



PUERTO RICO BANKERS ASSOCIATION

September 2, 2016

VIA EMAIL PRTASKFORCE@MAIL.HOUSE.GOV

The Honorable Orrin Hatch
Chairman, Congressional Task Force
on Economic Growth in Puerto Rico
United States Congress
Washington, D.C.

Dear Mr. Chairman:

The Puerto Rico Bankers Association¹ (the "PRBA") respectfully submits this letter to the Congressional Task Force on Economic Growth in Puerto Rico (the "Task Force") with its recommendations for modifications of certain Federal Laws, regulations, and programs applicable to the banking industry that either do not take into account the particularities of our local economy, or provide a disparate treatment for banks in Puerto Rico, to the detriment of the local commercial and industrial sectors and consumers and thus, to the economy of Puerto Rico as a whole.

A. Background

The Task Force was established under Section 409 of the "Puerto Rico Oversight, Management, and Economic Stability Act" Public Law 114-187, commonly known as ("PROMESA"), signed into law on July 1, 2016. The Task Force is charged with examining economic growth in Puerto Rico, including, identifying those existing federal laws, regulations and programs, that should be modified to spur sustainable long term economic growth, job creation, reduce child poverty and attract investment in Puerto Rico.

¹ The PRBA represents the six (6) commercial banks doing business in Puerto Rico, all of which are FDIC insured banks. One (1) of the banks represented by the PRBA is a member of the Federal Reserve System and another is a national bank supervised by the Office of the Comptroller of the Currency. As such, the banks represented by the PRBA are subject to Federal banking and consumer financial protection laws and regulations.

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B. Introduction

Puerto Rico's economy has undergone a massive retrenchment in the past ten years and the economy has contracted by 15 percent in the period. The elimination of Section 936 of the US Internal Revenue Code in year 1996 was a key factor in this process. Some numbers illustrate what the economy has gone through. In 1996, for example, the manufacturing sector employed 165,000 high salaried individuals, but by 2016 that figure had fallen to 74,000. The loss of those 90,000 high paying jobs has had severe consequences for the Island as a whole and for specific municipalities with concentrations of manufacturing activity.

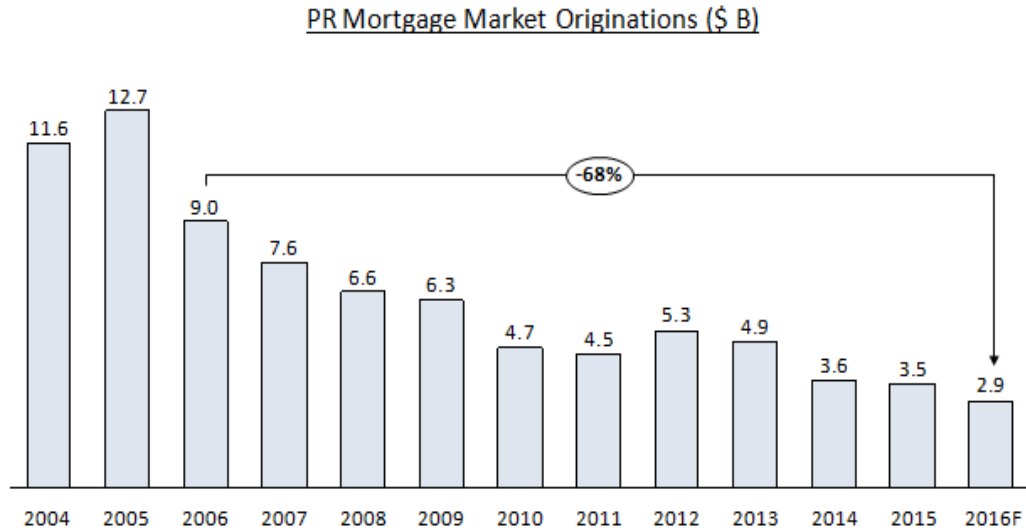
The construction sector, a major generator of jobs, has virtually disappeared. From a level of annual investment of \$7.0 billion it is now at some \$3.4 billion. New housing sales have fallen from 13,400 new units in 2006 to 2,300 in 2015, a number likely to be repeated in 2016. The financial sector in Puerto Rico is down to six banks. Many major institutions have left the Island, or have significantly reduced their activities here, including Chase, Bank of Boston, Spanish bank BBVA, and Royal Bank of Canada. Also, four local banks have been placed in receivership between 2010 and 2015. The banking sector's assets are now some 35 percent below what they were in 2005.

This economic crisis has provoked massive outmigration with estimates of over 350,000 people leaving the Island between 2006 and 2016. This has been a major factor in changing the Puerto Rican population structure of the Island towards the predominance of the elderly age cohorts. By 2015, the median age of the population was 40 years. Between 2010 and 2020, age cohorts above 65 will grow rapidly while those below 40 will experience significant losses. This change in the population dramatically changes the nature and need of social services and is bound to put additional pressure on government finances.

The economic downturn and the adverse fiscal condition prevailing on the Island, have caused a prolonged contraction of economic activities. In this respect, the mortgage lending industry has reported a steep

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decrease in mortgage originations by 68 percent from \$9.0 billion in 2006 to a forecasted \$2.9 billion for 2016.

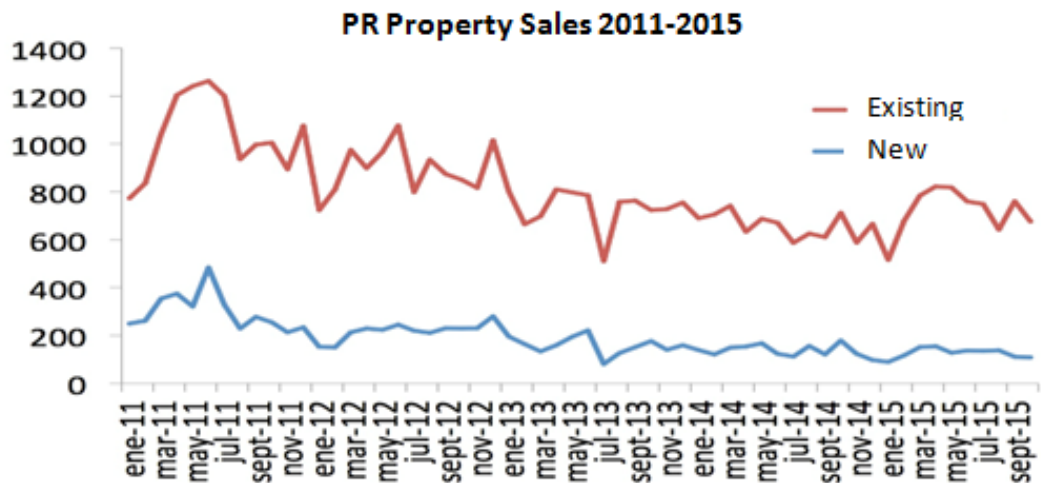


Moreover, property values have decreased by 21 percent from an average loan amount of \$152,000 in 2006 to \$125,000 in 2016. Based on the data provided by Office of the Commissioner of Financial Institutions, total real property sales show a decrease of 162 percent from 2011 to 2015 and are segregated as follows: new units, a 322 percent reduction and existing properties, a 135 percent reduction.

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The PRBA respectfully submits that any economic development strategy for Puerto Rico should consider the establishment of an urban development rehabilitation plan that includes mixed use properties and existing and new condo development. Government agencies such as the Department of Housing and Urban Development, (“HUD”) and Government Sponsored Enterprises² like Fannie Mae and Freddie Mac are vital allies in order to provide the necessary liquidity to Puerto Rico’s mortgage banking industry. In view of the Island’s market conditions, we are proposing herein recommendations that could create greater opportunities for the economic development of Puerto Rico.

Only with measures that can have short term impacts will Puerto Rico be able to begin to move towards a healthier economy and society. Our banks have a key role to play in reconstructing the economy by financing new investments in tourism and manufacturing as well as by providing financial services and investments for community development. But these efforts have been hampered to a large extent by restrictions in federal regulations that, as explained below, do not take into account the nature of Puerto Rico’s economic and social

² Whenever used in this letter, the term “GSE” shall refer to the Federal National Mortgage Association, or Fannie Mae, and the Federal Home Loan Mortgage Corporation, or Freddie Mac.

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realities. In the field of mortgage banking, regulatory restrictions have limited the extent to which the banking sector can help resolve the need for affordable housing for the low income, elderly and other disadvantaged population groups. It bears noting that close to 50 percent of the Island's population have incomes below the poverty line.

C. Summary of Recommendations

The PRBA respectfully submits that the following Federal laws, regulations or programs applicable to banks in Puerto Rico, should be modified as provided herein:

1. The "Ability to Repay" rules under Section 1026.43 of Regulation Z ("ATR Rules") should be amended such that, with respect to Puerto Rico, in order for a mortgage loan to be considered as a "qualified mortgage", the bright-line debt-to-income ratio of the consumer in question be increased in accordance with the economic realities of the Island. As an alternative, the January 10, 2021 expiration date for the temporary GSE and government insured or guaranteed mortgages exceptions to the ATR Rules in Section 1026.43(e)(4)(iii)(A) of Regulation Z, should not be made applicable, or should be extended indefinitely with respect to, mortgage loans originated in Puerto Rico.
2. The Interagency Questions and Answers Regarding Community Reinvestment Act, specifically, question §____. 12(t)-9, which addresses the quantitative consideration given to a certain type of community development investments for Community Reinvestment Act ("CRA") compliance, should be amended to consider the total amount invested by Puerto Rico banks in connection with structured transactions³ for purposes of the CRA investment requirement.⁴

³ A "structured transaction" refers to a transaction where an interest rate spread is derived from the difference of the coupon payment of the underlying collateral placed by the CRA qualifying organization and the coupon payment of the structured note issued by the organization.

⁴ Among other requirements, the federal banking regulators assess the bank's performance in meeting the needs of their community under CRA, through "qualified investments". These investments are

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3. The Interagency Questions and Answers Regarding Community Reinvestment Act, specifically, question §____. 23(b)-2 should be amended to allow a financial institution in Puerto Rico to receive consideration under the investment test for securities backed by home mortgage loans to low and moderate income borrowers originated or purchased by the same institution, when the institution has not considered such loans under the loan test.
4. In connection with condominium buildings located in Puerto Rico, we recommend that the pertinent Federal laws, regulations and programs, as well as existing regulations or guidelines of HUD and the GSEs, be modified as follows:
 - a. The funding reserve for capital expenditures and deferred maintenance required for qualification of condominium units for FHA and GSEs financing be lowered to 5 percent of the budget.
 - b. The federal housing agencies and the GSEs should standardize the Fidelity/CRIME insurance coverage so that if the condominium's Home Owners Association ("HOA") or its management agent has adequate financial controls, the coverage must equal at least the sum of three months of assessments.
 - c. In Federal Housing Administration ("FHA") qualified new or existing condominium projects consisting of twenty (20) or less units, allow the delinquency percentage to more than 15 percent.
 - d. Allow the number of units financed by FHA insured mortgages in a condominium to exceed the maximum allowed 50 percent up to 100 percent.

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5. Private mortgage insurance is available in Puerto Rico only through the Mortgage Guarantee Insurance Corporation ("MGIC") which presently caps the maximum loan to value ratio to 95 percent. The PRBA hereby requests that measures be taken to incentivize other private mortgage insurance companies to offer their products in Puerto Rico or that other type of mortgage insurance (private or government) be made available for Puerto Rico. As an alternative, the loan to value ratio currently established by MGIC should be increased to 97 percent, as is currently available in the fifty (50) states of the United States.
6. Affordable Housing Programs sponsored by Fannie Mae or Freddie Mac such as the Home Ready Mortgage and the Home Possible, should be modified so that the borrower's income required for qualification in the case of Puerto Rico residents be established in 125 percent of the area median income in high-minority census tract.
7. Other Mortgage lending related recommendations:
 - a. Designate Puerto Rico as a "high cost area" for purposes of the FHA and GSE guides and regulations.
 - b. Eliminate FHA's recent requirement that recorded legal documents, Construction Permits and Certificate of Occupancy or equivalent have to be translated into English.
 - c. FHA and Fannie Mae/Freddie Mac requirements related to student mortgage loans should be modified to allow that debt payments beginning or coming due within twelve months of the mortgage loan closing be included by the creditor as anticipated monthly obligations during the underwriting analysis only if the consumer does not provide written evidence that the student loan will not be deferred for a period outside the twelve month timeframe.

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8. The financial institutions operating in Puerto Rico should be excluded from the data collection, recordkeeping and reporting requirements of section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") and the regulations to be issued there under, that require financial institutions to collect, maintain and report information concerning credit applications made by minority-owned businesses.
9. H.R. 5322, commonly known as the United States Territories Investors Protection Act of 2016 (the "Bill"), that would extend to investment companies in Puerto Rico and all the United States territories the same protections under the Investment Company Act of 1940 (the "1940 Act") as those afforded to investors on the United States mainland, should not be made applicable to Puerto Rico. In the alternative, should the implementation of the 1940 Act in Puerto Rico be deemed by the United States Congress to be the most effective approach, (a) the Bill should be applied prospectively to new investment companies organized after its enactment and (b) Congress should ensure that its application be accompanied by appropriate transitional measures so that the mutual funds existing in Puerto Rico maintain their existing leverage levels for the indefinite future.
10. The SBA 504 Loan Program's requirement of debt service performance before the creditor may request the 40 percent guarantee should be reduced to two years for SBA guaranteed loans granted in Puerto Rico.

D. Discussion of Recommendations

Below is a summary of the PRBA's arguments in support of the foregoing recommendations.

1. **The ATR Rules.** On July 24, 2013, Regulation Z, promulgated under the Truth in Lending Act, was amended to implement the ability to repay requirements set forth in sections 1411, 1412, and 1414 of the Dodd-Frank Act. In response to the request for comments published by the Consumer Financial Protection

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Bureau "(CFPB)", which is the agency in charge of the administration and enforcement of Regulation Z, in connection with these amendments, PRBA on February 25, 2013, submitted an extensive comment letter setting forth the PRBA's concerns that as proposed, the "Ability to Repay" rules ("ATR Rules") failed to take into account certain unique aspects of the Puerto Rican housing market and economy.

The ATR Rules provide for presumed compliance with the general ability to repay analysis requirements for lenders who make qualified mortgages ("QMs"). Demonstrable failure to properly consider the consumer's ability to repay can result in severe liability for the lender or its assignees, including a borrower's defense by recoupment or set-off to a foreclosure action in the potential amount of up to three times the finance charge, plus damages, actual costs, and attorney's fees. One of the components of the QM definition is the back-end debt-to-income ratio of the consumer in question, taking into account the mortgage loan ("DTI"), which is the ratio of the consumer's total monthly debt to total monthly income at the time of the loan consummation.

According to the ATR Rules, for a loan to be a QM, the consumer cannot have a DTI that exceeds 43 percent. The PRBA hereby requests that the CFPB reconsider the bright-line DTI cap of 43 percent for QMs with respect to Puerto Rico. There are certain facts and realities about the Island that require a reconsideration of the QM DTI cap with respect to Puerto Rico inasmuch as on the average, Puerto Ricans tend to have higher DTIs than should be permissible for a QM under the proposed ATR Rules. As an alternative to the above, and for the same reasons, the PRBA proposes that the January 10, 2021 expiration date for the GSE, and government insured or guaranteed mortgages exception to the ATR rules in Section 1026.43(e)(4)(iii)(A) of Regulation Z, not be made applicable or be extended indefinitely, with respect to mortgages originated in Puerto Rico.

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Here are the facts:

FIRST Because Puerto Rico is a tropical Island subject to increased potential damage from storms and flooding, construction costs for houses in Puerto Rico tend to be higher than construction costs for similarly-houses in the fifty states. Consequently, the cost to buy such houses tends to be higher as well, thereby necessitating larger mortgage loans.

SECOND On average monthly income tends to be lower in Puerto Rico. This impacts both monthly income and the debt part, of the DTI calculation. Since monthly incomes are lower, Puerto Ricans tend to have smaller down payments on their houses, leading to larger mortgage loans.

THIRD The vast majority of mortgage loans in Puerto Rico are 30-year fixed-rate, fixed-amortization loans.⁵ Thus, interest rates and credit costs tend to be higher for borrowers in Puerto Rico compared to the fifty states, since lenders in Puerto Rico must carry far more long-term interest rate risk.

FOURTH Because Puerto Rico has a less-developed public transportation infrastructure, Puerto Ricans generally use cars as their primary means of transport. Puerto Ricans thus have on average more outstanding car loans debt than in the fifty states on a per capita basis. Such debt is included in the DTI calculation.

As a consequence of the above, the PRBA estimates that the average DTI in Puerto Rico is well above the DTI QM caps of 43 percent set forth in the ATR Rules.

It should also be mentioned that young adults in Puerto Rico tend to have more limited housing options. Unlike in the 50 states, the rental market in Puerto Rico is very small. Unlike in the 50 states, where young adults tend to move into a rental property prior to buying their first homes, Puerto Rican residents tend to either live at home with their family or live in public assistance housing until they can buy their first homes.

⁵ According to the Office of the Commissioner of Financial Institutions as of June 30, 2016, 78.87% of the number and 83.70% of the dollar amount, of the mortgage loans originated in Puerto Rico, were 30 year fixed-rate, fixed-amortization loans. The remaining 16.30% and 21.13%, respectively, were 15 year fixed-rate, fixed-amortization mortgage loans.

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Consequently, making it harder for Puerto Ricans to obtain affordable QM loans has led to increased number of young professionals leaving the Island, which already faces an emigration problem.

A copy of the PRBA comment letter mentioned above submitted to the CFPB in connection with the ATR Rules which provides a detailed discussion of the matters set forth above is available upon request of the Task Force.

2. **The CRA Interagency Q & A §____.12(t)(9).** On November 15, 2013, the federal banking agencies⁶ (the "Agencies") revised the Interagency Questions and Answers Regarding Community Reinvestment Act (the "Q&A")⁷. In connection with such revision, the Agencies amended CRA question §____.12(t)9 of the Q & A to provide that if a financial institution invests in (or lends to) an organization that, in turn, invests those funds in instruments that do not have community development as their primary purpose and uses only the income or a portion of the income, from those investments to support the organization's community development purposes, the Agencies would consider only the amount of the investment income used to benefit the organization or activity that has a community development purpose for CRA purposes. This interpretation of the Agencies has had the effect of eliminating structured transactions as qualified investments for all practical purposes. Due to the limitation established in the amount of the qualified investment in the case of structured transactions, our banks have been discouraged from entering into transactions such as these with not-for-profit organizations some of which relied on said transactions to cover their funding needs. Prior to the mentioned Q&A amendment, our banks had over \$150 million invested in community based organizations through the structured transaction mechanism. The change in regulatory policy has caused our banks to reevaluate their CRA investment

⁶ The Office of the Comptroller of the Currency; the Board of Governors of the Federal Reserve System; the Federal Deposit Insurance Corporation.

⁷ The Agencies publish the Q&A to provide guidance on the interpretation and application of the CRA regulations to agency personnel, financial institutions, and the public.

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strategies. However, their ability to find qualified investments in Puerto Rico has been significantly impaired due to the deep and prolonged fiscal and economic crisis affecting the Island. As a result, the PRBA hereby submits that the mentioned Q&A amendment has placed the banks in Puerto Rico in a disadvantage with respect to compliance with the investment requirements of the CRA, since when compared with the United States market, the Puerto Rico market has very limited opportunities for CRA investments that would be acceptable investments under the banks investment policies. Also, the structured transaction mechanism that has been eliminated as an alternative to comply with the CRA investment requirement for all practicable purposes, was a formidable funding mechanism for community development organizations in Puerto Rico most of which are not-for-profit organizations and some of which have been significantly and adversely affected by that policy change. A copy of the PRBA comment letter submitted to the Agencies on May 26, 2013 which sets forth the matters discussed above in more details is available upon request of the Task Force.

3. **The CRA Interagency Q&A §____.23(b)-2.** CRA question §____.23(b)-2 of the Q & A provides that an institution may not receive investment test consideration for mortgage backed securities ("MBS") that are backed by loans to low-and-moderate income individuals that are backed primarily or exclusively by loans that the same institution originated or purchased, regardless of whether the institution did not elect to consider such loans under the lending test. This implies that the institution may not elect to withdraw the consideration from the lending test and receive consideration on the investment test. This interpretation of the Agencies has had the effect of eliminating a considerable source of CRA qualifying investments for most institutions in the Island. As mentioned earlier, the ability of our banks to find qualified investments in Puerto Rico has been significantly impaired by the prevailing economic recession that affects the Island. By allowing institutions to elect to classify the securitized loans to low and moderate-income

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borrowers originated or purchased by them as a qualified loan or investment, will allow the institution to create a portfolio of CRA MBS. Due to the scarcity of CRA MBS in Puerto Rico, these securities will tend to have a higher price than a comparable generic MBS. The price difference could result ultimately in lower mortgage rates to low and moderate-income borrowers due to the higher secondary prices of the MBS securitized from those loans. This could lead to increased mortgage lending activity and construction of affordable housing. The contraction in the housing development market has been one of the main factors cited for the current economic slump experienced in the Island.

4. **Condominiums in Puerto Rico.** FHA and the GSEs currently impose numerous requirements for the qualification of units in condominium buildings for mortgage financing through such agencies. These requirements have the effect of excluding most condominiums in Puerto Rico from qualifying for government or conforming mortgage loans and its benefits, some of which provide lower interest rates, a higher Loan-To-Value ratio ("LTV"), established Loss Mitigation Programs and access to the Secondary Mortgage Market. As mentioned above, the PRBA proposes exceptions to some of the requirements that impair access to these types of housing financing options in Puerto Rico.
 - a. A modification should be made to the applicable guidelines and regulations of FHA and the GSEs that require that a condominium should have at least 5 years of 10 percent replacement reserve in a bank account. FHA should follow Fannie Mae's guidelines that provide that the replacement reserve does not need to have a minimum balance as long as at least 5 percent of the monthly assessment fee is designated to the replacement reserve account. Reducing the required reserves from 10 percent to the 5 percent currently required by law in Puerto Rico would allow improved affordability and housing financing options to the population. Special assessments for maintenance and special projects are customary in Puerto Rico and do not

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represent additional risk to government agencies and GSEs or unnecessary burden for the consumer.

- b. All government agencies and GSE's should standardize the Fidelity/CRIME insurance coverage stating that if the HOA or its management agent has adequate financial controls, the coverage must equal at least the sum of three months of assessments.
5. **Private Insurance.** As mentioned above, private mortgage insurance is available in Puerto Rico only through MGIC which presently caps the maximum loan to value ratio to 95 percent. As an alternative, the loan to value ratio currently established by MGIC should be increased to 97 percent (as is currently available in the 50 states) to facilitate the offering of Fannie Mae and Freddie Mac's affordable housing financing programs. The PRBA hereby requests that measures be taken to incentivize other private mortgage insurance companies to offer their products in Puerto Rico or that other types of mortgage insurance (private or government) be made available for Puerto Rico to benefit home acquisitions.
6. **Affordable Housing Programs.** Affordable Housing programs implemented on December 2015, like Home Ready sponsored by Fannie Mae or Home Possible by Freddie Mac are targeted for low-to-moderate-income borrowers and buyers in designated low-income, minority, and disaster-impacted communities. The product limits the borrower's income to 100 percent of area median income ("AMI") in high-minority census tracts and 80 percent of AMI in all other census tracts. Puerto Rico has the lowest AMI in the 50 states. This is due to the inclusion of a big segment of Puerto Rico's population that resides in public housing or receives housing subsidies, which are marked as very low or non-income earners. We propose that the product be made available through the whole Island based on 125 percent of the AMI. This will provide more opportunities to the working class segment of the population that is being heavily burdened

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by the increased cost of living and is looking for affordable housing solutions.

7. Other Mortgage Lending Recommendations

(i) High Cost Area:

A small sector of professionals that affect positively the local economy by creating employment and/or generating income is adversely affected by FHA, Fannie Mae/Freddie Mac maximum loan amount caps. It is our recommendation that due to higher construction and living costs, Puerto Rico should be designated as a high cost area as defined by current regulations like Alaska, Guam, Hawaii and the U.S. Virgin Islands.

General Loan Limits for 2016

The general loan limits for 2016 are unchanged from 2015 (e.g., \$417,000 for a 1-unit property in the continental U.S.) and apply to loans delivered to Fannie Mae in 2016 (even if originated prior to 1/1/2016). Refer to [Lender Letter LL-2015-07](#) for specific requirements.

Maximum Original Principal Balance for 2016

Units	Contiguous States, District of Columbia, and Puerto Rico	Alaska, Guam, Hawaii, and the U.S. Virgin Islands
1	\$417,000	\$625,500
2	\$533,850	\$800,775
3	\$645,300	\$967,950
4	\$801,950	\$1,202,925

***Maximum Loan Limits for High-Cost Areas for Mortgages Acquired in Calendar Year 2016**

2016 high-cost area loan limits have increased for 39 counties due to a high-cost area adjustment or the county being newly assigned to a high-cost area.

*Amounts shown below are maximum limits allowed by the provisions of the Housing and Economic Recovery Act of 2008. The specific high-cost area loan limits are established for each county (or equivalent) by FHFA. Lenders are responsible for ensuring that the original loan amount of each mortgage loan does not exceed the applicable maximum loan limit for the specific area in which the property is located.

Units	Contiguous States, District of Columbia+	Alaska, Guam, Hawaii, and the U.S. Virgin Islands
1	\$625,500	\$938,250
2	\$800,775	\$1,201,150
3	\$967,950	\$1,451,925
4	\$1,202,925	\$1,804,375

+Puerto Rico and a number of other states do not have any high-cost areas in 2016.

Note that the loan limits apply based on the original loan amount, rather than the unpaid principal balance (UPB).

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Current regulations and Non-Conforming loan products make these loans more expensive having an adverse factor on home values and communities.

(ii) Student Loans:

Modify FHA and Fannie Mae/Freddie Mac requirements on student loans to read as follows: debt payments to begin or come due within twelve months of the mortgage loan closing, must be included by the creditor as anticipated monthly obligations during the underwriting analysis; but if the consumer provides written evidence that the student loan will be deferred for a period outside of the twelve month timeframe, it should not be considered for qualification purposes. If the loan is in a repayment plan utilize the monthly payment established by the servicer for each loan and eliminate the 1 percent payment calculation requirement when the current payment does not fully amortize the loan.

8. **Section 1071 of the Dodd-Frank Act.** Section 1071 of the Dodd-Frank Act added a new Section 704B to the Equal Credit Opportunity Act ("ECOA").

The newly enacted section 704B(a) provides that its purpose is to "facilitate enforcement of fair lending laws and enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned, and small businesses."

In this respect, section 704B(b) generally requires that in connection with any application received by a financial institution for credit to a women-owned, minority-owned and small businesses, the financial institution must: (i) inquire whether the business is a women-owned, minority-owned, or small business; (ii) maintain a record of the response to such inquiry, separate from the application and accompanying information; and (iii) report annually to the Bureau the data so compiled and maintained.

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The term "Minority-Owned Business" is defined in section 704B(h)(5) of ECOA to mean, a business:

- (A) More than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and
- (B) More than 50 percent of the net profit or loss of which accrues to one or more minority individuals.

According to section 704B(h)(4) of ECOA, the term "Minority" has the same meaning as in Section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 where it is defined as "...any Black American, Native American, **Hispanic American**, or an Asian American." (Emphasis ours)

It should be noted that according to the 2010 US Census Bureau, 99 percent of the population of Puerto Rico is Hispanic. On the other hand, Puerto Rico born individuals are American citizens due to the unique political relationship existing between Puerto Rico and the United States. Therefore, at least 99 percent of the population of Puerto Rico would qualify as "Minority" in accordance with the definition of such term in section 704B(h)(4) under the category of Hispanic Americans, resulting that practically all businesses owned by Puerto Ricans would qualify as a "minority-owned business" for purposes of section 704B of ECOA.

The direct and evident effect of the new section 704B of ECOA for our financial institutions will inevitably be, as it relates to minority-owned-businesses, the collection, recordkeeping and reporting of virtually all commercial loan applications received within the Puerto Rico marketplace.

The PRBA believes that this unreasonable result must not have been intended by Congress when it enacted section 1071 of the Dodd-Frank Act. The data so collected, maintained and reported will not serve the purposes for which section 1071 was enacted

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since, for the reasons set forth above, it will be completely inaccurate and unreliable.

Section 704B(g)(2) of the Dodd-Frank Act authorizes the CFPB, by rule or order, to adopt exceptions to any requirements of section 704B and to, conditionally or unconditionally, exempt any financial institution or class of financial institutions, from the requirements of section 704B, as the CFPB deems necessary or appropriate to carry out the purposes of such section.

Based on this authority given to the CFPB under section 704B(g)(2), the PRBA respectfully requests that in the drafting of the regulations that will put into effect section 704B of ECOA, the CFPB should exempt financial institutions operating in Puerto Rico from the collection, recordkeeping and reporting requirements of section 704B of ECOA, in relation to credit applications received from **minority-owned businesses** in Puerto Rico, that qualify as such under the definitions in section 704B of ECOA. However, such financial institutions will remain subject to all requirements of section 704B of ECOA with respect to women-owned and small businesses as such terms are defined therein.

9. **H.R. 5322** – The elimination of the 1940 Act exemption to investment companies organized in Puerto Rico as proposed by the Bill, would have an adverse impact on the local economy, resulting in serious negative effects on the Puerto Rico investor, and particularly Fund investors who are retirees and investors in Puerto Rico individual retirement accounts.

There is a substantial number of Puerto Rico mutual fund investors, who are retirees, that continue to hold their positions long term and rely heavily on fund dividends as a supplemental income during their golden years. Any significant reduction in fund dividends not only will have disastrous and immediate consequences, but will also magnify the economic crisis the Island has endured for almost a decade. Worse, any reduction in dividends will hit hardest those investors with the least

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elasticity, namely retirees whose nest egg is exposed to Puerto Rico government credits and who need the fund dividends to pay their bills.

While PROMESA seeks to safeguard the pensions of Puerto Rico Government employees, Puerto Rico's non-government retirees have not been afforded similar considerations. Faced with the Puerto Rico government's public proposal to reduce the principal amounts owed to these investors by fifty percent (50%) or more, wholesale implementation of the 1940 Act will compound the negative effects of the contemplated Puerto Rico debt restructuring by also reducing these retirees' current income at a time they desperately need it.

It should be emphasized that the Puerto Rico mutual funds are regulated and supervised by the Office of the Commissioner of Financial Institutions, and certain provisions of the 1940 Act are already incorporated in the local investment company law and regulations.

10. **The SBA 504 Loan Program.** SBA provides a number of financial assistance programs for small businesses that are specifically designed to meet key financing needs. Among those, is the SBA 504 Loan Program which provides business with long term, fixed rate financing for major assets such as land and buildings. It is designed to create employment opportunities by enabling expanding businesses to reserve working capital for growth.

Currently, the SBA 504 Loan Program requires ten years of borrower debt service performance before the bank may proceed to request the 40 percent SBA guarantee which backs loans granted under such program. Our banks hereby request that such debt service requirement be lowered to two years in the case of loans granted to qualifying small businesses in Puerto Rico. Such modification will undoubtedly benefit the local economy by promoting and expanding small business in Puerto Rico. It should be noted that our banks have traditionally been

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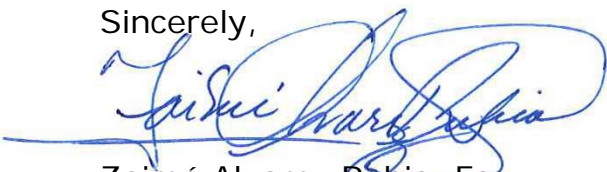
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SBA lenders and have actively promoted SBA Programs in their respective institutions. However, due to strict qualification requirements among others, SBA lending programs have not been as successful in Puerto Rico as in other US regions.

Finally, the PRBA is aware that other local private sector associations have submitted to the Task Force a number of recommendations for the Island's economic development and growth. Although our recommendations set forth herein are focused on the financial sector of our economy, we support initiatives such as federal tax incentive measures, healthcare parity, and other initiatives that would strengthen Puerto Rico's economic development potential. Because after all, Puerto Rico's banking system is highly integrated with the rest of the economy, we stand ready to meet and participate in any discussions about the impact of any such economic development recommendations, as the Task Force may deem appropriate.

The PRBA appreciates the opportunity given to provide these comments and recommendations and reiterates its willingness to meet with representatives of the Task Force to fully discuss these matters. In the meantime, please do not hesitate to contact us should you require additional information concerning the foregoing recommendations.

Sincerely,



Zoimé Alvarez Rubio, Esq.
Executive Vice President