Puerto Rico’s Public Debts: Accumulation and Restructuring

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Puerto Rico’s public debts totaled just over $70 billion when the Puerto Rico Oversight, Management, and Economic Stability Act (P.L. 114-187; PROMESA) became law on June 30, 2016. Most of those debts are now in the midst of perhaps the largest restructuring of public debt in U.S. history. By way of comparison, the City of Detroit owed about $18 billion when it entered bankruptcy in 2013. Puerto Rico’s debt restructuring has been one of the most expensive ever, with professional fees projected to exceed $1 billion.

PROMESA created two paths for debt restructuring and established a Financial Oversight and Management Board (FOMB; Oversight Board). Title III established a debt restructuring process that draws on the Bankruptcy Code. Title VI set up a debt restructuring process similar to some sovereign debt procedures. U.S. District Court Judge Laura Taylor Swain was chosen to preside over Title III cases. PROMESA conditioned the Oversight Board’s termination on Puerto Rico’s ability to access “short-term and long-term credit markets at reasonable interest rates.” The Oversight Board, after delays due to Hurricanes Irma and María in September 2017, led efforts to restructure the island’s public debts through litigation and negotiations with the Puerto Rican government, hedge funds, bond insurers, and others.

Puerto Rico’s public debts fall into four categories: general obligation (GO) bonds and other debt payable through the main Treasury accounts of the Commonwealth of Puerto Rico (CPR, the island’s central government); sales-tax-backed debt known by its Spanish acronym COFINA and other revenue bonds; debt of public corporations such as the Puerto Rico Electric Power Authority (PREPA); and debt issued by local governments (municipios) and other smaller entities. In February 2019, the Title III court confirmed the COFINA debt restructuring. Bonds with a par value of $17.6 billion were then exchanged for $12 billion in new bonds.

After several postponements in proceedings to restructure debts of the island’s central government, in early February 2021 the Oversight Board announced an agreement with “certain bondholders” to restructure GO and related debts. The Board filed the corresponding amended plan with the Title III court on March 8, 2021. As 2021 progressed, several key creditor groups agreed to support the plan. Compromises with the Commonwealth government and legislature led to enactment of legislation to enable issuance of new debt securities and changes in how public pensions would be treated. On August 2, 2021, the Title III court approved a disclosure statement and scheduled hearings on confirmation of the plan. On January 18, 2022, the court confirmed a plan of adjustment to restructure debts of the Commonwealth of Puerto Rico and certain closely linked public authorities, as well as pension plans for teachers, public employees, and judges. That confirmation resolves various legal disputes. On March 15, 2022, the plan was consummated. Recovery ratios vary by debt class, although for older GO bonds recovery rates were estimated to reach as high as 95%. Attention now shifts to addressing debts of PREPA, the island’s troubled electric power utility.

This report outlines the accumulation of the island’s public debts and how they are being restructured. Puerto Rico has faced a series of fiscal challenges since its postwar economic development strategy of industrialization faltered in the early 1970s, including acute budget crises in 2006-2007 and 2013-2016. The island’s lack of access to a means to restructure its debts led to PROMESA’s enactment. This report focuses on the largest parts of the island’s public debt. For brevity’s sake, it discusses restructuring of debts issued by PREPA, the Highways and Transportation Authority (HTA), and smaller public corporations only in passing. The Puerto Rico Aqueduct and Sewer Authority’s (PRASA’s) relatively stronger finances have kept it from having to restructure its bonds. On May 11, 2021, the Oversight Board affirmed its support for a restructuring plan for PREPA, which had been delayed because of the COVID-19 pandemic, among other disruptions.

Hedge funds, which generally tolerate more financial risk than many traditional investors, have played prominent roles in Puerto Rico’s debt restructuring. As default risks on Puerto Rican public debt became evident, many mutual funds reduced their holdings, allowing some hedge funds to increase theirs. In spring 2020, some accused hedge funds of trading on private information obtained through confidential Title III negotiations. In June 2020, Judge Swain required parties to disclose more about their holdings. Some called for investigations of alleged trading on nonpublic information obtained in debt negotiations. Legislation was introduced during the 116th Congress (e.g., H.R. 6975, H.R. 683, S. 1675) to amend PROMESA in ways that could affect debt restructuring processes. A measure (P.L. 117-82) mandating professionals working on the island’s debt restructuring to make certain disclosures was signed into law in January 2022. Appendices to this report list...
Puerto Rico’s pre-PROMESA public debts, analyze the evolution of bond prices and trading volumes during the restructuring process, set out a chronology of selected events, and provide a glossary of abbreviations in English and Spanish.
Contents

Introduction ................................................................................................................................. 1
The Long Build-Up to Puerto Rico’s Debt Crisis ............................................................... 3
   Postwar Development Strategy Made Puerto Rico a Model ........................................... 3
   The 2006 Budgetary Crisis ................................................................................................. 5
   Tax-Backed COFINA Bonds Provided Stop-Gap Financing ......................................... 5
   Experiences with Pension Obligation Bonds ................................................................... 6
2013-2015: Fiscal Pressures Intensify ................................................................................. 7
   Last GO Bonds Sold Directly to Hedge Funds in March 2014 .................................... 8
   Federal Courts Strike Down Local Bankruptcy Law ...................................................... 9
   Governor García Padilla Calls Debt “Unpayable,” Declares Fiscal Emergency .......... 10
Predefault Structure of Puerto Rico’s Public Debts ............................................................ 11
   Government Development Bank as Fiscal Agent and Financial Advisor .................. 11
   Categories of Public Debt ................................................................................................. 12
   Public Debt and the Puerto Rico Constitution ............................................................... 14
PROMESA Enacted in 2016 to Address the Crisis ............................................................. 15
   Oversight Board Appointments and Organization ....................................................... 15
   PROMESA Established Two Paths to Restructure Debt ............................................. 16
Restructuring COFINA and GO Bonds .............................................................................. 17
   New Governor Inaugurated in January 2017 ............................................................... 19
   Oversight Board Files PROMESA Title III Petitions in May 2017 ......................... 19
   Hurricanes Irma and Maria Hit Puerto Rico in September 2017 ............................... 20
   Settling the COFINA/GO Dispute ................................................................................. 21
      Oversight Board, Title III Court Move to Wrap Up COFINA Restructuring .......... 24
      Court Approves Restructuring and Bond Exchange in February 2019 .................. 24
   Concerns over COFINA Settlement and Ethical Conflicts ........................................ 24
Board Pivots to GO Restructuring in 2019 ..................................................................... 26
   2020: Oversight Board, Hedge Funds Negotiate Over GO Bonds ......................... 26
   Accusations of Insider Trading in the GO Restructuring Process ............................... 27
      Calls for Investigations of Alleged Insider Trading .................................................. 28
   Restructuring on Hold in 2020 ....................................................................................... 29
   Oversight Board Announces Revised GO PSA in February 2021 .......................... 29
   Further Negotiations with Bond Insurers and Other Creditors ................................. 31
      Apparently Conflicting Claims on Recovery Rates .................................................. 33
Market Perspectives on Debt Restructuring ..................................................................... 33
What Can Puerto Rico Afford to Pay? ............................................................................. 37
   Puerto Rico’s Economy Expected to Shrink ................................................................. 37
   Revenue Growth and Tax Policy .................................................................................... 40
   Comparison with Heavily Indebted States .................................................................... 41
Issues for Congress .............................................................................................................. 41
   Federalism and Municipal Debt Markets ..................................................................... 41
   Federal Policies and Municipal Debt Structures .......................................................... 43
   Ultra-Long-Term and Exotic Debt ................................................................................... 44
      Bankruptcy Procedures, Disclosure, and Potential Conflicts of Interest ................. 45
   An Audit of Puerto Rico’s Public Debt ............................................................................ 47
   Constitutional Restraints May Be an Ineffective Substitute for Prudent Budgeting .... 48
Figures
Figure 1. Puerto Rico’s Public Debt, 1960-2017.............................................................. 4
Figure 2. Puerto Rico’s Public Debt as of July 31, 2016, in $Bllions.................................. 13
Figure 3. COFINA Holdings of Senior COFINA Bondholders Coalition........................... 22
Figure 4. Price Trends for Selected Puerto Rico Bonds: January 2013-February 2022........ 35
Figure 5. Projected Puerto Rican and U.S. Economic Growth Rates, 2020-2025 ................. 38

Figure B-1. Trading Volumes for COFINA Bonds, 2016-2019........................................ 53
Figure B-2. Price Trends and Trading Volumes for Selected GO Bonds, 2018-2022........... 56
Figure B-3. Selected Puerto Rico Building Authority Bond Price Trends and Trading
Volumes, 2018-2020........................................................................................................... 58

Tables
Table 1. Comparison of February 2021 PSA and October 2020 Board Proposal.................... 30
Table A-1. Puerto Rico’s Public Debt As of July 31, 2016, in $ Millions................................. 50
Table B-1. No-Trade Periods According to Sculptor Capital............................................. 55
Table C-1. Selected Chronology of Puerto Rico’s Debt Restructuring................................. 60
Table D-1. Table of Common Acronyms............................................................................. 63

Appendixes
Appendix A. Details of Puerto Rico’s Public Debt............................................................... 50
Appendix B. Price Trends and Trading Volumes for Selected Bonds.................................. 52
Appendix C. Chronology of Selected Events..................................................................... 60
Appendix D. Table of Common Acronyms......................................................................... 63

Contacts
Author Information........................................................................................................... 64
Introduction

Puerto Rico’s public debts, which totaled just over $70 billion when the Puerto Rico Oversight, Management, and Economic Stability Act (P.L. 114-187; PROMESA) became law on June 30, 2016, are now in the midst of one of the largest restructurings of public debt in U.S. history. Puerto Rico’s fiscal troubles fell under national scrutiny during summer 2013, after the City of Detroit’s bankruptcy filing reminded investors that municipal bonds are not risk free, and after the financial press noted the precarious state of Puerto Rico’s public finances.1 The City of Detroit, by way of comparison, had about $18 billion in debt when it entered bankruptcy in 2013.2 Puerto Rico’s public debts, which in 2016 totaled over $70 billion before including unfunded pension liabilities, were about four times larger than that sum. Puerto Rico could also become one of the most expensive restructurings ever, with professional fees that might exceed $1.4 billion.3

PROMESA, among other provisions, created two paths for debt restructuring: one that draws on the Bankruptcy Code and another that is similar to some sovereign debt procedures. It also established a Financial Oversight and Management Board (FOMB; Oversight Board) and empowered it to represent the Puerto Rican government in those debt restructuring processes. Those processes have included extensive litigation and negotiations with the Puerto Rican government, hedge funds, bond insurers, and other creditors. The restructuring of Puerto Rico’s public debts, some contend, could inform future federal responses to fiscal strains faced by some state and local governments.4

Disputes over the relative priority of general obligation (GO) debt claims and claims of sales-and-use-tax-backed debt were a central point of contention in the debt restructuring process. The Oversight Board decided to first restructure the sales-tax-backed bonds—known as COFINA bonds after their Spanish acronym.5 After delays due to gubernatorial turnover in January 2017 and the destruction caused by Hurricanes Irma and Maria in September 2017, in August 2018 the Oversight Board reached an agreement with COFINA bondholders on a split of sales tax revenues between COFINA debt service and Puerto Rico’s central government, the Commonwealth of Puerto Rico (CPR). On February 4, 2019, a federal district court judge confirmed a plan based on that agreement, clearing the way to a restructuring of Puerto Rico’s COFINA debt. At that time,

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5 COFINA is the Corporación del Fondo de Interés Apremiante de Puerto Rico. Appendix D lists commonly used abbreviations and acronyms.
COFINA bonds represented nearly one-quarter of the island’s outstanding public debt. Bonds with a par value of $17.6 billion were then exchanged for $12 billion in new bonds.

On February 23, 2021, the Oversight Board pivoted toward restructuring the island’s GO bonds and certain other central government debts by announcing an agreement with “certain bondholders” on a revised restructuring plan. The Board filed a disclosure statement describing the amended plan of adjustment with the Title III court on March 8, 2021. After a series of hearings on the adequacy of plan disclosures in July 2021, on August 2, 2021, the Title III court approved a disclosure statement and scheduled hearings on confirmation of the plan.

As 2021 progressed, several key creditor groups came to support the plan once modifications had been agreed to in negotiations. Compromises with the Commonwealth government and legislature led to enactment of legislation to enable issuance of new debt securities and some changes in public pensions. On January 18, 2022, the Title III court confirmed the plan of adjustment to restructure debts of the Commonwealth of Puerto Rico and certain closely linked public authorities, as well as modified pension plans for teachers, public employees, and judges.

The confirmation resolves various legal disputes, albeit subject to appeals. That plan of adjustment was consummated on March 15, 2022. A later section of this report discusses events that led to the confirmation order in more detail.

PROMESA conditions the Oversight Board’s termination on Puerto Rico’s ability to access “short-term and long-term credit markets at reasonable interest rates.” Finishing the restructuring of the island’s debts into a fiscally sustainable form is a likely prerequisite to that access.

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15 PROMESA §209 also requires implementation of modified accrual accounting standards and balanced budgets.
This report outlines the accumulation of Puerto Rico’s debt and the restructuring of the island’s public debt through processes established by PROMESA. Acute fiscal crises in 2006-2007 and 2013-2016 resulted in debt levels that could neither be sustained nor addressed through the Bankruptcy Code, which led to PROMESA’s enactment.

This report focuses on the largest portions of the island’s public debt. For brevity’s sake, it omits discussion of pensions and the restructuring of public corporations, such as the Puerto Rico Electric Power Authority (PREPA)\(^\text{16}\), the Highways and Transportation Authority (HTA), and smaller entities. Also, the Puerto Rico Aqueduct and Sewer Authority’s (PRASA’s) somewhat stronger financial position has enabled it to avoid the need to seek a restructuring of its bonds.\(^\text{17}\)

The report’s Appendices include a summary of the structure of Puerto Rico’s pre-restructuring public debts, an analysis of the evolution of prices and trading volumes of selected bonds during the restructuring process, a chronology of selected events, and a glossary of abbreviations in English and Spanish.

### The Long Build-Up to Puerto Rico’s Debt Crisis

Over the past few decades, Puerto Rico’s government has struggled to collect sufficient revenues to cover outlays, which led to rising public debt levels and growing unfunded pension liabilities.\(^\text{18}\)

#### Postwar Development Strategy Made Puerto Rico a Model

From the onset of World War II in 1939 until the 1973 energy crisis, Puerto Rico had been put forth as a model for economic development through industrialization supported by generous tax incentives.\(^\text{19}\) That energy crisis, along with broader changes in the global economy including heightened trade competition from middle-income countries, brought Puerto Rico’s postwar era of rapid economic progress to an end.\(^\text{20}\)

During the 20\(^{th}\) century, Puerto Rico closed much of the gap with the mainland in per capita income, literacy, and health status.\(^\text{21}\) Nonetheless, by the 1970s Puerto Rico was still far poorer, in terms of median household income, than the poorest mainland state. Since then, that income gap has narrowed more slowly.\(^\text{22}\) Despite the economic slowdown in the 1970s, public debt levels

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\(^{16}\) On May 11, 2021, the Oversight Board affirmed its support for a restructuring plan for PREPA, which had been delayed because of the COVID-19 pandemic, among other disruptions. Oversight Board, *Status Report*, May 11, 2021, https://cases.primeclerk.com/puertorico/Home-DownloadPDF?id1=MTAxMzMxNg==&id2=0.


\(^{18}\) For more information, see CRS Report R44095, *Puerto Rico’s Current Fiscal Challenges*, by D. Andrew Austin.


\(^{22}\) The 1990 Census found Puerto Rico’s median household income was 44% of Mississippi’s and 30% of the U.S.
remained nearly steady before increasing in the mid-1980s, as shown in Figure 1. By 2014, the island’s public debt reached a level roughly equivalent to its gross national product (GNP).23

**Figure 1. Puerto Rico’s Public Debt, 1960-2017**

In billions of constant (FY2017) dollars


Notes: Data represent gross public debt of Puerto Rico as of June 30 of each year, provided by the Government Development Bank of Puerto Rico. Figures for 1989 and 2014 were preliminary estimates. HTA and the University of Puerto Rico are included in the Commonwealth Government subtotal. The U.S. GDP price index is used to adjust levels for inflation. Recent Apéndices Estadístico omit debt data.

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Public corporations, which provide electricity, water, transportation, and other publicly provided services, accounted for much of that accumulation of debt. Puerto Rico’s central government, whose budgets were considered separate from its public corporations, kept revenues and outlays roughly in balance until 2000, when outlays began to consistently outpace revenues.\(^{24}\)

### The 2006 Budgetary Crisis

In 2006, the Puerto Rican legislature and then-Governor Aníbal Acevedo Vilá reached an impasse on a budget and how to address looming fiscal challenges. By late 2006, after credit rating agencies downgraded the island’s GO bonds nearly to junk status, island officials and their financial advisors soon came to view bonds backed by sales tax revenues as one way to manage fiscal challenges.

### Tax-Backed COFINA Bonds Provided Stop-Gap Financing

Seeking to pay off old debts incurred without a clear means of repayment, the island’s legislature and governor enacted measures in the second half of 2006 that set up a securitization of a new 5.5\% sales and use tax, which replaced an excise tax.\(^{25}\) The tax-backed bonds were able to obtain a high credit rating, and thus could be issued with a lower yield, reducing debt service costs to the Puerto Rican government.

COFINA was established as a public corporation controlled by the Government Development Bank (GDB) to issue bonds backed by half of the proceeds of the new tax, which were divided between senior bonds carrying stronger investor protections and junior (subordinate) bonds. COFINA provided funds to the Puerto Rican government and helped service its debts, but its proceeds were not tied to infrastructure projects. Instead, funds covered past debts and continuing operating budget deficits—a process termed “scoop and toss.”\(^{26}\) The legal status of COFINA and its relation to fiscal provisions in the Puerto Rican Constitution later became a central point of contention in debt restructuring litigation and negotiations, as subsequent sections will discuss.

As the Great Recession of 2007-2009 strained Puerto Rico’s economy and public finances, more COFINA bonds were issued. Those bonds were viewed as a more favorable financing option because they carried better credit ratings than CPR GO debt and thus could be issued with a lower yield. The last COFINA bonds were issued in 2011.\(^{27}\) From 2009 through 2011, former Oversight Board member Carlos García held senior posts in GDB, including serving as its president. From 2001 through 2006, García worked at Banco Santander, which helped place Puerto Rico’s pension bonds and which accumulated large holdings of COFINA bonds.\(^{28}\)


\(^{27}\) Kobre & Kim LLP, *Final Investigative Report*, August 20, 2018, pp. 179-188.

Experiences with Pension Obligation Bonds

The Great Recession and ongoing budgetary pressures also affected Puerto Rico’s three public pension systems, which had been severely underfunded. Unfunded obligations of Puerto Rico’s public pension systems were estimated at over $40 billion in 2016. Many beneficiaries of Puerto Rico’s public pensions were ineligible for the federal Social Security program, leaving them dependent on systems with few remaining assets and uncertain financial prospects.

In 2006, Merrill Lynch advisors suggested that the Puerto Rico Employee Retirement System (ERS) and Merrill Lynch issue at least $7 billion in pension obligation bonds (POBs). Merrill Lynch was unable to place those bonds with investors because the bonds were ineligible for a federal tax exemption.

Other jurisdictions have issued POBs in the hope that returns on investments funded by bond proceeds would cover principal and interest payments plus the forgone investment earnings that could have been made using contributions pledged to back the bonds—an approach known as an arbitrage strategy. That strategy might conceivably reduce unfunded pension liabilities were investment yields sufficiently high, if fees and other costs were low, and if bond proceeds were not diverted to cover other liabilities. Low yields or losses would expand pension liabilities.

In 2008, UBS (Union Bank of Switzerland)—which had also advised island officials on the structure of the bonds—underwrote three rounds of POBs. UBS’s own proprietary funds—largely closed-end mutual funds marketed to Puerto Rico residents—bought 41% of the first POB issue, 89% of the second issue, and 38% of the third. Santander and Banco Popular, two of the largest banks in Puerto Rico, apparently bought nearly all of the remaining bonds in the second issue.

The Puerto Rico POBs incurred substantial losses and raised serious questions regarding the judgement of ERS board members, the island government’s financial advisors, and investment banks involved in implementing the bond sales. A 2010 analysis of the ERS POBs’ issuance by financial analysis firm Conway MacKenzie was sharply critical of responsible officials. The underlying bonds’ poor performance and the use of leverage resulted in substantial losses for retail investors who held those UBS mutual funds. A Puerto Rico subsidiary of UBS agreed to pay $34 million to settle claims regarding marketing of its closed-end bond funds with the U.S. Securities and Exchange Commission (SEC) and the Financial Industry Regulatory Authority (FINRA) in September 2015. One UBS financial advisor pleaded guilty to criminal fraud charges in November 2018.

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29 See Kobre & Kim, Final Investigative Report, August 20, 2018, Part VII.
Bonds and Municipal Finance

State and local governments borrow to finance schools, streets, sewers, and other public infrastructure projects, or to support certain private projects, as well as to close short-term gaps between public revenues and outlays. U.S. state and local borrowing totaled over $3 trillion in mid-2020. Municipal securities, such as bonds and notes, are generally exempt from federal taxes. Most states exempt their own securities from tax, though fewer exempt those of other states. Bonds issued by Puerto Rico, with some exceptions, offer a triple exemption from taxes—that is, exempt from federal, state, and local taxes—that made them attractive to municipal mutual fund managers and to high-income households.

Municipal securities offered on the U.S. mainland are subject to SEC regulation, though securities issued by investment companies based in U.S. territories are not covered by the 1940 Investment Company Act (ICA; P.L. 76-768). Municipal—or muni—securities mostly fall into two broad categories. General obligation (GO) bonds are typically backed by a government’s pledge of “full faith and credit,” backed by the power to tax. Revenue bonds, often issued by public utilities, public corporations, or semi-independent authorities, can be backed by specific cash flows from a project or source—such as sales of water or electric power, sewer charges, or highway tolls—or by a broadly applied tax. Revenue bonds, while tied to narrower income streams than GO debt, can qualify for certain investor protections.

Default rates for muni securities historically have been well below rates for corporate debt, although municipal default rates have risen in the past two decades. The credit rating agency Moody’s found that over a 10-year period (2008-2017) almost 10% of corporate issuances defaulted, but less than 0.5% of municipal issuances did. Major defaults in recent decades include a mismanaged nuclear power project in Washington State, Orange County in Southern California, and the City of Detroit. Arkansas was in default in the 1930s, and several states and the Territory of Florida defaulted or repudiated debts in the 19th century.

2013-2015: Fiscal Pressures Intensify

The island’s fiscal condition began to raise widespread concerns in financial markets and among policymakers in mid-2013, after Detroit filed for municipal bankruptcy and a business magazine...


34 Federal Reserve System Board of Governors, “State and Local Governments; Debt Securities and Loans; Liability, Level [SLGSDODNS],” https://fred.stlouisfed.org/series/SLGSDODNS.

35 The exemption was included in the 1917 Jones Act (P.L. 64-368) and is codified as 48 U.S.C. §745. Employee Retirement System (ERS) bonds, for example, did not qualify for certain mainland tax exemptions. See Kobre & Kim LLP, Final Investigative Report, August 20, 2018, https://drive.google.com/file/d/19-lauVo3w9MP50xYVe0SWhQIn-Q6FEI/view, p. 338.

36 P.L. 115-174 §506, enacted in May 2018, set a three-year phaseout period for that exemption, which the SEC can extend for another three years.


criticized Puerto Rico’s fiscal condition. Then-Governor Alejandro García Padilla, who was inaugurated in January 2013, hired a team of debt restructuring advisors in early 2014.

 Ratings on the island’s public debt—which had reached a level roughly equivalent to the island’s gross national product (GNP)—were downgraded in February 2014. Following enactment of a local bankruptcy law, another round of downgrades put several of the debt ratings for the island’s public corporations below investment grade. Ratings for COFINA and GO bonds were also downgraded. The downgrades and the state of Puerto Rico’s public finances ended the island’s access to capital markets.

**Last GO Bonds Sold Directly to Hedge Funds in March 2014**

Lacking access to normal channels of municipal finance, the island’s government issued $3.5 billion in GO bonds to a syndicate of hedge funds in March 2014—a month after the credit ratings on the island’s GO bonds had been downgraded to junk status. The bonds carried an 8.6% yield, well above usual rates in the municipal finance market. The 2014 GO bonds were issued with a provision that New York State law would govern disputes, then viewed as a

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43 GDB, *Commonwealth Quarterly Financial Report*, July 17, 2014, pp. 41-42, http://www.gdb-pr.com/documents/CommonwealthQuarterlyReport71714.pdf. GNP, which measures the value of output created within a given jurisdiction, is considered a more accurate indicator of Puerto Rico’s level of economic activity than gross domestic product (GDP), which in Puerto Rico is strongly influenced by transactions of multinational corporations that often have a tenuous connection to the island’s economy.


45 Ley para el Cumplimiento con las Deudas y para la Recuperación de las Corporaciones Públicas de Puerto Rico (Ley 71 de 2014; Act 71-2014; Law Pursuant to the Debts and for the Recovery of the Public Corporations of Puerto Rico). The law is also called the “Recovery Act” or the “Local Bankruptcy Law” ("Ley de Quiebra Criolla").


significant investor protection. Moreover, the Puerto Rico Constitution sets debt service as a top priority, before other public outlays.

About $900 million of the bond proceeds went to pay off bank loans, including to banks involved in underwriting the issue. SEC staff reportedly recommended actions against bankers involved in the deal, including former GDB head Jorge Irizarry, who later led a coalition said to represent local junior COFINA bondholders. The SEC declined to pursue those charges. Investment funds Paulson & Company, Och-Ziff Capital, Fir Tree Partners, Perry Capital, and Brigade Capital reportedly each bought more than $100 million of the issue.

After the 2014 GO issuance, hedge funds expanded their involvement in Puerto Rico, both in purchases of bonds as well as contact with officials and policymakers. The ratings agency Fitch, according to reports, found that some 60 hedge funds held about $16 billion of Puerto Rico’s public debt, about 22% of the total amount, by fall 2014. In addition, the investment bank Goldman Sachs’s holdings of Puerto Rican debt increased to a reported $1.3 billion in 2014.

Federal Courts Strike Down Local Bankruptcy Law

The Puerto Rican government lost access to Chapter 9 of the U.S. Bankruptcy Code, which governs the adjustment of municipal debts, in 1984. Lacking that access and with major public corporations facing severe liquidity challenges, island policymakers sought to create a path to

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restructuring debts through local laws. In particular, the deterioration of PREPA’s finances and operations became evident in spring 2014.\textsuperscript{58} In August 2014, PREPA, unable to afford fuel, signed a restructuring support agreement (RSA) with its creditors, which included appointment of an outside chief restructuring officer.\textsuperscript{59}

In June 2014, Puerto Rico enacted a local bankruptcy law, which heightened concerns of default risks.\textsuperscript{60} The hedge fund Blue Mountain Capital Management, along with the Oppenheimer and Franklin mutual fund groups, challenged the law.\textsuperscript{61} Other hedge funds reportedly supported the law, which would enhance CPR’s ability to pay GO debt by allowing cramdowns of public corporations’ debt.\textsuperscript{62} The Supreme Court struck down the local bankruptcy law,\textsuperscript{63} holding that, although the Bankruptcy Code prevents municipalities in Puerto Rico from seeking relief under Chapter 9, the code nonetheless preempted Puerto Rico’s Recovery Act, and thus barred the CPR from enacting its own municipal bankruptcy scheme to restructure debt.\textsuperscript{64}

**Governor García Padilla Calls Debt “Unpayable,” Declares Fiscal Emergency**

Then-Governor García Padilla called Puerto Rico’s public debts “unpayable” at the end of June 2015.\textsuperscript{65} In the following year, the governor took a series of actions to conserve the government’s liquidity in the face of mounting fiscal pressures. At the beginning of August 2015, three small public bond issues were in default.\textsuperscript{66} At the end of November 2015, Governor Padilla signed an executive order authorizing a clawback of balances and revenues from transportation and infrastructure entities.\textsuperscript{67} In April 2016, he signed into law Act 21-2016, which declared that a debt

\textsuperscript{58} In June 2014, Municipal Market Analytics (MMA) reported that “PREPA’s reality is that it is operating deep in the red, with antiquated technology, high costs and declining sales.” See Testimony of Robert Donahue, MMA Managing Director, in U.S. Congress, House Committee on the Judiciary, Subcommittee on Regulatory Reform, Commercial And Antitrust Law, *H.R. 870*, 114\textsuperscript{th} Cong., 1\textsuperscript{st} sess., February 26, 2015, p. 28, https://www.jonesday.com/files/upload/robert-donahue-testimony.pdf.

\textsuperscript{59} For details, see CRS Report R44095, *Puerto Rico’s Current Fiscal Challenges*, by D. Andrew Austin.

\textsuperscript{60} *Ley para el Cumplimiento con las Deudas y para la Recuperación de las Corporaciones Públicas de Puerto Rico* (Ley 71 de 2014; Act 71; Law Pursuant to the Debts and for the Recovery of the Public Corporations of Puerto Rico). The law was also called the “Recovery Act” or the “Local Bankruptcy Law” (“Ley de Quiebra Criolla”). See also Moody’s Investor’s Service, “Puerto Rico’s Debt Restructuring Law Raises Default Risk for Public Corporations and the Commonwealth,” July 3, 2013.


\textsuperscript{64} See 136 S. Ct. at 1942. Chapter 9 of the Bankruptcy Code defines a municipality as a “political subdivision or public agency or instrumentality of a State.” Cf. 11 U.S.C. §101(40). The Bankruptcy Code thus covers a wider set of public entities than the term municipalities usually connotes. In Puerto Rico, municipalities (municipios) resemble county governments on the mainland.


\textsuperscript{67} Gov. Alejandro García Padilla, Executive Order 2015-46, November 30, 2015, https://estado.pr.gov/es/ordenes-
service moratorium could be invoked to preserve funding for essential public services.\(^6^8\) As Puerto Rico’s defaults widened, Congress considered measures to address the island’s fiscal crisis, which culminated in PROMESA’s enactment.

On June 29, 2016—two days before a $780 million GO debt service payment was due—Governor Padilla suspended payments on GO and Commonwealth-guaranteed bonds, leading to the first defaults on CPR debt.\(^6^9\) The following day, June 30, 2016, PROMESA was signed into law by President Obama to address Puerto Rico’s debts and finances. Before describing provisions of PROMESA, the next section analyzes the structure of Puerto Rico’s debt stack.

### Predefault Structure of Puerto Rico’s Public Debts

Puerto Rico’s fiscal crisis and its accumulations of debt are intertwined with the structure of its public sector. This section surveys Puerto Rico’s public debts and briefly discusses how they were accumulated. The Puerto Rican government includes a central government—the Commonwealth of Puerto Rico (CPR)—as well as some 50 public corporations.\(^7^0\) These public corporations have a wide range of responsibilities, including providing electricity, water and sewer service, social services, health care, and maintenance of ports and parks. The island’s public debt, issued by 18 distinct public entities, presents an unusually complex debt structure. Transfers and cross-subsidies among different public agencies and corporations, often routed through the former Government Development Bank, added to that complexity.\(^7^1\)

### Government Development Bank as Fiscal Agent and Financial Advisor

The GDB—the CPR’s former fiscal agent and financial advisor to each governor’s administration—had a central role in Puerto Rico’s debt crisis. In postwar decades, it supported the island’s industrialization strategy and served a mix of public and private clients. A GDB head in 2015 described its role as “really a combination of things that the Treasury, the New York Fed and a development bank like the Inter-American Development Bank do.”\(^7^2\) In particular, the GDB controlled debt issuance and negotiated with investment banks. The GDB defaulted on bond

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\(^{6^9}\) Gov. Alejandro García Padilla, Executive Order 2016-30, June 29, 2016, https://www.estado.pr.gov/es/ordenes-ejecutivas/. For the July 1, 2016, GO debt service payment, see Act 21-2016 at p. 53. Some other sources cite other amounts for that payment.


\(^{7^1}\) For example, a disclosure for the March 2014 NY Law GO bond issue stated (p. II-74) “GDB, however, has provided financing in the past and may continue to provide financing to governmental entities that do not have sufficient independent resources to cover their operating expenses, to the extent permitted by law.” CPR, 2014A GO Bond Official Statement, March 14, 2020, https://emma.msrb.org/ER892398-ER588507-ER990528.pdf.


**Categories of Public Debt**

Restructuring Puerto Rico’s finances has involved complex disputes among bondholders invested in different types of Puerto Rico’s public debt. This section outlines the structure of the island’s public debts. Since Puerto Rico lost access to credit markets in late 2014, its current debt structure has been largely unchanged, aside from the runoff of short-term notes, the 2018 wind-down of the GDB, and the 2019 restructuring of sales-tax-backed COFINA bonds (COFINA—an acronym for the Corporación del Fondo de Interés Apremiante—is also known as the Puerto Rico Sales Tax Financing Corporation). **Figure 2** and **Table A-1** show debt levels as of the end of July 2016.

Unfunded obligations of Puerto Rico’s pension systems, which were estimated at $49 billion as of June 2015, are not included.\footnote{GDB, Commonwealth Statement, December 18, 2016, p. 222, https://web.archive.org/web/20170101045953/http://bgfpr.com/documents/CommonwealthofPuertoRicoFinancialInfoFY201612-18-16.pdf.} Puerto Rico’s public debt, after adjustments to avoid double-counting, totaled $68.7 billion at the end of July 2016.\footnote{Ibid. Also see Table A-1.}

These debts can be divided by the source of funds used to repay them,\footnote{For a detailed discussion of different categories of public debts, see GDB, Commonwealth Statement, December 18, 2016, pp. 172-208.} namely

1. the Commonwealth’s General Fund;
2. the sales & use tax or other specific revenue sources;
3. public corporations’ revenues;
4. other debts, including local governments (municipios) and nonrecourse debt.\footnote{The Children’s Fund, which comprises most of the nonrecourse debt, stems from settlements of 1990s tobacco suits. Archived CRS Report RL30058, Tobacco Master Settlement Agreement (1998): Overview, Implementation by States, and Congressional Issues, by C. Stephen Redhead, is available to congressional clients upon request.}

By July 2016, the category of debt repaid through the General Fund included $12.7 billion in GO debt backed by the good faith, credit, and taxing power of the Commonwealth, as well as $4.2 billion in Public Building Authority debt, most of which carried a CPR guarantee. Another $25.5 billion of Puerto Rico’s public sector debt was payable from selected tax receipts, including $17.3 billion in COFINA bonds. An additional $11.5 billion was payable through Commonwealth appropriations. Outstanding bonds for the island’s largest public corporations, PREPA ($9.0 billion) and PRASA ($4.6 billion), are mostly repaid through utility charges.
Figure 2. Puerto Rico’s Public Debt as of July 31, 2016, in $Billions

**PUBLIC CORPORATIONS $15.9B**
- PR Electric Power Authority $9.0B
- PR Aqueduct & Sewer Authority $4.6B
- Other $1.4B
- Univ PR $0.6B

**PAYABLE FROM REVENUES $25.5B**
- COFINA $17.3B
- Highway & Transportation Authority $5.9B
- PR Infrastructure Fin Auth $1.9B
- PRCCDO $0.4B
- Metro Bus Auth $0.03B

**PAYABLE FROM THE GENERAL FUND $24.2B**
- General Obligations $12.7B
- Employee Retirement System $3.1B
- Public Buildings Authority $4.2B
- Other $3.1B

**MUNICIPIOS $3.8B**
- Property Tax GOs $2.2B
- Other $1.6B
- Children’s Trust $1.4B
- Other $0.7B

**NON-RECOUERCSE DEBT $2.1B**


**Notes:** Some items may not sum to totals due to rounding. This figure excludes debt of the Government Development Bank to minimize double counting. See source document for other important notes and caveats.
Public Debt and the Puerto Rico Constitution

The Puerto Rican Constitution’s provisions related to budgets and debt have played a central role in the process of restructuring the island’s public debts. Puerto Rico treated public corporations as legally separate from the island’s central government, although in practice governors largely have controlled them indirectly via appointments of those corporations’ boards. Debts of most public corporations were also considered as separate from debts of the central (CPR) government.

Five key fiscal policy clauses in the Puerto Rico Constitution are

- a balanced budget requirement that appropriations (asignaciones aprobadas) not exceed available resources (los recursos disponibles) (Article VI, Section 8);
- a priority for payment of interest and principal for securities backed by the “full faith and credit” of the Puerto Rico government in the case of a budgetary shortfall (Article VI, Section 8);
- a “clawback” provision, mandating the reapplication of revenues to debt service of full faith and credit pledges (Article VI Section 2);
- a prohibition on issuance of new GO debt if average debt service costs over the two preceding fiscal years equaled or exceeded 15% of the average of total revenues for those two years (Article VI Section 2);
- a 30-year limit on GO bond maturities, except for housing bonds, which were permitted maturities of up to 40 years (Article VI, Section 2).

The stringency of those provisions, however, was loosened in several ways. A 1974 Puerto Rico Attorney General’s opinion held that bond proceeds counted as “available resources,” thus relaxing the balanced budget requirement. The 15% limit and the 30-year maturity limit were considered to apply only to central government GO debt, not to so-called “extraconstitutional” debt of public corporations and COFINA. The GDB, by serving as a conduit for transferring resources between the central government and other public entities, also weakened the effective distinction between “constitutional” and “extraconstitutional” debt. Moreover, some have

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79 For instance, the law (Act 83 of 1941; 22 L.P.R.A. §193) creating PREPA’s predecessor states that “debts, obligations, contracts, bonds, notes, promissory notes, receipts, expenses, accounts, funds, companies and property of the Authority, its officers, agents or employees, should be understood to be of the said governmentally controlled corporation and not of the central government.”


81 This limit was interpreted as “15% of the average annual revenues raised under the provisions of Commonwealth legislation and deposited into the treasury (… ‘internal revenues’) in the two fiscal years preceding the fiscal year of such proposed issuance. Internal revenues consist principally of income taxes, sales and use taxes (other than those assigned to COFINA) and excise taxes.” GDB, Commonwealth Statement, December 18, 2016, p. 177.


83 Arturo C. Porzecanski, “The Government Development Bank: At the Heart of Puerto Rico’s Financial Crisis,”
Puerto Rico’s Public Debts: Accumulation and Restructuring

Congressional Research Service 15

contested whether some post-2012 debt issues conformed to the 15% limit, as well as the reach of clawback measures used to bolster resources for payment of GO debt. Interpretations of those constitutional limits have shaped much of the island’s public finance policy as well as PROMESA Title III litigation, which later sections describe. 84

PROMESA Enacted in 2016 to Address the Crisis

PROMESA (P.L. 114-187), as noted above, established two debt adjustment processes and a Financial Oversight and Management Board for Puerto Rico, among other provisions. 85 Title II of PROMESA endowed the FOMB with wide authorities, while the governor and legislature of Puerto Rico retained substantial control over public priorities, within the constraints of Board-certified fiscal plans and other PROMESA provisions.

Oversight Board Appointments and Organization

The Oversight Board plays a central role in the restructuring process. At the end of August 2016, President Obama appointed six members from nomination lists compiled by congressional leaders and a seventh of his own choosing. 86 The Puerto Rico governor was empowered to appoint a nonvoting representative to the Board. The Board chose José B. Carrión, an island insurance broker, as chair. 87

Litigation questioning the Board’s compliance with the U.S. Constitution’s Appointments Clause delayed the renomination or replacement of the original members, whose three-year terms expired in August 2019. The Supreme Court rejected those challenges in June 2020, clearing the way for new nominations and appointments. 88

The Oversight Board chooses which instrumentalities will be “covered.” 89 The Board can require the CPR government and covered instrumentalities to submit fiscal plans and budgets, which are subject to Board approval. In September 2016, the Oversight Board listed the CPR government as a covered territory and 62 public corporations and other entities as covered instrumentalities. 90 The Board also represents covered entities in debt restructuring processes set up by PROMESA.

84 For instance, see “Restructuring COFINA and GO Bonds.”
87 Mr. Carrión’s relatives have served in various leadership roles in Banco Popular, the island’s largest bank. Guillermo A. Baralt, Tradition into the Future: The First Century of the Banco Popular de Puerto Rico: 1893-1993 (San Juan: Banco Popular, 1993). José Carrión was brother-in-law of Pedro Pierluisi Urrutia, Resident Commissioner at the time.
90 Oversight Board, “Covered Entities List,” November 18, 2016, https://drive.google.com/file/d/1D37UiofV0T5s1QJ54vs3xX_ArGF9532/view.
PROMESA Established Two Paths to Restructure Debt

PROMESA’s Title III establishes a debt restructuring process that draws on Chapters 9 and 11 of the U.S. Bankruptcy Code. Title VI establishes a debt restructuring process for voluntary collective action agreements, similar to procedures used in some sovereign debt negotiations. Chief Justice John Roberts selected U.S. District Court Judge Laura Taylor Swain to oversee PROMESA Title III processes in proceedings in San Juan and New York.

### Chapter 9 of the U.S. Bankruptcy Code and Debt Restructuring under PROMESA Title III

Congress first enacted a municipal bankruptcy law during the Great Depression of the 1930s to allow local governments to reorganize their debts under the supervision of a federal court. State governments cannot file for bankruptcy, but may allow—or bar—their municipalities to seek protection from creditors under provisions of Chapter 9 of the Bankruptcy Code. The code defines “municipality” as a “political subdivision or public agency or instrumentality of a State,” which includes not only towns and cities, but also school districts, utility districts, and public authorities responsible for roads, bridges, water, sewers, and other publicly provided services.

A municipality may only receive Chapter 9 protections if several conditions are met: its state government approves; it is insolvent; it wishes to implement a “plan of adjustment”; and it negotiates with creditors in good faith or demonstrates such negotiations are impracticable. A municipality’s petition stays creditors from taking action to collect debts, within certain limits and subject to certain challenges. A bankruptcy court, however, cannot control a municipality’s regular operations, with some narrow exceptions. A municipality’s final plan of adjustment, typically the result of negotiations with creditor groups, is subject to a federal judge’s confirmation.

The PROMESA Title III process largely follows procedures of Chapter 9 of the Bankruptcy Code, although it adds some requirements and omits others. First, Title III uses the terms “covered territory”—meaning Puerto Rico—and “covered territorial instrumentalities” rather than “municipality.” Second, Title III, unlike Chapter 9, does not require insolvency as a prerequisite to seeking protection from creditors. Other differences are that the Oversight Board decides which public entities are covered territorial instrumentalities, chooses whether they can seek debt relief, and represents those entities through the Title III process. PROMESA requires formulation and certification of Fiscal Plans for covered entities, which are necessarily integrated with debt restructuring plans. Filing a Title III relief petition triggers an initial stay of litigation, although creditors may challenge the petition afterward.

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91 See the appendix of CRS Report R44532, The Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA; H.R. 5278, S. 2328), coordinated by D. Andrew Austin, for a listing of Bankruptcy Code provisions incorporated into Title III.

92 See CRS Report R45137, Bankruptcy Basics: A Primer, by Kevin M. Lewis; and CRS Legal Sidebar LSB10116, When the City Goes Broke: Pensions, Retirees, and Municipal Bankruptcies, by Kevin M. Lewis.


95 That condition also may be met by reaching agreement with creditors holding a majority of claims in each affected class, or if the municipality reasonably believes a creditor may try to obtain a preferential transfer. 11 U.S.C. §109(c)(5).


97 For a list of provisions referenced in PROMESA Title III, see Appendix B of CRS Report R44532, The Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA; H.R. 5278, S. 2328), coordinated by D. Andrew Austin.


100 PROMESA §304; 48 U.S.C. §2164.
Major Title III cases have involved multiple issuers of debt because those entities’ fiscal relations were entwined, which has complicated negotiations with creditor representatives. The Oversight Board has, with the approval of the Title III court, used its authority to appoint agents to represent interests of bondholders and other creditors. The court also appointed a mediation team headed by Judge Barbara Houser to oversee negotiations. A plan support agreement (PSA) outlines terms of negotiations and may be modified as additional parties sign on or as terms shift.

The Oversight Board is charged with proposing a plan of adjustment to implement negotiated terms of the restructuring. That plan may involve proposals to modify Puerto Rican laws, regulations, and fiscal plans. The Puerto Rican government and legislature retain broad powers to control public operations aside from other PROMESA strictures. Obtaining legislative or regulatory changes consistent with the plan of adjustment is one prerequisite of court confirmation of the plan.

The Oversight Board, as agent of the debtor, must file a disclosure statement for a plan of adjustment to inform creditors. If the Title III court holds that the disclosure statement is adequate, creditors vote on the plan of adjustment. Creditors holding the same or similar types of debt or claims are divided into classes, as specified in the plan of adjustment. Creditors within classes whose claims would be impaired by the plan vote to approve or reject it. Approval of at least one class of impaired creditors is required. Other requirements for confirmation by the Title III court include that the plan was proposed in good faith, that it is feasible and in the best interests of creditors, and that it conforms to a Board-certified fiscal plan. After approval, creditors are compensated according to the plan, in cash, in new bonds, or in other ways, equal to payment in full, nothing, or some intermediate amount.

Restructuring COFINA and GO Bonds

Disputes over the legal and constitutional foundation for tax-backed bonds and for certain other bonds have played a central role in Puerto Rico’s debt restructuring, even before PROMESA’s enactment. In particular, controversies over the relative priority of GO debt claims and claims of sales-and-use-tax-backed COFINA debt split investor groups.

Some suspected that issuing COFINA bonds sidestepped a limitation on debt issuance in the Puerto Rico Constitution, an accusation denied by others. COFINA bonds were sold as “extraconstitutional” debt, meaning that bond proceeds and tax revenues supporting debt service were not to be considered as “available resources” to the CPR. Bond documents asserted that COFINA proceeds were therefore protected from “clawback,” that is, the invocation of a provision of the Puerto Rican Constitution prioritizing payment of GO debt service. While the Puerto Rican government obtained opinions from mainland law firms and the Puerto Rican Attorney General that COFINA funds would not be subject to clawback, at least one mainland

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law firm partner expressed doubt that a court would bar clawback of COFINA funds—an opinion not shared with investors.\textsuperscript{109} In 2009, bond filings began to note, in general terms, the potential legal risks presented by COFINA’s structure.\textsuperscript{110}

Some major mutual funds, which had bought Puerto Rico securities at par when issued before the island’s fiscal challenges became evident, sharply reduced their holdings of the island’s public debt in late 2013 and 2014, prompting sharp drops in bond prices.\textsuperscript{111} A significant portion of those sales were to hedge funds with a stronger appetite for complex debt restructuring processes.\textsuperscript{112}

Many GO bondholders believed that restructuring the island’s public corporations’ debts or clawing back COFINA revenues could help the government meet GO bond obligations, prompting contention with COFINA bondholder groups.\textsuperscript{113} Conflicts also emerged between senior COFINA bondholders, which included several mainland financial institutions and hedge funds, and junior COFINA bondholders, who tended to be individual residents of Puerto Rico.\textsuperscript{114}

Much of the COFINA-GO litigation included coalitions of major bondholders, such as the Ad Hoc Group of Puerto Rico GO Bondholders, the COFINA Senior Bondholders Coalition, and the\textit{Bonistas del Patio}, a group claiming to represent island-based junior COFINA bondholders.\textsuperscript{115} Three bond insurers (Ambac, National Public Finance, and Assured Guaranty), also known as monolines, also participated actively in negotiations and litigation.\textsuperscript{116} These groups played a role in congressional deliberations that led to PROMESA’s enactment.

The constitutional fiscal provisions became more salient as the prospect of a default of Puerto Rico’s government loomed, triggering heightened tensions among bondholders. In July 2016, a group of GO bondholders sued then-Governor García Padilla to demand a clawback of COFINA-pledged revenues. In April 2017, a federal appeals court held that PROMESA stay provisions applied.\textsuperscript{117} That suit and other litigation, however, convinced the Oversight Board that the GO-COFINA dispute needed to be resolved through the PROMESA Title III process.\textsuperscript{118}

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\textsuperscript{110}Ibid., pp. 187-188.

\textsuperscript{111}\textit{Bond Buyer}, “Oppenheimer, Franklin Cut Puerto Rico Debt Holdings Amid Rally,” September 12, 2018.


\textsuperscript{118}Jaresko Declaration, In re: COFINA, p. 10, January 12, 2019, https://cases.primeclerk.com/puertorico/HomeDownloadPDF?id1=OTAxNzgz&id2=0.
New Governor Inaugurated in January 2017

In January 2017, Governor Ricardo Rosselló Nevares succeeded Governor García Padilla, who did not seek reelection. The new governor took steps to restructure the island government, including setting up FAFAA, which took over financial management roles from the GDB. Rothschild & Co. were brought in to replace previous restructuring advisors. The new governor abandoned the PREPA RSA and revamped PREPA’s governance by letting the chief restructuring officer’s contract lapse and replacing the PREPA board appointed in 2017 with his own appointees. Rosselló Nevares also disbanded a commission set up by his predecessor to audit the island’s public debts.

Oversight Board Files PROMESA Title III Petitions in May 2017

PROMESA required the Oversight Board to take several steps to restructure debts. In an initial step, as noted above, the Board listed the CPR and the bulk of the island’s public corporations as covered instrumentalities under terms of PROMESA. That designation required the governor to draft fiscal plans for the CPR and covered instrumentalities, whether or not the instrumentalities’ debts were to be restructured. Fiscal plans and budgets are subject to certification by the Board, which can impose its own plan if the governor’s draft is deemed inadequate.

Where the Board viewed debt restructuring as necessary, the next step was to petition a federal district court to initiate PROMESA Title III proceedings. The subsequent steps that put the GO-COFINA dispute into the Title III court followed in rapid succession in late April and early May 2017. Puerto Rico enacted a measure to claw back COFINA funds to the general fund, triggering a default declaration on COFINA bonds on May 4, 2017. A day before, on May 3, 2017, the FOMB filed a petition to restructure CPR’s obligations under Title III of PROMESA.

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119 His father, Pedro Rosselló González, served as governor of Puerto Rico from 1993 until 2001. Former Governor García Padilla supports maintaining Puerto Rico’s current status. Former Governor Rosselló Nevares and current Governor Pedro Pierluisi Urrutia advocate statehood for Puerto Rico. Divergent views on Puerto Rico’s political status have traditionally distinguished the island’s political parties in the postwar era.


124 PROMESA §101(d)(1)(A).


On May 5, 2017, the Board then filed a Title III petition for COFINA, and on May 21, 2017, it filed a petition for HTA. The Board also initiated a Title III process for PREPA on July 2, 2017, and thus rejected the previous RSA framework.

The Board also used PROMESA Title VI, which sets out a different procedure, to settle debts and operations of the GDB. The Board approved the GDB’s restructuring petition in July 2017, and the bank was dissolved in November 2018. Most of its functions, as noted above, were taken over by the FAFAA.

Judge Swain then directed the Oversight Board to resolve disputes among GO and COFINA creditors through confidential mediation overseen by a senior bankruptcy judge. On August 10, 2017, Judge Swain appointed the Unsecured Creditors Committee (UCC) to represent Commonwealth interests and Bettina Whyte to represent COFINA interests. Negotiations were surrounded by a cascade of litigation by various interested parties.

Hurricanes Irma and María Hit Puerto Rico in September 2017

Two Category 5 hurricanes soon stalled progress in those negotiations. In September 2017, Hurricane Irma skirted the northern edge of Puerto Rico, and two weeks later, Hurricane María passed over the whole island, leaving major damage in its wake. The hurricanes affected the debt restructuring process in several ways. First, the island’s electrical grid was disabled, which crippled many water and sewer facilities, as well as most manufacturing facilities and transportation systems. Health, housing, and incomes also were affected. Second, the disaster responses commanded the attention of public officials and others. The hurricanes’ damage to public infrastructure, including the island’s electrical grid, and to private businesses, including most manufacturing facilities, prompted the Oversight Board to revise the Commonwealth’s fiscal plan to reflect reduced economic activity and tax revenues. The Board anticipated that federal disaster recovery funding—which it estimated would total $82 billion—would enhance

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132 Stipulation and Order Approving Procedure to Resolve Commonwealth-COFINA Dispute, In re FOMB as Representative of Commonwealth of Puerto Rico, case 17-03283-LTS, August 10, 2017, https://cases.primeclerk.com/puertorico/Home-DownloadPDF?id1=NzAwNDI5&id2=0. Bettina Whyte was managing director and senior advisor at Alvarez & Marsal, a New York financial advisory firm.

133 At this writing in May 2022, the Commonwealth Title III docket contained over 20,600 filings—a rough indicator of the complexity of the case.

the ability to repay creditors in future years. Much of that funding, however, has been slow in coming.

**Settling the COFINA/GO Dispute**

The COFINA Senior Bondholders Coalition, a coalition of hedge funds and investment groups, played a central role in negotiations that led to a settlement of the COFINA/GO dispute over payment priority. The coalition controlled about a third of outstanding senior COFINA debt and substantial amounts of COFINA subordinate (junior) bonds. In June 2015, the coalition retained the law firm Quinn Emanuel and lead counsel Susheel Kirpalani.

After selling off about half of their COFINA junior bonds after Hurricane Maria hit, the coalition increased its holdings of those bonds from $709 million in October 2017 to $2.222 billion at the end of October 2018, as shown in Figure 3. Over that interval—October 2017 to October 2018—the price of COFINA senior bonds rose from about 35% to over 80% of par, and junior bonds rose from about 10% of par to about 50% of par.

On May 14, 2018, the COFINA Senior Bondholders Coalition proposed a framework to settle the GO/COFINA dispute, which the Oversight Board reportedly rejected as offering the CPR no “meaningful debt relief.” Further negotiations led to an agreement in principle, announced on June 5, 2018, that would allocate 53.65% of the Pledged Sales Tax Base Amount—set at 5.5% of the 10.5% Sales & Use Tax—to COFINA. Judge Swain, according to media reports, viewed the draft agreement favorably, as it could sidestep calls to rule on the validity of COFINA’s legal structure under the Puerto Rico Constitution.

Under the proposed framework, existing COFINA bonds would be exchanged for new securities designed to reduce debt service obligations over the next decade, but carrying stronger investor protections. Certain COFINA creditors were to collect about $1.2 billion held in escrow. The reduction in COFINA claims allowed the CPR government a greater share of sales and use tax

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138 See the corresponding 7th verified statement, November 16, 2018, https://cases.primeclerk.com/puertorico/Home-DownloadPDF?id1=ODk5ODcw&id2=0.


Puerto Rico’s Public Debts: Accumulation and Restructuring

revenues, which, in principle, would benefit GO bondholders. Island taxpayers also appear to have benefited from a reduction of certain tax rates enacted in December 2018.144

Figure 3. COFINA Holdings of Senior COFINA Bondholders Coalition

![Chart showing COFINA Holdings of Senior COFINA Bondholders Coalition]

Source: CRS calculations using Rule 2019 filings on the COFINA docket.


The Oversight Board announced a deal with major COFINA creditors in August 2018. Once the Puerto Rican government enacted conforming legislation, the Oversight Board certified a revised COFINA fiscal plan. On October 18, 2018, the Board filed a disclosure statement that detailed the proposed restructuring of COFINA debt. On November 27, 2018, the Title III court approved a revised disclosure statement, clearing the way for a vote among classes of COFINA bondholders for approval.†† The UCC, representing the interests of Commonwealth creditors, conditionally approved the agreement in early November 2018 after having complained about the settlement.††

Many junior COFINA bondholders contended the settlement was unfair. Some alleged that key Senior COFINA Bondholders Coalition members had purchased enough junior bonds to attain a decisive position in settlement negotiations, to the advantage of senior COFINA bondholders and the detriment of junior COFINA bondholders. Small investors also complained about $332 million in consummation costs awarded to major investors involved in negotiations. Several small COFINA bondholder suits were dismissed by the Title III court. The U.S. Court of Appeals for the First Circuit upheld the dismissal of claims of Puerto Rico credit unions—called cooperativas—who contended they were pressured to buy COFINA junior bonds.

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†† FOMB, Unanimous Written Consent Certifying COFINA’s Fiscal Plan, October 19, 2018, https://drive.google.com/file/d/1KLOsMGXIoANJ8YPKMjCCs37uKZ79C/view.

†† FOMB, Disclosure Statement for the Title III Plan of Adjustment of the Debts of Puerto Rico Sales Tax Financing Corporation, Case No. 17-BK-3284 (LTS), October 18, 2018, https://cases.primeclerk.com/ptorico/Home-DownloadPDF?dl=ODk3NzAyi&d2=0. Bankruptcy Code §1125 incorporated into PROMESA (§301(a)) required the Oversight Board to file a disclosure statement ahead of voting by creditors to accept or reject the plan.

†† In re CPR and In re COFINA, Order Approving Disclosure Statement, https://cases.primeclerk.com/ptorico/Home-DownloadPDF?dl=OTAwMTE5X&d2=0.


†† A memorandum, which congressional clients may request, describes the structure of the new COFINA bond issue.


†† A list of the Consummation Cost Parties is presented as Term Sheet Exhibit B (p. 367) of the second amended disclosure statement of November 26, 2018. The Consummation Cost provision is at pp. 362-364.


Oversight Board, Title III Court Move to Wrap Up COFINA Restructuring

Arthur González, a member of the FOMB, argued that the proposed COFINA agreement was a prudent compromise, which avoided litigation that could end with a judgement that

would either find that COFINA and its bondholders own the island’s sales tax revenues, which would sharply reduce the funds available for other constituencies, or that the Commonwealth has the right to claw them back. A loss for the Commonwealth would be a particularly devastating setback, costing the local government billions of dollars in reduced debt and recouped revenue over the coming decades.157

Natalie Jaresko, executive director of the Oversight Board, stated in a court filing that the alternative to the Plan is protracted litigation . . . which could lead to an all-or-nothing recovery for holders of either Commonwealth claims or COFINA’s Existing Securities.158

Court Approves Restructuring and Bond Exchange in February 2019

On February 4, 2019, as noted above, Judge Swain approved the COFINA settlement and confirmed its restructuring plan,159 marking one of the largest municipal bond restructurings in U.S. history and thus resolving the GO-COFINA dispute.160 On February 12, 2019, old COFINA debt with a par value of $17.6 billion was exchanged for $12 billion in new COFINA bonds, which were divided into several current-interest-bearing bonds (CIBs; i.e., normal bonds) and capital appreciation bonds (CABs), for which balloon payments would be due in future decades, the last ones ending in 2058.161

Concerns over COFINA Settlement and Ethical Conflicts

Some investment firms reported significant gains from holdings of Puerto Rican public debt and in particular, COFINA bonds.162 A group of hedge funds, which acquired COFINA bonds at

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161 Robert Slavin, “COFINA Swaps Out Bonds in Biggest U.S. Muni Restructuring,” Bond Buyer, February 12, 2019. Seven sets of CABs mature in years ranging from 2024 through 2051. The largest balloon payments are scheduled for 2046 ($1.1 billion) and 2051 ($640 million).

162 Michelle Celarier, “Puerto Rican Bonds Power Hedge Fund Whitebox Advisors’ 2018 Gains: The Bonds Were a Bright Spot for Whitebox and Other Hedge Funds in an Otherwise Dismal Year,” Institutional Investor, January 29, 2019. Also see Michelle Celarier, “Tilden Park is Having a Big Year: Josh Birnbaum’s Firm is Up Double Digits on the
distressed prices and then spearheaded creditor negotiations, reportedly made “hundreds of millions of dollars” in profits. Some smaller-scale bondholders complained that the exchange was mishandled and that their interests were not protected in negotiations, from which they were excluded. For instance, rounding protocols, according to some, disadvantaged investors with smaller holdings and advantaged those who held major positions. Judge Swain dismissed objections that small holders were excluded from mediation, stating that individual investors were not prevented “from advocating their positions and seeking to participate in negotiations,” that investors were “welcome to reach out to the mediation team,” and that investors could object to proposals resulting from mediation and other negotiations.

Some contend that links among the Whitebox investment fund, a member of the Senior COFINA Bondholders Coalition; the Compass funds; and McKinsey, the main consultant to the Oversight Board, posed conflicts of interest that were not properly disclosed. The Board commissioned a review that asserted that McKinsey’s investments posed no conflict, although they “could create the appearance of a potential conflict.” The following day, McKinsey paid $15 million to settle claims that it failed to disclose conflicts of interest in 14 other bankruptcy cases. In November 2021, the Securities and Exchange Commission (SEC) levied a $19 million fine on MIO Partners, a subsidiary of McKinsey.


Peter Hein, Response to Request by FOMB, In re COFINA, June 4, 2019, https://cases.primeclerk.com/puertorico/Home-DownloadPDF?id1=OTEzMzcw&id2=0.


The SEC found that “in January and February of 2017, MIO was directly invested in the municipal bonds of Puerto Rico at the same time McKinsey was providing restructuring advice to the Puerto Rico Financial Oversight & Management Board (“FOMB”), the entity charged with spearheading Puerto Rico’s financial turnaround. During this time frame, the Investments Committee, which included active McKinsey partners with access to McKinsey Client MNPI, was empowered under the Investments Committee Charter to oversee MIO’s direct investments, including MIO’s sale of nearly $1 million worth of Puerto Rican bonds. Further, in addition to MIO’s direct investments in Puerto Rico, through at least June 2017, MIO was also invested in Puerto Rico’s debt via its SMAs [separately managed accounts] and other third-party managed funds.” In re MIO Partners, SEC Admin. Proc. 3-20656, at p. 3, November 19, 2021, https://www.sec.gov/litigation/admin/2021/ia-5912.pdf.
Board Pivots to GO Restructuring in 2019

The resolution—apart from certain appeals—of the COFINA restructuring cleared a path to address restructuring of GO bonds and debts of other entities closely tied to the island government, such as the Employee Retirement System (ERS) and the Public Building Authority (PBA). The PBA constructs buildings that are leased to agencies of the island government.

On January 14, 2019, the Oversight Board, in conjunction with its special claims committee and the UCC, challenged the validity of $6 billion (at par value) of GO bonds issued after 2011—referred to as “late vintage GO”—such as the $3.5 billion 2014 issue placed with hedge funds, allegedly issued in violation of a constitutional debt limitation. In May 2019, the Oversight Board and the UCC filed over 250 avoidance action suits and sued bankers involved in the 2014 GO bond issue. Avoidance actions allow a trustee to challenge transactions involving debtors before the filing of a bankruptcy petition.

The Board did not explain why it chose to challenge GO bonds backed by a constitutional guarantee, but did not challenge the legal and constitutional basis of COFINA bonds. One investment analyst concluded “[t]he tacit support [by U.S. District Court Judge Swain] for the securitized structure represented by COFINA should be a welcome development for a municipal market that has been transitioning away from full faith and credit GO pledges and toward dedicated revenue pledges with perfected liens.” A coalition of bond insurers and bondholders filed a motion defending the validity of the GO bonds on March 21, 2019.

2020: Oversight Board, Hedge Funds Negotiate Over GO Bonds

On May 31, 2019, after negotiations with creditors, the Oversight Board announced a Plan Support Agreement (PSA) for GO bonds and debt issued by ERS and PBA. The PSA was supported by the Lawful Constitutional Debt Coalition (LCDC); some other hedge funds, including some members of the COFINA Senior Bondholders Coalition; and some retiree and labor groups.

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171 Urgent Motion of the FOMB, Case 17-BK-3283 (LTS), January 14, 2019, https://cases.primeclerk.com/puertorico/Home-DownloadPDF?id1=OTAyMjAz&id2=0. The motion alleged that after 2012, issuance of GO bonds violated the Puerto Rico’s Constitution’s Article VI Section 2 requirement that average debt service in the past two years not exceed 15% of revenues. The motion also contended that the guaranteed debt of the Public Building Authority (PBA) and the PBA leases to CPR agencies constituted a scheme to avoid the 15% limit. Those claims were pulled back after negotiations with creditors.


177 LCDC comprises Aristeia Capital, Farmstead Capital, FCO Advisors, GoldenTree, Marble Ridge Capital, Monarch Alternative Capital, Taconic Capital, and Whitebox Advisors. See Oversight Board, Amended Disclosure Statement,
The Oversight Board released an amended PSA on February 9, 2020, claiming to have the backing of holders of $10 billion in GO and Public Building Authority bonds, followed by a draft disclosure statement on February 28, 2020. The Oversight Board claimed that holders of 58% of outstanding GO and PBA debt had signed onto the PSA. The new PSA offered slightly better terms for holders of GO and guaranteed debt, but worse terms for junior bonds. Future debt service would fall from levels that fluctuate around $3 billion to $1.5 billion per year.

In contrast to the wrap-up of the COFINA case, the GO bond case has been delayed by a series of obstacles. On March 27, 2020, the Title III court, at the request of the Oversight Board, suspended consideration of the adequacy of the disclosure statement covering the proposed restructuring of GO, PBA, and ERS debt due to the effects of the Coronavirus Disease 2019 (COVID-19) pandemic. The Board has filed regular status reports on its activities relevant to that case and on effects of the pandemic. The Board, in its December 2020 report, stated that negotiations continue, but declined to offer details due to confidentiality restrictions.

**Accusations of Insider Trading in the GO Restructuring Process**

On February 25, 2020, the Title III Court received allegations of insider trading by coalitions of hedge funds involved in GO restructuring mediation and negotiations. On the same date, the UCC called for more specific disclosures of holdings by participants in the GO mediation. For instance, previous disclosure filings reported aggregate holdings that combined GO debt with a full faith and credit pledge and PBA bonds that carried a CPR guarantee, distinctions that potentially translated into different treatment in restructuring plans. On June 8, 2020, Judge Swain ordered that creditor disclosures fully conform to Federal Rule of Bankruptcy Procedure 2019(b) standards.

One analysis of changes in mediation participants’ holdings as reported in amended disclosure filings asserted that LCDC members had increased holdings of GO bonds issued after 2011—referred to as late vintage GO bonds—while in an overlapping time period the LCDC and the Oversight Board had sought to invalidate the late vintage bonds. That analysis also pointed to obstacles.

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February 9, 2019, p. 11, https://drive.google.com/file/d/1_JApEw_dGRQCpgAVo0SafiZrVuap6WgQ/view. Golden Tree, Taconic, and Whitebox were major members of the Senior COFINA Bondholders Coalition.


180 In re: CPR, Omnibus hearing, March 4, 2020, p. 18, https://cases.primeclerk.com/puertorico/Home-DownloadPDF?id1=OTYwMTE1&id2=0.


bond price changes that appeared to coincide with confidential mediation sessions in mid-January 2020. Hedge funds and other institutional investors denied that their members had either traded during restricted periods or traded on nonpublic information.186

Calls for Investigations of Alleged Insider Trading

In June 2020, Oversight Board Executive Director Natalie Jaresko testified that she was aware of insider trading allegations, but considered those a matter for law enforcement.187 On August 5, 2020, five House Members sent a letter to the New York State Attorney General requesting an investigation into possible violations of that state’s Martin Act, which covers a broad range of securities dealings.188 Resident Commissioner Jenniffer González asked the U.S. Securities and Exchange Commission to consider whether securities laws were violated.

On October 5, 2020, House Committee on Natural Resources Chair Raúl Grijalva and other Members sent the Oversight Board a letter requesting an investigation into those allegations.189 On the same day, a bond insurer, National Public Finance, asked the Title III Court to investigate insider trading and related allegations.190 Both requests were declined. The Oversight Board demurred on an investigation, but pledged to contact the U.S. Department of Justice, explaining that

given the investigative resources available to Department and its expertise in investigating the conduct at issue, the Oversight Board believes the Department is better suited than the Oversight Board to evaluate the evidence and to determine whether federal laws have been violated. This approach will also avoid saddling the Commonwealth with a potentially expensive and expensive investigation.191

Judge Swain declined bond insurer National Public Finance’s motion to direct the U.S. Trustee or another entity to conduct an investigation, writing that “neither PROMESA nor any provision of the Bankruptcy Code that is incorporated into Title III explicitly authorizes this Court to initiate an independent investigation along the lines of the investigation sought by National in its Motion.”192 Moreover, Judge Swain found that “National ha[d] not proffered evidence sufficient to support a reasonable inference that any participant in the Mediation has traded on inside


190 National Public Finance Guarantee, Motion, In re: CPR, October 5, 2020, https://cases.primeclerk.com/puertorico/Home-DownloadPDF?id1=OTg1NzM2&id2=0.


192 In re: CPR, Order, October 28, 2020, https://cases.primeclerk.com/puertorico/Home-DownloadPDF?id1=OTg2Mjgz&id2=0.
information to the detriment of counterparties or the bond market, much less to the detriment of the Title III and Mediation processes.”

Restructuring on Hold in 2020

The final resolution to the Title III case for GO bonds and related debts was in limbo for much of 2020 for several reasons. First, the COVID-19 pandemic, as elsewhere, has disrupted normal operations and cast in doubt previous projections of Puerto Rico’s economic and fiscal future. A series of earthquakes hit the southwest of Puerto Rico in early 2020, further disrupting operations. Second, allegations that hedge funds involved in negotiations had traded bonds using nonpublic information prompted Judge Swain to order more detailed disclosures, which in turn has prompted further litigation. Third, former Resident Commissioner Pedro Pierluisi Urrutia was inaugurated as governor in January 2021. Changes in the governor’s office have typically led to major staffing changes in island agencies and public corporations. Fourth, some of the original Oversight Board members have stepped down and the process of appointing new members or extending appointments of current members remains unfinished. Until the reappointment process had concluded, the Board’s composition and priorities were unclear. Fifth, the pace of disaster recovery funding, which was expected to bolster the island’s economy—and thus its ability to service debts—in the medium term has been slow and uncertain. The Biden Administration has released some of those recovery funds.

The Oversight Board discussed proposals to revise the plan of adjustment to reflect effects of the COVID-19 pandemic on the island economy at its October 30, 2020, public meeting. A newly appointed member, Justin Peterson, left the online meeting, blocking a vote to modify the plan.

Oversight Board Announces Revised GO PSA in February 2021

On October 29, 2020, Judge Swain ordered the Oversight Board to present “an informative motion presenting a term sheet disclosing the material economic and structural features of an amended plan of adjustment that the Oversight Board intends to propose for confirmation” by February 10, 2021, which would cover GO debt, as well as debts of the Public Building Authority. On that date, the Oversight Board announced that it had reached an agreement in principle with several major bondholders. Two weeks later it released the proposed amended plan.

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197 In re: CPR, Order on Joint Motion of PSA Creditors, October 29, 2020, https://cases.primeclerk.com/puertorico/Home-DownloadPDF?id1=OTg2NDIy&d2=0.
support agreement (PSA), which it filed with the Title III court on March 8, 2021.\textsuperscript{198} Table 1 compares terms of the February 2021 PSA with those of a plan discussed by the Oversight Board in October 2020.

Although the total recovery value of the GO settlement proposed in February 2021 would have been higher than the plan outlined by the Board in October 2020,\textsuperscript{199} it would have been well below that of the plan of adjustment filed in February 2020 ($15.2 billion) or the creditors’ counterproposal of August 2020 ($15.3 billion), in part reflecting effects of the COVID-19 pandemic.\textsuperscript{200}

**Table 1. Comparison of February 2021 PSA and October 2020 Board Proposal**

<table>
<thead>
<tr>
<th>Item</th>
<th>February 2021 PSA</th>
<th>October 2020 PSA</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash GO</td>
<td>$7,024\textsuperscript{a}</td>
<td>$5,984</td>
<td>$1,040</td>
</tr>
<tr>
<td>Cash PBA</td>
<td>$1,073</td>
<td>b</td>
<td>—</td>
</tr>
<tr>
<td>Annual fixed payment GO &amp; COFINA Sr</td>
<td>$1,150</td>
<td>$1,050</td>
<td>$100</td>
</tr>
<tr>
<td>Time period</td>
<td>25 years</td>
<td>20 years</td>
<td>5 years</td>
</tr>
<tr>
<td>GO bond issue</td>
<td>$6,683</td>
<td>$4,980</td>
<td>$1,703</td>
</tr>
<tr>
<td>Capital Appreciation Bond issue</td>
<td>$730; rises to $1,066</td>
<td>$0</td>
<td>$730</td>
</tr>
<tr>
<td>Annual Maximum on CVI</td>
<td>from $200 to $400</td>
<td>$50</td>
<td>from $150 to $350</td>
</tr>
<tr>
<td>Cumulative Maximum on CVI</td>
<td>$3,500</td>
<td>$1,000</td>
<td>$2,500</td>
</tr>
<tr>
<td>Time period for CVI</td>
<td>22 years</td>
<td>20 years</td>
<td>2 years</td>
</tr>
</tbody>
</table>

**Source:** CRS analysis of CPR PSAs, Espacios Abiertos, Oversight Board, *Plan of Adjustment Discussion*, pp. 51-57, October 30, 2020, https://drive.google.com/file/d/1UDwg3-wMpsRhUdDbkpGS-wuZsoWte38d/view.

**Notes:** CAB capital appreciation bonds are no-coupon bonds with balloon payments near maturity. Contingent valuation instruments (CVIs) pay creditors more if economic growth exceeds fiscal plan baseline projections.

a. Includes potential $350 million contingent on revenues above benchmarks.

b. PBA terms not included in October Board proposal.

If the terms of that PSA were implemented, existing bonds covered by the agreement would have been exchanged for cash, new GO bonds, capital appreciation bonds (with interest only payable in future years), and contingent valuation instruments (CVIs) that would have paid creditors extra

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amounts if the island’s economic growth exceeded Oversight Board projections. The mix of new assets received would have differed for each old bond, with estimated recovery rates ranging from 67.7% for the 2014 GO bond to 80.3% for pre-2011 PBA bonds, excluding CVI payments. Certain creditor groups were to receive “consummation cost” payments in cash. Those recovery rates were well above what market prices indicated were expected recovery rates for much of the period of the debt restructuring, as a later section discusses.

The Oversight Board chairman claimed the proposed plan aimed at consensual agreement; that it reflected harm to the island from hurricanes, the COVID-19 pandemic, and other natural disasters; that it was a fair deal for creditors; and that it would be a “once and done deal.” The plan also included reductions of 2%-3% in some pension payments above certain thresholds, which the Board contended would protect most pensioners from those reductions. Pension reductions, creditor concerns, and macroeconomic uncertainties, among other considerations, have spurred opposition to the Board’s plan.

Governor Pedro Pierluisi was quoted as stating that the agreement was a “step forward,” although he vowed to oppose any plan that would result in reductions in public pension payments to retirees. Further Negotiations with Bond Insurers and Other Creditors

On April 12, 2021, the Oversight Board announced an agreement in principle with two bond insurers, Assured Guaranty and National Public Finance Guarantee, regarding convention center and Highway and Transportation Authority bonds. A plan support agreement announced on May 5, 2021, involved treatment of the CPR clawback of revenues from certain public corporations. In mid-July 2021, the Board reached agreement with the Unsecured Creditors Coalition (UCC), which (as noted above) played a major role in debt negotiations. Later that

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202 See Article VI of the February 23, 2021, plan support agreement.
month, the two remaining bond insurers reached an agreement with the Board on their claims, which include bonds backed by rum taxes.  

As more creditors signed onto plan support agreements, the Title III court took additional steps to advance the process of restructuring of CPR and related debts. On May 11, 2021, the Title III court scheduled hearings in July 2021 to assess the adequacy of the proposed disclosure statement describing terms of the plan. On August 2, 2021, the court approved a disclosure statement and scheduled hearings on confirmation of the plan. An approval vote was also set with an October 4, 2021, deadline for return of ballots. The plan was approved by 47 out of 61 creditor classes, including 90% of the bondholder classes.

On October 26, 2021, the Puerto Rican legislature approved legislation to issue new bonds, albeit after the island’s senate balked at passing the measure. The measure was enacted after parties agreed to further negotiations over provisions concerning public pensions and funding for the University of Puerto Rico.

Judge Swain held eight days of hearings on the confirmation of the plan of adjustment in November 2021. Each day was structured to consider specific issues and hear from representatives for major creditor groups, the Oversight Board, some members of the public, and a few individual creditors. On January 18, 2022, Judge Swain confirmed the plan, clearing the

See PRIFA Related Plan Support Agreement, July 27, 2021, https://emma.msrb.org/P21480536-P21147944-P21561617.pdf. The agreement would provide cash equivalent to 10% of the value of bonds issued by the Puerto Rico Infrastructure Financing Authority (PRIFA) that are held by Ambac and National Guarantee, along with some contingent value securities. For more information on the cover over of rum taxes, see CRS Report R41028, The Rum Excise Tax Cover-Over: Legislative History and Current Issues, by Steven Maguire.


Transcripts of each day of the CPR confirmation hearings can be found at https://cases.ra.kroll.com/puertorico/
way for an exchange of new bonds for old. The confirmed plan preempted dozens of Puerto Rican laws and Article VI of the Puerto Rico Constitution, dismissed litigation related to clawback claims and pension bonds, and restructured public pension systems. Older public employees were transferred from a defined benefit system to a defined contribution system, while younger workers were slated to join the U.S. Social Security system. Puerto Rico policymakers had opposed reducing pension benefits, while the Oversight Board noted that existing pension funds lacked assets to pay those benefits. The plan preserves pension benefit levels to retirees receiving $1,500 per month or less.

A Puerto Rican teachers’ association appealed the confirmation of the CPR plan. The 1st Circuit Court of Appeals declined to stay consummation of the plan, but heard arguments on the case on March 9, 2022. The doctrine of equitable mootness complicates efforts to reverse provisions of a consummated debt restructuring.

Apparently Conflicting Claims on Recovery Rates

The Board claimed that creditors would recover on average 69% of their claims, although for some creditor classes the reductions in bond values were as low as 10%. In February 2022, Governor Pedro Pierluisi Urrutia testified that the plan will reduce the central government’s debt from $34 billion to $7.4 billion, a 78% reduction. A third-party estimate, however, put recovery rates for older GO bonds at 95% and at 83% for 2014 GO bonds sold to hedge funds. Bond prices, as shown in the next section, largely align with that estimate.

The divergence between claims of drastic reductions in debt levels and more modest reductions implied by the high recovery rates noted above appears to result from other features of the debt restructuring. Many creditor classes received cash payouts, long-term bonds with balloon-payment features (capital appreciation bonds; CABs), consummation cash payments used to help reach various agreements, and contingent valuation instruments (CVIs) tied to the island’s economic growth, which raise recovery rates. Moreover, new bonds carry interest rates higher than most other municipal bonds. Investors may note that after the termination of the Oversight Board, Puerto Rico would again lack a clear path to access federal bankruptcy processes.

Market Perspectives on Debt Restructuring

Trends in bond prices provide a window on investors’ views of the restructuring process and proposals as they proceed through the events described in previous sections. Figure 4 shows bond prices as a percentage of par from 2013 through February 2022 for selected issues of GO

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222 PRIFA Related Plan Support Agreement, July 27, 2021, https://emma.msrb.org/P21480536-P21147944-P21561617.pdf. The agreement would provide cash equivalent to 10% of the value of bonds issued by the Puerto Rico Infrastructure Financing Authority (PRIFA) that are held by Ambac and National Guarantee, along with some contingent value securities.
223 Private correspondence with Cate Long. Details available to congressional clients upon request.
224 See section above “Last GO Bonds Sold Directly to Hedge Funds in March 2014.”
bonds; COFINA bonds; and bonds of the three largest Puerto Rican public corporations: PREPA, PRASA, and HTA.
Figure 4. Price Trends for Selected Puerto Rico Bonds: January 2013-February 2022

Source: CRS calculations based on the Municipal Securities Rulemaking Board EMMA site: https://emma.msrb.org/

Notes: All prices quoted as percentage of par value. CUSIPS (codes used to identify issuers and financial securities) are 2006A (74514LHN0), 2009B (74514LVW4), 2011A GO (74514LYW1), 2012A (74514LA98), 2014A NY Law GO (74514LE86), PREPA (74526QVX7), PRASA (745160QF1), HTA (745181K97), COFINA Subordinated (74529JHN8), and COFINA Senior (74529JNX9). The first vertical grey line indicates the release of the August 2013 Barron’s article; the second is the introduction of a local bankruptcy measure. COFINA bonds were exchanged for new bonds on February 12, 2019. Values interpolated between trade dates.
Bond prices, according to finance theory, reveal market expectations of the probability of default and recovery rates—that is, the value of what bondholders would receive after default and restructuring. Once the prospect of default became a certainty, bond prices then reflected market expectations of recovery rates. Appendix B presents data on bond prices and trading volumes for a narrower time period. Appendix C lists key dates with links to key documents.

Bond prices have changed dramatically over the course of the debt restructuring process. Many Puerto Rican bonds traded above par before mid-2013. All of these bond prices fell sharply in 2013, reacting to the Detroit bankruptcy filing and a business press article on Puerto Rico’s fiscal distress. The introduction of a local bankruptcy measure in June 2014 and the announcement by Puerto Rico’s governor a year later that the island’s debts were “unpayable” also pushed bond prices down.

Not all categories of debt moved to the same extent. For instance, COFINA subordinate bond prices reacted more sharply to events of 2015 than GO bond prices, although they recovered more ground than other bonds in the lead-up to the enactment of PROMESA at the end of June 2016. The COFINA default in May 2017 depressed senior and especially subordinate COFINA bonds.

The devastation left by Hurricanes Irma and Maria in September 2017 severely depressed almost all Puerto Rico bond prices. GO bonds then traded at a quarter of par or less, while COFINA subordinates briefly traded at about 10% of par. Prices began to recover in 2018, with the February enactment of the Balanced Budget Act of 2018 (BBA 2018; P.L. 115-123), which appropriated disaster relief funds for Puerto Rico and other affected areas. Prices also responded to Oversight Board proposals in April 2018 that combined calls for fiscal austerity with relatively optimistic macroeconomic forecasts.

In January 2018, the Oversight Board called for invalidating late vintage GO issues, causing the older GOs to trade at a premium to the 2014 issue. The 2014 GO issue had traded above older GO issues until Hurricane Maria, reflecting the New York law provision. Some of the allegations of insider trading—discussed in “Accusations of Insider Trading in the GO Restructuring Process,” above—center on divergences between earlier and late vintage GO bonds. Those differences narrowed after the Oversight Board announced an Amended Plan Support Agreement for the CPR, ERS, and PBA in February 2020.

The relationship between bond prices and estimated recovery rates in the consummated COFINA plan and the plan support agreements for restructuring GO and related debts has attracted some attention. Several activists assert that the marked recovery of bond prices after some of those prices reached extremely low levels in fall 2017 implies that investors took advantage of island residents. The recovery of those prices, per se, need not imply any misbehavior on the part of investors, but could reflect a transfer of bond holdings to investors and funds more willing to tolerate risk, or less adverse to litigation, or better informed about long-term prospects.

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225 A risk-neutral investor would calculate a bond’s value as \((1-\alpha)*(\text{present value of principal and interest payments}) + \alpha*(\text{recovery value})\), where \(\alpha\) is the probability of default. Given that default on the bulk of Puerto Rico’s debt was highly likely or certain by mid-2015, bond prices would then directly reflect market expectations of recovery rates. Holders of some bonds backed by dedicated revenue streams have argued that default on those bonds was not inevitable, although such arguments gained no traction in the Title III court.

226 More specific allegations of insider trading are discussed in a previous section.


228 PRASA, the water and sewer authority, was the exception, reflecting its comparatively stronger finances.
Puerto Rico’s Public Debts: Accumulation and Restructuring

Bond prices after confirmation of the CPR plan of adjustment in January 2022, as noted above, suggest a market assessment that the plan delivered high recovery rates for many GO bonds. All GO bonds shown in Figure 4 had prices near 90% of par in February 2022. The Highway and Transportation Authority (HTA) shown in Figure 4 traded above par since spring 2021. Negotiations over the restructuring of PREPA debt remain in progress. Market pricing data suggest that investors anticipate a high recovery rate for PREPA bonds as well.

The shift in holdings from smaller bondholders to hedge funds acting within coalitions may also play a role. Hedge funds, some contend, can serve to mitigate collection action challenges to enforcing creditor interests facing dispersed investors.229 The leverage hedge funds can bring to bear in complex negotiations may also result in dissimilar treatment for different classes of investors.

What Can Puerto Rico Afford to Pay?

A “once and done deal,” as the Oversight Board chair put it, would require a manageable future debt service burden. Capacity to service public debt depends on growth in the tax base—largely proxied by growth of the island’s economy—as well as the efficiency of tax administration and the willingness to keep tax rates in proportion to expenditures. In other terms, debt service capacity rests on a government’s ability to run primary surpluses; that is, having receipts running sufficiently above non-debt-service outlays to meet debt service obligations. For each component of debt service capacity—economic growth, tax administration, willingness to tax, and fiscal constraint—reasons for both optimism and concern may exist.

Puerto Rico’s Economy Expected to Shrink

In recent decades economic growth in Puerto Rico has been uneven, if not stagnant.230 Recovery from the 2017 Hurricanes Irma and María has been slow. Earthquakes in late 2019 and early 2020, along with the COVID-19 pandemic, also hindered economic activity. The island’s economy, according to April 2021 Oversight Board estimates, shrank by 3.0% in 2020.231

The Board projects negligible economic growth over the next five years, as shown in Figure 5.232 The 2021 CPR Fiscal Plan projects somewhat more growth than plans from recent past years. Growth projections that adjust for income increases due to federal COVID-19 relief measures show stronger growth in 2021 (3.8%) and 2022 (1.5%), but weaker growth for later years. Puerto Rico’s projected economic growth trajectory, according to Oversight Board projections, will be well below growth rates expected for the U.S. economy for the years 2021-2024, although it would nearly match the projected U.S. growth rate in 2025.

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229 Marcel Kahan and Edward Rock, “Hedge Fund Activism in the Enforcement of Bondholder Rights,” Northwestern University Law Review, vol. 103, no. 1 (winter 2009), pp. 281-322. Those enhanced capacities to enforce bond covenants, the authors note, may impair interests of issuers. Some COFINA creditors argued that actions of hedge funds impaired their interests, but were unable to persuade courts to intervene.

230 Oversight Board, Certified Fiscal Plan for Puerto Rico, April 23, 2021, ch. 4, https://drive.google.com/file/d/1reetKnlFsa1uR-A0h9j3FM6P6GamHCrx/view. Growth is measured for fiscal years of the Puerto Rican government, which start on July 1. Economic growth is measured using gross national product, which avoids distortions due to profit shifting.

Puerto Rico’s Public Debts: Accumulation and Restructuring

Figure 5. Projected Puerto Rican and U.S. Economic Growth Rates, 2020-2025


Notes: Puerto Rico projections use GNP, which avoids distortions in GDP measures related to tax avoidance strategies of multinational firms with Puerto Rican subsidiaries. Puerto Rican growth rates are for the CPR fiscal year, which starts on July 1.

The 2021 CPR Fiscal Plan anticipates that Puerto Rico will receive $110 billion in federal funds over the coming decade, although mainland firms or contractors would receive some of that amount. Federal and private disaster assistance is estimated to drop from $8.1 billion in 2019 to $2.3 billion in 2020, and to rise in following years as Community Development Block Grant Disaster Recovery (CDBG-DR), Federal Emergency Management Agency (FEMA) permanent public assistance, and certain other federal program funds are disbursed.233

The island’s shrinking population, due to continuing net outmigration to the mainland and low birth rates, also affects its growth prospects.234 The U.S. Census Bureau estimates that the island’s population fell from 3.73 million in 2010 to 3.16 million in 2020, a decrease of 15%.235 The Oversight Board projects that its population will decline to 2.76 million by 2026.236

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The FOMB has been optimistic that structural reforms, such as changes in the island’s labor laws to encourage higher labor participation rates and to loosen employment law restrictions and protections, would accelerate economic growth.\textsuperscript{237}

Some economists have viewed Oversight Board projections of Puerto Rico’s growth prospects and its capacity to service debt as overly optimistic\textsuperscript{238} and note that fiscal austerity could restrain economic growth enough to out weigh gains from proposed structural and labor market reforms.\textsuperscript{239} Although low labor participation rates have been a persistent issue in Puerto Rico,\textsuperscript{240} recent IMF research suggests projections of faster economic growth through structural changes are often unfulfilled.\textsuperscript{241}

Effects of the 2017 hurricanes, the 2020 earthquakes, and the COVID-19 pandemic all complicate the island’s fiscal prospects. Despite the catastrophic damage endured by the island, Executive Director Jaresko stated that federal disaster recovery funds and insurance proceeds would promote economic growth and raise tax collections, which would increase Puerto Rico’s ability to repay its debt,\textsuperscript{242} in particular through the rebuilding of the island’s electric grid and generating fleet, in part to be supported through Community Development Block Grant disaster recovery funds. Federal outlays on permanent disaster recovery projects had been slow relative to mainland standards, although the Biden Administration has lifted holds on those funds.\textsuperscript{243}

Restructuring of

\begin{itemize}
  \item \textsuperscript{237} FOMB letter to Members of Congress, November 14, 2018, https://drive.google.com/file/d/10BKVVq_YhKNT--tGEaphkiQhDiy3mSx/view.
  \item \textsuperscript{241} Kevin Greenidge, Meredith A. McIntyre, and Hanlei Yun, \textit{Structural Reform and Growth: What Really Matters: Evidence from the Caribbean}, International Monetary Fund, working paper 16/82, April 7, 2016, https://www.imf.org/en/Publications/WP/Issues/2016/12/31/Structural-Reform-and-Growth-What-Really-Matters-Evidence-from-the-Caribbean-43855. Those authors find that, among Caribbean countries, structural reforms only appear in the long term and depend on investments in institutional support that maintain the quality of reform efforts. The IMF chief economist said “it was strongly felt that if you have sufficiently flexible labour markets and product markets, labour and capital will move freely to wherever you have the highest wages or the highest returns. But the truth is that doesn’t happen very easily, especially when you’re talking about labour mobility.” Martin Sandbu, “Gita Gopinath: ‘Fiscal Policy Plays an Essential Role in Recovery,’” \textit{Financial Times}, November 19, 2020.
  \item \textsuperscript{242} “The fiscal stimulus from the Federal disaster recovery funds and the insurance proceeds has the impact of increased economic growth that translates into more tax revenues for the Commonwealth. While no Federal monies are being used to pay debt, the Commonwealth’s new reality is that the Government will collect more revenue during the period of the Fiscal Plan.” Testimony of Executive Director Natalie Jaresko, in U.S. Congress, House Committee on Natural Resources, Oversight Hearing on PROMESA, 116th Cong., 1st sess., May 2, 2019, written response to Rep. Horsford’s question 13, Ser. 116-14, https://www.govinfo.gov/content/pkg/CHRG-116lhrg36258/html/CHRG-116lhrg36258.htm.
Puerto Rico’s energy sector, however, is subject to substantial implementation, operational, and financial risks.\(^{244}\)

Contingent valuation instruments (CVIs) added into the amended plan of adjustment proposed by the Oversight Board in February 2021, if implemented, would provide creditors with additional payments if Puerto Rico’s economy grew faster than the Board’s projections.

**Revenue Growth and Tax Policy**

Recent tax collections have exceeded projections. CPR-source revenue rose from $10.1 billion in FY2018 to a projected $12.3 billion in FY2019. Federal-source income also rose by $3.6 billion between those years.\(^{245}\) Revenues for the last half of calendar 2020 were stronger than expected.\(^{246}\)

Other concerns persist. Recent changes in federal tax laws regarding treatment of intellectual property and corporate taxation could present challenges to Puerto Rico’s economic development strategies, which historically have relied heavily on advantageous tax treatment of corporate income.\(^{247}\) Those tax incentives have led some to term Puerto Rico a tax haven.\(^{248}\) In July 2019, Puerto Rico enacted a law that consolidated many of its tax incentives.\(^{249}\) The Oversight Board has expressed concerns about how the CPR has awarded tax credits and incentives.\(^{250}\) The Puerto Rico Treasury Department has promised to tighten controls on tax fraud.\(^{251}\)

About one-fifth of the CPR’s revenue stems from Act 154 taxes on transactions between multinational corporation subsidiaries based in Puerto Rico and the mainland, which often can be credited against federal tax liabilities. In September 2019, then-Treasury Secretary Mnuchin had pushed to phase out Act 154 taxes.\(^{252}\)

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\(^{244}\) See CRS Report R45023, *Repair or Rebuild: Options for Electric Power in Puerto Rico*, by Richard J. Campbell, Corrie E. Clark, and D. Andrew Austin.


\(^{250}\) Oversight Board, letter to Treasury Secretary Teresita Fuentes Marimón and Secretary for Economic Development and Commerce Manuel Laboy River, October 31, 2018, at https://drive.google.com/file/d/1HWNVx0C6gkH4Hjy2YJfbbKtttz7MrvR/view.


Comparison with Heavily Indebted States

A comparison with per capita debt levels of state governments is one benchmark of Puerto Rico’s capacity to repay debt. Puerto Rico’s post-restructuring public debts—if recent plans and proposals go through—would leave it with per capita debt burdens somewhat above the most highly indebted state governments. Puerto Rico’s per capita income levels, however, are well below those of mainland states.\textsuperscript{253} The Oversight Board, in a presentation outlining its March 2021 restructuring plan, contends that those proposals would significantly reduce Puerto Rico’s public debt in comparison to the most heavily indebted mainland states.\textsuperscript{254}

Issues for Congress

Puerto Rico’s debt restructuring processes may present policy issues concerning not only the island, its debts, and its creditors, but also municipal finance markets more broadly. Congress therefore might consider legislative and oversight initiatives focused not only on Puerto Rico, but also on the wider municipal securities market.

As Puerto Rico’s public debt comprises about 2% of overall municipal debt, the consequences of debt restructurings will affect or have affected a significant number of investors. Many investors held Puerto Rican public debt through mutual funds, which generally bought bonds near or at par when issued, and then were left with realized losses after those funds sold off those holdings.\textsuperscript{255} Judicial decisions in Puerto Rico cases could shape case law, thus affecting the future disposition of mainland municipal debtors.

In the case of Puerto Rico, issues with federal tax exemptions, alleged violations of securities laws, and the interpretation of provisions of the Bankruptcy Code incorporated into PROMESA Titles III and VI may provide lessons for policymakers.

More generally, many have complained that the restructuring process has taken too long to complete.\textsuperscript{256} Moreover, the costs of litigation, which the Oversight Board has called “extraordinarily expensive,” have been higher than expected.\textsuperscript{257} Costs of the Oversight Board’s operations and litigation are borne by island taxpayers and residents.\textsuperscript{258}

Federalism and Municipal Debt Markets

The federal government has three main instruments to shape municipal bond markets: tax policies, securities laws, and bankruptcy laws. Requirements for exemptions from federal income taxation play a fundamental role in municipal finance because marketing bonds without that


\textsuperscript{255} John Dizard, “‘Bottom-Feeding’ Hedge Funds are Big Winners on Puerto Rico Bonds,” Financial Times, November 9, 2018.


\textsuperscript{258} PROMESA §107, 48 U.S.C. §2127.
exemption is more difficult.\textsuperscript{259} Securities laws that mandate disclosure requirements help investors make informed choices so that financial resources and risk-bearing can be allocated in an efficient way.

The federal government, to a large extent, has exercised light oversight of municipal bond markets, which provide state and local governments with lower-cost access to capital to build roads, schools, public buildings, and water and sewer systems, among other ends, as well as to help manage cash flows to match revenues and outlays.\textsuperscript{260} This reflects a division of responsibilities between the federal government and states, which have the flexibility to accommodate policies to local conditions. Congress, however, has greater authority to oversee territories through its Article IV powers.

Great Depression-era securities laws were not considered to apply to municipal securities until the early 1970s, when questionable practices by some municipal finance specialty firms and New York City’s fiscal crisis prompted federal responses.\textsuperscript{261} The Securities Acts Amendments of 1975 (P.L. 94-29) extended the reach of federal regulations to the municipal securities market, established the Municipal Securities Rulemaking Board (MSRB), and imposed certain antifraud provisions.\textsuperscript{262} The act also included a provision known as the Tower Amendment that barred the MSRB and SEC from requiring that municipal issuers file pre-sale financial statements.\textsuperscript{263} Some have questioned those limits on federal regulation of municipal finance,\textsuperscript{264} although others point to more active federal enforcement of disclosure violations.\textsuperscript{265}

A 2012 SEC report included some legislative proposals for enhancing disclosure in the municipal bond market, although it did not call for removing Tower Amendment restrictions.\textsuperscript{266} A 2020 SEC advisory panel discussed various means to improve the timeliness and usefulness of disclosures, although some warned of imposing new disclosure requirements that would burden small public issuers.\textsuperscript{267} H.R. 4476, introduced September 24, 2019, during the 116\textsuperscript{th} Congress, would have set

\begin{itemize}
\item \textsuperscript{263} U.S.C. §78o–4(d). John Tower was then a Senator from Texas.
\end{itemize}
data standards for financial disclosure, although it would not have imposed new disclosure standards.

The scale of Puerto Rico’s debt restructuring could conceivably lead to other modifications of municipal finance practice. Federal bankruptcy law, which during the Great Depression was extended to cover instrumentalities of state governments such as cities and public authorities, also plays a role in how municipal bond contracts are structured and how investors and creditors share risks. Past municipal bond defaults have affected how municipal bond markets operate. New York City’s financial crisis in the mid-1970s led to stronger investor disclosure requirements, and the early 1980s defaults of the Washington Public Power Supply System (WPPSS) led to the expansion of bond insurance. In general, however, municipal defaults have been much less frequent than corporate or individual defaults.

Congress controls tax policy and the tax treatment of municipal securities more directly. Modifications of the federal tax treatment of municipal securities could lead to significant changes in government finance because of the importance that tax advantages play in marketing those securities. For instance, in 2006, Merrill Lynch advisors suggested that ERS and Merrill Lynch issue at least $7 billion in pension obligation bonds (POBs). Because those bonds were ineligible for federal tax exemptions, Merrill Lynch was unable to place those bonds. UBS then sold less than half that amount, as noted above, largely purchased through its own proprietary accounts. Had a larger amount of bonds been issued, the island government’s finances would have been in even worse shape. Thus, lack of federal tax exemption helped constrain the extent of a strategy that an independent review concluded “was so badly structured that, rather than yielding profits, it resulted in tremendous losses that have accelerated the demise of [the] Retirement System.” Modifying federal tax exemption requirements or limiting the amount of certain types of bonds might restrain issues of debt that could create serious fiscal risks. Congress has also limited tax exemptions on some types of municipal bonds on other grounds.

Federal Policies and Municipal Debt Structures

Federal tax and bankruptcy law help shape financial decisions of state, local, and territorial governments on how they structure their debts. For instance, federal tax law constraints on issuance of tax-advantaged private activity bonds (PABs) and on advance refundings of municipal bonds have changed the “muni” markets. Congress may consider how the different treatment of municipal bonds in federal bankruptcy law might affect how local governments approach municipal finance decisions.

In municipal finance, GO bonds are typically used to support publicly provided services and infrastructure, such as streets, schools, and other public buildings, and are backed by a jurisdiction’s commitment to collect sufficient tax revenues. GO bonds, backed by the full faith and credit of a jurisdiction, have the advantage of being supported by a broad set of budgetary

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resources, without a specific lien on revenues. The experience of restructuring Puerto Rico’s public debts could affect how future municipal finance arrangements are made.

Revenue bonds have typically been used to finance infrastructure to supply services that generate their own revenue through fees or charges, such as electric power, toll roads, water and sewers, and airports, often administered through authorities with some measure of independence from elected governments. If a project or authority failed to generate revenues sufficient to cover debt service, revenue bondholders generally could not obtain support from other revenue sources, such as general tax revenues. Although revenue bonds are backed by more narrowly defined cash flows, they carry the advantage that liens could be applied to a stream of fees and charges.

In 1988, Congress enacted bankruptcy legislation that included particular protections for bondholders’ interests in pledged fees and charges backing certain revenue bonds. The 1988 act added Section 928 to the Bankruptcy Code, which states “special revenues acquired by the debtor after the commencement of the case shall remain subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.” Without that exception, special revenues collected by a debtor would not be subject to lien. Litigation regarding the restructuring of the Puerto Rico Highways and Transportation Authority (PRHTA) has raised questions about the treatment of revenue bonds and special revenues. Congress could consider modifying Section 928 of the Bankruptcy Code to clarify those issues. Some have contended a clearer treatment of special revenue bonds would lower financing costs for local governments.

**Ultra-Long-Term and Exotic Debt**

Mutual funds provide small investors with the advantages of diversification by pooling large numbers of securities. Expecting those investors, however, to monitor hundreds or thousands of issuers, some of which may employ complex securities, may be unrealistic. A 1993 SEC staff report found that larger numbers of unsophisticated individual investors were buying municipal

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274 The Senate’s explanation of the relevant provision of a bill enacted as P.L. 100-597 stated that “[t]o eliminate the confusion and to confirm various state laws and constitutional provisions regarding the rights of bondholders to receive revenues pledged to them in payment of their debt obligations of a municipality, a new section is provided in the Amendment to ensure that revenue bondholders receive the benefit of their bargain with the municipal issuer and that they will have unimpaired rights to the project revenues pledged to them.” U.S. Congress, Senate Committee on the Judiciary, *Report to Accompany S. 1863*, 100th Cong., 2nd sess., S.Rept. 100-506, 1988, p. 12.

275 11 U.S.C. §928(a), applicable to Title III cases by PROMESA §301.

276 11 U.S.C. §552(a) states that property acquired by a debtor after a bankruptcy filing “is not subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.” One summary of Chapter 9 provisions concluded that “Congress made clear that revenue bondholders are entitled to receive the revenues pledged to them without any interference and on a timely basis.” James E. Spiotto, *Primer on Municipal Debt Adjustment: Chapter 9*, 2012, p. 28, https://web.archive.org/web/20160206065733/http://afgi.org/resources/Bankruptcy_Primer.pdf.


securities and that governments had come to rely on increasingly complex structured securities and derivatives.\textsuperscript{279} The onset of the financial crisis in mid-2007 led to the failure of exotic forms of municipal debt widely marketed to individual investors.\textsuperscript{280} The underwriting and marketing of POBs to retail investors in Puerto Rico has raised concerns.\textsuperscript{281}

Congress passed PROMESA, among other ends, to create a debt restructuring process that would put Puerto Rico’s public finances on a sustainable basis, which could then anchor a healthier economic climate.\textsuperscript{282} Risks due to uncertainties in future economic growth and population trends could compound potential challenges embedded in the use of COFINA CABs. Some analysts have noted that the use of financial instruments or public-private partnership agreements that provide governments with up-front proceeds may yield few benefits in later years and may shift fiscal burdens to future generations that may have benefited little from the use of those proceeds.\textsuperscript{283}

Congress could consider changes in requirements for federal tax exemptions for municipal bonds to encourage issuers to rely on securities that avoid exotic structures or ultra-long maturities.

**Bankruptcy Procedures, Disclosure, and Potential Conflicts of Interest**

Congress could consider measures to protect the interests of a wider set of investors in complex bankruptcy cases, such as by strengthening or clarifying disclosure requirements. The COFINA restructuring raised concerns that hedge funds and institutional investors involved in settlement negotiations were treated more favorably than individual investors.

Congress could consider bolstering disclosure requirements for officials and professionals engaged in the debt restructuring processes. In the case of those engaged in procedures established by PROMESA, the House unanimously passed H.R. 1192 (Puerto Rico Recovery Accuracy in Disclosures Act of 2021; PRRADA) on February 24, 2021, two days after it was introduced. A companion bill was introduced in the Senate on February 23, 2021, and passed in amended form on December 18, 2021.\textsuperscript{284} After a resolution of differences, the measure (P.L. 117-82) was signed into law on January 20, 2022.


\textsuperscript{280} See CRS Report RL34672, *Auction-Rate Securities*, by D. Andrew Austin.


\textsuperscript{283} John Gilmour, “The Indiana Toll Road Lease as an Intergenerational Cash Transfer,” *Public Administration Review*, vol. 72, no. 6 (November/December 2017), pp. 856-865.

\textsuperscript{284} An amendment offered by Sen. Manchin that was adopted requires the Oversight Board to compile a list of material interested parties. Those seeking compensation would need to report any connections with listed individuals. A requirement that those already compensated would have to file reports within 60 days of enactment was dropped. See Senate Energy and Natural Resources Committee, S.Rept. 117-48, December 13, 2021, https://www.congress.gov/117/crpt/srpt48/CRPT-117srpt48.pdf.
Puerto Rico’s Public Debts: Accumulation and Restructuring

The act requires professionals engaged in PROMESA Title III actions to file a disclosure statement under Section 2014(a) of the Federal Rules of Bankruptcy Procedure before being compensated. In particular, professionals would have to set forth their connections with those on a list of materially interested entities compiled by the Oversight Board.

In the 116th Congress, the House passed a similar measure (H.R. 683) on December 8, 2020. A companion bill (S. 1675) had been introduced in the Senate on May 23, 2019.

Hedge funds have played a central role in Puerto Rico’s debt restructuring, as well as in other complex bankruptcy cases, in which debt and other claims are increasingly treated as liquid assets. Hedge funds, through the scale of their investments, may enhance market efficiency by overcoming collective action challenges facing smaller or more traditional investors, as noted above. Hedge funds and similar funds, acting either singly or in concert, however, may disadvantage other claimants. Conflicts of interest may be particularly salient in bankruptcy and debt restructuring processes because major cases have involved a relatively narrow set of professionals. In particular, the extensive and ongoing relationships among McKinsey—the Oversight Board’s main contractor—and firms working on major bankruptcy cases have raised concerns.

Stronger disclosure requirements on holdings of debt instruments and on potential conflicts of interest may help level the playing field, an issue that Congress has addressed in the past. One legal scholar argued that Congress crafted provisions of the 1934 Bankruptcy Act to curtail opportunities for collusion among insiders to the disadvantage of other parties. Another scholar argues that requiring investors to disclose “material rights against or affecting distressed firms, whether direct or derivative, and whether held singly or collectively, in real time, using online market portals or similar information systems” would curtail potential abuses by unregulated private investors such as hedge funds. Research on other asset-trading disclosure requirements

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289 David A. Skeel, Jr., “Markets, Courts, and the Brave New World of Bankruptcy Theory,” Wisconsin Law Review, 1993, p. 493, https://scholarship.law.upenn.edu/faculty_scholarship/1268. “Prior to the enactment of section 77B of the Bankruptcy Act in 1934, the fate of financially distressed firms was played out almost exclusively in state foreclosure and receivership proceedings and their federal counterparts.… The widespread perception that this system facilitated collusion sparked the decision to undertake a vast reformation of the nation’s insolvency laws. Critics of the equity receivership process were particularly concerned that management and senior creditors conspired to squeeze out bondholders and other widely dispersed investors.”

suggests that they limit insiders’ excess gains. According to economic theory, reducing insiders’ excess gains would enhance assets’ attractiveness to rational small investors.

An Audit of Puerto Rico’s Public Debt

H.R. 6975, introduced on May 22, 2020, would have established a commission to audit all public debt issued by Puerto Rico since 1972. The measure would also have allowed discharge of some unsecured debts, applied certain ethics requirements to the Oversight Board, provided federal funding for Board activities, and commissioned a Government Accountability Office (GAO) report on the Board’s spending and activities, among other provisions.

This proposal to audit the island’s public debt followed other initiatives. In July 2015, the Puerto Rico legislature enacted Act 97-2015, which, among other provisions, established a Commission for a Comprehensive Audit of Public Credit. The act’s preamble stated

As one of the necessary mechanisms to proceed towards a broad fiscal and financial restructuring, this Legislative Assembly recognizes as prudent and necessary the creation of an independent commission composed of members from the public sector and private citizens, drawn from diverse strategic sectors of civil society, entrusted with the responsibility to audit the totality of Puerto Rico’s public debt. The commission will operate in an autonomous manner and will have the necessary authority to evaluate all government transactions pertinent to the tasks assigned by this law.

Governor Rosselló Nevares disbanded the commission after he took office in 2017. Volunteer citizen efforts have attempted to continue the former commission’s work, although without

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294 Original text: Como uno de los mecanismos necesarios para poner en marcha un proceso amplio de reestructuración fiscal y financiera, esta Asamblea Legislativa entiende prudente y necesaria la creación de una comisión independiente integrada por funcionarios del sector público y de ciudadanos privados, provenientes de diversos sectores estratégicos en la sociedad civil, encomendada con la responsabilidad de auditar la totalidad de la deuda pública puertorriqueña. La comisión operara de manera autónoma y tendrá la autoridad necesaria para evaluar todas las transacciones gubernamentales que entienda pertinentes para las tareas que le serán encomendadas por esta Ley.

formal investigative powers.\(^{296}\) For instance, one citizen group in January 2019 issued a report challenging the legal basis of COFINA debt.\(^{297}\)

The Oversight Board commissioned an investigation of Puerto Rico’s debt by the law firm Kobre & Kim, which produced a 608-page final investigative report in August 2018.\(^{298}\) Although the Kobre & Kim report was extensive, some contended that key points were less than fully investigated.\(^{299}\) Some of those concerns overlapped with concerns regarding gaps in the reporting of possible conflicts of interest among those involved in debt restructuring in various roles. The UCC has also sought to obtain documents and other evidence in PROMESA Title III litigation.\(^{300}\)

The Oversight Board, as noted above, challenged certain debts. Oversight Board Executive Director Natalie Jaresko, responding to congressional questions in an October 2019 hearing, opposed a new effort to audit Puerto Rico’s public debts, which, in her view, would delay restructuring processes underway and the resolution of PROMESA Title III litigation.\(^{301}\)

A bill was introduced in the Puerto Rican Senate on February 25, 2021, that would again establish a commission to audit the island’s public debts.\(^{302}\) The Oversight Board contended that such a commission would duplicate work done by Kobre & Kim and suggested the Puerto Rican Senate modify the bill.\(^{303}\)

**Constitutional Restraints May Be an Ineffective Substitute for Prudent Budgeting**

Some economists have called for imposing constitutional restrictions on government finances, such as on outlays, revenues, or debt. The Puerto Rican Constitution, as discussed above, includes a balanced budget requirement and various constraints on public debt. Those provisions, however, did not appear to set an effective constraint on levels of indebtedness. In the 1840s, when several states had defaulted on or repudiated public debts, other states in similar fiscal straits managed to avoid default, apparently motivated by a desire to maintain good credit. Those examples might motivate federal policymakers to reassess the utility of constitutional or legal mechanisms to


\(^{300}\) Ibid.


\(^{303}\) Oversight Board, letter to Puerto Rican Senator Nick Panatra, April 9, 2021, https://drive.google.com/file/d/1HfBUZEHAzlXB5Po_pySrLSQ7wZp_mKVQ/view.
ensure sustainable fiscal policies relative to other ways of establishing fiscal balance. Sound fiscal policies may provide a better bulwark against default.
Appendix A. Details of Puerto Rico’s Public Debt

Table A-1 presents data underlying Figure 2, which provides a breakdown of Puerto Rico’s public debts at the end of July 2016, shortly before the PROMESA debt restructuring process commenced. One column shows indebtedness to the GDB (GDB Loan), which had been the Puerto Rican government’s fiscal agent and advisor. Public agencies and corporations deposited funds in GDB accounts, and the GDB extended loans to some public corporations as an alternative to issuing bonds to the municipal finance market. GDB bonds are excluded from Figure 2 to minimize double counting.

Table A-1. Puerto Rico’s Public Debt As of July 31, 2016, in $ Millions

<table>
<thead>
<tr>
<th></th>
<th>Bonds &amp; Private Loans</th>
<th>GDB Loans</th>
<th>Other Loans</th>
<th>Total Debt</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Direct Good Faith &amp; Credit: General Obligations</strong></td>
<td>12,543</td>
<td>169</td>
<td>-</td>
<td>12,713</td>
</tr>
<tr>
<td><strong>Indebtedness Payable Primarily from Commonwealth Taxes</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>COFINA</td>
<td>17,322</td>
<td>-</td>
<td>-</td>
<td>17,322</td>
</tr>
<tr>
<td>Highways &amp; Transportation Authority</td>
<td>4,176</td>
<td>1,734</td>
<td>-</td>
<td>5,910</td>
</tr>
<tr>
<td>PRIFA (Guaranteed Portion)</td>
<td>1,861</td>
<td>-</td>
<td>-</td>
<td>1,861</td>
</tr>
<tr>
<td>Puerto Rico Convention Center District Authority</td>
<td>386</td>
<td>4</td>
<td>-</td>
<td>391</td>
</tr>
<tr>
<td>Metropolitan Bus Authority</td>
<td>28</td>
<td>-</td>
<td>-</td>
<td>28</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td>23,774</td>
<td>1,738</td>
<td>-</td>
<td>25,512</td>
</tr>
<tr>
<td><strong>Indebtedness Payable Primarily from Commonwealth Appropriations</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Building Authority (Guaranteed Portion)</td>
<td>4,005</td>
<td>182</td>
<td>-</td>
<td>4,187</td>
</tr>
<tr>
<td>Retirement System for Employees (ERS)</td>
<td>3,144</td>
<td>-</td>
<td>-</td>
<td>3,144</td>
</tr>
<tr>
<td>Public Finance Corporation (PFC)</td>
<td>1,091</td>
<td>-</td>
<td>-</td>
<td>1,091</td>
</tr>
<tr>
<td>Other Agencies &amp; Public Corporations</td>
<td>-</td>
<td>2,999</td>
<td>102</td>
<td>3,101</td>
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<tr>
<td><strong>Subtotal</strong></td>
<td>8,239</td>
<td>3,181</td>
<td>102</td>
<td>11,523</td>
</tr>
<tr>
<td><strong>Indebtedness Payable by Tax-Supported Public Corporations</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Government Development Bank (Guaranteed)</td>
<td>4,014</td>
<td>-</td>
<td>-</td>
<td>4,014</td>
</tr>
<tr>
<td>University of Puerto Rico</td>
<td>496</td>
<td>76</td>
<td>-</td>
<td>573</td>
</tr>
<tr>
<td>Puerto Rico Industrial Development Company</td>
<td>159</td>
<td>78</td>
<td>-</td>
<td>237</td>
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<tr>
<td>Port of the Americas Authority (APLA; Guaranteed)</td>
<td>226</td>
<td>2</td>
<td>-</td>
<td>227</td>
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<tr>
<td>Highways &amp; Transportation Authority T. Moscoso</td>
<td>140</td>
<td>-</td>
<td>-</td>
<td>140</td>
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<tr>
<td>Puerto Rico Infrastructure Finance Authority</td>
<td>226</td>
<td>-</td>
<td>-</td>
<td>226</td>
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<tr>
<td>Other Agencies and Public Corporation</td>
<td>0</td>
<td>609</td>
<td>-</td>
<td>609</td>
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<tr>
<td><strong>Subtotal</strong></td>
<td>5,262</td>
<td>765</td>
<td>-</td>
<td>6,027</td>
</tr>
<tr>
<td><strong>Indebtedness Payable by Non-Tax-Supported Public Corporations</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Puerto Rico Energy Power Authority (PREPA)</td>
<td>8,955</td>
<td>35</td>
<td>1</td>
<td>8,991</td>
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<tr>
<td>Puerto Rico Aqueduct &amp; Sewer Authority (PRASA)</td>
<td>3,980</td>
<td>66</td>
<td>581</td>
<td>4,627</td>
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<tr>
<td><strong>Subtotal</strong></td>
<td>12,935</td>
<td>101</td>
<td>582</td>
<td>13,618</td>
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<tr>
<td><strong>Municipios’ Indebtedness</strong></td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>General Obligations (Property Tax)</td>
<td>881</td>
<td>1,316</td>
<td>-</td>
<td>2,197</td>
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<tr>
<td>Municipal Finance Authority (Property Tax)</td>
<td>620</td>
<td>-</td>
<td>-</td>
<td>620</td>
</tr>
<tr>
<td>Sales &amp; Use Tax</td>
<td>5</td>
<td>533</td>
<td>-</td>
<td>538</td>
</tr>
<tr>
<td>Special Obligations and Other</td>
<td>221</td>
<td>236</td>
<td>-</td>
<td>457</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td>1,726</td>
<td>2,085</td>
<td>-</td>
<td>3,811</td>
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</table>
### Puerto Rico’s Public Debts: Accumulation and Restructuring

<table>
<thead>
<tr>
<th>Nonrecourse Indebtedness</th>
<th>Bonds &amp; Private Loans</th>
<th>GDB Loans</th>
<th>Other Loans</th>
<th>Total Debt</th>
</tr>
</thead>
<tbody>
<tr>
<td>Children’s Trust</td>
<td>1,442</td>
<td>-</td>
<td>-</td>
<td>1,442</td>
</tr>
<tr>
<td>Housing Finance Authority (HFA)</td>
<td>487</td>
<td>85</td>
<td>-</td>
<td>572</td>
</tr>
<tr>
<td>Puerto Rico Industrial Investment Corporation</td>
<td>103</td>
<td>-</td>
<td>-</td>
<td>103</td>
</tr>
<tr>
<td>Other Agencies and Public Corporations</td>
<td>14</td>
<td>0</td>
<td>-</td>
<td>14</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td><strong>2,046</strong></td>
<td><strong>85</strong></td>
<td>-</td>
<td><strong>2,132</strong></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>66,526</strong></td>
<td><strong>8,124</strong></td>
<td><strong>684</strong></td>
<td><strong>75,334</strong></td>
</tr>
</tbody>
</table>

**Exclusions to Eliminate Double Counting**

<table>
<thead>
<tr>
<th></th>
<th>Total Indebtedness</th>
<th>Less: Government Development Bank Bonds</th>
<th>Total “Public Sector Debt” Including COFINA Capital Appreciation Bond Accretion</th>
<th>Less: Capital Appreciation Bond (CAB) Accretion</th>
<th>TOTAL PUBLIC SECTOR DEBT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>75,334</td>
<td>-3,766</td>
<td>71,568</td>
<td>-2,914</td>
<td>68,654</td>
</tr>
</tbody>
</table>


**Notes:** Items might not sum to totals due to rounding. Debt of COFINA (Corporación del Fondo de Interés Apremiente; Puerto Rico Sales Tax Financing Corporation) was restructured in January 2019. Debt of the Government Development Bank was restructured in November 2018. AMSCA is the Spanish acronym of the Mental Health and Anti-Addiction Services Administration. See source document for other notes and caveats.
Appendix B. Price Trends and Trading Volumes for Selected Bonds

Prices of Puerto Rico’s bonds have experienced wide swings since the island’s fiscal precarity became more widely known in 2013. Prices reveal market views of the value of future cash flows, which in the case of Puerto Rico’s public bonds will be determined in large part by the debt restructuring processes created by PROMESA.

Some in Congress have expressed concerns that some investors may have traded on nonpublic information obtained in the course of PROMESA Title III negotiations among creditors, the Oversight Board, and representatives of Puerto Rico’s government. Charts shown below depict price trajectories and trading volumes for selected bonds. CRS chose specific bonds either because the U.S. Treasury had identified them as representative in materials distributed in the legislative deliberations that led to PROMESA or because they were larger issues that would likely be more liquid than smaller issues. CRS also chose bonds that would have been affected by initiatives by the Oversight Board and the UCC to invalidate certain GO and PBA bonds.

Some 18 entities issued public debt on behalf of Puerto Rico, which added to the complexity of the island’s debt structure. In addition, most bond issuances were divided into multiple subissues. Therefore, the figures below give a partial view of trading activity.

The charts also show, by means of vertical lines, some key events in the restructuring processes. Those key dates, and other events, are listed in Table C-1, with links to related documents. Rational investors trade when they have new information, when assets’ risk characteristics are perceived to have shifted, or due to liquidity needs.

COFINA Prices and Volumes

Figure B-1 shows the evolution of prices and trading volumes for senior and subordinate (junior) COFINA bonds from 2016 through February 2019, when old COFINA bonds were exchanged for new ones. Trading amounts are aggregated by week, with bars centered on Mondays. Trade volumes are typically larger for junior bonds, which was a larger issue, but also may reflect strategic purchases, as described in a previous section. Other things equal, larger bond issues are more liquid and trade more frequently.

Trades in junior bonds picked up after PROMESA’s enactment, but those volumes were dwarfed by some large trades after COFINA defaulted and before the Title III court appointed representatives for the debt negotiations. Prices for COFINA junior bonds fell to nearly 10% of par after Hurricane Maria, but both senior and junior bond prices began to recover at the end of 2017, and especially after the February 2018 passage of the Balanced Budget Act of 2018 (BBA 2018; P.L. 115-123), which provided funds for Puerto Rico. Those prices jumped sharply after an agreement on a split of COFINA revenues was announced in June 2018 and, to a lesser extent, once the Oversight Board announced details of the final COFINA deal.

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304 The Municipal Securities Rulemaking Board’s EMMA site, from which data underlying those figures, is designed to limit comprehensive collection of trading data for a given issuer.

305 Thus, a bar placed slightly ahead of an event might include trades made late in the week, rather than trading occurring ahead of the event.
Figure B-1. Trading Volumes for COFINA Bonds, 2016-2019

Source: CRS calculations based on Municipal Securities Rulemaking Board EMMA data: https://emma.msrb.org/. CUSIPs are COFINA Subordinated (74529JHN8), and COFINA Senior (74529JNX9).
Notes: Trade volume aggregated by week, centered on Mondays. See text and Table C-1 for information on key events. Vertical scales differ. Volumes include inter-dealer transactions used to execute block trades.
GO and PBA Bond Prices and Trading Volumes

Figure B-2 shows prices and trading volumes for selected GO bonds from 2018 through 2020. Figure B-3 shows that information for selected Public Building Authority (PBA) bonds. These charts, as noted elsewhere, provide a partial view of the price and trading of GO and PBA bonds due to the degree of fragmentation of Puerto Rico’s debt structure.

From the time of their issuance until around the time that Hurricane María hit Puerto Rico, the 2014 GO bonds, issued with a provision to be governed by New York law, traded at a premium to other GO bonds. After María, that premium vanished and GO bonds traded at similar prices, just above 20% of par (as shown in Figure 4). During 2018, those bonds’ prices rose to about 50% of par, with marked increases after enactment of the Balanced Budget Act of 2018 (P.L. 115-123) in February, the April release of Oversight Board proposals for pension reductions and other changes, and the Board’s announcement of a framework for a COFINA settlement in August.306

GO bond prices began to diverge in January 2019, when the Oversight Board and the UCC challenged the validity of late vintage GO bonds and PBA bonds. The 2014 GO bonds began to trade at lower prices than earlier vintage GO bonds. That gap increased after GO/PBA PSA negotiations began in April 2019. Sculptor Capital, a hedge fund member of the Lawful Constitutional Debt Coalition, outlined four no-trade periods, beginning with the start of the PSA negotiations, and claimed that its trades of relevant bonds took place outside of those periods (Table B-1). Some large trades in 2011 GO bonds, however, took place during the first no-trade period, although whether those traders possessed nonpublic information is unclear. Many trades also occurred soon after the end of those periods. As those periods ended when previously private information became public, one would expect markets to react.

**Table B-1. No-Trade Periods According to Sculptor Capital**

<table>
<thead>
<tr>
<th>Dates</th>
<th>Starting and Ending Dates of No-Trade Periods</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 22, 2019</td>
<td>Commencement of PSA negotiations</td>
</tr>
<tr>
<td>June 16, 2019</td>
<td>Oversight Board publishes PSA</td>
</tr>
<tr>
<td>October 2, 2019</td>
<td>Sculptor receives material nonpublic information</td>
</tr>
<tr>
<td>October 17, 2019</td>
<td>Financial data released by FAFAA to EMMA and Reorg Research</td>
</tr>
<tr>
<td>October 25, 2019</td>
<td>Sculptor receives Oversight Board proposal</td>
</tr>
<tr>
<td>February 9, 2020</td>
<td>Publication of amended PSA</td>
</tr>
<tr>
<td>August 15, 2020</td>
<td>Oversight Board circulates PSA proposal</td>
</tr>
<tr>
<td>October 1, 2020</td>
<td>Oversight Board announces PSA proposals</td>
</tr>
</tbody>
</table>

**Source:** In re: CPR, Informative Motion of Sculptor Capital, October 26, 2020, https://cases.primeclerk.com/puertorio/Home-DownloadPDF?id1=OTg1Njc5&d2=0.

**Notes:** Initial date indicates when parties to negotiation may have obtained material nonpublic information. Second date notes a “cleansing event” when that information became publicly available. EMMA is the Municipal Securities Rulemaking Board’s electronic data website. Reorg Research covers restructurings for investors.

GO bond spreads narrowed after the fourth no-trade period ended with the Oversight Board PSA announcement. GO and PBA bond prices dipped in spring 2020, but stabilized after May 2020, when the Title III court required detailed Rule 2019(b) disclosures.

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306 See Table C-1 for a listing of events and links to documents.
Figure B-2. Price Trends and Trading Volumes for Selected GO Bonds, 2018-2022

Notes: See text and Table C-1 for information on key events. Trade volumes are summed by week, centered on Mondays. Vertical scales differ. Light grey areas denote no-trade periods as described by Sculptor Capital. Volumes include inter-dealer transactions used to execute block trades.
Figure B-3. Selected Puerto Rico Building Authority Bond Price Trends and Trading Volumes, 2018-2020

Source: CRS calculations based on the Municipal Securities Rulemaking Board EMMA site: https://emma.msrb.org/.
Notes: See text and Table C-1 for information on key events. Trade volumes are summed by week, centered on Mondays. Vertical scales differ. Light grey areas denote no-trade periods as described by Sculptor Capital. Volumes include interdealer transactions used to execute block trades.
Appendix C. Chronology of Selected Events

Table C-1 lists many key events in the restructuring of Puerto Rico’s public debts.

**Table C-1. Selected Chronology of Puerto Rico’s Debt Restructuring**

Items are in reverse chronological order and include links to supporting documents.

<table>
<thead>
<tr>
<th>Date</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2022</strong></td>
<td></td>
</tr>
<tr>
<td>March 15, 2022</td>
<td>Exchange of old bonds for new and other plan actions consummated</td>
</tr>
<tr>
<td>February 3, 2021</td>
<td>Oversight Board Executive Director Natalie Jaresko resigns, effective April 1, 2021</td>
</tr>
<tr>
<td>January 17, 2022</td>
<td>Plan of Adjustment for CPR and related entities confirmed</td>
</tr>
<tr>
<td><strong>2021</strong></td>
<td></td>
</tr>
<tr>
<td>December 21, 2021</td>
<td>Modified 8th Amended Plan of Adjustment released</td>
</tr>
<tr>
<td>November 2021</td>
<td>Hearings in Title III Court on confirmation of plan for CPR and related entities</td>
</tr>
<tr>
<td>October 25, 2021</td>
<td>Act 53-2021 (PC 1003) enacted after negotiations among legislators, governor, and Board</td>
</tr>
<tr>
<td>October 2021</td>
<td>Puerto Rican legislature considers measure (PC 1003) to permit issue of new bonds</td>
</tr>
<tr>
<td>August 2, 2021</td>
<td>Disclosure Statement Order issued</td>
</tr>
<tr>
<td>July 30, 2021</td>
<td>7th Amended Plan of Adjustment released</td>
</tr>
<tr>
<td>July 27, 2021</td>
<td>Oversight Board reaches agreement with Ambac Assurance and Financial Guaranty Insurance</td>
</tr>
<tr>
<td>July 13-14, 2021</td>
<td>Title III Court hearings on CPR plan disclosure statement</td>
</tr>
<tr>
<td>July 12, 2021</td>
<td>Oversight Board reaches agreement with Unsecured Creditors Committee (UCC)</td>
</tr>
<tr>
<td>May 11, 2021</td>
<td>Oversight Board reaffirms support for PREPA restructuring plan</td>
</tr>
<tr>
<td>May 5, 2021</td>
<td>Oversight Board, and CPR announce plan support agreement with bond insurers Assured and NPFG to resolve clawback issues related to HTA and certain other public corporations</td>
</tr>
<tr>
<td>May 4, 2021</td>
<td>Title III Court schedules hearing on adequacy of information in disclosure statement for restructuring of debts of CPR and related entities</td>
</tr>
<tr>
<td>April 12, 2021</td>
<td>Oversight Board announces agreement in principle with bond insurers</td>
</tr>
<tr>
<td>March 8, 2021</td>
<td>Oversight Board announces progress in ERS negotiations; files disclosure statement for CPR and related debt with Title III court</td>
</tr>
<tr>
<td>February 23, 2021</td>
<td>Oversight Board releases amended PSA proposal for CPR and related debt</td>
</tr>
<tr>
<td>February 10, 2021</td>
<td>Title III court deadline for FOMB to present outline for CPR/ERS/PBA/etc. plan; Board asks for delay and announces an “agreement in principle”</td>
</tr>
<tr>
<td>January 6, 2021</td>
<td>David Skeel, Jr. and Arthur J. González reappointed to the Oversight Board</td>
</tr>
<tr>
<td>January 2, 2021</td>
<td>Pedro Pierluis Urrutia inaugurated as Governor of Puerto Rico</td>
</tr>
<tr>
<td><strong>2020</strong></td>
<td></td>
</tr>
<tr>
<td>December 14, 2020</td>
<td>President states intention to name Antonio Medina Comas to Oversight Board</td>
</tr>
<tr>
<td>December 8, 2020</td>
<td>President appoints John Nixon and Betty Rosa, reappoints Andrew Biggs to Oversight Board</td>
</tr>
<tr>
<td>October 29, 2020</td>
<td>Title III Court sets February 2021 date for Oversight Board to outline term sheet for amended plan</td>
</tr>
<tr>
<td>October 28, 2020</td>
<td>Title III Court Omnibus hearing; Judge Swain denies motion of National Public Finance Guarantee for an investigation of possible insider trading; asks Oversight Board to submit term sheet for GO and PBA restructuring by February 10, 2021.</td>
</tr>
<tr>
<td>Date</td>
<td>Action</td>
</tr>
<tr>
<td>--------------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>October 21, 2020</td>
<td>Chairman Grijalva et al. ask Oversight Board to investigate insider trading allegations</td>
</tr>
<tr>
<td>October 15, 2020</td>
<td>LDCD objection to National Public Finance Guarantee motion</td>
</tr>
<tr>
<td>October 13, 2020</td>
<td>Ad Hoc GO Group objection to National Public Finance Guarantee motion</td>
</tr>
<tr>
<td>October 13, 2020</td>
<td>QTCB Group objection to National Public Finance Guarantee motion</td>
</tr>
<tr>
<td>October 9, 2020</td>
<td>Justin Peterson appointed to Oversight Board</td>
</tr>
<tr>
<td>October 6, 2020</td>
<td>David Skeel, Jr. selected as Oversight Board Chair; former Chair José Carrión III steps down</td>
</tr>
<tr>
<td>October 5, 2020</td>
<td>National Public Finance asks Title III Court for investigation of insider trading allegations</td>
</tr>
<tr>
<td>October 1, 2020</td>
<td>FOMB Announces PSA proposals for CPR and related debt</td>
</tr>
<tr>
<td>August 15, 2020</td>
<td>FOMB Circulates PSA proposal</td>
</tr>
<tr>
<td>August 5, 2020</td>
<td>Five Members of House NY Delegation send letter to NY State Attorney General</td>
</tr>
<tr>
<td>July 2, 2020</td>
<td>Title III Court rules against HTA, other revenue bond holders.</td>
</tr>
<tr>
<td>July 1, 2020</td>
<td>Oversight Board Chair José Carrión and Board Member Carlos García to step down.</td>
</tr>
<tr>
<td>June 8, 2020</td>
<td>Judge Swain orders compliance with Federal Rule of Bankruptcy Procedure 2019(b)</td>
</tr>
<tr>
<td>May 21, 2020</td>
<td>Amended PSA for CPR, PBA, ERS, etc.</td>
</tr>
<tr>
<td>May 26, 2020</td>
<td>Title III Court Opinion &amp; Order Re: UCC et al. Motion 2019(b) disclosures</td>
</tr>
<tr>
<td>March 2, 2020</td>
<td>Correspondence alleging insider trading among GO creditors filed on CPR docket (C.Long, Feb. 25, 2020 letter)</td>
</tr>
<tr>
<td>February 28, 2020</td>
<td>Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico</td>
</tr>
<tr>
<td>February 28, 2020</td>
<td>Disclosure Statement for Amended Title III Plan</td>
</tr>
<tr>
<td>February 25, 2020</td>
<td>Unsecured Creditors Committee asks for more specific Federal Rule of Bankruptcy Procedure 2019(b) disclosures; alleges suspicious trading activity by parties to GO mediation</td>
</tr>
<tr>
<td>February 9, 2020</td>
<td>Amended Plan Support Agreement for CPR, PBA, ERS, etc. “The PSA was signed by the holders of approximately $8 billion in claims of GO Bonds and PBA bonds. The PSA also allows each holder of GO Bonds or PBA Bonds with a face amount of such bonds in excess of one million dollars to join the PSA. Since its execution, holders of an additional $2 billion in GO Bonds or PBA Bonds have joined the PSA.” Amd. Discl. Stmt. p. 8</td>
</tr>
<tr>
<td>January 16, 2020</td>
<td>“Apparently a deal was reached ...in mediation which was widely known among municipal bond dealers and their institutional clients” C.Long letter, Feb. 25, 2020</td>
</tr>
</tbody>
</table>

**2019**

<table>
<thead>
<tr>
<th>Date</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 17, 2019</td>
<td>EMMA and Reorg Research publish financial data from AAFAF</td>
</tr>
<tr>
<td>September 27, 2019</td>
<td>Oversight Board commences PBA Title III case</td>
</tr>
<tr>
<td>September 27, 2019</td>
<td>Oversight Board proposes initial plan of adjustment for CPR, ERS, etc.</td>
</tr>
<tr>
<td>September 11, 2019</td>
<td>Title III Court order re: Mediation confidentiality restrictions</td>
</tr>
<tr>
<td>August 7, 2019</td>
<td>Wanda Vázquez Garced, the Puerto Rican Justice Minister, sworn in as Governor</td>
</tr>
<tr>
<td>August 7, 2019</td>
<td>Puerto Rico’s Supreme Court rules succession violates PR Constitution</td>
</tr>
<tr>
<td>August 2, 2019</td>
<td>Gov. Ricardo Rossello’s resignation effective, replaced by Pierluisi</td>
</tr>
<tr>
<td>July 31, 2019</td>
<td>H Nat Resources Chairman Raúl Grijalva circulates PROMESA discussion draft</td>
</tr>
<tr>
<td>July 24, 2019</td>
<td>Title III Court orders stay on specified litigation</td>
</tr>
<tr>
<td>July 18, 2019</td>
<td>UCC files challenges to PBA bonds</td>
</tr>
<tr>
<td>June 16, 2019</td>
<td>Executed Plan Support Agreement</td>
</tr>
<tr>
<td>June 16, 2019</td>
<td>FOMB Publishes Plan Support Agreement</td>
</tr>
<tr>
<td>June 7, 2019</td>
<td>Plan Support Agreement (“Retiree Committee PSA”)</td>
</tr>
<tr>
<td>June 7, 2019</td>
<td>Plan Support Agreement (“AFSCME PSA”)</td>
</tr>
</tbody>
</table>
### Puerto Rico’s Public Debts: Accumulation and Restructuring

<table>
<thead>
<tr>
<th>Date</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 31, 2019</td>
<td>Oversight Board reaches agreements (Plan Support Agreement) with certain creditor groups: Retiree Committee, AFSCME, PBA &amp; CPR GO bondholders</td>
</tr>
<tr>
<td>April 22, 2019</td>
<td>Commencement of GO PSA Negotiations</td>
</tr>
<tr>
<td>February 5, 2019</td>
<td>Plan of adjustment for COFINA confirmed by Title III Court</td>
</tr>
<tr>
<td>January 14, 2019</td>
<td>Oversight Board and UCC challenge validity of GO bonds issued after 2011</td>
</tr>
<tr>
<td>2018</td>
<td></td>
</tr>
<tr>
<td>August 30, 2018</td>
<td>Board approves Plan Support Agreement for COFINA</td>
</tr>
<tr>
<td>August 20, 2018</td>
<td>Kobre &amp; Kim issues commissioned review of the Government’s debt</td>
</tr>
<tr>
<td>August 8, 2018</td>
<td>Board announces deal with senior &amp; junior COFINA creditors, bond insurers</td>
</tr>
<tr>
<td>July 5, 2018</td>
<td>Gov. Ricardo Rosselló Nevares sues Oversight Board</td>
</tr>
<tr>
<td>April 18, 2018</td>
<td>Oversight Board releases proposed Fiscal Plans with pension reductions, labor law changes, regulatory changes</td>
</tr>
<tr>
<td>February 9, 2018</td>
<td>Balanced Budget Act of 2018 (BBA 2018; P.L. 115-123) enacted: provides emergency response funds</td>
</tr>
<tr>
<td>2017</td>
<td></td>
</tr>
<tr>
<td>September 2017</td>
<td>Hurricanes Irma and María hit Puerto Rico</td>
</tr>
<tr>
<td>July 2, 2017</td>
<td>Oversight Board commences PREPA Title III case</td>
</tr>
<tr>
<td>May 21, 2017</td>
<td>Oversight Board commences HTA Title III case</td>
</tr>
<tr>
<td>May 5, 2017</td>
<td>Oversight Board commences COFINA Title III case</td>
</tr>
<tr>
<td>May 5, 2017</td>
<td>Oversight Board commences ERS Title III case</td>
</tr>
<tr>
<td>May 3, 2017</td>
<td>Oversight Board commences CPR Title III case</td>
</tr>
<tr>
<td>February 15, 2017</td>
<td>Original expiration date for PROMESA stay: extended 75 days</td>
</tr>
</tbody>
</table>

Source: Compiled by CRS.
### Appendix D. Table of Common Acronyms

#### Table D-1. Table of Common Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Full Name</th>
<th>Spanish Acronym</th>
<th>Full Spanish Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>COFINA</td>
<td>Puerto Rico Sales Tax Financing Corporation</td>
<td>COFINA</td>
<td>Corporación del Fondo de Interés Apremiante de Puerto Rico</td>
</tr>
<tr>
<td>CPR</td>
<td>Commonwealth of Puerto Rico</td>
<td>ELA</td>
<td>Estado Libre Asociado de Puerto Rico</td>
</tr>
<tr>
<td>ERS</td>
<td>Puerto Rico Employees Retirement System</td>
<td>ASR</td>
<td>Administración de los Sistemas de Retiro de los Empleados del Gobierno y la Judicatura</td>
</tr>
<tr>
<td>FAFAA</td>
<td>Puerto Rico Fiscal Agency and Financial Advisory Authority</td>
<td>AAFAF</td>
<td>Autoridad de Asesoría Financiera y Agencia Fiscal</td>
</tr>
<tr>
<td>GDB</td>
<td>Government Development Bank</td>
<td>BGF</td>
<td>Banco Gubernamental de Fomento</td>
</tr>
<tr>
<td>GO</td>
<td>General obligation bond</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>LCDC</td>
<td>Lawful Constitutional Debt Coalition</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Oversight Board, FOMB</td>
<td>Financial Oversight and Management Board</td>
<td>JSF</td>
<td>La Junta de Supervisión Fiscal</td>
</tr>
<tr>
<td>PBA</td>
<td>Puerto Rico Public Buildings Authority</td>
<td>AEP</td>
<td>Autoridad de Edificios Públicos</td>
</tr>
<tr>
<td>P3</td>
<td>Public-Private Partnerships Authority</td>
<td>AAPP</td>
<td>Autoridad para las Alianzas Público-Privadas</td>
</tr>
<tr>
<td>PRASA</td>
<td>Puerto Rico Aqueduct &amp; Sewer Authority</td>
<td>AAA</td>
<td>Autoridad de Acueductos y Alcantarillados</td>
</tr>
<tr>
<td>PREPA</td>
<td>Puerto Rico Electric Power Authority</td>
<td>AEE</td>
<td>Autoridad de Energía Eléctrica</td>
</tr>
<tr>
<td>PRHTA</td>
<td>Puerto Rico Highways &amp; Transportation Authority</td>
<td>ACT</td>
<td>Autoridad de Carreteras y Transportación</td>
</tr>
<tr>
<td>PSA</td>
<td>Plan Support Agreement</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>SUT</td>
<td>Sales and Use Tax</td>
<td>IVU</td>
<td>Impuesto sobre Ventas y Uso</td>
</tr>
<tr>
<td>UCC</td>
<td>Unsecured Creditors Committee</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

*Source:* Compiled by CRS.

*Note:* In some cases, such as COFINA, the Spanish acronym is typically used.
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