

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



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Executive Director

BY ELECTRONIC MAIL

August 25, 2020

Omar J. Marrero Díaz
Executive Director
Puerto Rico Fiscal Agency and
Financial Advisory Authority

Dear Mr. Marrero Díaz:

I am writing with respect to Acts 80-2020, 81-2020, and 82-2020 (collectively, the “Retirement Acts” or the “Acts”).

First, thank you for submitting the PROMESA section 204(a) certifications for the Retirement Acts. The Oversight Board is reviewing your documentation and we will be following up with questions and comments.

Second, with respect to your letter dated August 19, 2020, we agree the Government should not accept applications from public employees under the Retirement Acts at this time. We request that the Governor inform public employees of that decision, to avoid both confusion and reliance on the Retirement Acts before the Oversight Board has had the opportunity to review the Acts and to make an assessment as to their financial impact. We remain concerned, however, that the Government appears to be working toward implementing these Acts. In reviewing General Memorandum Number 003-2020, dated August 17, 2020, we note the Office of Management and Budget (“OMB”) and the Retirement Systems Administration (“ASR” by its Spanish acronym) are requesting detailed personnel and employment information necessary to implement the Acts (namely, Act 80-2020). If your position changes and the Government intends to implement the Retirement Acts and accept applications, please provide fourteen (14) days’ notice to the Oversight Board before doing so.

Third, your letter includes several incorrect statements, mischaracterizations and erroneous legal conclusions. For example, contrary to your letter, the Oversight Board has followed, and continues to follow, the process set forth in PROMESA section 204(a). In contrast, the Governor failed to comply with the time requirements under section 204(a) for submitting the certifications and

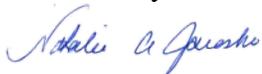
Mr. Marrero Díaz
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formal estimates, and when the Oversight Board sent its letter on August 18, 2020, the Oversight Board had not received the required documentation even though it was overdue. The Governor's failure to comply with the time requirements is, and was, particularly troubling because the Acts substantially alter the Government's pension obligations for thousands of public employees, and these employees are re-evaluating the retirement options in light of the Acts. Under the circumstances, where the Government had not complied with section 204(a), the Acts made wholesale changes to pension obligations, and public employees were looking to make decisions based on the laws, the Oversight Board properly invoked its authority under PROMESA section 108(a)(2) in its letter dated August 18, 2020.

Finally, we note that the Governor's failure to comply with the time requirements of section 204(a) is a continuing problem. The Governor failed to comply with the time requirements with respect to the Acts, and certifications for at least twenty additional laws have not been submitted to the Oversight Board within the statutory time period, impairing the Oversight Board's authority under PROMESA, including sections 204(a) and 204(c). Your letter mischaracterizes the Law 29 decision. The Court did not find the Oversight Board incorrectly argued that the Governor has a policy of non-compliance with section 204 of PROMESA. In fact, as you know, the Court found the Governor and AAFAF failed to comply with sections 204(a), 204(c), and 108(a)(2) of PROMESA. While the question of whether the Governor has a policy of non-compliance is still pending, the Oversight Board encourages the Government, once again, to conduct and complete its analysis of the economic impact of each law prior to its enactment to avoid further section 204(a) violations,

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

Sincerely,



Natalie A. Jaresko

CC: Hon. Wanda Vázquez Garced