

May 19, 2016

Legal Update

Recent Developments Regarding the “Puerto Rico Emergency Moratorium and Rehabilitation Act”

As it has been widely discussed, on April 6, 2016, the Governor of Puerto Rico, Alejandro García Padilla, enacted Act No. 21-2016, as amended, known as the “Puerto Rico Emergency Moratorium and Financial Rehabilitation Act” (“Act No. 21”), which empowers him to declare, through an Executive Order (“EO”), a fiscal state of emergency and a moratorium on certain obligations until January 2017, which date could be extended for 2 additional months.

The most recent developments related to Act No. 21 include:

Act No. 40 – 2016

On May 5, 2016, Act No. 40 – 2016 was enacted to establish that due to the effect that a receivership of the Government Development Bank (“GDB”) would have on the Puerto Rico economy and in the financial stability of depository institutions and for low income, minority, or underserved communities, the receivership process shall preserve and prioritize the safety, soundness and stability of depository financial institutions and their deposits.” As such, it amends Act No. 21 to provide that, if the GDB were to be placed into receivership, deposits by savings and credit cooperatives and banks are to be paid first.

Executive Orders Issued Under Act No. 21

EO 2016-018 declares an emergency period on the Puerto Rico Highway and Transportation Authority (“PRHTA”) until June 30, 2016, and suspends the obligation of PRHTA to transfer or deposit all of its revenues, including toll revenues, to any financial institution or entity that acts as fiscal agent pursuant to a bond resolution under which PRHTA bonds have been issued, and orders the implementation of other reasonable and necessary measures to continue providing essential services to the residents of Puerto Rico.

EO 2016-017 excludes certain obligations of the Puerto Rico Energy Power Authority from the applicability of Act No. 21.

EO 2016 – 014 declares a moratorium on certain obligations of GDB, declares an emergency period for the Puerto Rico Infrastructure Financing Authority, and orders the implementation of other measures that are reasonable necessary to continue providing essential services to residents of Puerto Rico.

EO 2016 - 010 declares an emergency period for GDB, addresses the disbursement of deposits and loans by the GDB and orders the implementation of other measures to enable the GDB to continue carrying out its operations.



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It should be noted that currently, there are other bills that have been filed in the Senate and House of Representatives to further amend Act No. 21 to, among other things: (i) amend the definition of “Governmental Entity” (which will directly affect the entities to which Act No. 21 will apply); (ii) exclude the Commonwealth’s general obligation debt from its applicability; and (iii) protect and provide for the disbursement of certain deposits of municipalities.

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