

NEW YORK CITY BAR

TASK FORCE ON PUERTO RICO

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Via Email (comments@oversightboard.pr.gov)

Jaime A. El Koury
General Counsel
Financial Oversight and
Management Board of Puerto Rico

Re: Certification of a Fiscal Plan for Puerto Rico

Dear Mr. El Koury:

In October 2016, the New York City Bar Association¹ formed a Task Force on Puerto Rico ("NYC Bar Task Force") to monitor and comment on, as appropriate, the actions of various stakeholders in connection with Puerto Rico's current fiscal crisis.² The Task Force has been following public communications between the Fiscal Oversight and Management Board for Puerto Rico (the "Board") and the Government of Puerto Rico.

¹ Founded in 1870, the New York City Bar Association (the "City Bar") is a voluntary association of lawyers and law students with over 24,000 members. The City Bar regularly reviews, and sometimes addresses, complex legal issues that transcend the boundaries of New York City, especially where such issues bear a robust nexus to New York City. The tradition of Puerto Ricans in New York City is long, proud and ongoing—around three-quarters of a million of New York City residents are of Puerto Rican heritage. Many of those New Yorkers (and others who are not of Puerto Rican descent) have loved ones who continue to live on the Island. Moreover, a number of individuals and financial institutions based in New York City have made significant financial investments in Puerto Rico and its instrumentalities.

² The NYC Bar Task Force is chaired by Roger Juan Maldonado. Its other members are currently Neysa Alsina, Rick Antonoff, Patricia Aragones, Natasha Bannan, Luke Barefoot, Jonathan Flaxer, Jonathan Goldin, Jonathan Park, Edgar Rivera, Walsy Saez, Claudio Salas and Thomas Slome. The following City Bar Committees are represented on the NYC Bar Task Force: Bankruptcy and Corporate Reorganization, Executive, Inter-American Affairs, International Human Rights and International Law.

The NYC Bar Task Force was heartened by the Board's decision to extend until February 28, 2017 the time by which the new Governor of Puerto Rico was afforded to submit a proposed Fiscal Plan for the Board's consideration. We write now to urge that the Board extend beyond March 15, 2017 the time by which it will make its determination on certification of the Fiscal Plan submitted on February 28th, so that various stakeholders and other interested parties have sufficient time

(a) to review the proposed Fiscal Plan; and

(b) to submit to the Board their views on the Fiscal Plan, or any of its provisions, and its implications for the future of Puerto Rico, its residents³ and its investors. Taking the time to develop a meaningful understanding of the views of interested parties will benefit the Board in connection with its consideration of the Fiscal Plan and the Board and the Governor in connection with any revised Fiscal Plan under Section 201(d) of the Puerto Rico Oversight, Management and Economic Stability Act ("PROMESA").

The NYC Bar Task Force applauds the efforts of the Governor, the Board and certain stakeholders to reach consensual agreements pursuant to Title VI of PROMESA, but also recognizes that the challenge of competing interests and limited resources may well result in the Board commencing one or more proceedings under Title III of PROMESA. In the event of such proceedings, a Plan of Adjustment filed by the Board pursuant to Section 312(a) of PROMESA must be confirmed by the United States District Court for the District of Puerto Rico if, among other factors, it is consistent with the Fiscal Plan certified by the Board. *See* PROMESA Section 314(b) (7) (The District Court "shall confirm the plan" upon certain conditions, including a determination that "the plan is consistent with the applicable Fiscal Plan certified by the Oversight Board ..."); *see also id.* Section 104(j) (3) ("The Oversight Board may certify a Plan of Adjustment only if it determines, in its sole discretion, that it is consistent with the applicable certified Fiscal Plan"). Thus, certification is a step of great significance in the process contemplated by PROMESA, and modifying the Fiscal Plan thereafter may prove impracticable.

The NYC Bar Task Force, therefore, urges the Board to consider certification of the February 28, 2017 proposed Fiscal Plan only after stakeholders and interested parties are given a meaningful opportunity to review it and share comments. The views of all interested parties should be considered, including, but not limited to, creditors; social service providers; government and municipal representatives, employees and retirees; students and educators; members of the business, industrial and professional services communities; private citizens and residents.

³ These residents include individuals who would be impacted significantly by the reductions in funds available to pensions, healthcare services, the University of Puerto Rico and municipalities, as currently proposed in the Fiscal Plan.

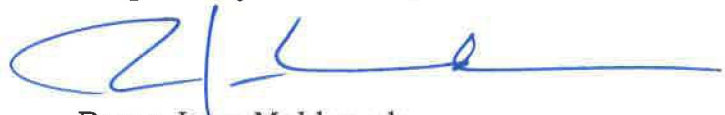
The NYC Bar Task Force also supports the Governor's request made in his February 28, 2017 Fiscal Plan for the Board to submit to the President and Congress of the United States a report recommending an amendment to PROMESA to extend until December 31, 2017 the stay imposed under Section 405(b) of PROMESA. Such an extension would provide all interested parties, including the Board, the opportunity to consider the audited financials for Fiscal Years 2015 and 2016 that should be issued later this year in determining (a) how to structure any voluntary agreements under Title VI of PROMESA; and/or (b) whether the Board must commence one or more proceedings under Title III of PROMESA.

Accordingly, the NYC Bar Task Force respectfully submits that the Board should

- (a) extend beyond March 15, 2017 the certification deadline;
- (b) convene open hearings and/or request public comment, giving all interested parties an opportunity to be heard;
- (c) give serious consideration to the testimony and/or written statements received; and
- (d) submit to the President and Congress a report recommending an amendment to PROMESA to extend until December 31, 2017 the stay imposed under Section 405(b).

The NYC Bar Task Force would welcome the opportunity to discuss with you in person our recommendations presented in this letter and your views on the vital work to be performed by the Board in the months and years to come. Please contact me at (212) 907-9741 or rmaldonado@sgrlaw.com if you are amenable to such a meeting.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'R. Maldonado', with a long horizontal flourish extending to the right.

Roger Juan Maldonado
Chair
New York City Bar Association
Task Force on Puerto Rico