

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE GOVERNMENT DEVELOPMENT
BANK FOR PUERTO RICO,

Debtor.

PROMESA
Title VI

Case No. 18-1561

**THE BANK OF NEW YORK MELLON'S LIMITED NOTICE OF INTENTION TO
OBJECT TO QUALIFYING MODIFICATION OF THE GOVERNMENT
DEVELOPMENT BANK AND RESERVATION OF RIGHTS**

The Bank of New York Mellon (the "Trustee" or "BNYM") submits this Limited Notice (the "Notice") of Intention to Object to Qualifying Modification of The Government Development Bank ("GDB") and Reservation of Rights, and states the following in support:

BACKGROUND

1. BNYM serves as trustee under the Loan and Trust Agreement (the "Trust Agreement"), dated as of December 1, 2011, by and among the Puerto Rico Infrastructure Financing Authority ("PRIFA"), the Trustee, and the Puerto Rico Ports Authority (the "Ports Authority"), pursuant to which PRIFA issued its Revenue Bonds (Ports Authority Project), Series 2011B (the "Bonds").

2. On December 28, 2011, in connection with the issuance of the Bonds, GDB issued an irrevocable transferable direct-pay Letter of Credit (the "GDB Letter of Credit") in favor of the Trustee in respect of principal and interest on the Bonds.

3. On December 1, 2011, the Ports Authority and GDB entered into that certain Letter of Credit Disbursement and Reimbursement Agreement (the "Reimbursement Agreement"), providing, among other things, that the Ports Authority would reimburse GDB for

any drawings under the GDB Letter of Credit, on the terms and subject to the conditions set forth in the Reimbursement Agreement.

4. An Event of Default under the Trust Agreement occurred and has been continuing since at least 2016. Consequently, on May 17, 2017, the Trustee delivered a draw request (the “Draw Request”) to GDB under the GDB Letter of Credit in the amount of \$200,028,113 (the “Draw Amount”) on account of principal and interest due on the Bonds. No payments have been made in respect of the amounts represented by the Draw Amount.

5. On August 10, 2018, the GDB commenced a proceeding under Title VI of PROMESA by filing an application (the “Application”) in the United States District Court for the District of Puerto Rico (the “District Court”) seeking approval of the terms of the financial restructuring of certain of GDB’s indebtedness (the “Qualifying Modification”) pursuant to the creditor collective action procedures set forth in Title VI of the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”). Also on August 10, 2018, GDB and AAFAF filed an urgent motion asking the District Court to set deadlines for parties to file any notice of intention to object to the Qualifying Modification (the “Notice of Intention to Object Deadline”). The District Court granted the urgent motion and entered an order setting August 20, 2018 as the Notice of Intention to Object Deadline.

6. The Trustee, on behalf of itself and the holders of the Bonds, GDB, and the Puerto Rico Fiscal Agency & Financial Advisory Authority (“AAFAF”) have been negotiating since prior to the commencement of GDB’s Title VI proceeding regarding a resolution, in connection with the Qualifying Modification, of the claim(s) of the Trustee and holders of the Bonds arising from the GDB Letter of Credit and the Draw Request. The Qualifying Modification provides that the Trustee has claims (the “Claims”), individually and on

behalf of the bondholders, that arise under, or in connection with the Draw Request and the GDB Letter of Credit. The Qualifying Modification provides the Trustee, for the benefit of the Trustee and the bondholders, an allowed Participating Bond Claim in the amount of \$200,028,113 (the “Voting Amount”), *plus* interest on the Voting Amount at a rate of 3.75% accruing from and after the date of the Draw Request up to but not including the Closing Date (the Voting Amount, *plus* such interest, the “Claim Amount”).

LIMITED NOTICE OF INTENTION TO OBJECT

7. The Trustee, on behalf of itself and the bondholders, files this Notice to preserve its rights to object to the Qualifying Modification (if necessary) while the Trustee, AAFAF, and GDB continue working to finalize a settlement agreement (the “Settlement Agreement”) resolving the Trustee’s Claims.

8. In addition to discussions prior to the commencement of the Title VI cases regarding the amount of the Trustee’s Claim, the Trustee and the bondholders have raised certain concerns regarding the scope of the mutual releases described in the Solicitation Statement distributed to holders of Participating Bond Claims in connection with the Qualifying Modification. In particular, the Trustee and bondholders raised concerns that the mutual releases described in the Solicitation Statement might be interpreted as impacting the rights of the Trustee, the bondholders, or the GDB in connection with any claims they may have against PRIFA or the Ports Authority under the Trust Agreement or the Bonds, or in connection with any related transactions or agreements.

9. The Trustee is optimistic that it will be able to consensually resolve all of its concerns and, at the request of the bondholders, support the Qualifying Modification. However, in the event the Trustee, GDB, and AAFAF do not enter into a definitive Settlement

Agreement, the Trustee reserves the right to object to any modification to the Qualifying Modification described in the Solicitation Statement (including any modification to the Voting Amount or the Claim Amount), and to the scope of the mutual releases sought in connection with the Qualifying Modification.

Dated: August 20, 2018

Respectfully submitted,

SEPULVADO, MALDONADO & COURET

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*Counsel to The Bank of New York Mellon,
as indenture trustee*

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that on this same date we electronically filed this motion with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all participants and attorneys of record and that that this Notice will be served on this 20th day of August, 2018 upon the following parties and counsel by hand delivery:

**GOVERNMENT DEVELOPMENT BANK
OF PUERTO RICO**

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