

## **OVERSIGHT ON PUERTO RICO**

- The situation in Puerto Rico is decades in the making and is the result of a combination of fiscal mismanagement, inconsistent federal policies and a state-run economy that is hopelessly inefficient.
  - Puerto Rico is \$70 billion in debt in the form of bonds.
  - It has a pension liability of \$46 billion, which is covered by only \$2 billion in net assets.
  - Puerto Rico no longer has access to the credit markets.
  - Unemployment is 12%.
  - There is a significant out-migration of the population.
  - The Commonwealth is currently selling assets from pension funds, taking money dedicated to one group of creditors to pay other creditors, to keep the government open and fund basic services.
- Over the past few months the Committee's oversight efforts have revealed 1) a desire to privately invest in Puerto Rico, 2) the potential for Puerto Rico to reach voluntary restructuring agreements with various creditors, and 3) the need for a strong, independent oversight body to ensure necessary reforms occur in Puerto Rico.
- The Committee's legislation creates an Oversight Board that will have the tools to comprehensively resolve Puerto Rico's fiscal crisis.
- The Oversight Board will audit the government and its corporations, work with the government to create efficiencies and reforms, and address the island's financial crisis in the most efficient and equitable manner that is respectful of the rule of law, self-governance and all involved parties and creditors.
- This process of creating efficiencies, accountability in government operations, transparent fiscal plans and balanced budgets, and improving services to constituents, will determine if or to what extent any debt restructuring will be necessary.
- If debt restructuring is needed in certain areas and voluntary agreements can't be reached, the Oversight Board would have the ability to facilitate a court supervised debt restructuring where necessary, not in the context of Chapter 9 bankruptcy.
- Chapter 9 bankruptcy is a tool designed for municipalities of sovereign states, not territories. Retroactively adding territories to Chapter 9 of the Bankruptcy Code is ill-conceived and would undermine the rule of law; result in a bailout of Puerto Rico on the backs of tens of thousands of U.S. taxpayers who have invested their savings in Puerto Rico bonds; undercut efforts to reform Puerto Rico's irresponsible fiscal policies; and create serious implications for the Island's future access to capital markets, which is the only path to a new economy.
- The U.S. Department of the Treasury has also proposed a plan to ease Puerto Rico's financial crisis that would prioritize pensions over creditors. This proposal would also have serious consequences on the broader municipal bond market and existing creditor-to-debtor relationships.

# PUERTO RICO DISCUSSION DRAFT SUMMARY

## INDEPENDENT OVERSIGHT BOARD

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- The draft legislation creates an Oversight Board with 5 appointed members and the ability to hire financial and management experts. The Board will be an entity within the government of Puerto Rico but not subject to the control of the Governor or Legislative Assembly.
- The Oversight Board will seek audited financial statements from the government of Puerto Rico at all levels and work with the Governor and the Legislative Assembly in the preparation of fiscal plans and budgets. Ultimately, it will have the authority to enact such a fiscal plan and budget if the Governor and Legislative Assembly fail to do so.
- The Oversight Board will work with the other departments and agencies (including public corporations) to seek efficiencies, greater accountability in their operations, optimization revenues over expenses, and improve reliability of services to constituents.
- The bill would improve transparency and disclosure surrounding Puerto Rico's pension system. Additionally, it would require an independent study of Puerto Rico's pension obligations and their sustainability.
- This process will influence if or to what extent any debt restructuring would be necessary.
- The discussion draft does include a stay upon enactment of the legislation. This is a highly complex and sensitive component with constitutional implications and will likely demand additional refinement before a final bill is introduced.

## TERRITORIAL DEBT ACCOUNTABILITY

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- If debt restructuring is still necessary, the legislation provides for conditions that must be met before any restructuring can take place. These conditions include 1) required audited financial statements, 2) a fiscal plan and budget in place and 3) mediation among the various debtors and creditors.
- The Oversight Board can be particularly helpful to get parties in the same room for some sort of negotiation in an attempt to reach a debt restructuring agreement.
- As a last resort, if agreements can't be reached, the Oversight Board would have the power to authorize a petition filed in U.S. district court for restructuring. It is the Committee's goal to provide for court supervised debt restructuring where necessary, but not in the context of Chapter 9 bankruptcy.

## INFRASTRUCTURE REVITALIZATION

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- High costs of electricity and outdated infrastructure have contributed to record numbers of civilian and business migration to the U.S. mainland and elsewhere.

- The infrastructure piece of the bill establishes a position of Revitalization Coordinator under the Oversight Board.
- Projects will be submitted by project proponents to the Revitalization Coordinator, who, in consultation with the Governor and various Puerto Rico Agencies, will nominate infrastructure projects to the Oversight Board based on certain criteria, such as the economic support the project will provide, the access the project has to private capital, and whether the project addresses a flaw in Puerto Rico's infrastructure.
- Once a project has been nominated by the Revitalization Coordinator, the Oversight Board can either approve or disapprove of providing the nominated project with access to expedited permitting and regulatory processes through existing Puerto Rican law.
- The title encourages federal agencies – to the extent there is a federal nexus – to work with the Revitalization Coordinator to expedite federal reviews.

#### MISCELLANEOUS

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- The Oversight Board shall ensure prompt enforcement of the laws of Puerto Rico prohibiting public sector employees from participating in a strike or lockout.
- The discussion draft prevents the U.S. Department of Labor's proposed 113% increase in the individual salary threshold to qualify as exempt from federal overtime pay requirements from impacting Puerto Rico.
- The discussion draft incentivizes employers to hire workers by allowing Puerto Rico to adjust minimum wage requirements for temporary workers up to the age of 25. This would permit the Island to better manage wages to ensure alignment with Puerto Rico's income and productivity averages, which are far lower than the mainland U.S. Federal minimum wage requirements. These requirements have hindered Puerto Rico's competitiveness amongst neighboring islands where lower-wage labor is readily available.