

Securities Regulation Daily Wrap Up, MUNICIPAL SECURITIES NEWS—Senate plans fiscal help, but no ‘bailout’ for Puerto Rico, (Dec. 10, 2015)

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By Mark S. Nelson, J.D.

A bill introduced by Senate Finance Committee Chairman Orrin G. Hatch (R-Utah) would create a finance authority to help restore Puerto Rico's fiscal stability in the face of its ongoing debt crisis. The bill is one of several legislative options and comes as the Supreme Court prepares to hear a case dealing with Puerto Rico's status under the U.S. bankruptcy laws. The measure is co-sponsored by Sen. Lisa Murkowski (R-Alaska), chairman of the Senate Energy and Natural Resources Committee, and Senate Judiciary Committee Chairman Chuck Grassley (R-Iowa).

"With this bill, we use what limited information we have to lay out a sustainable framework to improve Puerto Rico's finances and its economy by providing responsible tax relief to workers and transitional assistance to the territory's government," said Chairman Hatch. An FAQ accompanying the bill said the measure would not be a "bailout." In October, Treasury Secretary Jacob J. Lew issued a roadmap for congressional action on Puerto Rico's fiscal and debt woes.

New finance authority. The Puerto Rico Assistance Act of 2015 would give a new entity called the Puerto Rico Financial Responsibility and Management Assistance Authority a wide mandate to achieve a variety of goals, including the elimination of the island's budget deficit and cash shortfall via "visionary financial planning," to enhance access to capital markets, and to continue the orderly payment of its debt service.

The Authority is to be led by the Treasury Secretary and would have five additional members to be appointed by the president in consultation with the House and Senate natural resources committees as well as Puerto Rico's governor and resident commissioner. The Authority's members also would have to meet financial expertise and other qualifications. A new chief financial officer role would be created to advise the governor.

Issuance of bonds. The Authority may issue any bonds it deems appropriate upon the governor's request and upon the action of Puerto Rico's legislative assembly. The Authority may issue bonds to borrow funds for an agency that has independent borrowing authority at the request of the agency's head. Generally, the issuance of bonds is conditioned on the Authority's creation of a debt service reserve trust fund. But the full faith and credit of the U.S. cannot be pledged for the principal and interest on any bonds issued by the Authority.

Elsewhere, the bill provides for \$3 billion in transition assistance to the Authority. The bill further authorizes Treasury to offer technical assistance on better accounting and disclosure practices to the U.S. territories, including Puerto Rico.

The bill would not impact Puerto Rico's duty to repay loans that predate the bill's enactment. Nor would the bill affect Puerto Rico's residents' ability to state a preference for continued territorial status or for permanent non-territorial status. But the bill would preempt other federal, state, and local laws that apply to Puerto Rico.

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