

FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO



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Executive Director

BY ELECTRONIC MAIL

April 6, 2020

The Honorable Francisco Parés-Alicea
Secretary
Department of the Treasury
Government of Puerto Rico

Dear Secretary Parés-Alicea:

The Oversight Board writes in response to your request to authorize the one-time use of \$400 million in Commonwealth funds to advance payments, so that you can quickly comply with and implement a critical element of federal legislation, the CARES Act, which was recently signed into law.

Specifically, one significant aspect of the \$2 trillion CARES Act (Section 6148) provides that millions of U.S. citizens, including those who live in Puerto Rico, will receive cash transfers in the form of Recovery Rebates to help them manage and respond to these challenging times. Because Puerto Rico maintains its own separate tax regime, however, the funds for the Recovery Rebates, among other tax incentives and tax credits in the CARES Act, will be routed from the U.S. Treasury to the Puerto Rico Department of Treasury (“Hacienda”) in accordance with a distribution plan that must be developed by Hacienda and approved by the U.S. Secretary of the Treasury. Subject to the provisions of the law in Section 6428(C)(1)(B), the amount of Recovery Rebates transferred under the distribution plan must be an amount estimated by the U.S. Secretary of the Treasury to be equal to the aggregate benefits that would have been provided to residents of Puerto Rico if a mirror tax system had been in effect. Such treatment will not apply until Puerto Rico has an approved distribution plan under which the Commonwealth demonstrates it will promptly distribute payments to qualifying residents.

The development and approval of the distribution plan, while underway, and the subsequent funding of Recovery Rebates from the U.S. Treasury, may take several weeks. Accordingly, to avoid delays in distributing these much needed funds, Hacienda is asking the Oversight Board to approve its request to expedite the process by using Commonwealth funds as a source of Recovery Rebate funding once the distribution plan is ratified until such time as the federal funds from the approved distribution plan arrives. It is Hacienda’s expectation that any use of Commonwealth

funds will be reimbursable in their entirety with federal monies because they represent only a portion of the expected distribution of funds under the CARES Act.

The members of the Oversight Board have considered this request and after intense discussion and reflection have decided to approve it. This approval pertains exclusively to the \$400 million requested. This approval should not be seen as precedential, but indeed exceptional. Two aspects of the request are the most important and are what led the Oversight Board to consent to it on a onetime basis.

The first aspect is that the CARES Act itself, as well as Hacienda's direct discussions with the U.S. Treasury, give the Board confidence that Hacienda will eventually receive the federal funds needed to pay Recovery Rebates to residents of Puerto Rico. Specifically, Section 6428(A) of the law indicates eligible individuals will receive \$1,200 per person (\$2,400 in the case of individuals filing jointly), plus \$500 per qualifying child, subject to income phase out limitations. Puerto Rico estimates that the Commonwealth has more than 868,000 current tax filers as well as many more non-tax filers, both of whom will be eligible for Recovery Rebates. Consequently, once the distribution plan is approved by the U.S. Secretary of the Treasury, it is credible to believe Puerto Rico will ultimately receive an amount of Recovery Rebate funds from the U.S. Treasury well in excess of the \$400 million requested by Hacienda. The clear representation that Hacienda will receive more than \$400 million from the federal government, and that any payments made in advance of receipt of those funds would be eligible for reimbursement, is a powerful reason that the Oversight Board relied upon in concluding to approve the cash-advance request. The Oversight Board also understands Hacienda will not release any Recovery Rebate payments to residents until after the distribution plan is approved by the U.S. Secretary of the Treasury, further minimizing any risk these funds would not be eligible for reimbursement.

The second aspect is that the people of Puerto Rico critically depend on robust, committed work from public and private agencies when attempting to manage and respond to the coronavirus. The Oversight Board agrees with this approach and supports the Government of Puerto Rico's efforts to expeditiously direct available federal funds under the CARES Act to the people of Puerto Rico, to promote their health and mitigate the economic damage resulting from the pandemic. The federal funds must be seen as the core fiscal response to the pandemic, while Puerto Rico prudently supports those efforts on the ground. In the last month, the Oversight Board has made every effort to improve the ability and means by which the Government serves the people of Puerto Rico in response to the coronavirus pandemic. The Oversight Board has approved almost \$1 billion in funds which came from the Emergency Reserve Fund, a reappropriation from the General Fund, available assets from previous federal funds, and a forecast of additional revenues for the General Fund. This work has been deeply challenging but the Oversight Board has made it a priority to respond to the impact the coronavirus is having on the lives of people in Puerto Rico. The mission to distribute these particular funds made available by the CARES Act as quickly as possible fits within the clear goals of the Government and the Oversight Board to improve and accelerate the coronavirus response work by the Government.

These two aspects, the requirement in Section 6428(C)(1)(B) for the federal government to fund Recovery Rebates to individuals in Puerto Rico once the distribution plan is approved by the U.S. Secretary of the Treasury, and the strong desire of the Government to make these funds available

The Honorable Francisco Parés-Alicea

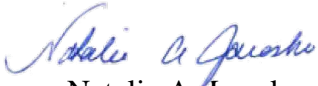
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as prudently as possible, are essential to the Oversight Board's approval. But for these critical factors, the Oversight Board would have a tremendously difficult time approving such a request. Because of these two considerations, the Oversight Board voted in favor of approving the Hacienda cash advance policy utilizing up to \$400 million.

The Oversight Board looks forward to working with you to accomplish the requirements and goals of PROMESA for the benefit of the people of Puerto Rico.

Sincerely,



Natalie A. Jaresko

CC: The Honorable Wanda Vázquez Garced
Mr. Omar Marrero Díaz