forecasted balance in the commonwealth's fiscal plan, which projected \$291 million. Part of the discrepancy between the two forecasts can be attributed to a forbearance agreement reached in late April that delays an obligation to repay a \$400 million [Tax Revenue Anticipation Note loan](#) from the State Insurance Fund and two other public corporations, according to a footnote on the cash flow report. The fiscal plan had included \$272 million in TRANS payments from May 26 through the June 30 fiscal year end, which directly diminished the TSA closing balance.

Some sources familiar with the situation say the report calls into question the commonwealth's claims of insolvency. Besides the higher cash balance at the end of fiscal 2017 - which factors in the TRANS forbearance - the sources also say the cash flow report shows that supplier payments are being made despite the commonwealth bond defaults, with a total \$3.28 billion in supplier payments for the year.

The document is part of the information the administration made public related to a [lawsuit](#) filed by the journalists group Centro de Periodismo Investigativo. The lawsuit seeks a range of documents and communications exchanged between the administration and the PROMESA oversight board, including financial reporting and communications, reports, updates and other information exchanged between the entities. The group filed a similar lawsuit against the board in federal court.

In a written statement, Centro Executive Director Carla Minet said the commonwealth also clarified that the cash flow report is not published and is updated weekly. The administration also released a [summary of bond payments](#) that mature during the first quarter of calendar year 2017 and detailed which payments were made and which payments were missed. Commonwealth officials told Centro officials that only past-due maturities are included and that it cannot include future maturing bond payments for reasons based on "attorney-client privilege." The government also delivered boxes of statements from government accounts at commercial banks, but Minet said the government failed to respond to many of its requests, including exchanges of information and communications between the administration and the board.

Although the administration released part of the information sought by the lawsuit, officials said in court papers filed Monday that the administration reserves the right to challenge the lawsuit on its merits. It also asked that the lawsuit be removed from local court and be assigned to Judge Laura Taylor Swain as a matter related to the Puerto Rico's Title III case in federal court.

The [notice of removal](#), filed by Justice Secretary Wanda Vázquez and Deputy Secretary in Charge of Litigation Wandymar Burgos Vargas, said while the complaint is filed against the governor in his

official capacity, “it is directly aimed at the government of the Commonwealth of Puerto Rico – it seeks the Commonwealth’s documents, not just the Governor’s. And it seeks to invade privileges that belong to the Commonwealth, not just the Governor.”

The notice of removal also states that the lawsuit also seeks materials created prior to the commencement of the Title III case and that the suit could have commenced prior to the Title III case. “At best, this matter is an artful attempt at dodging the automatic stay. At worst, it violates the stay,” the document states.

“But in any event, the action’s entire purpose is to obtain documents and information from the Commonwealth which will undoubtedly be sought in many of the adversary proceedings pending before the court in the Title III case. Removal of this matter is thus both justified under the law and necessary to avoid the risk of disparate or inconsistent rulings on important discovery and evidentiary issues as well as critical privilege issues,” the document adds.

The notice states that the governor “generally supports the release of relevant information to the extent permitted by law and said the administration “will make public appropriate information in response to the lawsuit as part of their efforts at transparency.” However, the court filing noted that the plaintiffs “seeks every document exchanged between these parties up through May 3, 2017” and made clear in a footnote that it would reserve the right to challenge the petition on the merits, as well as argue that this litigation is precluded by the provisions of PROMESA that immunize the fiscal plan from review or oversight by a court or the Puerto Rico legislature. The notice argues that only the PROMESA board has the sole discretion to review the fiscal plan and commonwealth budgets.

In seeking the removal of the case to federal court, the administration cites PROMESA Section 306, which allows for the removal of claims over which the District Court has federal subject matter jurisdiction under PROMESA to the court in which a Title III Proceeding is pending. The notice argues that the federal court “has original jurisdiction of all cases “arising in” or “related to” cases under Title III of PROMESA.”

The notice of removal also cites the requirement under PROMESA Section 106(a) (48 U.S.C. § 2126(a)) that “any action against the Oversight Board, and any action otherwise arising out of this chapter, in whole or in part, shall be brought in a United States district court for the covered territory.” The notice indicates this section is relevant because the “plaintiff filed a materially similar complaint against the [board] in this district pursuant to this statute.”

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EXHIBIT 4

The new \$1.15 billion... and more

The government must end its fiscal year this June 30 with an available \$1.15 billion and such was reported in our edition yesterday
June 15, 2017



Photo: Carlos Rivera Giusti/EL VOCERO

It is difficult for any citizen, and even more for media such as ours, to understand why governments do not recognize that transparency is a fundamental principle in public administration.

Yesterday, EL VOCERO summarized again another case of a lack of transparency, this time from the current government. As a result of a judicial lawsuit, it was obligated to deliver documents relating to the country's fiscal situation, among which was one from the Treasury Department that details the state of cash accounts on May 26 of this year.

According to the document, the government must end the fiscal year this June 30 with an available \$1.15 billion, as reported in our edition yesterday. However, we report today that this figure, deposited into banks on the island, is elevated to \$1.545 billion, given that during further review of the document we found an additional \$395 million called "contingency".

In a press conference yesterday, the attorney Elías Sánchez, government representative before the Federal Bureau of Fiscal Oversight, tried to convince the country that the information published by us is not correct. This is despite the fact that 24 hours beforehand, we had asked government spokespersons to explain the information included in the Treasury's document. A request that remained unanswered.

Nevertheless, the actual figures presented by attorney Sánchez, summarized in our edition today, amount to the same as reported by us two days ago.

In the report that we published, at no point did we mention that there has been "economic growth or that the economic situation of the government has dramatically improved". We limited ourselves simply to presenting the same information included in a governmental document.

It satisfies us greatly that the efforts of fiscal discipline and the efforts to amass additional funds to face adverse situations in the next fiscal year have generated a positive cash flow of \$1.15 billion dollars; and we recognize the government for this achievement.

What we cannot accept is that public information is not shared unless the government is judicially obligated to do so.

Our work is and will continue being to report the information that citizens need. The information they are entitled to, in order to understand the public administration's fiscal situation.

Attorney Sánchez does this country a disservice when, in a press conference in La Fortaleza, he questions the published information stating that it was incorrect and then confirms it as true, even giving the exact details of the origin of the first summarized statement of \$1.15 billion.

As mentioned, today we are establishing the existence of an additional \$395 million, which also appears in the reserve "pot".

If what their own documents say is true, then we welcome those millions because they will help to partially resolve the fiscal crisis; but, again, it is the fault of the administration not to provide, on account of transparency, the information.

If it is incorrect and the government shows that it is not, it shall be reported as such.

The lack of information and/or information selectively placed or filtered creates uncertainty, which is the last thing Puerto Rico needs right now.

We insist that transparency, clarity and the availability of public information at all times is mandatory.

That said, the lack of transparency and the act of withholding the correct information here has a first and last name, and it's not the media.

If we all know what to accept and what we can depend on, we will have a clearer future and a greater chance to act according to the real circumstances facing the country.

We hope that this situation does not convert into the “modus operandi” of the current government as was standard in the last administration.

[Treasury Department Editorial](#)

Another \$395 million in government accounts

Official information places the government reserves in banks on the island at \$1.545 billion
June 15, 2017



Photo: EL VOCERO/ARCHIVE

The argument that the government of Puerto Rico does not have sufficient economic solvency to maintain its operation and comply with their obligations at levels of requesting the protection of Title III of the Promesa law, seems to fade away.

A more detailed look at the liquidity report shows that, in addition to the \$1.150 billion in cash accounts deposited in the Island banks, the government has an additional \$395 million accumulated in the 2016-2017 fiscal year that ends on June 30, 2017.

In line 28, in a section named “contingency”, this report establishes that the latest figure is generated with the segregation of monthly sums of between \$60 million and \$70 million by the government. This is added to the \$1.150 billion reported yesterday by EL VOCERO, raising the reserve to \$1.545 billion.

The information on these accounts arises from the Treasury Department document entitled “Puerto Rico Department of the Treasury - Treasury Single Account (TSA) Cash Flow Actual-to-Forecast Comparison”, which the government had to disclose due a judicial lawsuit on access

to public information submitted by the Center for Investigative Journalism (CPI). The document dates from May 26 and includes the state's income and expense report for this fiscal year.

Reaction from creditors

For creditors, this finding does not come as a surprise since they are aware that cash flow has improved a lot. Therefore, they doubt the need to file for bankruptcy. A source in Washington, where the news has generated a much discussion, told EL VOCERO that "the exorbitant amount of liquidity reported by the government does not justify a precipitated bankruptcy being brought on the central government. With more than \$1 billion in cash, nobody seeks bankruptcy".

He also added that the manner in which this information was disclosed is evidence of the lack of transparency of government figures and the growing lack of credibility of financial markets. He clarified that the money under discussion is a fund that come by means of collections, which, he thinks, has improved consistently.

"These figures show the level of cash in existence, showing that complaints of the lack of liquidity are simply not true, since of all these monies, 98% is the General Fund," he stressed.

The president of the Bonistas del Patio, Rafael Rojo echoed this sentiment, crediting the cash deposit to the lack of payment to bondholders, taxpayers and suppliers, at a time when collections have increased.

Rojo indicated that, "this available money pays for our proposals, to be used to loosen the game in the negotiations between creditors and the government, instead of continuing to lose money in the courts. With this, the trust of the creditor who lent money to the Island would be returned and he would be willing to do it again".

Another angle on cash

Economists interviewed by EL VOCERO have another position on the cash deposited in the commercial bank. They understand that it is not about money available to be used in a discretionary way in what they believe are their priorities, but rather as funds allocated for a specific purpose.

They maintained that, although it is cash that is available in the bank, they are prevented from using it.

For the economist Nicolás Muñoz, if these monies could be used indiscriminately, both this administration and the past one could have made use of it to pay reimbursements or suppliers.

"One has to inquire a lot more, since it is a mixture of deposits, both state and federal," he explained.

For Muñoz, the federal statements included in the total of \$1.545 billion should be questioned based on lack of use. He indicated that these funds must be used during a three-month-period in

the areas or projects for which they were granted. Therefore, they should not have been kept in deposit accounts.

In a somewhat similar manner, the economist Heidi Calero expressed that she understands that this cash deposit is a combination of state funds, a result of public corporations and federal funds.

“Water, electricity, ports, etc, and the federal funds are paid from this money. They could be restricted for specific projects”.

Not ruling out

Correspondingly, the economist Elías Gutiérrez does not rule out the appearance of other surprises in light of such an enormous budget, which the government has had for decades.

“I do not rule out a huge amount of lost money since the information systems are flawed and there is no way to represent anything. “Only God knows what other surprises will be revealed,” he ended.

[GOVERNMENT](#) [ECONOMY](#)

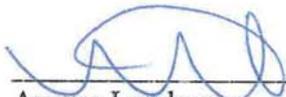


TRANSPERFECT

City of New York, State of New York, County of New York

I, Aurora Landman, hereby certify that the following documents are to the best of my knowledge and belief, true and accurate translations from Spanish into English:

- Los nuevos \$1,150 millones... y más
- Otros \$395 millones en cuentas del gobierno



Aurora Landman

Sworn to before me this
June 16, 2017



Signature, Notary Public

Stamp, Notary Public

LANGUAGE AND TECHNOLOGY SOLUTIONS FOR GLOBAL BUSINESS

EXHIBIT 5

June 13, 2017

VIA E-MAIL

Gary A. Orseck
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Washington, D.C. 20006

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Cadwalader, Wickersham & Taft
LLP700 Sixth Street, N.W.
Washington, DC 20001

Re: Creditors' Diligence Information Access

Dear Messrs. Orseck and Ellenberg:

We write on behalf of Puerto Rico Fiscal Agency and Financial Advisory Authority ("AAFAF") and the Financial Oversight and Management Board for Puerto Rico (the "FOMB") in response to your June 2, 2017 letter on behalf of the Ad Hoc Group of Puerto Rico General Obligation Bondholders (the "GO Group") and Assured Guaranty Corp. and Assured Guaranty Municipal Corp. ("Assured"). As an initial matter, we reject the assertion in your letter that creditors have not been provided with substantial and meaningful information about the finances of the Commonwealth of Puerto Rico ("Puerto Rico"). As explained below, this is untrue and remains untrue, no matter how often it is falsely repeated by your client group.

AAFAF and the FOMB have each made publicly available extensive and robust data (a list of all publicly available websites and descriptions is attached as **Exhibit A**). In that regard, Puerto Rico has extensively disclosed its finances and contracts, and the FOMB has made available information concerning proceedings, as well as contracts and official correspondence with the government of Puerto Rico inclusive of correspondence addressing specific Fiscal Plan components. In addition to this public material, AAFAF has provided voluminous data to your firms, and your clients and their financial advisors. AAFAF has met with creditors numerous times on April 6, 2017 and April 11, 2017, made senior government officials and advisors available to your clients on April 6, 2017 and April 11, 2017, made information available at mediation meetings on April 13, 2017, April 17, 2017, April 20, 2017, and April 25, 2017, and provided answers to multitudes of your clients' questions. As we think you well know, the problem here is not any lack of disclosure, but rather what the disclosure shows. Your clients advised us they were refusing to negotiate because they do not like or accept what the

disclosure shows. In turn, they demanded disclosures going to the FOMB's certification of the Fiscal Plan. But, in PROMESA § 106(e), Congress expressly barred challenges to all certification determinations.

AAFAP strongly objects to the baseless contention that "almost none" of the information you have requested has been provided and that the Intralinks Data Room (the "Data Room") provided to you is unhelpful. Those complaints are based on a fundamental distortion of the Data Room's contents. The Data Room has abundant relevant data that includes Puerto Rico's entire Fiscal Plan Model in a highly-detailed live Excel file that includes formulas, links, and interrelated tabs summarizing the projected financial and operating performance of the Government of Puerto Rico from FY 2017 through FY 2026. The information in the Data Room is readily useful and should be understandable to any experienced financial professional willing to examine such data in good faith. Nevertheless, AAFAP is providing a narrative drafted by its financial advisor, Rothschild & Co, that explains in detail the Fiscal Plan's contents and how its formulas, links, and tabs can be helpful (attached as **Exhibit B**).

Puerto Rico has also produced or otherwise made available a substantial volume of additional documents pertaining to its financial condition to further explain the finances and operations of the government. Your clients have refused to acknowledge these efforts and have instead put forth false accusations that no information has been coming from Puerto Rico. The fact is that AAFAP has been closely working with the FOMB and each of their professionals to locate and provide additional materials to you and your clients.

Our clients, however, will not fulfill unduly burdensome, vague or harassing requests (which covers many of the 50 plus categories of information demanded in your letter), nor will it make available information covered by the Attorney-Client, Work Product, and Executive and Deliberative Process Privileges. Of course, if privileged material is or has been inadvertently provided, we reserve the right to delete it from the Data Room and demand its return. We also will not provide proprietary models created by outside consultants, nor will our clients provide information obviously sought for no purpose other than challenging the FOMB's certification determination that the Fiscal Plan satisfied PROMESA.¹

We note that we are providing the additional information mentioned in this letter in the spirit of cooperation, and not due to your letter's threat of Rule 2004 discovery. The jurisprudence is clear that Rule 2004 discovery is not allowed once adversary proceedings are filed. Currently, there are many pending adversary proceedings launched by various parties (including Assured) at AAFAP, Puerto Rico, and the FOMB. See, e.g., *In re Enron Corp.*, 281 B.R. 836, 840–41 (Bankr. S.D.N.Y. 2002) (denying motion for discovery under Rule 2004 because of "the well recognized rule that once an adversary proceeding or contested matter is commenced, discovery should be pursued under the Federal Rules of Civil Procedure and not by Rule 2004."); *In re 2435 Plainfield Ave., Inc.*, 223 B.R. 440, 455 (Bankr. D.N.J. 1998) (denying discovery under Rule 2004 in a pending adversary proceeding because "[t]he majority

¹ Any factual inquiries made into "determinations" by the FOMB are statutorily mandated to be within its "sole discretion" pursuant to PROMESA Section 201(c)(3) and certification of the proposed Fiscal Plan is not reviewable by any court pursuant to PROMESA.

of courts that have addressed this issue have prohibited a Rule 2004 exam of parties involved in or affected by an adversary proceeding while it is pending” (collecting cases)).

While we could restrict further disclosure to discovery in adversary proceedings, in the hope your clients will turn to constructive negotiations, we are outlining below preliminary responses to your inquiries which encompass further disclosures. We reserve our right to supplement these responses as additional information becomes available or as we further consider your requests. Please note that we reserve all rights with respect to information we are providing, including but not limited to the right to argue that none of it is admissible in any Title III case or other proceedings. Please be further advised that with respect to any additional information requested to the extent it implicates determinations by the FOMB as it pertains to certification of the Fiscal Plan, we reserve all rights including the right to assert that such requests are not subject to the Court’s jurisdiction pursuant to PROMESA Section 106(e). Also note that our clients will not provide any underlying materials that contain work product of advisors, or are otherwise protected by any applicable privilege. We are also willing to have discussions with you about our responses and would consider additional information sessions with our advisors, although preferably after your financial advisors are familiar with the data we provide.

With these general parameters in mind, below we list our specific responses to the data requests made in your June 2 letter. Our responses are not in the form of formal discovery request responses, as no formal discovery has been served. We reserve the right to set forth general and specific responses to any of these requests to the extent set forth in formal discovery requests.

“General” Category

Request 1

A complete version of the Fiscal Plan, including any amendments mandated by the Board Resolution Adopted on March 13, 2017. This should include functional versions of any embedded Excel charts.

A complete, live version of the Fiscal Plan has already been uploaded to the Data Room.

Request 2

The Fiscal Year 2018 budget for the Territorial Government or any Covered Instrumentality, including any preliminary drafts.

AAFAF directs Assured and the GO Group to the following government websites. Notably, Reorg Research found all this data and listed its sources in an article published on June 1, 2017.

- FY2018 Budget Breakdown by Agency:
<http://www2.pr.gov/presupuestos/PresupuestoRecomendado2017-2018/Pages/PRESUPUESTO-POR-AGENCIA.aspx>

- FY2018 General Fund Budget Proposal:
<http://www.fortaleza.pr.gov/sites/default/files/PRESUPUESTO%20DEL%20FONDO%20GENERAL%20AF%202015%20AL%202018.pdf>
- OMB Report on FY2018 Budget Proposal:
<http://www2.pr.gov/presupuestos/PresupuestoRecomendado2017-2018/Captulo%20de%20la%20Oficina%20de%20Gerencia%20y%20Presupuesto/PRESUPUESTO%20RECOMENDADO%20AÑO%20FISCAL%202017-2018.pdf>

Request 3

A functional version of the macroeconomic growth model used to calculate all forward-looking projections included in the certified Fiscal Plan as well as any data fed into that model. We also request similar information for any prior proposed fiscal plan as well as the presentation known as Technical Meeting Discussion Materials (which was presented by the prior administration on Nov. 16, 2016), and in the Revised Baseline Projections (which was presented by the prior administration on Dec. 20, 2016).

AAFAF will upload to the Data Room underlying raw data used in the macroeconomic growth model (i.e., revenues, cash flow data) used in the certified Fiscal Plan. Insofar as this request seeks materials relating to draft fiscal plans developed by the previous administration, the request is burdensome and invades the Executive and Deliberative Process Privileges. And the growth models requested (as opposed to the underlying data) are proprietary. AAFAF will not provide proprietary models created by outside consultants, nor provide information obviously sought for no purpose other than litigating the propriety of the FOMB's certification of the Fiscal Plan. Any factual inquiries made into "determinations" by the FOMB are statutorily mandated to be within in its "sole discretion" pursuant to PROMESA Section 201(c)(3) and certification of the proposed Fiscal Plan is not reviewable by any court pursuant to PROMESA.

Request 4

A functional version of the cash flow models used to prepare the Fiscal Plan, including any data that was fed into the model.

A functional version of the cash flow model, including the underlying data that was fed into the model will be uploaded to the Data Room. AAFAF and the FOMB, however, will not provide proprietary models created by outside consultants, nor provide information obviously sought for no purpose other than litigating the propriety of the FOMB's certification of the Fiscal Plan. Any factual inquiries made into "determinations" by the FOMB are statutorily mandated to be within in its "sole discretion" pursuant to PROMESA Section 201(c)(3) and certification of the proposed Fiscal Plan is not reviewable by any court pursuant to PROMESA.

Request 5

Documents sufficient to identify the makeup of the pro forma revenue and expense measures discussed in the Fiscal Plan at 8, 10, 17-22.

Relevant information will be uploaded to the Data Room. AAFAF and the FOMB, however, will not provide proprietary models created by outside consultants, nor provide information obviously sought for no purpose other than litigating the propriety of the FOMB's certification of the Fiscal Plan. Any factual inquiries made into "determinations" by the FOMB are statutorily mandated to be within in its "sole discretion" pursuant to PROMESA Section 201(c)(3) and certification of the proposed Fiscal Plan is not reviewable by any court pursuant to PROMESA.

Request 6

To the extent any advisor to the Board, including Andrew Wolfe, used a different model than the models referenced in Items (3) and (4) above, a functional version of that model or those models, including any data that was fed into the model(s).

Pursuant to PROMESA, the FOMB's rationales for its input on Puerto Rico's Fiscal Plan are not subject to challenge.

Request 7

Any additional documentation relating to the assumptions used in formulating the Fiscal Plan, including, for example, the fiscal multiplier used to calculate the impact that proposed revenue and expense measures are expected to have on the Puerto Rico economy and inflation assumptions.

AAFAF will upload raw data responsive to this request into the Data Room, to the extent such data exists. AAFAF, however, will not provide proprietary models created by outside consultants, nor provide information obviously sought for no purpose other than litigating the propriety of the FOMB's certification of the Fiscal Plan. Any factual inquiries made into "determinations" by the FOMB are statutorily mandated to be within in its "sole discretion" pursuant to PROMESA Section 201(c)(3) and certification of the proposed Fiscal Plan is not reviewable by any court pursuant to PROMESA.

Request 8

Any sensitivity analyses that measure the impact of growth initiatives, including those discussed on page 24 of the Fiscal Plan, and recommendations included in Congressional Task Force on Economic Growth in Puerto Rico, Report to the House and Senate (Dec. 20, 2016).

AAFAF will upload underlying raw data responsive to this request to the Data Room, to the extent such data exists. AAFAF, however, will not provide proprietary models created by

outside consultants, nor provide information obviously sought for no purpose other than litigating the propriety of the FOMB's certification of the Fiscal Plan. Any factual inquiries made into "determinations" by the FOMB are statutorily mandated to be within in its "sole discretion" pursuant to PROMESA Section 201(c)(3) and certification of the proposed Fiscal Plan is not reviewable by any court pursuant to PROMESA.

Request 9

A copy of the Fiscal Plan Comparison to Historical Results, prepared by the Territorial Government at the request of the Oversight Board (the "Bridge") as well as any underlying data and models.

The Bridge is publicly available. AAFAF and the FOMB will upload underlying raw data relating to the Bridge into the Data Room. AAFAF and the FOMB, however, will not provide proprietary models created by outside consultants, nor provide information obviously sought for no purpose other than litigating the propriety of the FOMB's certification of the Fiscal Plan. Any factual inquiries made into "determinations" by the FOMB are statutorily mandated to be within in its "sole discretion" pursuant to PROMESA Section 201(c)(3) and certification of the proposed Fiscal Plan is not reviewable by any court pursuant to PROMESA.

Request 10

Any and all documents provided to the Oversight Board prior to its approval of the Fiscal Plan.

Under the facts of this situation, this request is overbroad and is designed to invade multiple privileges. While our clients have provided and will provide your clients with substantial data and diligence, they will not fulfill this request specifically.

Request 11

Any and all documents provided to Ernst & Young in connection with its preparation of Fiscal Oversight and Management Board for Puerto Rico: Financial Bridge Analysis (Mar. 7, 2017) ("Bridge Analysis"). See Bridge Analysis at 7 ("E&Y submitted a detailed data/document request to the Government, and . . . these parties were generally timely and diligent in fulfilling this request to the extent the information was readily available.").

The FOMB already provided your clients the Bridge Analysis, even though (a) the FOMB is allowed to certify or not certify a fiscal plan in its sole discretion, and (b) its determination is not subject to review by the Court. This request seeks to go behind the Bridge Analysis. Under the facts of this situation, this request is overbroad and is designed to invade multiple privileges and inquires into matters PROMESA renders not subject to review. While, as indicated in other responses, our clients have provided and will provide your clients substantial data and diligence, they will not fulfill this request specifically.

Requests 12–13

Any and all documents provided to KPMG in connection with its preparation of the Commonwealth of Puerto Rico Tax Reform Assessment Project (2014).

Any and all documents provided to Anne Krueger (or her colleagues or assistants) in connection with her preparation of Puerto Rico – A Way Forward (2015), commonly known as the “Krueger Report.”

Under the facts of this situation, these requests are overbroad and seek information that has no relevance. The reports referenced in these requests pre-date the current administration, AAFAF’s, and the FOMB’s existence, and will not be searched for or provided.

Requests 14–15

Any and all documents provided to Conway Mackenzie in connection with its work to prepare fiscal projections contained in the presentation entitled Technical Meeting Discussion Materials (Nov. 16, 2016).

Any and all documents provided to Pension Trustee Advisors in connection with any actuarial assessment performed on a public pension system maintained by the Territorial Government.

AAFAF and the FOMB direct you to Puerto Rico’s publicly available quarterly report published on December 18, 2016² for information responsive to “Technical Meeting Discussion Materials” (request 14) and to the publicly available Government Development Bank of Puerto Rico’s (“GDB”) website³ for responsive information relating to public pensions (request 15).

Request 16

Any analyses that quantify the financial impact of the financial control reforms discussed in the Fiscal Plan at 34-38.

AAFAF and the FOMB will upload underlying raw data responsive to this request to the Data Room, to the extent such data exists. AAFAF and the FOMB, however, will not provide proprietary models created by outside consultants, nor provide information obviously sought for no purpose other than litigating the propriety of the FOMB’s certification of the Fiscal Plan. Any factual inquiries made into “determinations” by the FOMB are statutorily mandated to be within in its “sole discretion” pursuant to PROMESA Section 201(c)(3) and certification of the proposed Fiscal Plan is not reviewable by any court pursuant to PROMESA.

² See <http://www.aafaf.pr.gov/documents.html> (last visited June 8, 2017); <http://www.gdb-pur.com/documents/CommonwealthofPuertoRicoFinancialInfoFY201612-18-16.pdf> (last visited June 8, 2017).

³ See http://www.gdb-pur.com/investors_resources/introduction.html (last visited June 8, 2017).

Request 17

Documents sufficient to identify any expert or consultant whose services were used in analyzing Puerto Rico's fiscal situation since January 1, 2014, and any analysis, reports or recommendations offered by such experts or consultants.

AAFAP and the FOMB direct you to their publicly available contract database, inclusive of their contracts with consultants, for documents responsive to this request.

“Documents Relating to Revenues” Category

Request 18

For any revenue line item in the Fiscal Plan that does not grow at the rate of nominal GNP (see Fiscal Plan at 10), documents demonstrating or relating to how those growth rates are derived, including any supporting indices on which you may have relied.

AAFAP will upload underlying raw data responsive to this request to the Data Room, to the extent such data exists. Under the facts of this situation, this request is overbroad. Moreover, this request seeks documents that are the product of deliberations of AAFAP, Puerto Rico, or the FOMB. Those documents are protected from disclosure by the Executive and Deliberative Process Privileges. AAFAP, however, will not provide proprietary models created by outside consultants, nor provide information obviously sought for no purpose other than litigating the propriety of the FOMB's certification of the Fiscal Plan. Any factual inquiries made into “determinations” by the FOMB are statutorily mandated to be within in its “sole discretion” pursuant to PROMESA Section 201(c)(3) and certification of the proposed Fiscal Plan is not reviewable by any court pursuant to PROMESA.

Request 19

Any documents or analyses that reconcile the special revenue funds considered in the Bridge or Bridge Analysis (see for example Bridge Analysis at 11, 18, 28) to special revenue funds in the Fiscal Plan (at 12, 15).

AAFAP will upload underlying raw data responsive to this request to the Data Room, to the extent such data exists. Under the facts of this situation, this request is overbroad. Moreover, this request seeks documents that are the product of deliberations of AAFAP, Puerto Rico, or the FOMB. Those documents are protected from disclosure by the Executive and Deliberative Process Privileges. AAFAP, however, will not provide proprietary models created by outside consultants, nor provide information obviously sought for no purpose other than litigating the propriety of the FOMB's certification of the Fiscal Plan. Any factual inquiries made into “determinations” by the FOMB are statutorily mandated to be within in its “sole discretion” pursuant to PROMESA Section 201(c)(3) and certification of the proposed Fiscal Plan is not reviewable by any court pursuant to PROMESA.

Request 20

Any documents, analyses or data underlying the estimated collection rates on all local revenue streams cited in the Fiscal Plan at page 11, as well as any sales and use tax currently collected on behalf of municipalities, including the basis for the Board's statement in the Letter from Jose Carrion to Gov. Ricardo A. Rosselló Nevares dated March 9, 2017 ("March 9 Letter") (at 2-3) that the Commonwealth had overstated the possibility for increased revenue collections in its proposed February 28, 2017 Fiscal Plan.

AAFAF will upload underlying raw data responsive to this request to the Data Room, to the extent such data exists. Under the facts of this situation, this request is overbroad. Moreover, this request seeks documents that are the product of deliberations of AAFAF, Puerto Rico, or the FOMB. Those documents are protected from disclosure by the Executive and Deliberative Process Privileges. AAFAF, however, will not provide proprietary models created by outside consultants, nor provide information obviously sought for no purpose other than litigating the propriety of the FOMB's certification of the Fiscal Plan. Any factual inquiries made into "determinations" by the FOMB are statutorily mandated to be within in its "sole discretion" pursuant to PROMESA Section 201(c)(3) and certification of the proposed Fiscal Plan is not reviewable by any court pursuant to PROMESA.

Request 21

Documents sufficient to determine the historical amounts (by month and by fiscal year) and present location of so-called "clawback revenues" discussed on page 28 of the Fiscal Plan, including whether such funds have been placed in escrow, and for whose benefit. To the extent that annual projections of any future revenues subject to clawback exist, those should be provided as well.

AAFAF will upload available summary data relating to the historical amounts of "clawback revenues" to the Data Room. AAFAF, however, will not provide proprietary models created by outside consultants, nor provide information obviously sought for no purpose other than litigating the propriety of the FOMB's certification of the Fiscal Plan. Any factual inquiries made into "determinations" by the FOMB are statutorily mandated to be within in its "sole discretion" pursuant to PROMESA Section 201(c)(3) and certification of the proposed Fiscal Plan is not reviewable by any court pursuant to PROMESA. With respect to "projections of any future revenues" AAFAF and the FOMB direct you to the certified Fiscal Plans of each covered territorial entity.

Request 22

Documents sufficient to ascertain the status and treatment of (a) any sales and use tax currently being collected on behalf of municipalities, and (b) the special property tax, which under Puerto Rico law should be collected and segregated in a trust "for the amortization and redemption of the general obligations of the Commonwealth," 21 L.P.R.A. § 5002, see

also 21 L.P.R.A. § 5004(a), neither of which is addressed in the Fiscal Plan. To the extent that annual projections of those revenues exist, those should be provided as well.

AAFAP will provide a narrative response drafted by its financial consultants responsive to this request.

Request 23

Any communications, documents, or analyses regarding potential changes to the tax code in connection with the formulation of the Fiscal Plan, including, but not limited to, documents relating to reassessing real estate property valuations for the first time since 1958, increasing property tax rates to the levels proposed in the February 28, 2017 version of the Fiscal Plan (at 48), extending Act 154, reassessing the Tax Incentives Act of 1998, or transitioning the Commonwealth's sales and use tax to a broad-based value added tax.

Under the facts of this situation, this request is overbroad. Moreover, the requested documents consist of AAFAP's and the FOMB's deliberations to formulate the Fiscal Plan, as well as requests for information regarding core governmental policy functions. As such, they are protected from disclosure by the Executive and Deliberative Process Privileges.

Request 24

Documents sufficient to identify the source of increased revenues from the "Fees & Charges" revenue measure discussed on page 19 of the Fiscal Plan, and the accounts into which such increased revenues are expected to flow.

We will take this request under advisement and consider what data may be made available to creditors.

Request 25

The Report on Discretionary Tax Abatement Agreements that the Governor was required to submit to the Oversight Board within six months of the establishment of the Board, by PROMESA § 208, 48 U.S.C. § 2148.

AAFAP will look into the extent that "Discretionary Tax Abatement Agreements" are available and will provide what is readily available. The agreements have not yet been provided to the FOMB.

Request 26

Documents sufficient to identify any public private partnerships that are contemplated during the Fiscal Plan period, including anticipated revenue impacts, cash flow projections, and funding sources (see February 28 Fiscal Plan at 74-80).

No specific public private partnerships are currently being negotiated. AAFAF and the FOMB hope to attract such partnerships as part of their efforts to increase investment in Puerto Rico and to render services more efficiently. To the extent any such partnerships are formed, appropriate information will be made available.

Request 27

Any communications, documents, or analyses regarding anticipated revenues relating to health care. This information should include any assumptions, models or data used to project anticipated federal transfers, returns from any Commonwealth-run medical facility, municipal employer or employee contributions, or Commonwealth Fund collections.

Under the facts of this situation, this request is overbroad. We are prepared to discuss a more reasonable, targeted approach to health care data with you.

“Documents Relating to Expenses” Category

Requests 28–32

For any expense line item in the Fiscal Plan that does not grow at the rate of nominal GNP, documents demonstrating or relating to how those growth rates are derived.

A functional version of any model used by the Territorial Government or Ernst & Young to “normalize” expenses so that they can be compared across years in the Bridge or Bridge Analysis.

All documents relating to the Board’s basis for its “recommendation” in the March 9 Letter (at 2) that FY17 expenses be increased by \$585 million, including the type and amount of “historical expenditures” in FY 14-FY16 that Ernst & Young discusses on page 13 of the Bridge Analysis.

A functional model or workbook showing how the Reconciliation Adjustment discussed on page 15 of the Fiscal Plan was calculated.

Any data, models, analyses or communications regarding the meaning of the term “essential services” in the Fiscal Plan.

AAFAF will upload underlying raw data responsive to these requests to the Data Room. AAFAF, however, will not provide proprietary models created by outside consultants, nor provide information obviously sought for no purpose other than litigating the propriety of the FOMB’s certification of the Fiscal Plan. Under the facts of this situation, this request is overbroad. Moreover, to the extent they seek documents that are the product of deliberations of government officials, those documents are protected from disclosure by the Attorney-Client, Work Product, and Executive and Deliberative Process Privileges. Any factual inquiries made into “determinations” by the FOMB are statutorily mandated to be within in its “sole discretion”

pursuant to PROMESA Section 201(c)(3) and certification of the proposed Fiscal Plan is not reviewable by any court pursuant to PROMESA.

Request 33

Documents reflecting the calculation of the “other non-recurring” expenses projected on page 12 of the Fiscal Plan, including a functioning version of any model used.

AAFAF will upload underlying raw data responsive to this request to the Data Room, to the extent such data exists. Under the facts of this situation, this request is overbroad. Moreover, this request seeks documents that are the product of deliberations of AAFAF, Puerto Rico, or the FOMB. Those documents are protected from disclosure by the Executive and Deliberative Process Privileges. AAFAF, however, will not provide proprietary models created by outside consultants, nor provide information obviously sought for no purpose other than litigating the propriety of the FOMB’s certification of the Fiscal Plan. Any factual inquiries made into “determinations” by the FOMB are statutorily mandated to be within in its “sole discretion” pursuant to PROMESA Section 201(c)(3) and certification of the proposed Fiscal Plan is not reviewable by any court pursuant to PROMESA.

Request 34

Any documents, analyses or data regarding the non-personnel “right sizing” expense measures cited on page 15, 18 and 20 of the Fiscal Plan. To the extent that a model was used in calculating this line item in the Fiscal Plan, a functioning version of that model should be provided.

AAFAF will upload underlying raw data responsive to this request to the Data Room, to the extent such data exists. Under the facts of this situation, this request is overbroad. Moreover, this request seeks documents that are the product of deliberations of AAFAF, Puerto Rico, or the FOMB. Those documents are protected from disclosure by the Executive and Deliberative Process Privileges. AAFAF, however, will not provide proprietary models created by outside consultants, nor provide information obviously sought for no purpose other than litigating the propriety of the FOMB’s certification of the Fiscal Plan. Any factual inquiries made into “determinations” by the FOMB are statutorily mandated to be within in its “sole discretion” pursuant to PROMESA Section 201(c)(3) and certification of the proposed Fiscal Plan is not reviewable by any court pursuant to PROMESA.

Request 35

Documents sufficient to identify the nature, cost, status and proposed timeline of any project being funded from the capital expenditures line item in the Fiscal Plan as projected on page 12 and discussed on page 14.

AAFAF will upload underlying raw data responsive to this request to the Data Room, to the extent such data exists. Under the facts of this situation, this request is overbroad.

Moreover, this request seeks documents that are the product of deliberations of AAFAF, Puerto Rico, or the FOMB. Those documents are protected from disclosure by the Executive and Deliberative Process Privileges. AAFAF, however, will not provide proprietary models created by outside consultants, nor provide information obviously sought for no purpose other than litigating the propriety of the FOMB's certification of the Fiscal Plan. Any factual inquiries made into "determinations" by the FOMB are statutorily mandated to be within in its "sole discretion" pursuant to PROMESA Section 201(c)(3) and certification of the proposed Fiscal Plan is not reviewable by any court pursuant to PROMESA.

Request 36

Documents sufficient to identify how \$2.2 billion in legal expenses from the Commonwealth of Puerto Rico, Financial Information and Operating Report 283 (Dec. 18, 2016), are treated under the Fiscal Plan.

Under the facts of this situation, this request is vague, particularly insofar as this request is not included in the Fiscal Plan. We invite you to meet to clarify this request, and we would be happy to discuss it with you.

Request 37

Documents sufficient to show the source of any funds used to pay down any trade debt, overdue tax refund or any other outstanding payable since the passage of PROMESA (Fiscal Plan at 10, 15, 18).

Under the facts of this situation, this request is vague. We invite you to meet to clarify this request, and we would be happy to discuss it with you, but note that the funds used to pay all debts and obligations are the funds in Puerto Rico's possession.

Request 38

Documents sufficient to disaggregate expenses associated with the Territorial Government's various pension systems, including a breakdown of expenses associated with (a) defined benefit rather than defined contribution accounts; (b) base benefits rather than system administered benefits; (c) retirees rather than active employees; and (d) any "catch up" expenses accrued before the passage of PROMESA rather than ongoing costs of the programs (see Fiscal Plan at 22).

We will take this request under advisement and provide a further response as soon as practicable.

Request 39

Any communications, documents, or analyses regarding expenses relating to health care. This information should include detail regarding the healthcare expense growth rates (to the extent not already produced in response to Request 28), any supporting healthcare cost indices (see

March 9 Letter at 3-4), efforts to control health care expenses (Fiscal Plan at 20), and any assumptions made regarding enrollment in light of projected population declines.

Under the facts of this situation, this request is overbroad and vague. We invite you to meet to clarify this request, and we would be happy to discuss it with you to clarify and narrow the scope of this request.

Request 40

Any communications, documents, or analysis regarding how deficits relating to health care are accounted for in the Fiscal Plan.

AAFAF and the FOMB direct you to the Fiscal Plan model.

Request 41

Any communications, documents or analysis regarding historical reimbursements from the Center for Medicare and Medicaid Services or analysis regarding the projected impact of the newly enacted “Modified Adjusted Growth Impact” or “MAGI” standards.

No such analysis has been completed. Moreover, under the facts of this situation, this request is overbroad. In addition, this request seeks documents that are the product of deliberations of AAFAF, Puerto Rico, or the FOMB. Those documents are protected from disclosure by the Executive and Deliberative Process Privileges.

Request 42–43

Documents that reflect the basis for the Board’s request for “Amendment No. 1: Furlough and Christmas Bonus Amendment to the Commonwealth’s Proposed Fiscal Plan,” in in Board Resolution Adopted on March 13, 2017 (Fiscal Plan Certification) (“March 13 Resolution”), which required a furlough program rather than a reduction in the government work force.

Documents that reflect the basis for the Board’s request for “Amendment No. 2: Pension Amendment to the Commonwealth’s Proposed Fiscal Plan” the March 13 Resolution, which required certain alterations to the treatment of pension plans under the Fiscal Plan.

The FOMB states that its resolutions speak for themselves. As a practical matter, Amendment #1 demonstrates by its express terms that it was imposed to provide liquidity if Puerto Rico does not otherwise manage to maintain sufficient funds. Amendment #2 was imposed to save money in a progressive manner while ensuring that retirees (many of whom are ineligible for Social Security) receive at least sufficient funds to keep them above the federal poverty level.

Request 44

Documents sufficient to identify the source of and efforts to control substantial projected deficits at Puerto Rico's instrumentalities and component units as projected on page 12 and discussed on page 15 of the Fiscal Plan, as well as the Fiscal Plan recently certified by the Puerto Rico Highway Transportation Authority.

This request seeks documents that are the product of deliberations of AAFAF, Puerto Rico, or the FOMB. Those documents are protected from disclosure by the Executive and Deliberative Process Privileges. Nevertheless, in the spirit of cooperation, and without waiving its privilege objections, we agree to further consider what materials may be provided in response to this request.

Request 45

Documents, models, analyses or communications that reflect the basis for the demands to improve the Commonwealth's liquidity, as discussed in Chairman Carrion's March 8, 2017 letter to Governor Rosselló.

Under the facts of this situation, this request is overbroad. Moreover, this request seeks documents that are the product of deliberations of AAFAF, Puerto Rico, or the FOMB. Those documents are protected from disclosure by the Executive Privilege and Deliberative Process Privileges. Moreover, this request clearly attempts to go behind the FOMB's determination to certify Puerto Rico's Fiscal Plan which is not subject to review under PROMESA.

Request 46

Documents sufficient to identify any rents paid by the Territorial Government or any Territorial Government Instrumentality to the Public Building Authority ("PBA"). This material should include the terms and documents of any leases of PBA-owned or managed property and any Territorial Government Instrumentality.

AAFAF and the FOMB direct you to publicly available information relating to "[d]ocuments sufficient to identify any rents paid by the Territorial Government or any Territorial Government Instrumentality to the Public Building Authority ("PBA")."⁴

Request 47

Documents, models, analyses, or communications regarding any decision to reduce subsidies to the University of Puerto Rico, municipalities or other entities that are discussed on pages 45-48 of the February 28, 2017 version of the Fiscal Plan. To the extent that the certified Fiscal Plan

⁴ See http://www.bqfpr.com/investors_resources/commonwealth-cfiodr.html (last visited June 8, 2017) (containing Commonwealth Financial Information and Operating Data Reports which contain details regarding the total rent payments made to PBA).

seeks to replace those direct subsidies through indirect means (e.g., changing property taxes or municipal licensing fees), documents regarding those efforts should be provided as well.

Under the facts of this situation, this request is overbroad and seeks production of materials related to a draft fiscal plan that was not certified. We will not be producing such documents.

“Documents Relating To Puerto Rico’s Debt Sustainability” Category

Requests 48–50

Any analyses, including models and data, regarding how the amounts available for debt service proposed on page 8 of the Fiscal Plan will, if implemented, affect Puerto Rico’s future ability to access the capital markets.

Any analyses comparing Puerto Rico’s debt situation to that of other economies that were relied upon in determining what would be a sustainable debt load (cf. Fiscal Plan at 27-29), including documents sufficient to identify any comparable economies considered.

Any projections, including both underlying data and models, regarding macroeconomic growth following the end of the Fiscal Plan period and the projected maturity of any proposed restructured obligation. See, e.g., March 9, 2017 Letter at 2 (describing February 28, 2017 proposed Fiscal Plan as too optimistic with respect to “a) economic growth rates and the time to return to nominal economic growth; and, b) the failure to reflect near-certain declines in baseline revenues associated with corporate taxes and non-resident withholding taxes”); GO/COFINA Title VI proposal made public by the Commonwealth on April 28, 2017 at 4 (term sheet proposes a 30 year restructured bond subject to “optional amortization...sized based on Fiscal Plan forecast”).

AAFAP will upload underlying raw data responsive to these requests to the Data Room, to the extent such data exists. Under the facts of this situation, this request is overbroad. Moreover, these requests seek documents that are the product of deliberations of AAFAP, Puerto Rico, or the FOMB. Those documents are protected from disclosure by the Executive and Deliberative Process Privileges. AAFAP, however, will not provide proprietary models created by outside consultants, nor provide information obviously sought for no purpose other than litigating the propriety of the FOMB’s certification of the Fiscal Plan. Any factual inquiries made into “determinations” by the FOMB are statutorily mandated to be within in its “sole discretion” pursuant to PROMESA Section 201(c)(3) and certification of the proposed Fiscal Plan is not reviewable by any court pursuant to PROMESA.

“Documents Relating To GDB Restructuring Or Wind Down” Category

Requests 51–56

Documents reflecting the historical amounts and present status of any funds or accounts held by the Government Development Bank of Puerto Rico (“GDB”) on behalf of the Territorial Government, including, but not limited to, the balance of any accounts at the GDB into which any so-called “clawback revenues” were deposited and the intended treatment of such funds in the Restructuring Support Agreement announced by the Commonwealth on May 15, 2017 (“GDB RSA”).

Documents sufficient to identify any accounts held on behalf of the Territorial Government at financial institutions other than the GDB, including but not limited to accounts that were transferred from the GDB since January 1, 2015.

Documents regarding the division of assets between the New Issuer and the Public Entity Trust in the GDB RSA.

Loan level detail on the GDB Municipal Loan portfolio, including all loan and deposit agreements as well as current loan balances.

Documents that reflect the source of repayment for SUT-backed GDB Municipality loans, as that term is used in the GDB RSA and associated documents released on February 28, 2017.

Documents sufficient to identify how SUT flowing to municipalities (if any) in excess of municipal loan debt service is distributed or spent.

We direct you to GDB’s publicly available financial statements. Additionally, pursuant to GDB’s recently negotiated RSA, if the FOMB authorizes GDB to implement the RSA in Title VI of PROMESA, there will be extensive disclosure documents provided pursuant to PROMESA § 601(f). Under the facts of this situation, these requests are overbroad and harassing. Moreover, these requests have no relevance whatsoever to the Commonwealth Title III case.

* * *

AAFAF and the FOMB remain committed to working cooperatively with you to provide information to which creditors are entitled. We look forward to discussing these matters with you further.

Very truly yours,

By: /s/ Martin J. Bienenstock

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Exhibit A

Publicly Available Information

Entity	Web link	Type of information publicly available
Office of the Comptroller	https://www.ocpr.gov.pr/inicio/	Governmental Contract Registry Employees and Payroll Registry Audits Reports Annual Reports Privatization Reports
Office of Management and Budget	http://www.ogp.pr.gov/	Budgets of Puerto Rico Relevant Statistics Federal Funds Management Governmental Contract Processing Government's Organization Chart Governmental Restructures
		Commonwealth CAFR Commonwealth Financial

<p>Government Development Bank</p>	<p>http://www.bgfpr.com/index.html</p>	<p>Information and Operating Data Report</p> <p>Commonwealth Cash Flow Projection</p> <p>General Fund Net Revenues and Cash Flow Projection</p> <p>P.R. Tax-Exempt Securities by Issuer (Official Statements and Bonds Resolutions)</p> <p>Economic Activity Index</p>
<p>EMMA (Municipal Securities Rulemaking Board)</p>	<p>https://emma.msrb.org/</p>	<p>P.R. Tax-Exempt Securities disclosures pursuant to Rule 15c2-12</p>
<p>P.R. Department of State</p>	<p>http://estado.pr.gov/en/</p>	<p>Regulations</p> <p>Executives Orders</p> <p>Registry of Commercial Transactions</p>
<p>Office of Legislative Services</p>	<p>http://www.oslpr.org/v2/</p>	<p>P.R. Legislation (from 1993 to present)</p> <p>Legislative Process related documents</p>

<p>P.R. Institute of Statistics</p>	<p>http://www.estadisticas.gobierno.pr/iepr/</p>	<p>Cost of Living Index Group Quarter Report Statistics of government entities and the private sector</p>
<p>P.R. Department of Treasury</p>	<p>http://www.hacienda.gobierno.pr/</p>	<p>Statistics of the General Fund Net Revenues Tax Credits Public Rulings Commonwealth's Financial Information and Operational Data Reporting Sales and Use Tax Collection Index Commonwealth's Financial Statements</p>
<p>P.R. Planning Board</p>	<p>http://www.jp.gobierno.pr/</p>	<p>Macroeconomic Data Center Municipal Data Center Economic Cycles Economic Reports Economic Development Strategy (CEDS), among other information.</p>

<p>Puerto Rico Fiscal Agency and Financial Advisory Authority</p>	<p>http://www.aafaf.pr.gov/index.html</p>	<p>Fiscal Plans Oversight Board's Communications</p>
<p>Employees Retirement System of the Government of Puerto Rico</p>	<p>http://www.retiro.pr.gov/</p>	<p>Historical Financial Statements for ERS and JRS Historical Actuarial Valuation Reports for ERS and JRS</p>
<p>Puerto Rico Teachers Retirement System</p>	<p>https://www.srm.pr.gov/</p>	<p>Historical Actuarial Valuation Reports</p>

* This table contains the agencies that have information publicly available that would be relevant to an investor. However, there are many other agencies with additional information on their web pages about other topics.

Exhibit B

Overview of the Fiscal Plan Model

The Fiscal Plan Model is an Excel file that summarizes the projected financial and operating performance of the Government of Puerto Rico from FY 2017 (July 1, 2016 to June 30, 2017) through FY 2026 (July 1, 2025 to June 30, 2026). The Fiscal Plan Model incorporates projected revenue to be generated and expenses to be incurred by the Central Government as well as Component Units (“CUs”) that are covered by the certified March 13, 2017 Fiscal Plan. Additionally, the Fiscal Plan Model accounts for the revenue and expense measures that the Central Government will implement as early as FY 2018. Taking into account the projected revenue, expenses, and measures, the Fiscal Plan Model provides an annual projection of cash flows that are expected to be available for debt service (principal and interest) from FY 2017 through FY 2026.

The Fiscal Plan Model was provided to the various creditor groups via the Intralinks Project AAFA Dataroom (the “Dataroom”) on April 5, 2017. A “live” version of the Fiscal Plan Model, which includes formulas and links between tabs of the file, was provided to the various creditor groups via the Dataroom on June 6, 2017.

The following is an overview of each of the 10 tabs of the Fiscal Plan Model, how they relate to each other, and what relevant sources and documents have been made available to the various creditor groups via the Dataroom.

“Sum” tab

The Sum tab is linked to the remaining tabs of the Fiscal Plan model, discussed below, and summarizes the detailed financial projections included in those tabs. The first section of the tab exhibits the projected revenue from the General Fund (i.e. Individual Income Taxes, Corporate Income Taxes, Non-Resident Withholdings, Taxes on Alcoholic Beverages and Cigarettes, General Fund portion of SUT), as well as other sources such Additional SUT, Other Tax Revenues, Other Non-Tax Revenues, Federal Transfers, and the Impact of Loss of Affordable Care Act (“ACA”) Funding. These items provide the projected Revenues Before Measures.

The second section of the tab exhibits projected expenses. General Fund Expenses include Direct Payroll, Direct Operational Expenses, Utilities, and Special Appropriations. Other Expenses include Paygo Contributions, Run-Rate Capital Expenditures, Net Deficits of Special Revenue Funds, Component Units, HTA Operational Expenses, Disbursements to Entities Outside of the Fiscal Plan, Federal Programs, the Reconciliation Adjustment, and Non-Recurring Expenses. These items provide the projected Expenses Before Measures.

By subtracting the total annual Expenses Before Measures from the total annual Revenues Before Measures, The Sum tab presents the annual projection of Cash Flows Pre-Measures. The third section of the Sum tab summarizes the Net Impact of Measures, which is the sum of the savings projected from the implementation of revenue and expense measures. Adding the total annual Net Impact of Measures to the annual Cash Flows Pre-Measures provides the annual Cash Flows Post-Measures, Before Debt Service.

“Rev. build” tab

The Rev. build tab provides the more detailed financial projections that serve as the basis for the annual Revenues Before Measures in the Sum tab. The tab includes projected revenue

related to the General Fund and other sources, as described in the “Sum” tab section above. In general, revenue was projected through FY 2017 or FY 2018, with revenue in the remaining years growing based on the Puerto Rico nominal GNP growth factor. The sources of the FY 2017 and FY 2018 projections and the Puerto Rico nominal GNP growth factor are explicitly referenced in the Rev. build tab and are available in the Dataroom. Certain revenue line items are linked to other tabs in the Fiscal Plan model and will be discussed in the sections that follow (i.e. Cigarette Tax revenue and Excise on Off-Shore Shipments of Rum are linked to the “Cig & Rum” tab).

“Exp. build” tab

The Exp. build tab provides the more detailed financial projections that serve as the basis for the annual Expenses Before Measures in the Sum tab. The tab includes projected expenses related to the General Fund and other areas of the Government, as described in the Sum tab section above. The expenses related to certain line items were projected for FY 2017, with expenses in the remaining years growing based on projected inflation for Puerto Rico. Other line items, such as those related to CUs, were explicitly forecasted over the projection period. The sources of the FY 2017 projections and the projected inflation for Puerto Rico are explicitly referenced in the Exp. build tab and are available in the Dataroom. Certain expense line items are linked to other tabs in the Fiscal Plan model and will be discussed in the sections that follow (i.e. Paygo Retirement System Appropriations are linked to the “Retire” tab).

“Measures” tab

The Measures tab provides the more detailed projections of the annual savings from Revenue Measures and Expense Measures summarized in the Sum tab. The Revenue Measures include enhancements from Stabilizing Corporate Tax Revenue, Improved Tax Compliance, Right-Rate Fees, and Additional Revenue Enhancements. In general, Revenue Measures were projected through FY 2019 or FY 2020, with the revenue enhancements in the remaining years growing based on the Puerto Rico nominal GNP growth factor. The Expense Measures include savings from Right-Sizing the Puerto Rico Government, Reducing Healthcare Spending, Pension System Reform, Rehabilitation of Trade Terms With Local Suppliers, and Payroll and Operational Expense Freeze Through FY 2019. The sources of the projections and the macroeconomic assumptions related to growth are explicitly referenced in the Measures tab and are available in the Dataroom.

“SUT” tab

The SUT tab provides the detailed projections of the annual SUT revenue and the distribution to the General Fund, COFINA, Municipal Administration Fund (FAM), and the Corporation for the Development of the Arts, Science and Film Industry of Puerto Rico (CINE). Certain line items in the SUT tab flow into the Sum and Exp. build tabs. The source of the projections is explicitly referenced in the SUT tab and is available in the Dataroom.

“Retire” tab

The Retire tab provides the detailed projections of the annual pension paygo contributions by the Government of Puerto Rico for the Employees’ Retirement System (“ERS”), the Teachers’ Retirement System (“TRS”), and the Judiciary Retirement System (“JRS”). Certain line items in the Retire tab flow into the Exp. build tab. The source of the projections is explicitly referenced in the Retire tab and is available in the Dataroom.

“Cig & Rum” tab

The Cig and Rum tab provides the detailed projections of the annual revenue associated with Cigarette Taxes and Excise Taxes on Off-Shore Shipments of Rum. The projections are distinguished between revenues that will be directed to the General Fund and revenues that will be directed elsewhere. Certain line items in the Cig & Rum tab flow into the Rev. build and Exp. build tabs. The source of the projections is explicitly referenced in the Cig & Rum tab and is available in the Dataroom. A document named “Additional Appendix Pages” provides further detail regarding assumptions and methodology and is also available in the Dataroom.

“ASES” tab

The ASES tab provides the detailed projections of the sources of funding and disbursements related to ASES (Health Insurance Administration). The projections estimate a surplus in FY 2018 and FY 2019 and a deficit in all other years, inclusive of the forecasted receipt of ACA funding from the Federal Government. Certain line items in the ASES tab flow into the Rev. build and Exp. build tabs. The source of the projections is explicitly referenced in the ASES tab and is available in the Dataroom. A document named “Additional Appendix Pages” provides further detail regarding assumptions and methodology and is also available in the Dataroom.

“UPR” tab

The UPR tab provides the detailed projections of the sources of revenue and expenses related to the University of Puerto Rico. Sources of revenue include Tuition Charges, State Grants, Federal Transfers, Appropriations, Federal Pell Grants, and Slot Machine Revenue. Expenses include Operating Disbursements (net of General Fund Appropriations and Federal Transfers). Certain line items in the UPR tab flow into the Rev. build and Exp. build tabs. The sources of the projections are explicitly referenced in the Cig & Rum tab and are available in the Dataroom. A document named “Additional Appendix Pages” provides further detail regarding assumptions and methodology and is also available in the Dataroom.

“HTA” tab

The HTA tab provides the detailed projections of the sources of revenue and expenses related to the Highway & Transportation Authority of Puerto Rico. Sources of revenue include Gasoline and Diesel Taxes, Toll Receipts, Vehicle License Fees, Petroleum Taxes, Tren Urbano Receipts, and others. Expenses include Salaries and Benefits, Pension and Early Retirement Benefits, Repairs & Maintenance, Utilities, and others. Certain line items in the HTA tab flow into the Rev. build tab.

EXHIBIT 6

The New York Times | <https://nyti.ms/2u4szQ9>

DealB%k WITH FOUNDER
ANDREW ROSS SORKIN

After Puerto Rico's Debt Crisis, Worries Shift to Virgin Islands

By MARY WILLIAMS WALSH JUNE 25, 2017

CHARLOTTE AMALIE, V.I. — The United States Virgin Islands is best known for its powdery beaches and turquoise bays, a constant draw for the tourists who frequent this tiny American territory.

Yet away from the beaches the mood is ominous, as government officials scramble to stave off the same kind of fiscal collapse that has already engulfed its neighbor Puerto Rico.

The public debts of the Virgin Islands are much smaller than those of Puerto Rico, which effectively declared bankruptcy in May. But so is its population, and therefore its ability to pay. This tropical territory of roughly 100,000 people owes some \$6.5 billion to pensioners and creditors.

Now, a combination of factors — insufficient tax revenue, a weak pension system, the loss of a major employer and a new reluctance in the markets to lend the Virgin Islands any more money — has made it almost impossible for the government to meet its obligations. In January, the Virgin Islands found itself unable to borrow and nearly out of funds for basic government operations.

The sudden cash crunch was a warning sign that the financial troubles that brought Puerto Rico to its knees could soon spread. All of America's far-flung

territories, among them American Samoa, Guam and the Northern Mariana Islands, appear vulnerable.

“I don’t think you can say it’s a crisis, but they have challenges — high debt, weak economies and unfunded pensions,” said Jim Millstein, whose firm, Millstein & Company, advised Puerto Rico on its economic affairs and debt restructuring until this year and has reviewed the situation in Guam and the Virgin Islands. He called the combination of challenges in the territories “a recipe for trouble in the future.”

For decades, these distant clusters of islands in the Caribbean and the Pacific have played critical roles as American listening posts, wartime staging grounds, practice bombing ranges and even re-entry points for astronauts splashing down in the Pacific.

The military presence buoyed their small economies, and a federal tax subsidy made it relatively easy for them to issue bonds. Over the years, they have collectively borrowed billions of dollars to build roads, run schools, treat drinking water and fund hospitals.

Congress has generally relied on the Government Accountability Office to monitor the financial health of the territories, but it did not intervene over the years when the auditors brought back reports of “formidable fiscal challenges” or “serious internal control weaknesses” on the islands. Not, at least, until Puerto Rico went over the edge.

Now the G.A.O. auditors are back, re-examining the debt and repayment ability of each territory, amid concerns that other crushing debt burdens may have escaped notice. An agency spokesman, Fuller O. Griffith, said it would report by the end of the year on “federal options to avert the future indebtedness of territories.” It is not clear what those options will be.

“Washington can’t appropriately manage its relationship with the states, much less the territories,” said Matt Fabian, a partner at Municipal Market Analytics.

Even the states are not immune, despite their legal status as sovereigns. Illinois, stuck in political gridlock, is just days from entering its new fiscal year without a

balanced budget, in violation of its own constitution. The ratings agencies warn that Illinois's bond rating is in peril of being downgraded to junk. Once that happens, as the territories show, hedge funds move in and economic management becomes a series of unpleasant choices.

American Samoa, one of the smallest territories, lost one of the biggest engines of its economy in December when a big tuna cannery closed after being required to pay the federal minimum wage. Moody's Investors Service then put the territory's debt under negative outlook, citing its fragile economy.

In the Northern Mariana Islands, the depleted public pension fund was wreaking such fiscal havoc in 2012 that the territory declared it bankrupt, but the case was thrown out. The government then tried cutting all retirees' pensions 25 percent, but the retirees have been fighting the cuts, and the fund is nearly exhausted anyway.

Even Guam, which enjoys the economic benefit of several large American military installations, has been having qualms about its debt after Puerto Rico's default.

"Puerto Rico's troubles provide a teachable moment for Guam," said Benjamin Cruz, the speaker of the legislature, who recently helped defeat a proposal to borrow \$75 million to pay tax refunds. "Spending borrowed money is too easy."

But the debt dilemma is now most acute in the Virgin Islands — the three main islands are St. Thomas, St. Croix and St. John — where the government has been struggling ever since a giant refinery closed in 2012, wiping out the territory's biggest nongovernment employer and a mainstay of its tax base.

Its troubles began to snowball last July, when Puerto Rico defaulted on most of its debts.

In August, Fitch downgraded the Virgin Islands' debt to junk, citing the territory's chronic budget deficits and habit of borrowing to plug the holes, like Puerto Rico.

More downgrades followed, and in December, Standard & Poor's dealt the territory a rare "superdowngrade" — seven notches in one fell swoop — leaving it

squarely in the junk-bond realm. That scared away investors and forced it to cancel a planned bond offering in January.

The failed bond deal meant there was not enough cash to pay for basic government operations in February or March. As a stopgap, the territory diverted its workers' pension contributions.

The Virgin Islands' governor, Kenneth E. Mapp, said he had no intention of defaulting on any bonds.

"I didn't ask anybody for debt relief, so don't put me in the debt-relief boat," Mr. Mapp said in an interview at Government House, the ornate seat of the territorial government, perched on a hillside overlooking the lush palms and bougainvillea of the capital, Charlotte Amalie, on St. Thomas.

Still, Mr. Mapp is contending with many of the same problems that proved too much for Puerto Rico, driving it in May to seek bankruptcylike protection under a new law for insolvent territories, known as Promesa. Puerto Rico is now embroiled in heated negotiations over how to reduce its roughly \$123 billion in debts and unfunded pensions.

When Congress drafted the Promesa law last year, it made it possible for the other American territories to seek the same kind of help.

Now, even though the Virgin Islands maintains it has no intention of defaulting on its debts — and has even given creditors new protections — the mere prospect of bankruptcy has spooked the markets, putting borrowed money beyond the territory's reach and greatly limiting its options.

In something of a self-fulfilling prophecy, by giving territories the option to declare bankruptcy, Congress seems to have made such an outcome more likely.

"That innocuous provision, when sent to the bond market, said, 'Here's an escape valve for your debt obligations,'" Mr. Mapp said. "That changed the whole paradigm."

The problem is that in Puerto Rico, Promesa is turning out to shred the many legal mechanisms that governmental borrowers use to make their debts secure. These include liens and allowing creditors access to the courts.

“Under Promesa, all the security structures are dissolving,” Mr. Fabian said.

Investors who thought they were secured creditors before now find themselves holding moral obligation pledges, which are not enforceable.

After the Virgin Islands’ bond offer fell through in January, the fuel supplier to its electric authority stopped shipments, saying it had not been paid; the authority was already in court with its previous fuel supplier, which had not been paid either.

Then came the House of Representatives’ plan to repeal and replace the Affordable Care Act. Mr. Mapp saw the federal money that the Virgin Islands relies on for its public hospitals going up in smoke.

Mr. Mapp scrambled. He reactivated a five-year economic plan that had been languishing and pushed higher taxes on alcohol, cigarettes and soft drinks through the legislature. He fought for a permanent electric rate increase. He got \$18 million in new federal funds for health care. He struck a deal to tax Airbnb rentals.

He hired collection agents to go after delinquent property and income taxes. He scheduled auctions for delinquent properties. He hired a team to work on the pension system, which is in severe distress, with only about six years’ worth of assets left.

Until recently, the pension system was chasing high returns by investing in high-risk assets, like a \$50 million placement in life viaticals — an insurance play that is, in effect, a bet that a selected group of elderly people will die soon. It also made loans to an insolvent inter-island airline, a resort that went bankrupt, and a major franchisee of KFC restaurants. The territory’s inspector general has declared the loans illegal.

Mr. Mapp said he hoped to start restructuring the pension system in the fall. Already, he said, the government had stopped diverting the workers’ pension

contributions, as residents began filing their tax returns and payments in April. The tax payments eased the immediate liquidity crisis.

Recently, he met with the Treasury secretary, Steven Mnuchin, to discuss possible incentives to attract tech business to the Virgin Islands. And he hopes to return to the capital markets.

“The fact that we didn’t complete the sale in January gives the impression that our market access is constrained,” said Valdamier O. Collens, the territorial finance commissioner.

Investors have nothing to worry about, the governor said. For decades, the Virgin Islands has used a lockbox arrangement that makes default all but impossible.

Merchants collect sales taxes and send the money to a trustee for the bondholders. Not a cent goes to the territorial government, including the pension fund, until the bond trustee gets enough to make all scheduled bond payments for the coming year.

“We have no access to the moneys before the bondholders are paid,” Mr. Mapp said. “These moneys are taken out of the pie before the pie is even in the oven. Our debt has never been in jeopardy.”

But in Puerto Rico, such lockbox arrangements have turned out to be one of the thorniest disputes of the bankruptcy proceedings. And Mr. Collens, the finance commissioner, is all too aware that the same dynamic could upend the Virgin Islands, too.

“We know that there has been a contagion effect with Puerto Rico,” Mr. Collens said. “The market saw that by the stroke of a pen, Congress could create a Promesa for the rest of the territories.”

A version of this article appears in print on June 26, 2017, on Page A1 of the New York edition with the headline: Tiny Territory, Debt in Billions: Fears Spread to Virgin Islands.