

ORRIN G. HATCH, UTAH, CHAIRMAN

CHUCK GRASSLEY, IOWA
MIKE CRAPO, IDAHO
PAT ROBERTS, KANSAS
MICHAEL B. ENZI, WYOMING
JOHN CORNYN, TEXAS
JOHN THUNE, SOUTH DAKOTA
RICHARD BURR, NORTH CAROLINA
JOHNNY ISAKSON, GEORGIA
ROB PORTMAN, OHIO
PATRICK J. TOOMEY, PENNSYLVANIA
DANIEL COATS, INDIANA
DEAN HELLER, NEVADA
TIM SCOTT, SOUTH CAROLINA

RON WYDEN, OREGON
CHARLES E. SCHUMER, NEW YORK
DEBBIE STABENOW, MICHIGAN
MARIA CANTYWELL, WASHINGTON
BILL NELSON, FLORIDA
ROBERT MENENDEZ, NEW JERSEY
THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
SHERROD BROWN, OHIO
MICHAEL F. BENNET, COLORADO
ROBERT P. CASEY, JR., PENNSYLVANIA
MARK R. WARNER, VIRGINIA

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

CHRIS CAMPBELL, STAFF DIRECTOR
JOSHUA SHEINKMAN, DEMOCRATIC STAFF DIRECTOR

June 29, 2016

The Honorable Jacob Lew
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Lew:

I am concerned that the U.S. Department of the Treasury has created information asymmetries between investors and government officials in its pursuit of unprecedentedly broad debt-restructuring authority for Puerto Rico. As you know, Puerto Rico has refused to provide audited financial information to Congress, the Municipal Securities Rulemaking Board (MSRB), or private investors for years. Yet, officials at the Treasury Department have had, at least since March of 2015, signed confidentiality agreements with component units of the Puerto Rico government, such as the Puerto Rico Electric Power Authority (PREPA). Such information agreements have the potential of granting select federal officials access to possibly market-sensitive information, including information about the true state of Puerto Rico's finances, such as updated financial balances, flows, projections, and plans. Treasury Department officials appear to have access to this information due to the myriad and complex links in Puerto Rico among the numerous debtor municipalities, public corporations, Puerto Rico's opaque Government Development Bank, and the Commonwealth government.

According to the confidentiality agreement that Treasury Department officials have with PREPA, for example:

“The term “Confidential Information” shall mean all documents, information, discussions, and other material about the Company, present or future laws, regulations and proceedings applicable to the Company that is non-public, confidential, or proprietary in nature, and that is voluntarily furnished orally or in writing hereunder by a Disclosing Party to the Recipient or to the Recipient's Representative(s) (as defined below) on or after the date of this Agreement. Confidential Information includes, without limitation, (i) accounting, financial, tax, legal, or operational documents that are non-public, confidential, or proprietary or (ii) non-public, confidential, or proprietary oral, written or electronic communications, confidential memoranda, and presentations prepared by the Company or any of its affiliates related to a potential operational or financial restructuring of the Company.”

“In regards to the Company, the term “affiliate” includes the Government Development Bank for Puerto Rico...”

This means that Treasury Department officials may possess market-sensitive information superior to that held by public investors, the Securities and Exchange Commission, the MSRB, and Congress about the true state of Puerto Rico’s finances. Confidential information about the state of the Government Development Bank, which is a major financial center of the government of Puerto Rico, would almost surely provide an informational advantage relative to investors who have no access to such information.

The confidentiality agreement between PREPA and Treasury Department officials also indicates that, as a permitted disclosure, the Treasury Department officials to whom the confidentiality agreement applies:

“may disclose extracts of Confidential Information to other offices and employees within the Executive Branch having a need to know for purposes of policy formulation on State and local government financing issues.”

U.S. Treasury officials have pursued, since autumn of last year, a specific strategy to obtain federal legislation allowing for “broad” and “comprehensive” debt resolution authorities for Puerto Rico. The legislative strategy has, in the eyes of many, been in concert with government officials in Puerto Rico and their agents, including debt restructuring negotiators and former federal government and Treasury Department officials. Disturbingly, there are reports, including comments by Puerto Rico government officials, suggesting that Treasury Department officials may have interfered with or impeded debt resolution negotiations between private sector creditors and the Commonwealth of Puerto Rico or component units, in an effort to strengthen chances that pressure would mount on Congress to legislate broad debt resolution authorities.

A report in *Reorg Research*, for example, identified that:

Some of the sources have reiterated complaints that U.S. Treasury Department officials, such as Antonio Weiss, a counsel to Secretary Jacob Lew, have discouraged Puerto Rico officials from meeting with creditors to increase pressure on Congress to enact legislation to establish a federal oversight board that would have the power to restructure commonwealth debt and oversee the development and implementation of a long-term fiscal adjustment plan.

An April 29, 2016 article in *DebtWire*, titled “Puerto Rico feels heat from US Treasury to default” states the “The US Treasury is pressuring Puerto Rico government officials to completely default on the Government Development Bank for Puerto Rico (GDB) 1 May payment of USD 423m, three sources told *Debtwire Municipals*.” And a May 5, 2016 article in *Caribbean Business* titled “Puerto Rico Gov’t Doubles Down on Congressional Action” identifies that:

[O]ne camp tied to La Fortaleza was of the thinking that a larger default on May 2, despite its consequences, would improve the likelihood of having a more favorable

Puerto Rico Oversight, Management & Economic Stability Act (Promesa) making it to markup in the U.S. House Natural Resources Committee and be put on a fast track to passage in the Senate. They believe that announcing deals with GDP creditors would only hurt the commonwealth's chances to put Congress once and for all in a positions to act.

Given the Treasury Department confidentiality agreements with component units of Puerto Rico's government, reports that Treasury officials may have participated in or interfered with debt renegotiation strategies in negotiations between private parties and the Government of Puerto Rico, and reports that Administration officials may even have exerted pressure on Puerto Rico officials to default on obligations, I request the following information from the Treasury Department.

For the period of time between January 2, 2015 and June 19, 2016, please provide the following documents in your possession, custody or control:

1. Confidentiality agreements with the territory of Puerto Rico or its political subdivisions;
2. Communication between Treasury Department employees and Puerto Rico employees relating to the default on government obligations;
3. Communication between Treasury Department employees and union officials or other representatives or public employees in Puerto Rico;
4. Communication between Treasury Department employees and employees of the advisory firm Millstein & Co.;
5. Details of all Executive Branch employees who had substantive communication with Treasury Department employees concerning Puerto Rico's debt obligations; and
6. Documents provided to the Treasury Department by Puerto Rico or one of its political subdivisions under a confidentiality agreement.

Thank you in advance for your prompt response to this request. I ask that you provide this information to the Committee no later than July 29, 2016. If you have any questions, please contact me at (202) 225-4444.

Sincerely,



Orrin G. Hatch
Chairman