

(2) Implementation plan required for adopted recommendations

If the Governor or the Legislature (whichever is applicable) notifies the Oversight Board under paragraph (1) that the territorial government will adopt any of the recommendations submitted under subsection (a), the Governor or the Legislature (whichever is applicable) shall include in the statement a written plan to implement the recommendation that includes—

(A) specific performance measures to determine the extent to which the territorial government has adopted the recommendation; and

(B) a clear and specific timetable pursuant to which the territorial government will implement the recommendation.

(3) Explanations required for recommendations not adopted

If the Governor or the Legislature (whichever is applicable) notifies the Oversight Board under paragraph (1) that the territorial government will not adopt any recommendation submitted under subsection (a) that the territorial government has authority to adopt, the Governor or the Legislature shall include in the statement explanations for the rejection of the recommendations, and the Governor or the Legislature shall submit such statement of explanations to the President and Congress.

(Pub. L. 114-187, title II, §205, June 30, 2016, 130 Stat. 573.)

§ 2146. Oversight Board duties related to restructuring**(a) Requirements for restructuring certification**

The Oversight Board, prior to issuing a restructuring certification regarding an entity (as such term is defined in section 101 of title 11), shall determine, in its sole discretion, that—

(1) the entity has made good-faith efforts to reach a consensual restructuring with creditors;

(2) the entity has—

(A) adopted procedures necessary to deliver timely audited financial statements; and

(B) made public draft financial statements and other information sufficient for any interested person to make an informed decision with respect to a possible restructuring;

(3) the entity is either a covered territory that has adopted a Fiscal Plan certified by the Oversight Board, a covered territorial instrumentality that is subject to a Territory Fiscal Plan certified by the Oversight Board, or a covered territorial instrumentality that has adopted an Instrumentality Fiscal Plan certified by the Oversight Board; and

(4)(A) no order approving a Qualifying Modification under section 2231 of this title has been entered with respect to such entity; or

(B) if an order approving a Qualifying Modification has been entered with respect to such entity, the entity is unable to make its debt payments notwithstanding the approved

Qualifying Modification, in which case, all claims affected by the Qualifying Modification shall be subject to a subchapter III case.

(b) Issuance of restructuring certification

The issuance of a restructuring certification under this section requires a vote of no fewer than 5 members of the Oversight Board in the affirmative, which shall satisfy the requirement set forth in section 2162(2) of this title.

(Pub. L. 114-187, title II, §206, June 30, 2016, 130 Stat. 574.)

§ 2147. Oversight Board authority related to debt issuance

For so long as the Oversight Board remains in operation, no territorial government may, without the prior approval of the Oversight Board, issue debt or guarantee, exchange, modify, repurchase, redeem, or enter into similar transactions with respect to its debt.

(Pub. L. 114-187, title II, §207, June 30, 2016, 130 Stat. 575.)

§ 2148. Required reports**(a) Annual report**

Not later than 30 days after the last day of each fiscal year, the Oversight Board shall submit a report to the President, Congress, the Governor and the Legislature, describing—

(1) the progress made by the territorial government in meeting the objectives of this chapter during the fiscal year;

(2) the assistance provided by the Oversight Board to the territorial government in meeting the purposes of this chapter during the fiscal year;

(3) recommendations to the President and Congress on changes to this chapter or other Federal laws, or other actions of the Federal Government, that would assist the territorial government in complying with any certified Fiscal Plan;

(4) the precise manner in which funds allocated to the Oversight Board under section 2127 of this title and, as applicable, section 2124(e) of this title have been spent by the Oversight Board during the fiscal year; and

(5) any other activities of the Oversight Board during the fiscal year.

(b) Report on discretionary tax abatement agreements

Within six months of the establishment of the Oversight Board, the Governor shall submit a report to the Oversight Board documenting all existing discretionary tax abatement or similar tax relief agreements to which the territorial government, or any territorial instrumentality, is a party, provided that—

(1) nothing in this chapter shall be interpreted to limit the power of the territorial government or any territorial instrumentality to execute or modify discretionary tax abatement or similar tax relief agreements, or to enforce compliance with the terms and conditions of any discretionary tax abatement or similar tax relief agreement, to which the territorial government or any territorial instrumentality is a party; and

(2) the members and staff of the Oversight Board shall not disclose the contents of the report described in this subsection, and shall otherwise comply with all applicable territorial and Federal laws and regulations regarding the handling of confidential taxpayer information.

(c) Quarterly reports of cash flow

The Oversight Board, when feasible, shall report on the amount of cash flow available for the payment of debt service on all notes, bonds, debentures, credit agreements, or other instruments for money borrowed whose enforcement is subject to a stay or moratorium hereunder, together with any variance from the amount set forth in the debt sustainability analysis of the Fiscal Plan under section 2141(b)(1)(I) of this title.

(Pub. L. 114-187, title II, § 208, June 30, 2016, 130 Stat. 575.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) to (3) and (b)(1), was in the original “this Act”, meaning Pub. L. 114-187, June 30, 2016, 130 Stat. 549, known as the Puerto Rico Oversight, Management, and Economic Stability Act and also as PROMESA, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

§ 2149. Termination of Oversight Board

An Oversight Board shall terminate upon certification by the Oversight Board that—

(1) the applicable territorial government has adequate access to short-term and long-term credit markets at reasonable interest rates to meet the borrowing needs of the territorial government; and

(2) for at least 4 consecutive fiscal years—

(A) the territorial government has developed its Budgets in accordance with modified accrual accounting standards; and

(B) the expenditures made by the territorial government during each fiscal year did not exceed the revenues of the territorial government during that year, as determined in accordance with modified accrual accounting standards.

(Pub. L. 114-187, title II, § 209, June 30, 2016, 130 Stat. 576.)

§ 2150. No full faith and credit of the United States

(a) In general

The full faith and credit of the United States is not pledged for the payment of any principal of or interest on any bond, note, or other obligation issued by a covered territory or covered territorial instrumentality. The United States is not responsible or liable for the payment of any principal of or interest on any bond, note, or other obligation issued by a covered territory or covered territorial instrumentality.

(b) Subject to appropriations

Any claim to which the United States is determined to be liable under this chapter shall be subject to appropriations.

(c) Funding

No Federal funds shall be authorized by this chapter for the payment of any liability of the territory or territorial instrumentality.

(Pub. L. 114-187, title II, § 210, June 30, 2016, 130 Stat. 576.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), was in the original “this Act”, meaning Pub. L. 114-187, June 30, 2016, 130 Stat. 549, known as the Puerto Rico Oversight, Management, and Economic Stability Act and also as PROMESA, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

§ 2151. Analysis of pensions

(a) Determination

If the Oversight Board determines, in its sole discretion, that a pension system of the territorial government is materially underfunded, the Oversight Board shall conduct an analysis prepared by an independent actuary of such pension system to assist the Oversight Board in evaluating the fiscal and economic impact of the pension cash flows.

(b) Provisions of analysis

An analysis conducted under subsection (a) shall include—

(1) an actuarial study of the pension liabilities and funding strategy that includes a forward looking projection of payments of at least 30 years of benefit payments and funding strategy to cover such payments;

(2) sources of funding to cover such payments;

(3) a review of the existing benefits and their sustainability; and

(4) a review of the system’s legal structure and operational arrangements, and any other studies of the pension system the Oversight Board shall deem necessary.

(c) Supplementary information

In any case, the analysis conducted under subsection (a) shall include information regarding the fair market value and liabilities using an appropriate discount rate as determined by the Oversight Board.

(Pub. L. 114-187, title II, § 211, June 30, 2016, 130 Stat. 576.)

§ 2152. Intervention in litigation

(a) Intervention

The Oversight Board may intervene in any litigation filed against the territorial government.

(b) Injunctive relief

(1) In general

If the Oversight Board intervenes in a litigation under subsection (a), the Oversight Board may seek injunctive relief, including a stay of litigation.

(2) No independent basis for relief

This section does not create an independent basis on which injunctive relief, including a stay of litigation, may be granted.