

**BYLAWS OF THE PENSION RESERVE BOARD**

**for the**

*Commonwealth Plan of Adjustment  
Pension Reserve Trust*



**Approved  
June 6<sup>th</sup>, 2023**

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## **PREAMBLE**

The trustees of the Pension Reserve Trust (hereinafter the “Trust”), acting as the Pension Reserve Board (hereinafter the “Trustees” or the “Board”) have agreed upon these by-laws to govern their procedures and responsibilities administering the Trust.

On January 18, 2022, the United States District Court for the District of Puerto Rico, in Civil Case No. 17-BK-3283 issued an order (Document No. 19813), approving and confirming the terms of the Eighth Amended Plan of Adjustment under Title III of the Commonwealth of Puerto Rico, et al., dated January 14, 2022 (Document No. 19784) (hereinafter the “Plan of Adjustment”). The Plan of Adjustment incorporates certain documents such as a Supplement to the Plan of Adjustment (Document No. 20353) that includes, among others, Deed number 2 of March 14, 2022, executed before the notary Edgardo Nieves Quiles (hereinafter the “Deed of Trust”) creating the Pension Reserve Fund and the “Guidelines for the Governance and Administration of the Puerto Rico Plan of Adjustment Pension Reserve Trust and Monitoring of Plan of Adjustment Pension Benefits” (hereinafter the “Guidelines”).

The Guidelines and the Deed of Trust provide for the creation of the Trust as well as the appointment requirements and procedures and obligations of the five trustees who constitute the Pension Benefits Board.

The funds of the Pension Reserve Trust shall be used exclusively to provide financial support for the Commonwealth’s pension obligations under the Pay Go system as provided in the Guidelines. The sole beneficiary of the Pension Reserve Trust is the Commonwealth of Puerto Rico and its funds shall be used solely for the payment of the defined benefit pensions and annuities’ obligations of the Commonwealth of Puerto Rico.

## **Article I. Responsibilities of the Board**

### **Section 1.01 Fiduciary Duties and Obligations.**

Upon acceptance of their trusteeship, the Trustees shall be individually and collectively, be fiduciaries with the obligations and authorities provided in Article 27 of the Puerto Rico Trust Act, including without limitation:

- (a) invest and administer the Trust property (trust’s “corpus”) in the interests of its beneficiary;
- (b) exercise reasonable care and skill as a prudent and reasonable person would when administering the Trustee’s own affairs; and, because the Trustee were required to possess skills and experience relating to investments, accounting, and finance, to use those skills and experiences;
- (c) in investing and administering the Trust property, a Trustee shall incur only costs that are appropriate and reasonable in relation to such property, the purposes of the Trust, and the skills of the Trustee;
- (d) not delegate to other persons the performance of acts that the Trustee is, or could reasonably be, required to perform personally, except as provided in subsection (e) below;

(e) delegate investment and asset management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The Trustees have the duty to exercise reasonable care, skill, and caution in the following:

(1) selecting an agent;

(2) establishing the scope and terms of the delegation consistent with the purposes and terms of the Trust;

(3) define the delegated authority clearly; and

(4) periodically reviewing the agent's actions in order to monitor the agent's compliance with the terms of the delegation. Trustees must endeavor to have any such agent to owe a fiduciary duty to the Trust to exercise reasonable care while complying with the terms of the delegation and having accepted the same, to voluntarily submit to the exclusive jurisdiction of the United States District Court for the District of Puerto Rico.

(f) not to commingle Trust funds or property with any funds or property of the Trustee(s);

(g) dispose of the Trust property only in the manner set forth in the Deed of Trust and the Guidelines;

(h) to make distributions only in compliance with the provisions of the Deed of Trust and the Guidelines;

(i) take reasonable steps to enforce claims of the Trust against third parties and to defend claims against the Trust when these could result in losses thereto, unless it is reasonable not to under the circumstances;

(j) keep and render clear and accurate accounts regarding the administration of the Trust in accordance with the Deed of Trust and the Guidelines; and

(k) dispose of all the remaining Trust property upon its termination through the appropriate alienation, in accordance with the terms of the Deed of Trust and the Guidelines.

## **Article II. The Trustees**

### **Section 2.01 Appointment of Trustees.**

Appointment of Trustees shall be made in accordance with the Deed of Trust and the Guidelines.

### **Section 2.02 Qualifications.**

The qualifications for Trustees are specified in the Guidelines.

### **Section 2.03 Appointment Term; Removal & Vacancies.**

Trustees serve for a term of six (6) years and may be reappointed. The original Trustees serve until December 31, 2027. If a Trustee does not complete his or her term for any reason, the entity

or person that appointed such person pursuant to Section 2.01 shall appoint a replacement trustee who is eligible to serve in such position. In each case, the replacement trustee shall serve for the remainder of the six-year term.

A trustee may be removed only by unanimous vote of all other Trustees.

#### **Section 2.04 Compensation.**

Trustees shall be paid an annual compensation in the amount provided in the Guidelines (subject to adjustment for inflation to be determined using the indicators published by the Planning Board of Puerto Rico), paid in four equal installments at the end of each calendar quarter. Compensation for any period less than a full quarter shall be prorated.

The Trustees shall also be entitled to reimbursement of reasonable expenses incurred in attending meeting and otherwise carrying out responsibilities as Trustees. Reimbursement shall be made in accordance with the Expense Reimbursement Policy attached hereto as **Exhibit A**. The Board may amend the expense policies at any time by majority vote without regard to the requirements of Section 3.11.

Notwithstanding the foregoing, any Pension Reserve Board member employed by the Government of Puerto Rico or any public corporation or instrumentality of the Government of Puerto Rico shall not receive compensation for his or her service on the Pension Reserve Board while so employed, but may receive reimbursement of in accordance with the Expense Reimbursement Policy attached hereto as **Exhibit A**.

### **Article III. Officers**

#### **Section 3.01 Appointment.**

The Board shall, from its members, appoint a Chair, an Investment Committee Chair, an Audit & Compliance Committee Chair (the “**Officers**”); and any other such officers as it considers useful to fulfill the Trust’s purposes. The appointment of each Officer shall require the affirmative vote of at least three (3) members of the Board, which must include at least one (1) Council Appointee and one (1) Governor Appointee. Each such officer shall hold office for two calendar years, or such other term as the Board specifies, or until his or her earlier resignation or removal. Any officer may resign at any time upon written notice to the Board.

The Board may remove any officer by supermajority vote with or without cause at any time, but such removal shall not by itself affect that person’s status as a Trustee.

#### **Section 3.02 Powers and Duties of Executive Officers.**

The officers of the Board shall have such powers and duties in the management of the Trust as may be prescribed in a resolution by the Board.

#### **Section 3.03 Powers and Duties of the Chair.**

The Chair shall give counsel and advice to the Board and the other Officers on all subjects concerning the welfare of the Trust and the conduct of its business and shall perform such other duties as the Board may from time to time determine. Unless otherwise determined by the Board, he or she shall preside at meetings of the Board at which he or she is present. The Chair will have authority to call meetings of the Board and recommend the creation of committees.

**Section 3.04 Powers and Duties of the Investment Committee Chair.**

The Chair of the Investment Committee shall, in the absence or disability of the Chair, perform all duties of the Chair and when so acting shall have all the powers of and be subject to all of the restrictions upon the Chair. The Chair of the Investment Committee shall have such other powers and duties as may be prescribed by resolution of the Board.

**Section 3.05 Powers and Duties of the Executive Director.**

The Executive Director shall have the power to hire staff for the Trust and make other legal commitments subject to the limitations of the approved budget and any limitations imposed by the Board; prepare, execute, deliver and perform, as the case may be, such agreements, amendments, applications, approvals, certificates, communications, consents, demands, directions, documents, further assurances, instruments, notices, orders, requests resolutions, supplements or undertakings, as the Executive Director determines necessary or appropriate.

**Section 3.06 Powers and Duties of the Secretary.**

The Secretary shall attend all meetings of the Board and shall be responsible for the minutes of all proceedings. The Secretary shall sign such papers pertaining to the Board as he or she may be authorized or directed to sign by the Board, including certificate of resolutions approved by the Board. In the absence or disability of the Secretary, the Chair may direct any person to assume and perform the duties of the Secretary. The Secretary shall also perform such other duties as may be assigned to him or her from time to time by the Board.

**Section 3.07 Calling of Meetings, Notice.**

Meetings of the Board may be held at any time or place within or outside the Commonwealth of Puerto Rico whenever called by the Chair or by any two trustees. Notice of a meeting of the Board shall be given in writing at least twenty-four (24) hours before the meeting unless a supermajority of trustees agrees in writing. The Board, in its discretion, may call for public meetings.

**Section 3.08 Public Meetings, Exceptions.**

Meetings held by the Pension Reserve Board by their nature generally consider matters related to the investment of the funds of the Pension Reserve Trust and as such under the Guidelines will generally be confidential executive sessions. The Board may in some circumstances choose to open meetings to members of the Pension Benefits Council, to representatives of the Government, of the Oversight Board, and/or the general public. If the Board chooses to do so, it may close parts of any meeting to discuss privileged or confidential matters.

**Section 3.09 Telephonic and Virtual Meetings Permitted.**

Members of the Board, or any committee designated by the Board, may participate in a meeting thereof by means of telephone, video or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section 3.09 shall constitute presence in person at such meeting.

**Section 3.10 Quorum; Vote Required For Action.**

At all meetings of the Board, three (3) Trustees shall constitute a quorum. Except as required in Section 3.11, the vote of a simple majority of the Trustees present at a meeting at which a quorum

is present shall be the act of the Board. Each Trustee will have the right to one (1) vote.

**Section 3.11 Actions Requiring a Supermajority.**

The approval of the following matters shall require the affirmative vote of at least four (4) Trustees, which must include at least one (1) Governor Appointee one (1) Council Appointee and one (1) Financial Oversight and Management Board for Puerto Rico (“FOMB”) Appointee (a “Supermajority”):

- Approval of Withdrawal Requests made pursuant to sub-section B of Section 5.1 of the Guidelines.
- Approval and amendment of these By-laws, or proposed changes to the Deed of Trust and/or Guidelines.
- Creation of and appointment of the members of any committee of the Board, including members that are not Trustees.
- Approval, amendments, or restatements of investment policy.
- Designation or removal of investment advisor or investment manager.
- Designation or removal of external auditors.

**Section 3.12 Action by Written Consent.**

Any action required or permitted to be taken at any meeting of the Board, or of any committee thereof, may be taken without a meeting if the required number of members of the Board or such committee required to vote in any such meeting to approve any such action, as the case may be, consent thereto in writing.

**Section 3.13 Minutes.**

The determinations and agreements of the Board will be kept in writing. The minutes will be prepared by the Executive Director, her designee or such other person as the Chair designates. The same shall be approved by the Board.

**Article IV. Committees**

**Section 4.01 Establishment of Committees.**

The Board shall have an Investment Committee and an Audit & Compliance Committee, and may designate one or more other committees to perform the duties that the Board may require from time to time, provided that whenever a committee is designated at least one (1) of the Governor Appointees shall be a member of such committee. Unless otherwise set forth herein or determined by the Board by resolution, the creation of a committee and the appointment of the members of such committee shall require the affirmative vote of a super-majority of the Board under Section 3.11.

**Section 4.02 Non-Trustee Members.**

Individuals who are not Trustees may be appointed to committees with approval of the Board.

**Section 4.03 Audit and Compliance Committee.**

The Board shall appoint and maintain an Audit and Compliance Committee which shall include at least two (2) members who are Trustees. The Audit and Compliance Committee shall have such powers and responsibilities as may be determined from time to time by the Board which may include, among others: (1) reviewing and ensuring the adequacy and effectiveness of any accounting policies adopted by the Board and other systems of internal controls, (2) approving and directing audit plans, (3) recommending professionals for the performance of audits and preparation of required reports (the “Independent Auditor”), (4) recommending and submitting for approval to the Board the public financial reports, annual audit and related reports, and (5) ensuring that the required access to the Trust’s books, records, and personnel is provided to the Independent Auditor.

The Audit and Compliance Committee shall have the power to retain counsel, accountants, auditors, or other advisors as and on such terms as the Audit and Compliance Committee in its sole discretion deems appropriate to discharge its duties and responsibilities. The Audit and Compliance Committee shall receive funding from the Trust to pay any such counsel, accountants, auditors, or other advisor.

**Section 4.04 Investment Committee.**

The Board shall appoint and maintain an Investment Committee. The Investment Committee will review and recommend to the Board any appropriate designations and/or changes in investment policies, investments, investment managers, investment advisors, and/or such other consultants or advisors as the Committee may deem appropriate. The Committee will also be responsible for investment risk assessments. The Investment Committee will also supervise the preparation of the reports to the Council to be prepared, delivered and published pursuant to Section 7.5 of the Guidelines, Annual Reports to be prepared, delivered and published pursuant to Section 7.6 of the Guidelines, and any other similar reports.

**Article V.  
Code of Conduct and Ethics, etc.**

**Section 5.01 Code of Conduct and Ethics.**

The Board has adopted a Code of Conduct and Ethics which is attached hereto as **Exhibit B.**

**Section 5.02 Conflicts of Interest.**

The Board has adopted a Conflicts of Interest Policy which is attached hereto as **Exhibit C.**

**Article VI. Amendments**

**Section 6.01 Amendments of By-laws.**

These By-laws may be modified or repealed and replaced with the affirmative vote of a Supermajority. If any non-consenting Trustee believe an amendment is improper or inconsistent with the purposes and functions of the Board, that Trustee may bring the issue before the U.S. District Court for the District of Puerto Rico for resolution.

In the event the Guidelines or the Deed of Trust are amended in any way that would make these



By-laws inconsistent with the amended Guidelines or the Deed of Trust, these By-laws shall be deemed to have been amended in accordance with such amendment.

Approved in San Juan, Puerto Rico, this 6th day of June 2023.

**Expense Reimbursement Policy**

**Code of Conduct and Ethics**

**Conflicts of Interest Policy**