

# Congress of the United States

Washington, DC 20515

April 1, 2019

Mr. Jose B. Carrion III  
Chairman  
Financial Oversight and Management Board of Puerto Rico  
PO Box 192018  
San Juan, PR 00919-218

Dear Chairman Carrion and Members of the Financial Oversight and Management Board,

We write to inquire about the plans of the Financial Oversight and Management Board (FOMB) to pursue any legal claims against banks, advisors or any other parties to recover fees associated with \$6 billion debt issued since 2012. While the FOMB and the Unsecured Creditors Committee (UCC) have filed in federal court that three bond issuances totaling \$6 billion should be nullified for being in violation of Puerto Rico's constitutional debt limit<sup>1</sup>, we would like to know if the FOMB will pursue further legal action to recoup associated fees.<sup>2</sup>

As reported, the three unconstitutional bond issuances earned multiple financial institutions hundreds of millions of fees in the process, some even managing to “double-dip on these deals.”<sup>3</sup> According to a recent report by the Public Accountability Initiative, underwriting fees and swap termination fees paid out for the three offerings totaled \$293,863,051.<sup>4</sup> While the initial step to invalidate a portion of the debt is a positive one, without any legal action against the banks and advisors that counseled the Puerto Rico government to create and market the underlying bonds, we feel Puerto Rico will not be made whole.

Pursuant to PROMESA, Congress made the FOMB the trustee of the Government of Puerto Rico and gave the FOMB, the power to pursue avoidance actions and to bring money back to the Government of Puerto Rico. The FOMB has an affirmative duty to investigate the acts of the debtor and file a statement of any investigation including any fact discovered pertaining to dishonesty, incompetence, misconduct, and mismanagement of the debtor.<sup>5</sup>

Furthermore, Congress gave the FOMB special powers to initiate claims that could return fraudulently transferred assets to Puerto Rico's coffers including taking any action necessary on

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<sup>1</sup>Constitution of Puerto Rico, Article VI, *Section 2*. <http://www.ramajudicial.pr/leyes/Constitucion-Estado-Libre-Asocicado-PR.pdf>

<sup>2</sup>On August 29, 2018 the FOMB designated a Special Claims Committee to pursue claims resulting from the results of the independent investigation conducted by Kobre & Kim into Puerto Rico's debt and its connection to the current fiscal crisis. <https://cases.primeclerk.com/puertorico/Home-DownloadPDF?id1=ODk1MDE0&id2=0>

<sup>3</sup>Public Accountability Initiative. (2019). *Six Billion Reasons to Go After the Banks*. Report p.8. <https://public-accountability.org/report/six-billion-reasons-to-go-after-the-banks/>

<sup>4</sup>*Id.*

<sup>5</sup>PROMESA, H.R. 5278, Section 104 (f), *Powers of Oversight Board*. 114<sup>th</sup> Congress. (2016).

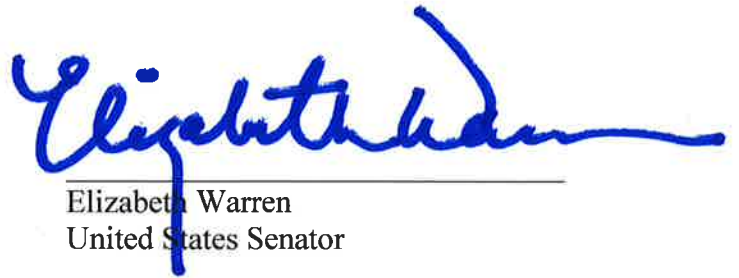
behalf of the debtor to prosecute the case of the debtor.<sup>6</sup> Considering no other entity may currently initiate such claims, the duty of the FOMB to do so is paramount. As you know, the two-year statute of limitations to pursue recoupment of these fees is quickly closing since the FOMB filed Title III Bankruptcy Protection petition on May 5, 2017.<sup>7</sup> It is imperative to take adequate measures to resolve Puerto Rico's Debt, so the island will once again be able to experience economic and social prosperity after this difficult process is resolved.

Due to the time sensitivity of this matter and the fast-approaching deadline of May 2, 2019, we would greatly appreciate a response to these inquires by April 11<sup>th</sup>. Thank you.

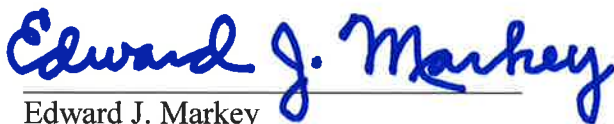
Sincerely,



Nydia M. Velázquez  
Member of Congress



Elizabeth Warren  
United States Senator



Edward J. Markey  
United States Senator



Richard Blumenthal  
United States Senator



Kirsten Gillibrand  
United States Senator



Bernard Sanders  
United States Senator



Charles E. Schumer  
United States Senator

<sup>6</sup> Constitution of Puerto Rico, Article VI, Section 2. <http://www.ramajudicial.pr/leyes/Constitucion-Estado-Libre-Asociado-PR.pdf>

<sup>7</sup> United States District Court for the District of Puerto Rico Case No. 17-3284, Docket Entry No. 380] p. 11



José E. Serrano  
Member of Congress



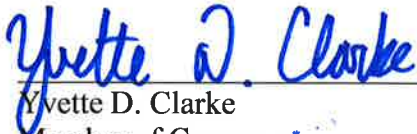
Carolyn B. Maloney  
Member of Congress



Darren Soto  
Member of Congress



Raúl M. Grijalva  
Member of Congress



Yvette D. Clarke  
Member of Congress



Susie Lee  
Member of Congress



Alexandria Ocasio-Cortez  
Member of Congress



Matt Cartwright  
Member of Congress



Thomas R. Suozzi  
Member of Congress



Adriano Espaillat  
Member of Congress



Richard Neal  
Member of Congress



Dina Titus  
Member of Congress



Brendan F. Boyle  
Member of Congress



Jesús G. "Chuy" García  
Member of Congress



James P. McGovern  
Member of Congress



Ayanna Pressley  
Member of Congress

cc:

Andrew G. Biggs, Member, Financial Oversight and Management Board of Puerto Rico  
Carlos M. Garcia, Member, Financial Oversight and Management Board of Puerto Rico  
Arthur J. González, Member, Financial Oversight and Management Board of Puerto Rico  
José R. González, Member, Financial Oversight and Management Board of Puerto Rico  
Ana J. Matosantos, Member, Financial Oversight and Management Board of Puerto Rico  
David A. Skeel, Member, Financial Oversight and Management Board of Puerto Rico