

President Trump Removes Another FOMB Board Member

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PRACTICE AREAS

- PROMESA Task Force

An McV PROMESA Task Force Alert

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As we reported in our previous Alerts of August 6 and August 13, recent presidential actions have materially altered the composition of the Financial Oversight and Management Board for Puerto Rico (“FOMB”). On August 13, 2025, President Donald Trump removed Andrew Biggs from his position as a Member of the FOMB, leaving John Nixon as the sole remaining appointed member.

Under the FOMB Bylaws, a majority of the members constitutes a quorum and—when the number of appointed members is five (5) or fewer “any act to be taken shall require a majority of the Board’s appointed members.” With a single appointed member, that majority is one. Accordingly, the remaining member may constitute a quorum and take Board action for matters not otherwise constrained by PROMESA or specific Bylaw carve-outs. This position was espoused by the Executive Director of the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”, its Spanish acronym) in a news article.

PROMESA expressly requires “an affirmative vote of a majority of the FOMB’s fully appointed membership” to approve a fiscal plan, a budget, the non-enforcement of a legislative act, or a Critical Project designation. Those actions remain unavailable to a one-member Board because they require four affirmative votes regardless of vacancies. In addition, the Bylaws require the Chair’s appointment of an Executive Director and a General Counsel to have the consent of at least four other members, and they require five votes to issue a restructuring certification under PROMESA § 206. Executive sessions also require no fewer than four members. These restrictions continue to limit the current one-member Board’s ability to undertake those specific actions.

In summary, the FOMB can continue day-to-day operations and execute certain actions through the remaining member and its duly appointed Executive Director under the Bylaws, but it cannot take actions that PROMESA reserves for a specific number of the appointed members or those actions for which the Bylaws require multiple consents.

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The implications of this development on pending PROMESA Title III proceedings are uncertain. We should expect the Court to address this issue after the FOMB submits to the Court the report ordered by Judge Laura Taylor Swain's on the FOMB's membership, which is due on or before August 25, 2025. We will continue to monitor all relevant developments and provide updates, as warranted.

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