



Puerto Rico's Think Tank

Center for a New Economy
San Juan + D.C. + Madrid

Rep. Jeff Hurd
Chairman
Indian and Insular Affairs Subcommittee
House Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
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Ranking Member
Indian and Insular Affairs Subcommittee
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Chairman Hurd, Ranking Member Leger Fernandez, and members of the Indian and Insular Affairs Subcommittee, the Center for a New Economy ("CNE") welcomes and thanks you for the opportunity to submit our comments on the effectiveness of the Puerto Rico Oversight, Management and Economic Stability Act of 2016 ("PROMESA") nine years after its enactment.

CNE is Puerto Rico's think tank, an independent, nonpartisan group that informs current debates based on hard data and robust empirical research of Puerto Rico's most pressing and complex challenges. For over 25 years, CNE has carefully studied the issues affecting Puerto Rico and has been a front row witness to the effects of policies implemented by state and federal government officials.

Back in 2015, CNE was among the first voices to alert about Puerto Rico's impending economic and fiscal crisis. We testified before Puerto Rico's legislative assembly and the U.S. Congress on the complexity of its debt structure; the possible economic fallout and the need to adopt policies to enable growth; and Puerto Rico's inability to restructure its own debt as a result of amendments made to the U.S. Bankruptcy Code in 1984. At the time Puerto Rico's fiscal crisis was actively being discussed in Washington, DC, CNE argued that unless Congress provided Puerto Rico with effective tools to bolster its economy, little would change.¹

Congress responded to Puerto Rico's fiscal crisis by enacting PROMESA, which was signed by President Obama on June 30, 2016. At that time, the Puerto Rican economy had stopped growing for approximately a decade; the central government had incurred in chronic budget deficits for years; the island's total bonded debt of \$72 billion exceeded its gross national product; and the government

¹ Sergio Marxuach, *Testimony Before the United States Senate Committee on Finance Public Hearing on Financial and Economic Challenges in Puerto Rico*, September 29, 2015, <https://grupocne.org/2015/09/29/testimony-before-the-us-senate-finance-committee/>

pension system was insolvent, adding an extra \$55 billion in unfunded liabilities to Puerto Rico's long-term obligations. PROMESA provided an orderly process for the restructuring of that indebtedness in exchange for the appointment by federal officials of an undemocratic oversight board. This arrangement was far from optimal but it was what the American political process could produce at that time.

Nine years after the enactment of PROMESA, we find that Puerto Rico has made some progress in restructuring its debt obligations and implementing budget and financial controls. However, the Commonwealth's government is not yet up to date in its required financial reporting and it still has failed to develop and implement an effective economic growth strategy. We note, in addition, that progress has been very slow and expensive and Puerto Rico still has a long way to go before it can claim to be in compliance with the requirements for termination of the Financial Oversight and Management Board ("FOMB") pursuant to the criteria set forth in PROMESA.

Debt Restructuring

Puerto Rico publicly admitted in June 2015 that its debt burden was unsustainable, after years of (1) stagnant economic growth; (2) overstating tax revenues; (3) understating or disguising expenditures; (4) running relatively large concealed budget deficits; (5) widespread government corruption; and (6) relying on accounting gimmicks, and a whole arsenal of clever but ultimately futile financially engineered "solutions", such as forward bond refundings, back-loaded "scoop and toss" bond refinancings, assorted swaps, capitalized interest payments, and other short-term, expensive liquidity fixes.

While it is true that Puerto Rico's capacity to repay its debt ultimately depended on restoring economic growth in the island, its government realized that there could be no economic recovery without debt sustainability and that, in turn, was not possible without significantly restructuring at least some of its debt. At that time, however, Puerto Rico did not have access to an orderly mechanism, either local or federal, to restructure its public indebtedness. It could be argued, then, that PROMESA's principal objective was to provide that orderly mechanism for debt restructuring.

In this respect, we can state that after nine years Puerto Rico has made significant progress. According to the FOMB, through the mechanisms provided by Title III and Title VI of PROMESA, "total debt and other claims were reduced by \$42 billion, while debt service savings through maturity are estimated at \$73 billion."² Furthermore, the Commonwealth's debt service is now made up of level annual payments, which allows the government to manage cash and plan effectively to meet its obligations.

We note, though, that while PROMESA has delivered significant debt relief to Puerto Rico, it remains to be seen whether both its total debt burden and its annual debt service are sustainable over the long term. A 2018 analysis by Pablo Gluzmann, Martin Guzman, and Joseph Stiglitz, concluded that Puerto Rico needed substantial debt relief, in the order of an 80% reduction of principal, on average, in order to grow its economy and service its debt without incurring in a new event of default within five years

² Financial Oversight and Management Board, *Annual Report FY-2024*, p. 25.

of its debt restructuring.³ When Puerto Rico finalized the restructuring of its central government debt in March 2022, the FOMB estimated that total debt was cut by about half, while debt service had been reduced by about 53% over thirty years. More recently, the GAO estimates that in FY2022 Puerto Rico's total debt burden amounted to 47 percent and 67 percent of the island's GDP and GNP, respectively.⁴ We also note that as of this writing, the restructuring of the debt issued by the Puerto Rico Electric Power Authority is still ongoing and it is unknown when that process will be finalized.

In sum, then, Puerto Rico obtained significant debt relief through the PROMESA Title III and Title VI mechanisms, though it fell well short of the recommendations made by Gluzmann, et. al. Thus, the jury is still out with respect to Puerto Rico's financial sustainability in the long term.

Time and Expense

Back in 2016, the CBO estimated that it would take the oversight board two years and about \$350 million in administrative costs to restructure Puerto Rico's debt. It also estimated that the board would be in operation until approximately 2022, adding some \$20 million in operating costs, at which time it would terminate pursuant to PROMESA.⁵ Nine years out, the FOMB is still in operation, Puerto Rico's debt has not been restructured in full, it is unclear whether the island has managed to develop and implement any of its annual budgets since 2016 in compliance with the modified accrual accounting principles mandated by PROMESA, and its total administrative, consulting, legal, and operating costs have exceeded \$2 billion, according to a report by Espacios Abiertos.⁶ Thus, the process has taken much longer and cost significantly more than initially estimated by Congress.

The work of the FOMB has also been costly in terms of the forgone opportunity to build state capacity in the government of Puerto Rico. State capacity has been defined as "the ability of the state to collect taxes, enforce law and order, and provide public goods."⁷ Declining state capacity in the United States and elsewhere in the world has led to decreasing trust in government and "a growing impatience with the often messy and muddled workings of democracy."⁸

In Puerto Rico, declining state capacity in the form of inadequate financial management and oversight, coupled with unsustainable borrowing practices, contributed directly to Puerto Rico's fiscal crisis.⁹ Therefore, one of the objectives of the FOMB should be to help Puerto Rico build up state capacity to implement adequate financial and fiscal practices on its own. To the extent that outside advisors and consultants are used to modernize and implement Puerto Rico's financial controls and management systems, there is a risk that career government employees do not develop the necessary

³ Pablo Gluzmann, Martin Guzman and Joseph E. Stiglitz, *An Analysis of Puerto Rico's Debt Relief Needs to Restore Debt Sustainability*, January 2018, Espacios Abiertos, San Juan, PR.

⁴ U.S. Government Accountability Office, *U.S. Territories: Public Debt and Economic Outlook – 2025 Update*, June 2025, p. 15.

⁵ Congressional Budget Office, *Cost Estimate of H.R. 5278 Puerto Rico Oversight, Management, and Economic Stability Act*, June 3, 2016.

⁶ Espacios Abiertos, *The Cost of the Board's Consultants: A Bill Paid by the People That Never Ends*, February 12, 2025, <https://espaciosabiertos.org/the-cost-of-the-boards-consultants-a-bill-paid-by-the-people-that-never-ends/>

⁷ Brink Lindsey, *State Capacity: What It Is: How We Lost It, And How to Get it Back*, Niskanen Center, November 2021, p. 1.

⁸ *Id.*

⁹ The third factor contributing to the island's fiscal crisis, long-term economic stagnation, is also indirectly related to declining state capacity.

administrative and management skills, and Puerto Rico will end up facing another fiscal crisis in a few years. It is in the best interest of Puerto Rico, then, that the FOMB ensure there is an orderly and effective knowledge transfer process from external consultants to government employees in AAFAF, the Puerto Rico Treasury Department, and the Puerto Rico Office of Management and Budget.

Annual Budgeting and Debt Policy

To be fair, the government of Puerto Rico has made some progress regarding its budgeting practices when compared with the pre-2016 budgeting process. The annual exercise of drafting a fiscal plan for the central government and the most important component units under the aegis of the FOMB has increased the transparency and visibility of government revenue and expenditure procedures. Since 2017, the FOMB has developed budgets in coordination with the government of Puerto Rico based on:

- “Revenue forecasts based on key macroeconomic indicators to prevent over-estimation;
- Spending estimates that incorporate feedback from all stakeholders;
- Expenses detailed at a level that enables sufficient control and full accounting of costs;
- Frequent reporting on actual spending compared to budgeted amounts; and
- Clearly defined budget enforcement and reporting roles and responsibilities.”¹⁰

There are also some indications that the Commonwealth's government has strengthened its fiscal position. According to the GAO, Puerto Rico reported a combined surplus of \$1.9 billion during fiscal year 2022, in contrast with deficits of \$424 million and \$2.3 billion during fiscal years 2021 and 2020, respectively.¹¹ If the surplus for FY22 is certified by the FOMB, it would be the first surplus officially registered by the Commonwealth since the enactment of PROMESA.

We note, though, that notwithstanding this apparent progress, the FOMB has expressed concerns about Puerto Rico's ability to remain fiscally responsible. The island's legislature, on several occasions since 2016, has tried to enact legislation that increased expenses or decreased revenues significantly without legislating offsetting measures. Puerto Rico's legislature should adopt strict pay-as-you-go requirements to limit excessive spending in the future. We share the concerns expressed by the FOMB, as it appears local politicians have learned nothing and forgotten nothing during the last ten difficult years, stubbornly clinging to the harmful fiscal policies and deficient financial practices of the pre-2016 past and which ultimately led Puerto Rico to file for bankruptcy in 2017.

The GAO also notes as a positive development the creation of the Legislative Assembly Budget Office or *Oficina de Presupuesto de la Asamblea Legislativa* (“OPAL”). The OPAL, created in 2023, provides analysis of the fiscal impact of proposed legislation and “these estimates can help the legislature better understand how proposed measures would affect levels of revenue or expenses.”¹² Review of proposed legislation by OPAL, however, is not mandatory and is at the discretion of the Puerto Rico legislature. During FY24, OPAL produced 185 estimates, including estimates for 11 bills that became

¹⁰ Financial Oversight and Management Board, *Fiscal Plan for Puerto Rico, Certified by the Financial Oversight and Management Board*, June 5, 2024, p. 22.

¹¹ GAO, *U.S. Territories: Public Debt and Economic Outlook – 2025 Update*, p. 16.

¹² *Id.* at p. 23.

law, while 180 laws were enacted without estimates.¹³ Despite its limited use, though, the creation of OPAL, in our opinion, is a significant positive step on the road to fiscal responsibility.

The adoption in 2022 of a debt management policy to limit tax-supported borrowing by the Commonwealth was another step in the right direction. This policy “(1) requires that new long-term issuances of tax-supported debt must be for capital improvements or refinancing for savings and (2) specifies that maximum annual tax-supported debt service cost cannot exceed 7.94 percent of the average debt policy revenues from the preceding 2 fiscal years.”¹⁴ Puerto Rico has not issued any new tax-supported debt, other than debt related to the restructuring, since 2022. This debt policy, or one similar to it, should eventually be included in the Puerto Rico Constitution to eliminate the old ineffective “debt-limit” and provide a strong safeguard against excessive or inappropriate borrowing in the future. In addition, Puerto Rico’s debt policy should be revised to avoid pro-cyclical effects in the future and supplemented with robust legislative pay as you go rules. We note that CNE proposed a similar restriction back in 2016 in the form of a fiscal responsibility rule for Puerto Rico aimed at strengthening long-term fiscal discipline.¹⁵

Timely Financial Reporting and the Implementation of Financial Control Remain Challenging

Puerto Rico has made significant progress in updating its financial reports since 2016. Notwithstanding that progress, however, the Commonwealth’s financial statements for fiscal years 2021 and 2022 were issued with significant delays, about 22 months after the end of their respective fiscal years. As of June 2025, it had not yet issued its statements for fiscal years 2023 and 2024.

In addition to problems with the timeliness of its financial statements, the GAO also highlighted issues with audit opinions (lack of sufficient evidence to conclude that certain financial balances and activities in the Puerto Rico unemployment insurance fund were free of material misstatement); troublesome audit findings that have remained unsolved for at least two years; and a series of questioned costs in several agencies.¹⁶

To address those issues, Puerto Rico has undertaken the implementation of a government-wide enterprise resource planning system, which should streamline its financial, supply chain, human capital management, and payroll systems. This streamlined reporting system should “resolve a significant portion of Puerto Rico’s issues with financial reporting and internal controls.”¹⁷ Unfortunately, its implementation since 2022 has been uneven and the government has faced extensive delays in its rollout. A revised implementation schedule will prioritize the financial management and the supply chain modules.

What Remains to be Done

¹³ *Id.*

¹⁴ *Id.* at p. 22.

¹⁵ Deepak Lamba Nieves and Sergio M. Marxuach, *There Is Another Way: A Fiscal Responsibility Law for Puerto Rico*, February 2016, https://grupocne.org/wp-content/uploads/2016/02/2016_01_FiscalRulesPR-1.pdf

¹⁶ GAO, *U.S. Territories: Public Debt and Economic Outlook – 2025 Update*, p. 28.

¹⁷ *Id.* at p. 29.

Looking back over the last nine years, it is clear that a lot of work has been done to put Puerto Rico's fiscal house in order. It is also clear that a lot remains to be done. Finalizing the restructuring of the debt issued by the Puerto Rico Electric Power Authority ("PREPA") is at the top of that list of pending issues. Resolving the issue of PREPA's debt is crucial to accelerate progress on the reconstruction of the electric grid and the transition to 100% renewable generation. The adoption by Puerto Rico of pay-as-you-go rules when enacting tax or spending bills is another item high on the to-do list of the island's government.

At a macro level, it is important to make better use of PROMESA's Title V to jumpstart economic development projects. PROMESA included a couple of provisions to promote economic growth in Puerto Rico, but most of those initiatives, like those set forth in the Congressional report issued in 2016 pursuant to section 409 of PROMESA, seem to have fallen by the wayside.¹⁸ It is high time to retake this economic agenda. Do not be mistaken, we are aware that developing and implementing an economic growth agenda is ultimately a task that falls on Puerto Rico's government. All we are saying here is that to the extent PROMESA provides, directly or indirectly, some tools to foster economic growth, then Puerto Rico should actively use them.

Finally, it is also important to determine what needs to be done to satisfy the conditions for the termination of the FOMB. The oversight board was never meant to be a permanent fixture overseeing the government of Puerto Rico, but rather a temporary (and undemocratic) safeguard while the island restructured its debts and regained its fiscal stability. Section 209 of PROMESA states that:

An Oversight Board shall terminate upon certification by the Oversight Board that—

- (1) the applicable territorial government has adequate access to short-term and long-term credit markets at reasonable interest rates to meet the borrowing needs of the territorial government; and
- (2) for at least 4 consecutive fiscal years—
 - the territorial government has developed its Budgets in accordance with modified accrual accounting standards; and
 - the expenditures made by the territorial government during each fiscal year did not exceed the revenues of the territorial government during that year, as determined in accordance with modified accrual accounting standards.

Nine years after PROMESA, Puerto Rico does not have access to either short- or long-term credit markets. We also do not have enough information to determine at this time whether (1) the government of Puerto Rico has developed any of its budgets since 2016 in accordance with modified accrual accounting standards; and (2) any of the Commonwealth's budgets since 2016 have closed with a deficit or a surplus, **as determined in accordance with modified accrual accounting standards**. We strongly urge the FOMB to make those determinations public as soon as possible.

Conclusion

¹⁸ Congressional Task Force on Economic Growth in Puerto Rico, *Report to the House and Senate*, December 20, 2016 <https://www.finance.senate.gov/imo/media/doc/Bipartisan%20Congressional%20Task%20Force%20on%20Economic%20Growth%20in%20Puerto%20Rico%20Releases%20Final%20Report.pdf>

In sum, the implementation of PROMESA, like most complicated federal legislation, has been a mixed bag. Puerto Rico has made significant progress in restructuring its debt, but it is still working on PREPA's restructuring, one of the most important remaining transactions affecting the island's future economic growth. The Commonwealth has also made significant progress with respect to financial reporting, the implementation of internal controls, and the enactment of a debt policy to limit future indebtedness, but it still needs to issue its financial reports for fiscal years 2023 and 2024; it is behind schedule in the implementation of a government-wide enterprise resource planning system; and has not adopted comprehensive pay as you go rules to control spending. In addition, the restructuring process has proven to be a lot more expensive and taken much longer than most assumed back in 2016.

Looking forward, it is worrisome that we cannot yet determine with any certainty when the conditions for the termination of the FOMB will be satisfied. The operation of the FOMB is expensive, undemocratic, and, as we stated above, it was never meant to be a permanent fixture of the landscape. PROMESA and the FOMB are an imperfect political solution to what was, back then, an admittedly difficult emergency. As Puerto Rico finishes restructuring its debt and stabilizing its fiscal situation, it is time to start thinking seriously about winding down the operations of the Oversight Board.

We thank the Chairman and the Committee once again for the opportunity to participate in this important public policy debate, hope this testimony is useful for the Committee's work, and look forward to answering any questions that Committee Members may deem appropriate.

Respectfully submitted,

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