

**FINANCIAL OVERSIGHT AND MANAGEMENT BOARD
FOR PUERTO RICO**



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BY ELECTRONIC MAIL

June 17, 2020

The Honorable Wanda Vázquez Garced
Governor of Puerto Rico

The Honorable Thomas Rivera Schatz
President of the Senate of Puerto Rico

The Honorable Carlos J. Méndez Núñez
Speaker of the House of Representatives of Puerto Rico

Dear Governor Vázquez Garced, President Rivera Schatz, Speaker Méndez Núñez:

We have become aware that House Joint Resolution 733 (“HJR 733”) was recently approved by the House of Representatives. HJR 733 proposes to reprogram \$1.3 million to the House of Representatives for operational expenses from funds assigned between 2007 and 2016.¹

This proposed bill, on its face, reprograms funds from prior fiscal years appropriations. The Title III court and the First Circuit have been clear: Section 204(c) prohibits, among other things, the Government from reprogramming funds from prior fiscal year budgets. *In re Fin. Oversight & Mgmt. Bd. for Puerto Rico*, 330 F. Supp. 3d 685, 704 (D.P.R. 2018), *aff’d and remanded*, 945 F.3d 3 (1st Cir. 2019) (“the exclusive scope of a certified budget ... does not make any other resources available for reprogramming.”); *see also In re Fin. Oversight & Mgmt. Bd. for Puerto Rico*, 945 F.3d 3, 8 (1st Cir. 2019) (“PROMESA prohibits the Governor from spending any funds that are not budgeted regardless of whether the recommendation had been adopted.”). Any proposed spending outside the Fiscal Plan necessarily jeopardizes the efficacy of the Fiscal Plan and is prohibited until the Oversight Board provides the Legislature with an analysis that certifies such reprogramming will not be inconsistent with the Fiscal Plan and Budget.

The current Fiscal Plan and Budget do not provide for the expenditure contemplated in HJR 733, and therefore HJR 733 is significantly inconsistent with the Fiscal Plan and Budget. Furthermore,

¹ HJR 733 specifically reprograms funds from Act 157-2007, Act 119-2010, Act 70-2015, Act 5-2016 and Joint Resolution 54-2011

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the Oversight Board does not consent to the extra-budgetary spending in the manner described in HJR 733.


Section 204(c)(2) of PROMESA states that “[t]he Legislature shall not adopt a reprogramming, and no officer or employee of the territorial government may carry out any reprogramming, until the Oversight Board has provided the Legislature with an analysis that certifies such reprogramming will not be inconsistent with the Fiscal Plan and Budget.” The Oversight Board has not received a request to analyze and/or certify the reprogramming of funds contemplated in HJR 733 and has not provided any analysis or certification to the Legislature. Therefore, the Legislature is prohibited, by PROMESA, from adopting HJR 733 and no officer or employee may carry out the reprogramming provided in HJR 733.

Pursuant to PROMESA Section 108(a)(2), the Governor and Legislature are each enjoined from, among other things, enacting, implementing, or enforcing any resolution that impairs or defeats the purposes of PROMESA, as determined by the Oversight Board. To avoid any misunderstanding, please be advised the Oversight Board has determined the enactment, implementation, and/or enforcement of HJR 733 impairs and defeats the purposes of PROMESA.

As the Oversight Board has determined that the Government has failed to comply with Section 204(c)(1), and that HJR 733 impairs and defeats the purposes of PROMESA, it reserves the right to take such actions as it deems necessary, consistent with Sections 104(k), 108(a) and 204(c)(2), including seeking remedies to prevent the enactment, implementation, and enforcement of HJR 733, to recover appropriate damages, and for remedies against individuals who carry out HJR 733.

We look forward to continuing to work together for the benefit of the people of Puerto Rico.

Sincerely,


Natalie A. Jaresko

CC. Mr. Omar Marrero Díaz