

Memorandum for Policymakers

Governor George Pataki, Senior Advisor to the Ad Hoc Group of Puerto Rico General Obligation Bondholders

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More than a year after the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) was passed, it is clear that neither the Federal Oversight Board established by PROMESA nor Governor Rosselló is committed to acting in good faith with respect to either the Commonwealth's legal obligations to bondholders, or transparency about the Commonwealth's financials.

In fact, it is precisely the actions of both parties over the last several months that have forced Puerto Rico and its three million U.S. citizens into an avoidable bankruptcy:

- Together, the Oversight Board and the Commonwealth approved a Fiscal Plan that openly violates PROMESA by elevating all government expenses above all debt service, regardless of lawful priority.
- Furthermore, the Oversight Board has made clear that it is unwilling to consider input from creditors about inaccuracies contained in the Fiscal Plan or specific issues with the Fiscal Plan's unlawfulness.
- In fact, by its refusal to engage with creditors in any meaningful way, the Oversight Board forced the Commonwealth and its citizens into a completely preventable bankruptcy.
- To this day, the Board and the Commonwealth refuse to provide a satisfactory answer to Members of Congress that have expressed concerns over the Fiscal Plan's unlawful treatment of priorities, and also refuse to distinguish between essential and non-essential government services. The ridiculous implication is that all non-debt expenditures are "essential."

In addition, the Commonwealth's proposed FY 2018 budget doubles down on the Board's refusal to abide by PROMESA or Puerto Rico's Constitution, and highlights the utter lack of seriousness with which it is approaching the Commonwealth's fiscal situation:

- **The budget includes year over year public expenditure increases of \$575 million;** a fact which the Commonwealth attempts to obscure by reclassifying certain expenses as "below the line," including two large slush funds (the \$545 million "reconciliation adjustment," and the \$305 million "budgetary reserve").
- **In total, the FY 2018 budget represents a year over year increase of 6.4% in total non-debt-related expenditures,** completely contradicting claims of fiscal responsibility by the Rosselló government.

- **The Rosselló Administration is refusing to respect payment priorities as required by PROMESA.** Instead of using PROMESA as a political shield to enact reform – as Congress expressly intended – Governor Rosselló is in fact using PROMESA as a shield against financial creditors, enabling him to pay off favored political constituencies in violation of PROMESA.
- **States pay their debts.** Governor Rosselló is asking Congress to grant statehood to Puerto Rico despite his refusal to honor Puerto Rico’s own constitution or lawful commitments to millions of American citizens in Puerto Rico and the mainland who own constitutionally-protected bonds as part of a retirement fund.

For its part, the Board has actively obstructed a consensual agreement between the Commonwealth and its creditors, and has pressured the Commonwealth to present a misleading picture of its financial situation:

- The Board insists on projecting a decrease in the Commonwealth’s revenues and a contraction in the island’s GNP, in spite of contradictory information. **Puerto Rico’s revenues are up, powered by robust consumer consumption. Both tax collections and nominal GNP are at all-time highs.**
- The Oversight Board uses these misleading projections to argue that the island has the capacity for only \$400 million in debt service in the coming year. In fact, before pension payments, **the Commonwealth is running a primary surplus of \$3 billion for FY18.** It also has \$1 billion less in accounts payable – spread over multiple years – than had previously been forecast by the Fiscal Plan.
- Documents obtained by the Center for Investigative Journalism show the Commonwealth’s Treasury Single Account (TSA) with much more cash than previously disclosed by either Governor Rosselló or the Oversight Board. As of June 30th (the last day of the current fiscal year), the Commonwealth is expected to have a cash position of \$1.15bn, compared to \$291mm as forecast in the Fiscal Plan just three months ago. This increases the amount payable for debt service. **The Board and the Commonwealth refuse to correct the Fiscal Plan with this information.**

Congress and the Trump Administration should insist that the Oversight Board correct these errors in the Fiscal Plan or replace the Board with one that will do so. The Board’s non-compliance with PROMESA to date, and its lack of responsiveness to Members of Congress who have expressed concern over its non-compliance, are inexcusable.