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Orrick: Obama Administration's Legislative Proposal to Address Puerto Rico's Fiscal Crisis.

On October 21, 2015, U.S. Treasury Secretary Jacob J. Lew, National Economic Council Director Jeff Zients, and Health and Human Services Secretary Sylvia Mathews Burwell unveiled a legislative proposal, a copy of which is attached, to help Puerto Rico address its serious fiscal challenges. The Administration has requested Congress to act promptly to amend chapter 9 of the Bankruptcy Code authorizing the troubled public corporations to file bankruptcy petitions. More than twenty Democrats have become co-sponsors of that proposed amendment, but no Republicans making passage of the proposed amendment unlikely.

The Administration's proposal has four central elements:

- Legislative amendments to provide Puerto Rico with an orderly restructuring regime to comprehensively address its financial liabilities by restructuring its debts.
- Establishing an independent fiscal oversight to certify that Puerto Rico adheres to the recovery plan it is implementing in a credible and transparent way.
- Reforming the Commonwealth's Medicaid program to ensure that the program provides better access to healthcare services.
- Providing the Commonwealth with access to the Earned Income Tax Credit (EITC).

As part of the bankruptcy proposal, the Administration has proposed a "Super Bankruptcy" for the Commonwealth itself. The Administration's proposal contemplates a "Super Bankruptcy" that would be reserved for U.S. territories to allow a comprehensive restructuring of all of the territory's liabilities. The outline states that:

The restructuring regime should provide the basic protections of bankruptcy: a stay on creditor collection actions, priority for new private short-term cash flow financing, and voting by creditor classes on any proposed restructuring. Such an approach would, among other things, provide breathing space for consensual negotiations and ensure the uninterrupted provision of essential public services.

[View the proposal.](#)

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Article by Editorial Board

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The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.