

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



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Executive Director

**BY ELECTRONIC MAIL**

May 6, 2020

Mr. Reinaldo Paniagua Látimer  
Executive Director  
Center for Municipal Revenue Collection (“CRIM”)

Dear Executive Director Paniagua Látimer:

Thank you for your letter, dated May 1, 2020, describing CRIM’s response to the Oversight Board’s approach to implement the opinion and order from the Title III court to nullify Law 29-2019 and remedy the affiliated fiscal liabilities. The Oversight Board is grateful for the open and collaborative dialogue with the Government, CRIM, and the representatives from both mayoral associations to outline a responsible approach for repaying the FY2020 municipal PayGo and ASES obligations, which total approximately \$198 million.

CRIM’s letter proposed two alternatives to the repayment priorities presented by the Oversight Board in our meeting on April 28, 2020:

- Alternative #1: Use proceeds from the sale of the accounts receivable portfolio (“A/R portfolio”) (step 4 of the waterfall repayment plan) as the sole source of repayment of the municipalities’ outstanding PayGo and ASES obligations
- Alternative #2: Allocate the \$132 million of Commonwealth transfer, and repay the outstanding \$66 million from the proceeds of the sale of the A/R portfolio

After considerable deliberation, however, the Oversight Board is unable to accept CRIM’s alternate proposals. The balance of this letter outlines the reasons the proposed alternatives cannot be accepted and why CRIM must implement the reasonable approach previously discussed during our meeting on April 28. The letter also explains the decisions CRIM must still transmit to the Oversight Board to effect the repayment plan in full.

## **Decisions Required**

As discussed in our meeting on April 28, the Oversight Board proposes to first use the unallocated \$132 million municipal transfer appropriated in FY2020 Certified Budget as an offset. This amount was transferred to CRIM but remains undisbursed due to the application of Law 29 instead. After applying these funds as the first source of repayment, the municipalities would be responsible for repaying the Government a remaining balance of approximately \$66 million.

CRIM, however, has not indicated which of the three allocation methods proposed by the Oversight Board the agency prefers. As you recall, those three alternatives are:

- 1) Allocate to smaller municipalities on a priority basis
- 2) Allocate according to the FY2019 CRIM Equalization Fund formula
- 3) Allocate equally so each municipality has a payable of approximately 3% of its FY2020 budget levels

This is important because the residual amount owed by each municipality depends on how CRIM allocates these funds. If CRIM does not select one of the approaches above by tonight, the Oversight Board will be forced to choose one on CRIM's behalf.

The Oversight Board also wants to reiterate that these funds cannot be used by CRIM to advance monthly tax remittances to municipalities, which would be a clear violation of their statutory purpose and of the Certified Fiscal Plan and Certified Budget for FY2020.

## **Proposed Repayment Structure**

To avoid interruptions to municipal operations this fiscal year, the Oversight Board proposed a waterfall repayment plan using one-time or incremental non-budgeted revenues. While the sale of the Accounts Receivable portfolio is indeed a critical part of the repayment approach, the timing, execution, and valuation risks prevent it from being the primary mechanism. Selling the Accounts Receivable portfolio alone leaves too much risk as to whether and when the Government will be repaid.

Conversely, the waterfall repayment plan proposed by the Oversight Board mitigates this risk and minimizes impact to municipal operations by identifying additional revenue sources incremental to current year budgets that should be used to repay the remaining obligations.

### **Step 1**

As discussed previously, the first repayment step will be the diversion of Electronic Lottery proceeds from \$0.5 million in FY2016 and \$17.1 million in FY2017 that have not been remitted to CRIM.

Executive Reinaldo Paniagua Látimer

May 6, 2020

Page 3 of 4

Your letter on May 1 indicates these funds were included as part of the Equalization Fund of FY2016 and FY2017 and, therefore, have already been distributed to municipalities as part of the monthly remittances. This, however, should not preclude the use of these funds as a repayment mechanism for the following reasons.

First, CRIM budgeted and advanced \$46 million in lottery funds to municipalities in FY2017, fully satisfying their budgeted revenues for the year. However, the Electronic Lottery only provided \$33 million to CRIM and still owes \$13 million. In addition, an FY16 lottery balance of \$0.5 million is also outstanding. Therefore, CRIM delayed the final liquidations for FY2017 and FY2016. With the receipt of the \$13 million (FY17) and \$0.5 million (FY16) from lottery, the FY2017 and FY2016 final liquidations can now be paid out. To the extent liquidation proceeds have not been budgeted by the municipalities, those with excess liquidation amounts will use it on a municipality level basis to pay outstanding FY2020 PayGo and ASES obligations as a first priority. These are funds that are incremental to FY2017 and FY2016 budget levels and have not been considered as part of current year budget and therefore should not have an impact on operations.

Second, the monthly remittances for FY2017 were based on projected electronic lottery proceeds of approximately \$45.9 million. The actual proceeds, however, were approximately \$50 million. Therefore, the excess \$4.1 million is currently unallocated and available for use as an offset. CRIM also states some municipalities are counting on said liquidation to pay their Pay-Go obligations from prior years. The Oversight Board's position is to address FY20 as a first priority. Prior year PayGo payments can be addressed after FY20 is fully settled.

## **Step 2**

If CAE tax collections exceed the amount needed to cover annual debt service on CAE loans, municipalities receive this excess at the end of the year, upon request. Your letter indicates the municipalities prepare their operational budgets including the estimated excess CAE in their budgets. This is not apparent, however, in the municipal budgets reviewed by the Oversight Board.

Given the Oversight Board's desire to limit the direct impairment to municipal operations, if sufficient documentation can be provided showing clearly how these excess funds were previously included in the FY2020 budget for each municipality, the use of these funds as an offset will be reduced by the corresponding amount budgeted.

The Oversight Board, however, reiterates the requirement to use any excess CAE funds as a reimbursement mechanism for Law 29-2019 payments due. Any excess CAE which is not budgeted or is collected in an amount higher than the budgeted level, will be used to offset the outstanding municipality level obligation. This will be applied on a municipality by municipality basis and in no event shall a municipality be required to pay for another municipality's obligations.

Executive Reinaldo Paniagua Látimer

May 6, 2020

Page 4 of 4

### Step 3

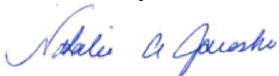
If the first two steps are insufficient to pay a specific municipality's Law 29 balance due, the next step will be to offset any excess property tax collections beyond the collection amount forecasted at the beginning of the fiscal year. This excess liquidation amount is calculated and transmitted annually. Your letter on May 1 indicates the excess liquidation amount is usually remitted to municipalities with a strong and structured collection procedure. The letter also indicated a concern that the use of these funds would cause certain municipalities to subsidize others.

For clarification, the repayment approach proposed by the Oversight Board would be conducted on an individual municipality basis. Consequently, at no point will one municipality use its excess collection to offset the obligation of another municipality. Municipalities that increase their own collections, will have the ability to pay off their obligations faster and continue to receive the higher revenues in future years for their own use as determined by the municipality. The Oversight Board trusts this clarification should alleviate CRIM's concern with the use of these funds as a repayment mechanism for Law 29.

In conclusion, with the exception of the treatment of CAE debts, we reiterate the need for CRIM to follow the approach previously communicated on April 28. Only after Steps 1, 2, and 3 are completed will proceeds from the sale of the Accounts Receivable portfolio be considered.

Additionally, please communicate the preferred approach to allocate the \$132 million on a municipality by municipality basis no later than May 6, 2020 at 6:00pm AST.

Sincerely,



Natalie A. Jaresko

CC: Hon. Javier Carrasquillo  
Mr. Omar Marrero Díaz