



**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Basic Financial Statements

June 30, 2019

(With Independent Auditors' Report Thereon)

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

**Table of Contents**

	<b>Page(s)</b>
Independent Auditors' Report	1-2
Management's Discussion and Analysis (Unaudited)	3-11
Basic Financial Statements:	
General Fund Balance Sheet and Statement of Net Position (Deficit)	12
Statement of General Fund Revenues, Expenditures, and Changes in Fund Balance and Statement of Activities	13
Notes to Basic Financial Statements	14-47



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San Juan, PR 00918-1819

## Independent Auditors' Report

The Retirement Board of  
the Government of Puerto Rico  
Employees' Retirement System of the Government  
of the Commonwealth of Puerto Rico – "ERS Legacy Trust"

We have audited the accompanying financial statements of the governmental activities and the general fund of the Employees' Retirement System of the Government of the Commonwealth of Puerto Rico – "ERS Legacy Trust" (the Trust), a component unit of the Commonwealth of Puerto Rico (the Commonwealth), as of and for the year ended June 30, 2019, and the related notes to the financial statements, which collectively comprise the Trust's basic financial statements as listed in the table of contents.

### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### *Auditors' Responsibility*

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

### *Opinions*

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and general fund of the Employees' Retirement System of the Government of the Commonwealth of Puerto Rico – "ERS Legacy Trust", as of June 30, 2019, and the respective changes in financial position for the year then ended, in accordance with U.S. generally accepted accounting principles.



*Emphasis of Matter*

*Uncertainty about Ability to Continue as a Going Concern*

The accompanying financial statements have been prepared assuming that the Trust will continue as a going concern. As discussed in note 3 to the basic financial statements, 1) the Trust is economically dependent on the Commonwealth, which filed a petition for relief under Title III of the Puerto Rico Oversight Management and Economic Stability Act (PROMESA) in the United States District Court for the District of Puerto Rico; 2) the Trust's operations are limited to maintaining custody of the unliquidated assets that are pending to be transferred to the Commonwealth, administrative services on behalf of the Commonwealth and servicing the debt as a result of Act 106-2017; 3) the Trust has also filed a petition for relief under Title III of the PROMESA in the United States District Court for the District of Puerto Rico; and 4) management has stated that substantial doubt exists about the Trust's ability to continue as a going concern. Management's evaluation of the events and conditions and management's plans regarding these matters are also described in note 3. The basic financial statements do not include any adjustments that might result from the outcome of this uncertainty. Our opinions are not modified with respect to this matter.

*Other Matter*

*Required Supplementary Information*

U.S. generally accepted accounting principles require that the management's discussion and analysis on pages 3–11 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

**KPMG LLP**

San Juan, Puerto Rico  
January 7, 2022

Stamp No. E470383 of the Puerto Rico  
Society of Certified Public Accountants  
was affixed to the record copy of this report.

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OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Management's Discussion and Analysis (Unaudited)

June 30, 2019

**Introduction**

The following discussion and analysis of the financial performance of the Employees' Retirement System of the Government of the Commonwealth of Puerto Rico — “ERS Legacy Trust” (the “Trust” or “ERS”) provides an overview of its activities for the fiscal year ended June 30, 2019. Its purpose is to provide explanations and insights into the information presented in the basic financial statements and required supplementary information. This discussion and analysis is intended to be read in conjunction with the Trust's financial statements.

Prior to July 1, 2017, the Trust was a pension trust fund created by the Legislature of the Commonwealth of Puerto Rico (the Legislature) by Act No. 447 of May 15, 1951, known as the *Retirement System for Employees of the Government of the Commonwealth of Puerto Rico* (Act No. 447 of 1951), as amended, to provide pension and other benefits to retired employees of the Commonwealth of Puerto Rico (the Commonwealth), its public corporations, and municipalities. The Trust was administered by the Puerto Rico Government Employees and Judiciary Retirement Systems Administration (the ERS and JRS Administration) and governed by a board of trustees (the Board of Trustees). During this time, the Trust administered a cost-sharing, multiemployer, pension plan consisting of three benefit structures: (i) a cost-sharing, multiemployer, defined benefit program (the Defined Benefit Program); (ii) a defined contribution program (the System 2000 Program); and (iii) a contributory hybrid program (the Contributory Hybrid Program).

On August 23, 2017, the Governor of Puerto Rico signed into law Act No. 106 of 2017, known as the *Law to Guarantee the Payment of Our Pensioners and Establish a New Plan of Defined Contributions for Public Servants* (Act 106-2017), which completely transformed the Trust by, among other things, (i) replaced the Trust's Board of Trustees and the governing boards of the Retirement System for the Judiciary of the Commonwealth of Puerto Rico (JRS), and the Puerto Rico System of Annuities and Pensions for Teachers (TRS, and collectively with the Trust and JRS, the Retirement Systems) with a single Retirement Board of the Commonwealth of Puerto Rico (the Retirement Board) and (ii) implemented a pay-as-you-go (PayGo) system in which direct payments to pension beneficiaries are made by the Commonwealth and reimbursed by individual government employers through an applicable PayGo fee. The Trust's assets are being liquidated, and programs and activities were terminated or suspended. Refer to Notes 1 and 4 to the basic financial statements for further information regarding Act 106-2017.

As of July 1, 2017, Joint Resolution 188 from the Legislature of Puerto Rico and Act 106-2017 together required the Trust to liquidate its assets. Act 106-2017 also mandated the transfer of all of the Trust's existing retirement plans and benefits to a new defined contribution plan (the New Defined Contribution Plan) for existing active members and new employees hired after July 1, 2017. The New Defined Contribution Plan and the individual beneficiary accounts established thereunder were officially launched on June 22, 2020.

The Trust continues to administer postemployment healthcare benefits provided by the Commonwealth to retired plan members (ERS OPEB MIP), an unfunded, cost-sharing, multiemployer defined benefit other postemployment benefit plan. ERS OPEB MIP is also funded through the PayGo System.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Management's Discussion and Analysis (Unaudited)

June 30, 2019

In addition, the Trust is operating under the relief of Title III of the Puerto Rico Oversight Management and Economic Stability Act (PROMESA). Title III of PROMESA incorporates the automatic stay provisions of Bankruptcy Code section 362 and 922, which are made applicable to the Trust's Title III case pursuant to PROMESA section 301(a). Refer to Note 3 to the basic financial statements for a detailed explanation of Trust's Title III proceeding.

The Trust is considered an integral part of the financial reporting of the Commonwealth. Since Act 106-2017 transferred the primary responsibility of the payment of the pensions to the general fund and instructed the Trust to liquidate its assets to fund the pension benefits it is determined that Trust's assets and activities should not be reported as a pension trust fiduciary funds. Instead, starting in fiscal year 2018, the Trust is reported as part of the blended component units in the Commonwealth's financial statements. Accordingly, the financial activities of the Trust consist only of governmental activities. For its reporting purposes, the Trust has combined the general fund and government-wide financial statements using a columnar format that reconciles individual line items of fund financial data to government-wide data in a separate column. As of June 30, 2019, the Trust has not completed the transfer of the net assets to the Commonwealth and it is managing the remaining assets as custodian. Accordingly, the Trust's operations during the year ended June 30, 2019 were subsidized with revenues from the Commonwealth through the utilization of the assets under custody. The most significant changes in the presentation of the basic financial statements is that current year revenues and expenses (expenditures) are limited to the administration of the assets under its custody. Revenues and expenses (expenditures), associated to the assets under the Trust's custody are presented as part of the change in Due to Commonwealth.

**Financial Highlights**

The Trust's total assets as of June 30, 2019 and 2018 amounted to approximately \$1.033 billion and \$1.070 billion, respectively.

As of June 30, 2019, the Trust's total assets consisted of the following:

- \$94 million in cash and cash equivalents
- \$939 million in Commonwealth's assets in custody of the Trust, which includes:
  - \$132 million of investments in bonds and notes
  - \$77 million in investments in limited partnerships
  - \$2 million in due from Retirement System for the Judiciary of the Commonwealth of Puerto Rico
  - \$297 million in member loans and interest receivable
  - \$428 million in cash and cash equivalents and net receivables
  - \$3 million in capital and other assets.

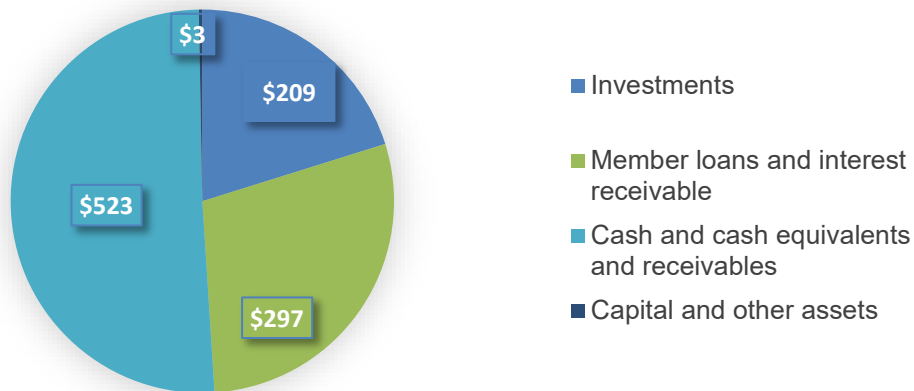
**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Management's Discussion and Analysis (Unaudited)

June 30, 2019

The Trust's total assets, excluding due from JRS, as of June 30, 2019 are presented in the following chart (in millions):



As of June 30, 2018, the Trust's total assets consisted of the following:

- \$113 million in cash and cash equivalents
- \$957 million in Commonwealth's assets in custody of the Trust, which includes:
  - \$103 million of investments in bonds and notes
  - \$84 million in investments in limited partnerships
  - \$2 million in due from Retirement System for the Judiciary of the Commonwealth of Puerto Rico
  - \$404 million in member loans and interest receivable
  - \$354 million in cash and cash equivalents and net receivables
  - \$10 million in capital and other assets.

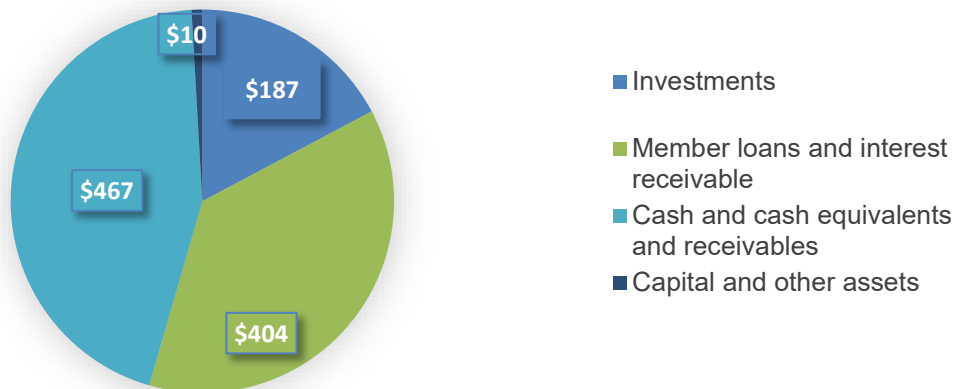
**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Management's Discussion and Analysis (Unaudited)

June 30, 2019

The Trust's total assets, excluding due from JRS, as of June 30, 2018 are presented in the following chart (in millions):



The Trust has been in a net deficit position since fiscal year 2015. The Trust's total liabilities exceeded total assets, representing a net deficit position of approximately \$3.302 billion as of June 30, 2019, compared with net deficit position of approximately \$3.101 billion as of June 30, 2018.

**Overview of the Basic Financial Statements**

This Management's Discussion and Analysis section is intended to serve as an introduction to the Trust's basic financial statements. The Trust's basic financial statements comprise three components: 1) government-wide financial statements on all of the activities of the Trust, 2) fund financial statements, and 3) notes to basic financial statements.

- *Government-wide Financial Statements* – The government-wide financial statements are designed to provide readers with a broad overview of the Trust's financial position, in a manner similar to a private-sector business.

The statement of net position presents information of all of the Trust's assets and deferred outflows of resources and liabilities and deferred inflow of resources, with the difference between the two reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the Trust is improving or deteriorating as a result of the year's operations.

The statement of activities presents information showing how the Trust's net position changed during the most recent fiscal year. All changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods.

- *Fund Financial Statements* – For accounting purposes, a fund is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives.



**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Management's Discussion and Analysis (Unaudited)

June 30, 2019

The governmental fund financial statement focus on near-term inflows and outflows of spendable resources, as well as on balances of spendable resources available at the end of the fiscal year. Such information may be useful in evaluating the Authority's near-term financing requirements.

Because the focus of governmental fund financial statements is narrower than that of the government-wide financial statements, it is useful to compare the information presented for governmental funds with similar information presented for governmental activities in the government-wide financial statements. By doing so, readers may better understand the long-term impact of financial decisions related to the Trust's governmental activities. Both the governmental fund balance sheet and the governmental fund statement of revenues, expenditures, and change in fund balance provide a reconciliation to facilitate this comparison between governmental fund and governmental activities.

- *Notes to the Basic Financial Statements* – Provide additional information that is essential for an understanding of the data provided in the financial statements. The notes present information about the Trust's accounting policies, significant account balances and activities, material risks, obligations, contingencies, and subsequent events, if any.

**Financial Analysis of the Governmental Activities**

*Net Position*

The statement of net position serves as an indicator of the Trust's financial position at the end of fiscal year. The Trust's net position is composed of a net deficit of approximately \$3.302 billion. The following is condensed summary information for fiscal years ended June 30, 2019 and 2018:

	<b>Condensed summary of net deficit</b>			
	<b>2019</b>	<b>2018</b>	<b>Change</b>	
			<b>Amount</b>	<b>Percentage</b>
	Dollars in thousands			
<b>Assets:</b>				
Trust's assets	\$ 94,015	112,864	(18,849)	(17)%
Assets under custody of the Trust	939,347	956,984	(17,637)	2
Total assets	<u>1,033,362</u>	<u>1,069,848</u>	<u>(36,486)</u>	(3)
<b>Liabilities and net position:</b>				
Other liabilities	182,724	21,604	161,120	746
Due to Commonwealth	901,736	934,523	(32,787)	(4)
Long-term liabilities	3,251,331	3,215,008	36,323	1
Total liabilities	<u>4,335,791</u>	<u>4,171,135</u>	<u>164,656</u>	1
<b>Net position:</b>				
Net deficit – unrestricted	<u>\$ (3,302,429)</u>	<u>(3,101,287)</u>	<u>(201,142)</u>	6

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Management's Discussion and Analysis (Unaudited)

June 30, 2019

As of June 30, 2019 and 2018, the Trust's assets represent cash and cash equivalents to be used in the debt servicing. Decrease in Trust's assets from approximately \$113 million in fiscal year 2018 to \$94 million in fiscal year 2019 was due to the payment of interest expense.

As of June 30, 2019, and 2018, the Trust held under custody approximately \$297 million and \$404 million, respectively, in loans and interest receivable from plan members, which represents 59% and 68%, respectively, of the total investment portfolio, including loans. As of June 30, 2019, member loans and interest receivable consisted of \$154 million in mortgage loans, \$144 million in personal loans, \$15 million in cultural trips loans, and \$20 million in interest receivable, less \$12 million in escrow funds and less \$24 million in the allowance for loan losses. As of June 30, 2018, member loans and interest receivable consisted of \$159 million in mortgage loans, \$229 million in personal loans, \$28 million in cultural trips loans, and \$19 million in interest receivable, less \$12 million in escrow fund and less \$19 million in the allowance for loan losses. As of June 30, 2019 and 2018, the fair value of the Trust's investment in limited partnerships amounted to approximately \$77 million and \$84 million, respectively, which represented approximately 14% and 15% of the investment portfolio, as of June 30, 2019 and 2018, respectively. As of June 30, 2019 and 2018, the fair value of the Trust's investment in bonds and notes amounted to approximately \$132 million and \$103 million, respectively, which represented approximately 14% and 15% of the investment portfolio, as of June 30, 2019 and 2018, respectively.

The increase in other liabilities from approximately \$22 million in 2018 to approximately \$183 million in 2019 was due to trust defaulting on interest payments on the debt since August 1, 2018.

*Capital Assets*

The capital assets under custody of the Trust are those assets that are used in the performance of its functions. The net investment in capital assets for the fiscal year ended June 30, 2019 amounts to approximately \$470 thousand. During the year ended June 30, 2018, capital assets decreased by approximately \$8.5 million.

Capital assets, net decreased primarily due to the net effect of the following:

- Building impairment of approximately \$5.7 million
- Current year's depreciation and amortization of approximately \$872 thousand
- Loss on disposal of capital assets of approximately \$2 million
- The acquisition of equipment at a cost of approximately \$73 thousand.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Management's Discussion and Analysis (Unaudited)

June 30, 2019

*Changes in Net Position*

The following summary of activities reflects how the Trust's net position changed during the fiscal years ended June 30, 2019 and 2018.

	<u>2019</u>	<u>2018</u>	<u>Change</u>	
			<u>Amount</u>	<u>Percentage</u>
			(Dollars in thousands)	
<b>Additions:</b>				
Revenue from Commonwealth	\$ 61,802	132,267	(70,465)	(53)%
Other income	1,147	783	364	46
Total additions	<u>62,949</u>	<u>133,050</u>	<u>(70,101)</u>	<u>(53)</u>
<b>Deductions:</b>				
Interest on bonds payable	202,289	200,606	1,683	1
General and administrative	46,618	22,834	23,784	104
Loss on implementation of Act 106-2017	—	885,409	(885,409)	(100)
Other expenses	15,184	16,635	(1,451)	(9)
Total deductions	<u>264,091</u>	<u>1,125,484</u>	<u>(861,393)</u>	<u>(77)</u>
Net decrease in net position	(201,142)	(992,434)	791,292	(80)
<b>Net position (deficit):</b>				
Beginning of year	<u>(3,101,287)</u>	<u>(2,108,853)</u>	<u>(992,434)</u>	<u>47</u>
End of year	<u>\$ (3,302,429)</u>	<u>(3,101,287)</u>	<u>(201,142)</u>	<u>6 %</u>

Total additions decrease of approximately \$70 million is mostly due to the revenues from Commonwealth, which represents Trust's used of assets under custody to cover Trust's expenses, excluding debt service-related expenses.

Total deductions decreased by approximately \$861 million in fiscal year 2019, mainly because of the significant decrease of approximately \$885 million in the loss on the implementation of Act 106-2017 recorded in 2018. General and administrative expenses amounted to approximately \$47 million for the fiscal year 2019, as compared to approximately \$23 million for the fiscal year 2018. Increase in general and administrative is mostly due to legal expenses for services related to the ongoing Tittle III case.

**Management Conclusion on Going Concern**

The Trust's management believes that as of June 30, 2019 there is substantial doubt as to the ability of the Trust to continue as a going concern in accordance with the Governmental Accounting Standard Board (GASB) Statement No. 56, Codification of Accounting and Financial Reporting Guidance Contained in AICPA Statements on Audit Standards. After Act 106-2017, the Trust is economically dependent of the Commonwealth, which is facing significant risks and uncertainties, including liquidity risk.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Management's Discussion and Analysis (Unaudited)

June 30, 2019

The Commonwealth has incurred recurring deficits, has a negative financial condition, has experienced further deterioration of its economic condition, has not been able to access the credit markets, and has stated that substantial doubt exists about the Commonwealth's ability to continue as a going concern. Additionally, the Commonwealth is currently restructuring its obligations in an orderly fashion under Title III of the U.S. Congress Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), which was signed by the U.S. President on June 30, 2016. PROMESA grants the Commonwealth and its component units' access to an orderly mechanism to restructure their debts in exchange for significant federal oversight over the Government's finances. In broad terms, PROMESA seeks to provide Puerto Rico with fiscal and economic discipline through the creation of a Fiscal Oversight and Management Board (the Oversight Board), relief from creditor lawsuits through the enactment of a temporary stay on litigation, and two alternative methods to adjust unsustainable debt.

In addition, as a result of the Trust's fiscal and economic challenges, on May 21, 2021, the Oversight Board filed a petition for relief for the Trust Title III of PROMESA in the Title III Court.

Detailed information about the Commonwealth's conditions and events that raise doubt about its ability to continue as a going concern and the corresponding remediation plans are disclosed in the notes of the Commonwealth's 2018 audited basic financial statements. Also, refer to Note 3 to the financial statements for additional management's considerations and remediation plan.

**Investment Portfolio**

Total investment assets under the custody of the Trust, including member loans, investments in limited partnership, and bond and notes (investment portfolio, including loans), as of June 30, 2019 totaled approximately \$505 million. Member loans amounted to \$297 million as of June 30, 2019.

**Debt Administration**

Long-term debt obligations include the Trust's senior funding bonds and amounted to approximately \$3,236 million and \$3,200 million as of June 30, 2019 and 2018, respectively. The Trust has issued three series of revenue bonds designated as "Senior Pension Funding Bonds", the proceeds of which have been used mainly to increase the funds currently available to pay pension benefits to certain of its beneficiaries and reduce its unfunded actuarial accrued liability. The Bonds are limited, nonrecourse obligations of the Trust, payable solely from and secured solely by a pledge of employer contributions made after the date of issuance of the first series of Bonds, and from funds held on deposit with the Bank of New York Mellon (the Fiscal Agent). The Bonds are not payable from contributions made to the Trust by participating employees, or from the assets acquired with the proceeds of the Bonds, or from employer contributions released by the Fiscal Agent to the Trust after funding of required reserves, or from any other assets of the Trust. These bonds are currently rated "C" by Moody's Investors Service and "CC" by Standard & Poor's Ratings Services. Refer to Note 9 to the basic financial statements for further information regarding the Trust's long-term obligations. For the suspension of the monthly payments to the trustee of the Trust's bonds in August 2018, refer to Note 10 of these financial statements.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Management's Discussion and Analysis (Unaudited)

June 30, 2019

**Requests for Information**

This financial report is designed to provide a general overview of the Trust's finances, comply with related laws and regulations, and demonstrate commitment to public accountability. Questions concerning any of the information provided in this report or requests for additional information should be addressed to the Commonwealth of Puerto Rico Retirement Systems Administration, 235 Ave. Arterial Hostos, Edificio Capital Center Torre Norte, Piso 8, Hato Rey, Puerto Rico 00918.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

General Fund Balance Sheet and Statement of Net Position (Deficit)

June 30, 2019

(In thousands)

<b>Assets</b>	<b>General Fund balance sheet</b>	<b>Adjustments</b>	<b>Statement of net position (deficit)</b>
Cash and cash equivalents:			
Deposits at commercial banks – restricted	\$ 93,937	—	93,937
Money market funds – restricted	78	—	78
Commonwealth's assets in custody of the Trust:			
Cash and cash equivalents:			
Deposits at commercial banks:			
Unrestricted	90,084	—	90,084
Restricted	314,991	—	314,991
Money market funds	21,747	—	21,747
Employers contribution receivable – net of allowance for uncollectible accounts of \$386,099	—	—	—
Receivable for investments sold	448	—	448
Other receivables	2,109	—	2,109
Due from Retirement System for the Judiciary of the Commonwealth of Puerto Rico	1,972	—	1,972
Investments:			
Bonds and notes	131,574	—	131,574
Limited partnerships	76,641	—	76,641
Member loans and interest receivable – net	296,544	—	296,544
Capital assets – net	—	470	470
Other assets	—	2,767	2,767
Total assets	<b>\$ 1,030,125</b>	<b>3,237</b>	<b>1,033,362</b>
<b>Liabilities</b>			
Accounts payable and accrued liabilities	\$ 22,324	—	22,324
Bond interest payable	160,400	—	160,400
Other long-term liabilities, due within one year	—	2,910	2,910
Due to Commonwealth of Puerto Rico	913,786	(12,050)	901,736
Other long-term liabilities, due after one year	—	12,377	12,377
Bonds payable	—	3,236,044	3,236,044
Total liabilities	1,096,510	3,239,281	4,335,791
<b>Fund balance/net deficit</b>			
Fund balance—unrestricted	(66,385)	66,385	—
Total liabilities and fund balance	<b>\$ 1,030,125</b>	<b>—</b>	<b>—</b>
Net deficit		<b>\$ (3,302,429)</b>	<b>(3,302,429)</b>

See accompanying notes to basic financial statements.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Statement of Revenues, Expenditures, and Changes in Fund Balance and Statement of Activities

Year ended June 30, 2019

(In thousands)

	<b>General fund statement revenue, expenditures, and changes in fund balance</b>	<b>Adjustments</b>	<b>Statement of activities</b>
	<u>                    </u>	<u>                    </u>	<u>                    </u>
Revenues:			
Revenues from Commonwealth	\$ 62,355	(553)	61,802
Interest income	1,147	—	1,147
	<u>63,502</u>	<u>(553)</u>	<u>62,949</u>
Expenditures/expenses:			
General government:			
Interest on bonds payable	166,519	35,770	202,289
General and administrative	47,171	(553)	46,618
Other expenses	15,184	—	15,184
Total expenditures/expenses	<u>228,874</u>	<u>35,217</u>	<u>264,091</u>
Excess of expenses over revenues	<u>(165,372)</u>	<u>165,372</u>	
Change in net position		(201,142)	(201,142)
Fund balance/net deficit:			
Beginning of year	<u>98,987</u>	<u>(3,200,274)</u>	<u>(3,101,287)</u>
End of year	<u>\$ (66,385)</u>	<u>(3,236,044)</u>	<u>(3,302,429)</u>

See accompanying notes to basic financial statements.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

**(1) Organization**

Prior to July 1, 2017, the Employees' Retirement System of the Government of the Commonwealth of Puerto Rico—"ERS Legacy Trust" ("ERS" or the "Trust") was a pension trust fund created by the Legislature of Puerto Rico (the Legislature) under Act No. 447, as amended, to provide pension and other benefits to retired employees of the Commonwealth of Puerto Rico (the Commonwealth), its public corporations, and municipalities. The Trust was administered by the Puerto Rico Government Employees and Judiciary Retirement Systems Administration (the ERS and JRS Administration) and governed by a board of trustees (the Board of Trustees). During this time, the Trust administered a cost-sharing, multiemployer, pension plan consisting of three benefit structures: (i) a cost-sharing, multiemployer, defined benefit program (the Defined Benefit Program); (ii) a defined contribution program (the System 2000 Program); and (iii) a contributory hybrid program (the Contributory Hybrid Program).

After the enactment of Act No. 106 of 2017, known as the *Law to Guarantee the Payment to Our Pensioners and Establish a New Plan for Defined Contributions for Public Servants* (Act 106-2017), the Trust's operations are limited to maintain custody of the unliquidated assets that are pending to be transferred to the Commonwealth's General Fund, servicing the bonds payable and administrative services on behalf of the Commonwealth. The Trust also administers, on behalf of the Commonwealth, the data related to postemployment healthcare benefits provided by the Commonwealth to retired teachers of the Department of Education and retired employees of the Trust.

Act 106-2017 approved a substantial pension reform for all of the Commonwealth's Retirement Systems, including the Trust. This reform modified most of the Trust's activities, restructured the Trust's operations and created the legal framework so that the Commonwealth can make benefit payments to current pensioners. Effective on July 1, 2017, the Trust's previously existing pension programs under Act No. 447 of 1951 (as amended) were terminated and transitioned to a pay-as-you-go (PayGo) system, in which the Trust stopped receiving contributions from employers or plan participants and is no longer managing contributions on behalf of participants. Under the PayGo system, the Commonwealth's General Fund makes direct pension payments to the pensioners and then gets reimbursed for those payment by the applicable employers. Act 106-2017 also ordered a suspension of the Trust's loan programs and ordered a merger of the administrative structures of the retirement systems.

The Commonwealth's General Fund became the only recipient of the assets maintained under the custody of the Trust. The product of the liquidation of said assets is designated by law to be used by the General Fund to cover pension benefits. Therefore, the basic financial statements of the Trust are blended in the Commonwealth's fund financial statements. The financial activities of the Trust consist only of governmental activities. Refer to Note 2 for basis of presentation.

The Trust is operating in a Title III proceeding under the Puerto Rico Oversight Management and Economic Stability Act (PROMESA), which incorporates the automatic stay provisions of Bankruptcy Code sections 362 and 922, which are made applicable to the Trust's Title III case pursuant to PROMESA section 301(a). Refer to Note 3 to the basic financial statements for a detailed explanation of ERS's Title III proceeding.



**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

The Retirement Board is currently responsible for governing, the Trust, the Judiciary of the Commonwealth of Puerto Rico (JRS) and the Puerto Rico System of Annuities and Pensions for Teachers (TRS). The Retirement Board is comprised of 13 members, including (i) six ex-officio members (or their designees): (1) the Executive Director of the Puerto Rico Fiscal Agency and Financial Advisory Authority (FAFAA), (2) the Secretary of Treasury of the Commonwealth, (3) the Director of the Office of Management and Budget, (4) the Director of the Office for the Administration and Transformation of Human Resources of the Government of Puerto Rico, (5) the President of the Federation of Mayors, and (6) the President of the Association of Mayors; (ii) three Governor-appointed representatives of the teachers of the Department of Education, the public corporations, and the Judiciary Branch; and (iii) four additional Governor-appointed members as representatives of the public interest.

As of June 30, 2019, the Trust and JRS, also a component unit of the Commonwealth, continue to be both administered by the ERS and JRS Administration. The ERS and JRS Administration allocated 98% of its general and administrative expenses to the Trust during the fiscal year ended June 30, 2019. The methodology used to determine the allocation is based on total PayGo fees corresponding to retirees of the Trust, plus total annual payroll of active participants of the Trust, divided by the aggregate total of PayGo fees corresponding to retirees of both the Trust and JRS, plus total annual payroll of active participants of both the Trust and the JRS.

**(2) Summary of Significant Accounting Policies**

The accounting and reporting policies of the Trust conform to accounting principles generally accepted in the United States of America (GAAP), as applicable to governmental entities. The Trust follows governmental accounting standards board (GASB) standards in the preparation of its basic financial statements

The following are the significant accounting policies followed by the Trust in the preparation of its financial statements:

**(a) Basis of Presentation**

The financial activities of the Trust consist only of governmental activities. For its reporting purposes, the Trust has combined the General Fund and government-wide financial statements using a columnar format that reconciles individual line items of fund financial data to government-wide data in a separate column. A brief description of the Trust's government-wide and fund financial statements is as follows:

*Government-wide Financial Statements:* The government-wide statement of net position and statement of activities report the overall financial activity of the Trust.

The statement of activities demonstrates the degree to which the direct expenses of a given function (i.e., general government) are offset by program revenues. Direct expenses are those that are clearly identifiable with a specific function. The financial activities of the Trust consist only of governmental activities, which are primarily supported by the Trust's revenue from the Commonwealth for the custody and administration services performed by the Trust and the servicing of the bonds payable.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

*Fund Financial Statements:* The fund financial statements provide information about the Trust's General Fund. The General Fund accounts for all financial resources of the Trust.

**(b) Basis of Accounting**

The accounting and financial reporting treatment is determined by the applicable measurement focus and basis of accounting. Measurement focus indicates the type of resources being measured such as current financial resources or economic resources. The basis of accounting indicates the timing of transactions or events for recognition in the financial statements.

*Government-wide Financial Statements:* The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenue is recorded when earned and expenses when a liability is incurred, regardless of the timing of related cash flows.

*Fund Financial Statements:* The General Fund, as a governmental fund, is reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized when they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. Expenditures generally are recorded when the liability is incurred, as under accrual accounting. However, claims and judgments, and compensated absences are recorded only when payment is due. General capital asset acquisitions are reported as expenditures in governmental funds.

**(c) Use of Estimates**

The preparation of basic financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of changes in net position (deficit) during the reporting period. Actual results could differ from those estimates.

**(d) Cash and Cash Equivalents**

Cash and cash equivalents include highly liquid debt instruments with original maturities of three months or less from the date of acquisition and consist of deposits and money market funds and are restricted for the payment of the bonds payable.

Cash equivalents in custody of the Trust include all highly liquid debt instruments with original maturities of three months or less from the date of acquisition and consist of deposits and money market funds.

**(e) Investments**

Investments are reported at fair value. The fair value of investments is based on quoted prices, if available. The Trust has investments in limited partnerships and COFINA bonds of approximately \$77 million and \$132 million, respectively, as of June 30, 2019. Investments in limited partnerships are

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

reported at their Net Asset Value (NAV). The NAV of each fund includes the market value of the investments in the fund plus any receivables, payables, and accrued fund expenses.

**(f) Member Loans**

Mortgage, personal, and cultural trip loans to plan members in custody are stated at their outstanding principal balance less an allowance for uncollectible amounts. Loans to plan members are collected through payroll withholdings and secured by mortgage deeds, plan members' contributions, and any unrestricted amount remaining in the escrow funds. Act 106-2017 suspended the issuance of new loans effectively August 23, 2017. The maximum amount that was loaned to plan members for mortgage loans was \$100,000 and \$5,000 for personal, and cultural trip loans.

The Commonwealth, through the Trust, provides life insurance that guarantees the payment of the outstanding principal balance of loans to plan members in case of death of a plan member. The coverage is paid in its entirety by the plan members who obtain these loans from the Trust. Premiums collected for guarantee insurance and benefits claimed are recorded as additions and deductions of the guarantee insurance reserve, respectively. The guarantee insurance reserve for life insurance on loans to plan members is revised each year and adjusted, accordingly, based on the annual higher claim amount of a five-year period increased by a management determined percentage.

**(g) Capital Assets**

Capital assets under custody include building, building improvements, and furniture and equipment. Capital assets are defined as assets with an initial individual cost of \$500 or more at the date of acquisition and a useful life equal to or in excess of four years. Capital assets are recorded at historical cost, or their estimated historical cost, if actual historical costs are not available. Donated capital assets are recorded at their estimated fair value at time of donation.

Capital assets are depreciated on the straight-line method over the assets estimated useful life. There is no depreciation recorded for construction in progress. The estimated useful lives of capital assets are as follows:

	Years
Building	50
Buildings improvements	10
Equipment, furniture, fixtures, and vehicles	5–10

**(h) Termination Benefits**

The Trust accounts for termination benefits in accordance with GASB Statement No. 47, *Accounting for Termination Benefits*. Pursuant to the provisions of GASB Statement No. 47, the Trust, as an employer, should recognize a liability and expense for voluntary termination benefits (for example, early retirement incentives) when the offer is accepted, and the amount can be estimated. A liability and

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

expense for involuntary termination benefits (for example, severance benefits) should be recognized when a plan of termination has been approved by those with the authority to commit the government to the plan, the plan has been communicated to the employees, and the amount can be estimated.

**(i) Fund Balance (Deficit)/Net Position (Deficit)**

*Fund Balance (Deficit)*

The fund balance for the General Fund is reported in classifications based on the extent to which the Trust is bound to honor constraints on the specific purposes for which amounts in the fund can be spent.

- Fund balance is reported as nonspendable when the resources cannot be spent because they are either in a nonspendable form or legally or contractually required to be maintained intact. There was no nonspendable fund balance as of June 30, 2019.
- Fund balance is reported as restricted when the constraints placed on the use of resources are either externally imposed by creditors, grantors, contributors, or laws or regulations of other governments; or imposed by law through constitutional provision or by enabling legislation.
- The Trust's highest decision-making level of authority rests with the Retirement Board. Fund balance is reported as committed when the Board passes a resolution that places specified constraints on how resources may be used. The Retirement Board can modify or rescind a commitment of resources through passage of a new resolution. There was no committed fund balance as of June 30, 2019.
- Resources that are constrained by the government's intent to use them for a specific purpose but are neither restricted nor committed, are reported as assigned fund balance. Intent may be expressed by the Retirement Board. There was no assigned fund balance as of June 30, 2019.
- Unassigned fund balance represents fund balance that has not been restricted, committed, or assigned and may be utilized by the Trust for any purpose.

*Net Position (Deficit)*

Net position represents the difference between assets and liabilities in the government-wide financial statements. Net position is displayed in the following components:

- Net investment in capital assets – This consists of capital assets, less accumulated depreciation and amortization. There was no net investment in capital assets net position as of June 30, 2019.
- Restricted – This consists of net position that is legally restricted by outside parties or by law through constitutional provisions or enabling legislation. When both restricted and unrestricted resources are available for use, generally it is the Trust's policy to use restricted resources first, then unrestricted resources when they are needed. There was no restricted net position as of June 30, 2019.
- Unrestricted – This consists of net position that does not meet the definition of restricted or net investment in capital assets.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

The following is a reconciliation between the General Fund balance sheet and the statement of net position (deficit) at June 30, 2019:

Fund balance:	\$	(66,385)
Add capital assets, net of accumulated depreciation, and other assets as they are not financial resources and, therefore, are not reported in the general fund		3,237
Less long-term liabilities are not due and payable in the current period and, therefore, are not reported in the General Fund:		
Due to Commonwealth		12,050
Accrued compensated absence		(959)
Voluntary termination		(14,328)
Pension obligation bonds		<u>(3,236,044)</u>
Net deficit position	\$	<u><u>(3,302,429)</u></u>

The following is a reconciliation of the statement of revenues, expenditures, and changes in fund balances of general fund to the statement of activities for the fiscal year ended June 30, 2019:

Net changes in fund balance:	\$	(165,372)
Some expenses reported in the statement of activities do not require the use of current financial resources and, therefore, are not reported as expenditures in governmental funds		<u>(35,770)</u>
Change in net position	\$	<u><u>(201,142)</u></u>

**(3) Going Concern Uncertainty**

Management believes that there is substantial doubt about the ability of the Trust to continue as a going concern because of the following:

- After the effective date of Act 106-2017, the Trust's operations are limited to debt servicing, maintaining custody of the unliquidated assets that are pending to be transferred to the Commonwealth's General Fund, and administrative services to the Commonwealth. The Commonwealth's Legislature passed Act 106-2017 to adopt a new PayGo pension system. Effective as of July 1, 2017, these measures eliminated all employer payments, contributions ordered by special laws, and the Additional Uniform Contribution. Instead, the Commonwealth, not ERS, makes all direct benefit payments to pensioners with the participating employers responsible for reimbursing the Commonwealth through PayGo fees that are remitted to the Commonwealth's Treasury Department. The Trust is economically dependent of the Commonwealth which is facing significant risks and uncertainties, including liquidity risk.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

- As result of fiscal economic challenges, on May 3, 2017, the Financial Oversight and Management Board for Puerto Rico (the Oversight Board), at the request of the Governor, commenced a Title III case for the Commonwealth by filing a petition for relief under Title III of the Puerto Rico Oversight Management and Economic Stability Act (PROMESA) in the United States District Court for the District of Puerto Rico (the Title III Court).
- As a result of the Trust's fiscal and economic challenges, on May 21, 2017, the Oversight Board—at the request of the Governor—filed a petition for relief for the Trust, under Title III of PROMESA in the Title III Court. By commencing a Title III case, the Trust has benefited from an automatic stay prohibiting creditors from pursuing litigation or collecting any debt payments and will have the opportunity to adjust its debts through a plan of adjustment.
- On April 2, 2021, the Oversight Board and certain ERS bondholders entered into a stipulation (the ERS Stipulation), which set forth the economic terms on which the ERS bondholders would support a plan of adjustment. On November 3, 2021, the Oversight Board filed the Eighth Amended Title III Joint Plan of Adjustment for the Commonwealth of Puerto Rico, et al. [ECF No. 19053] (the Eighth Amended Plan).

*Management's Remediation Plan*

In accordance with Act 106-2017, the Trust's remediation plan will be dependent on the Title III case resolution of both the Trust. As of the date of these financial statements, a plan of adjustment has not yet been approved by the Title III Court.

**(4) Deposits and Investments**

**(a) Deposits**

Deposits as of June 30, 2019 consisted of the following (in thousands):

	<b>Carrying amount</b>	<b>Depository bank balance</b>	<b>Amount uninsured and uncollateralized</b>
Trust's deposits:			
Deposits with Puerto Rico commercial banks	\$ 93,937	93,937	—
Money market funds	78	78	78
Trust's Total	\$ 94,015	94,015	78
Deposits in custody of the Trust:			
Deposits with Puerto Rico commercial banks	\$ 405,075	421,255	—
Money market funds	21,747	21,747	2,550
Total in custody of the Trust	\$ 426,822	443,002	2,550

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

Custodial credit risk for deposits is the risk that, in an event of the failure of a depository financial institution, the Trust may not be able to recover deposits or collateral securities that are in the possession of an outside party. The Commonwealth requires that public funds deposited in Puerto Rico commercial banks be fully collateralized for the amount deposited in excess of federal depository insurance. All securities pledged as collateral are held by banks in the Commonwealth's name. Deposits with non-Puerto Rico commercial banks and money market funds are uninsured and uncollateralized, as these entities are exempt from compliance with the collateralization requirement.

**(b) Custodial Credit Loss on Deposits with the Puerto Rico Government Development Bank (GDB)**

Pursuant to enacted legislation in April 2016, the Governor of the Commonwealth imposed emergency operational restrictions and debt moratorium on GDB. These restrictions included the suspension of loan disbursements from GDB, imposed restrictions on the withdrawal and transfer of deposits from GDB, and imposed a moratorium on debt obligation of GDB, among other measures. On March 23, 2018, GDB ceased its operations and determined to wind down in an orderly fashion under Title VI of PROMESA.

On November 29, 2018, GDB completed a restructuring of certain of its indebtedness pursuant to a Qualifying Modification under Title VI of PROMESA (the Qualifying Modification). In accordance with Act No. 109 of August 24, 2017 (the GDB Restructuring Act)—the legislation enacted to facilitate the Qualifying Modification—the balance of liabilities owed between the Commonwealth and its agents, instrumentalities and affiliates, including the Trust (each a Non-Municipal Government Entity) and GDB were determined by applying the outstanding balance of any deposits held at the GDB in a Non-Municipal Government Entity's name against the outstanding balance of any loan of such Non-Municipal Government Entity owed to GDB or of any bond or note of such Non-Municipal Government Entity held by GDB as of such date.

Those Non-Municipal Government Entities having net claims against GDB after giving effect to the foregoing adjustment, including the Trust, received their pro rata share of interests in a newly formed trust created by the GDB Restructuring Act, the Public Entity Trust (the PET). The interests that a Non-Municipal Government Entity received against the PET was deemed to be in full satisfaction of any and all claims such Non-Municipal Government Entity may have against GDB.

As a result of the Qualifying Modification transaction and pursuant to the terms of the GDB Restructuring Act, the Trust's deposits at GDB were fully extinguished and the Trust obtained its pro rata share of interests in the PET.

On October 5, 2018, GDB, the Puerto Rico Fiscal Agency and Financial Advisory Authority (AAFAF), the Oversight Board, and the Official Committee of Unsecured Creditors (the “Official Committee”) (payment pursuant to settlement with the official committee of unsecured creditors) entered into a stipulation (the “Stipulation”) resolving certain litigation that had been commenced by the Official Committee challenging GDB's restructuring proceeding under Title IV of the Puerto Rico Oversight, Management, and Economic Stability Act (the “GDB Restructuring”). The U.S. District Court for the District of Puerto Rico entered an order on the Stipulation on October 9, 2018 (the “Committee

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

Settlement Stipulation”). As part of the Committee Settlement Stipulation, GDB agreed to, upon closing of the GDB Restructuring, to transfer \$4.5 million in cash to the PET, to be applied in partial payment of the claims that the Trust would have against the PET in respect to their deposits at GDB after the consummation of the GDB Restructuring pursuant to Act No. 109-2017, as amended.

The Trust had cash in GDB of approximately to \$33 million and as a result of the execution of the Qualify Modification, the Trust received approximately to \$4.5 million corresponding to the portion of the fixed settlement cash allocated to the Trust on account of its claim against the PET. The Trust already recognized the impairment on the remaining balance in the PET account.

**(c) COFINA Bonds Restructuring**

On February 12, 2019, the COFINA Plan of Adjustment was substantially consummated and became effective. As result, COFINA's existing senior and subordinated bondholders, including the Trust, received new senior lien bonds issued by COFINA in accordance with the COFINA Plan of Adjustment. During the year ended June 30, 2019, COFINA bonds generated unrealized gains of approximately \$28 million.

**(d) Fair Value Measurement**

The Trust categorizes its fair value measurements within the fair value hierarchy established by GAAP. The hierarchy is based on the inputs used in valuation, gives the highest priority to unadjusted quoted prices in active markets, and requires that observable inputs be used in the valuations when available. The disclosure of fair value estimates in the hierarchy is based on whether the significant inputs into the valuations are observable. In determining the level of the hierarchy in which the estimate is disclosed, the highest level, Level 1, is given to unadjusted quoted prices in active markets and the lowest level, Level 3, to unobservable inputs.

*Level 1* – Inputs whose values are based on unadjusted quoted prices for identical instruments in active markets that the Trust has the ability to access.

*Level 2* – Inputs whose values are based on quoted prices for similar instruments in active markets; quoted prices for identical or similar instruments in markets that are not active; and model-derived valuations in which all significant inputs are observable.

*Level 3* – Valuations based on inputs that are unobservable and significant to the overall fair value measurement.

In instances where inputs used to measure fair value fall into different levels in the fair value hierarchy, fair value measurements in their entirety are categorized based on the lowest level input that is significant to the valuation. The Trust's assessment of the significance of particular inputs to these fair value measurements requires judgment and considers factors specific to each investment. Investments measured at Net Asset Value (NAV) as practical expedient are not subject to level classification.



**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

The table below shows the fair value leveling of the Trust's investments:

<u>Investment type</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
Investments measured at fair value:				
COFINA bonds	\$ 131,574	—	—	131,574
Investments measured at NAV as practical expedient:				
Investments in limited partnerships				76,641
Total Investments			\$	<u>208,215</u>

The Trust's investments are exposed to custodial credit risk, credit risk, concentration of credit risk, foreign currency risk, and interest rate risk. Following is a description of these risks as of June 30, 2019:

*(a) Custodial Credit Risk*

Custodial credit risk for investments is the risk that, in the event of the failure of the counterparty to a transaction, the Trust may not be able to recover the value of the investment or collateral securities that are in the possession of an outside party. At June 30, 2019, securities investments were registered in the name of the Trust and were held in the possession of the Trust's custodian banks.

*(b) Credit Risk*

Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. All fixed-income securities at the time of purchase must be of investment grade quality. COFINA Bonds has not been rated as of June 30, 2019.

*(c) Concentration of Credit Risk*

Concentration of credit risk is the risk of loss attributed to the magnitude of the Trust's investment in a single issuer. As of June 30, 2019, all investments in COFINA Bonds and commingled investments, such as alternatives, maintained by the Trust represent 5% or more of the Trust's total investments.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

Interest Rate Risk

Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment.

The contractual maturity of investments as of June 30, 2019, is summarized below (in thousands). Expected maturities will differ from contractual maturities, because counterparties may have the right to call or prepay obligations with or without call or prepayment penalties.

<u>Investment type</u>	<u>Maturity (in years)</u>				<u>Total</u>
	<u>Within one year</u>	<u>After one to five years</u>	<u>After five to ten years</u>	<u>After ten years</u>	
Bonds and notes:					
COFINA bonds	\$ —	—	—	131,574	<u>131,574</u>
Total investments				\$ 131,574	<u><u>131,574</u></u>

*(d) Investments in Limited Partnerships*

The fair value of investments in limited partnerships at June 30, 2019, amounted to approximately \$77 million and is presented as private equity investments in the statement of net position. The allocations of net gains and losses to limited partners are based on certain percentages, as established in the limited partnership agreements.

In accordance with the partnership agreements, the Trust's investments can only be redeemed upon distribution from funds managers; usually in the form of a sale of its holdings or dividends distributed. As of June 30, 2019, the Trust does not intend to sell its investments in limited partnerships for an amount different to that presented in the financial statements.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

As of June 30, 2019, the date of commitment, total commitment, 2019 contributions, contributions to date at cost, and estimated fair value of investments in limited partnerships are as follows (in thousands):

	<u>Date of commitment</u>	<u>Total commitment</u>	<u>2019 Contributions</u>	<u>Unfunded Commitments</u>	<u>Estimated fair value</u>
Grupo Guayacán, Inc.:					
Guayacán Fund of Funds II, LP	September 1999	\$ 25,000	—	1,319	374
Advent-Morro Equity Partner, Inc.:					
Guayacán Private Equity Fund, LP	February 1997	5,000	—	355	1,786
Guayacán Private Equity Fund II, LP	April 2007	25,000	—	453	20,945
Venture Capital Fund, Inc.	October 1995	800	—	—	618
GF Capital Management and Advisors, LLC – GF Capital Private Equity Fund LP	December 2006	25,000	82	7	11,377
Courage Credit	July 2016	2,251	—	—	1,374
Medley Credit Opportunity	July 2016	15,000	—	2,981	12,928
MCOY Investments	December 2016	10,000	—	—	11,865
Phoenix	July 2016	10,000	—	—	8,033
Terracap	July 2016	6,829	—	—	7,341
Total		\$ <u>124,880</u>	<u>82</u>	<u>5,115</u>	<u>76,641</u>

(e) *Net Appreciation in Fair Value of Investments*

For the year ended June 30, 2019, the net appreciation in fair value of investments amounted to approximately \$29 million and was recorded as an increase in due to Commonwealth. The segregated net appreciation in fair value is as follows (in thousands):

<u>Investment type</u>	<u>Realized gain/(loss)</u>	<u>Unrealized gain/(loss)</u>	<u>Net appreciation in fair value of investments</u>
Bonds and notes	\$ 58	28,163	28,221
Investments in limited partnerships	<u>1,026</u>	<u>(2)</u>	<u>1,024</u>
Total investments	\$ <u>1,084</u>	<u>28,161</u>	<u>29,245</u>

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

**(5) Member Loans and Interest Receivable**

As of June 30, 2019, the composition of loans and interest receivable from plan members is summarized as follows (in thousands):

Loans receivable:		
Personal	\$	143,821
Mortgage		153,784
Cultural trips		<u>14,969</u>
Total loans to plan members		312,574
Accrued interest receivable		19,907
Less:		
Escrow funds of mortgage loans and guarantee insurance reserve		(12,201)
Allowance for loan losses		<u>(23,736)</u>
Total loans and interest receivable from plan members – net	\$	<u><u>296,544</u></u>

The originations of mortgage loans were frozen in December 2013 and those related to personal and cultural loans were frozen in November 2016.

The allowance for loan losses is considered a general allowance for all categories of loans and interest receivable, except mortgage loans.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

**(6) Capital Assets**

Capital assets in custody of the Trust's activity for the year ended June 30, 2019 was as follows:

	<u>Beginning balance</u>	<u>Increases</u>	<u>Decreases</u>	<u>Ending balance</u>
Capital assets, non-depreciable:				
Land	\$ 969	—	(969)	—
Total capital asset, non-depreciable	<u>969</u>	<u>—</u>	<u>(969)</u>	<u>—</u>
Capital assets depreciable:				
Building and improvements	14,756	—	(14,756)	—
Equipment	2,789	72	(427)	2,434
Office furniture	3,978	1	(1,260)	2,719
Vehicles	98	—	(16)	82
Total capital asset, depreciable	<u>21,621</u>	<u>73</u>	<u>(16,459)</u>	<u>5,235</u>
Less accumulated depreciation and amortization for:				
Building and improvements	7,428	600	(8,028)	—
Equipment	2,594	99	(416)	2,277
Office furniture	3,485	173	(1,251)	2,407
Vehicles	97	—	(16)	81
Total accumulated depreciation and amortization	<u>13,604</u>	<u>872</u>	<u>(9,711)</u>	<u>4,765</u>
Total capital asset depreciable	<u>8,017</u>	<u>(799)</u>	<u>(6,748)</u>	<u>470</u>
Capital assets, net	<u>\$ 8,986</u>	<u>(799)</u>	<u>(7,717)</u>	<u>470</u>

During the year 2019, the Trust recognized a loss of impairment on the building for approximately \$7.7 million which was recorded as part of Due to Commonwealth. Also, the building will no longer be used by the Trust and the remaining carrying value of \$2 million were reclassified to other assets as part of the assets held-for-sale.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

**(7) Long-Term Liabilities**

Long-term liability activity for the year ended June 30, 2019 was as follows:

	Beginning balance June 30, 2018	Additions	Reductions	Ending balance June 30, 2019	Due within one year	Long-term portion
Accrued compensated absences	\$ 1,288	149	(477)	960	406	554
Voluntary termination benefits	13,446	3,534	(2,653)	14,327	2,504	11,823
Bonds payable	3,200,274	35,770	—	3,236,044	—	3,236,044
	<u>\$ 3,215,008</u>	<u>39,453</u>	<u>(3,130)</u>	<u>3,251,331</u>	<u>2,910</u>	<u>3,248,421</u>

**(8) Bonds Payable**

Senior Pension Funding Bonds – On February 27, 2007, the Trust's administration and GDB, acting as the Trust's fiscal agent (the Fiscal Agent), presented to the Board of Trustees, a financial transaction for the issuance of pension funding bonds in order to reduce the Trust's unfunded actuarial accrued liability. The Bonds are limited, nonrecourse obligations of the Trust, payable solely from and secured solely by a pledge of employer contributions, as defined in the ERS Bond Resolution, made after the date of issuance of the first series of Bonds, and from funds held on deposit with the Bank of New York (the Fiscal Agent). The Bonds are not payable from contributions made to the Trust by participating employees, or from the assets acquired with the proceeds of the Bonds, or from employer contributions released by the Fiscal Agent to the Trust after funding of required reserves, or from any other assets of the Trust. The Trust invested the proceeds of the Bonds and used these investments and the earnings thereon to provide pension benefits to its beneficiaries.

On January 31, 2008, the Trust issued the first series of Bonds, which consisted of approximately \$1.589 billion aggregate principal amount of Senior Pension Funding Bonds, Series A (the Series A Bonds). On June 2, 2008, the Trust issued the second of such series of Bonds, which consisted of approximately \$1.059 billion aggregate principal amount of Senior Pension Funding Bonds, Series B (the Series B Bonds). Finally, on June 30, 2008, the Trust issued the third and final of such series of Bonds, which consisted of approximately \$300 million aggregate principal amount of Senior Pension Funding Bonds, Series C (the Series C Bonds).

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

The following is a summary of changes in the bonds payable principal balance (in thousands):

	<u>Maturity</u>	<u>Balance at June 30, 2018</u>	<u>Accretion</u>	<u>Balance at June 30, 2019</u>
5.85% to 6.45% Term and Capital Appreciation Bonds Series A	2021–2058	\$ 1,628,852	5,368	1,634,220
6.25% to 6.55% Term and Capital Appreciation Bonds Series B	2028–2058	1,274,945	29,910	1,304,855
6.15% to 6.50% Term and Capital Appreciation Bonds Series C	2028–2043	302,177	277	302,454
Bond discounts		<u>(5,700)</u>	<u>215</u>	<u>(5,485)</u>
Total		<u>\$ 3,200,274</u>	<u>35,770</u>	<u>3,236,044</u>

As of June 30, 2019, the outstanding principal balance of the bonds payable is as follows (in thousands):

<u>Description</u>	
Series A Bonds:	
Capital Appreciation Bonds, maturing in 2028, bearing interest at 6.20%	\$ 90,450
Term Bonds, maturing from 2021 through 2023, bearing interest at 5.85%	200,000
Term Bonds, maturing from 2031 through 2038, bearing interest at 6.15%	679,000
Term Bonds, maturing from 2039 through 2042, bearing interest at 6.20%	332,770
Term Bonds, maturing from 2055 through 2058, bearing interest at 6.45%	<u>332,000</u>
Total Series A Bonds outstanding	<u>1,634,220</u>
Series B Bonds:	
Capital Appreciation Bonds, maturing from 2028 through 2030, bearing interest at 6.40%	283,641
Capital Appreciation Bonds, maturing from 2031 through 2034, bearing interest at 6.45%	205,114
Term Bonds, maturing in 2031, bearing interest at 6.25%	117,100
Term Bonds, maturing from 2036 through 2039, bearing interest at 6.30%	270,000
Term Bonds, maturing from 2055 through 2058, bearing interest at 6.55%	<u>429,000</u>
Total Series B Bonds outstanding	<u>1,304,855</u>

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

Description	
Series C Bonds:	
Capital Appreciation Bonds, maturing in 2030, bearing interest at 6.50%	\$ 4,454
Term Bonds, maturing from 2024 through 2028, bearing interest at 6.15%	110,000
Term Bonds, maturing from 2029 through 2038, bearing interest at 6.25%	45,000
Term Bonds, maturing from 2039 through 2043, bearing interest at 6.30%	143,000
Total Series C Bonds outstanding	302,454
Total bonds outstanding	3,241,529
Less bonds discount	(5,485)
Bonds payable – net	\$ 3,236,044

*Series A Bonds* – The aggregate principal amount of the Series A Bonds issued amounted to approximately \$1.589 billion of which \$1.544 billion were issued as term bonds (the Series A Term Bonds) and \$45 million were issued as capital appreciation bonds (the Series A Capital Appreciation Bonds). Interest in the Series A Term Bonds are payable monthly on the first day of each month. Interest on the Series A Capital Appreciation Bonds are not payable on a current basis but are added to the principal of the Capital Appreciation Bonds on each January 1 and July 1 (Compounding Dates) and are treated as if accruing in equal daily amounts between Compounding Dates, until paid at maturity or upon redemption. Interest shall be computed on the basis of a 360-day year consisting of 12 30-day months.

The Series A Bonds are subject to redemption at the option of the Trust from any source, in whole or in part at any time on or after July 1, 2018, at a redemption price equal to the principal amount (in the case of Series A Capital Appreciation Bonds, the accreted amount) of the Series A Bonds, plus accrued interest to the redemption date, and without premium.



**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

In addition, the following Series A Term Bonds are subject to mandatory redemption in part commencing on July 1, 2021 to the extent of the sinking fund requirement for said bonds set forth below at a redemption price equal to 100% of the principal amount thereof plus accrued interest as follows (in thousands):

<u>Redemption period</u>	<u>Subject bonds</u>	<u>Amount</u>
July 1, 2021	Term bonds (final maturity July 1, 2023)	\$ 50,000
July 1, 2022	Term bonds (final maturity July 1, 2023)	70,000
July 1, 2023	Term bonds (final maturity July 1, 2023)	<u>80,000</u>
	Subtotal	<u>200,000</u>
July 1, 2034	Term bonds (final maturity July 1, 2038)	133,500
July 1, 2035	Term bonds (final maturity July 1, 2038)	133,500
July 1, 2036	Term bonds (final maturity July 1, 2038)	133,500
July 1, 2037	Term bonds (final maturity July 1, 2038)	133,500
July 1, 2038	Term bonds (final maturity July 1, 2038)	<u>133,500</u>
	Subtotal	<u>667,500</u>
Total		<u>\$ 867,500</u>

*Series B Bonds* – The aggregate principal amount of the Series B Bonds amounted to approximately \$1.059 billion of which \$816 million were issued as term bonds (the Series B Term Bonds) and \$243 million were issued as capital appreciation bonds (the Series B Capital Appreciation Bonds). Interest in the Series B Term Bonds are payable monthly on the first day of each month. Interest on the Series B Capital Appreciation Bonds are not payable on a current basis but are added to the principal of the Series B Capital Appreciation Bonds on each January 1 and July 1 (Compounding Dates), and are treated as if accruing in equal daily amounts between Compounding Dates, until paid at maturity or upon redemption. Interest shall be computed on the basis of a 360-day year consisting of 12 30-day months.

The Series B Bonds are subject to redemption at the option of the Trust from any source, in whole or in part at any time on or after July 1, 2018, at a redemption price equal to the principal amount (in the case of Series B Capital Appreciation Bonds, the accreted amount) of the Series B Bonds, plus accrued interest to the redemption date, and without premium.

*Series C Bonds* – The aggregate principal amount of the Series C Bonds amounted to approximately \$300 million of which \$298 million were issued as term bonds (the Series C Term Bonds) and \$2 million were issued as capital appreciation bonds (the Series C Capital Appreciation Bonds). Interest in the Series C Term Bonds are payable monthly on the first day of each month. Interest on the Series C Capital Appreciation Bonds are not payable on a current basis, but are added to the principal of the Series C Capital Appreciation Bonds on each January 1 and July 1 (Compounding Dates), and are treated as if accruing in equal daily amounts between Compounding Dates, until paid at maturity or upon redemption. Interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

The Series C Bonds are subject to redemption at the option of the Trust from any source, in whole or in part at any time on or after July 1, 2018, at a redemption price equal to the principal amount (in the case of Series C Capital Appreciation Bonds, the accreted amount) of the Series C Bonds, plus accrued interest to the redemption date, and without premium.

In addition, the following Series C Term Bonds are subject to mandatory redemption in part commencing on July 1, 2024 to the extent of the sinking fund requirement for said bonds set forth below at a redemption price equal to 100% of the principal amount thereof plus accrued interest as follows (in thousands):

<u>Redemption period</u>	<u>Subject bonds</u>	<u>Amount</u>
July 1, 2024	Term bonds (final maturity July 1, 2028)	\$ 18,700
July 1, 2025	Term bonds (final maturity July 1, 2028)	22,000
July 1, 2026	Term bonds (final maturity July 1, 2028)	29,150
July 1, 2027	Term bonds (final maturity July 1, 2028)	36,300
July 1, 2028	Term bonds (final maturity July 1, 2028)	3,850
	Subtotal	<u>110,000</u>
July 1, 2029	Term bonds (final maturity July 1, 2038)	100
July 1, 2030	Term bonds (final maturity July 1, 2038)	540
July 1, 2031	Term bonds (final maturity July 1, 2038)	100
July 1, 2032	Term bonds (final maturity July 1, 2038)	3,420
July 1, 2033	Term bonds (final maturity July 1, 2038)	4,320
July 1, 2034	Term bonds (final maturity July 1, 2038)	100
July 1, 2035	Term bonds (final maturity July 1, 2038)	11,940
July 1, 2036	Term bonds (final maturity July 1, 2038)	2,160
July 1, 2037	Term bonds (final maturity July 1, 2038)	7,920
July 1, 2038	Term bonds (final maturity July 1, 2038)	14,400
	Subtotal	<u>45,000</u>
July 1, 2039	Term bonds (final maturity July 1, 2043)	28,600
July 1, 2040	Term bonds (final maturity July 1, 2043)	28,600
July 1, 2041	Term bonds (final maturity July 1, 2043)	28,600
July 1, 2042	Term bonds (final maturity July 1, 2043)	28,600
July 1, 2043	Term bonds (final maturity July 1, 2043)	28,600
		<u>143,000</u>
Total		<u>\$ 298,000</u>

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

Debt service requirements in future years on the Trust's bonds as of June 30, 2019 are as follows (in thousands):

	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
Year ending June 30:			
2020	\$ —	166,519	166,519
2021	—	166,519	166,519
2022	50,000	166,519	216,519
2023	70,000	163,594	233,594
2024	80,000	159,499	239,499
2025–2029	387,250	759,618	1,146,868
2030–2034	904,490	724,634	1,629,124
2035–2039	1,045,100	599,601	1,644,701
2040–2044	543,270	316,684	859,954
2045–2049	—	247,568	247,568
2050–2054	—	247,568	247,568
2055–2059	761,000	176,949	937,949
	<u>3,841,110</u>	<u>\$ 3,895,272</u>	<u>7,736,382</u>
Less:			
Unaccreted interest	(599,581)		
Unamortized discount	<u>(5,485)</u>		
Total	<u>\$ 3,236,044</u>		

*Pledge of Employer Contributions Pursuant to Security Agreement* – The Trust entered into a Security Agreement with the Fiscal Agent for the benefit of the bondholders, pursuant to which the Trust pledged to the Fiscal Agent, and granted the Fiscal Agent a security interest in employer contributions made after January 31, 2008, which was the date of issuance of the first series of bonds, and the funds on deposit with the Fiscal Agent under the various accounts established under the Pension Funding Bond Resolution (the Resolution).

The Resolution and the Security Agreement constitute a contract between the Trust and the Fiscal Agent, on behalf of the owners of the bonds. The pledge, covenants and agreements of the Trust set forth in the Resolution and the Security Agreement shall be for the equal benefit, protection and security of the owners of the bonds, regardless of time or times of their issuance or maturity, and shall be of equal rank, without preference, priority or distinction of any of the bonds over any other bond, except as expressly provided in or permitted by the Resolution. Annual employer contributions that are made after January 31, 2008, which was the date of issuance of the first series of bonds, in accordance with the Act and amounts on deposit in the different accounts created pursuant to the Resolution for the benefits of the owners of the bonds, are

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

pledged for annual debt service requirements as established. The pledge is irrevocable so long as any bonds are outstanding under the terms of the Resolution.

Starting in August 2016, and monthly thereafter, the Fiscal Agent under the Resolution of the Trust's bonds notified to the Trust that it failed to transfer the requisite employers' contributions on the last business day of each month. The Fiscal Agent is not seeking to collect or recover any indebtedness from, enforce any judgment against, or obtain possession of, exercise control over, any property of or from, the Commonwealth or any of its instrumentalities, including the Trust, or exercise any act that is stayed by PROMESA, the Puerto Rico Financial Emergency and Fiscal Responsibility Act of January 29, 2017 (Act No. 5 or the Financial Emergency Act), the Puerto Rico Emergency Moratorium and Financial Rehabilitation Act (Act No. 21 or the Moratorium Act), or any Executive Orders related thereto. Consistent with PROMESA, the Financial Emergency Act, the Moratorium Act, and any Executive Orders, the Fiscal Agent is not exercising at this time any rights or remedies against the Commonwealth of Puerto Rico or any of its instrumentalities, including the Trust. As discussed further in Notes 11 and 12, the validity of the ERS bonds is currently being challenged in the Title III Court.

*Bonds Credit Rating Downgrades* – On June 24, 2016, Fitch Ratings Inc. downgraded the Trust's Bonds from “CC” to “C” and placed them on “negative” outlook. Fitch cited “the breakdown of negotiations between the Commonwealth and major bondholders, the recent ruling by the U.S. Supreme Court on the Commonwealth's bankruptcy legislation, and the slow process of federal legislation in support of the Commonwealth as indicators that a debt restructuring, deferral or default has become inevitable. On April 5, 2017, Moody's Investors Service downgraded the Trust's Bonds to from “C” to “Ca” and placed them on “negative” outlook, citing “persistent pressures on Puerto Rico's economic base that indicate a diminishing perceived capacity to repay.” Standard & Poor's Ratings Services currently rates the Trust's Bonds at “CC.”

**(9) Voluntary Termination Benefits**

On July 2, 2010, the Commonwealth enacted Act No. 70 establishing a program that provides economic incentives for voluntary employment termination to eligible employees, as defined. Act No. 70 of 2010 (Act No. 70) also established that early retirement benefits will be provided to eligible employees that have completed between 15 to 29 years of creditable services and will consist of monthly benefits ranging from 37.5% to 50% of each employees' monthly salary. Benefits under this program will be paid by the Commonwealth's General Fund and by the public corporations, covering their respective employees until the plan member reaches the later of age 55 for members under Act No. 447 or age 65 for members under Act No. 1, or the date the plan member would have completed 30 years of service had the member continued employment. In addition, the public corporations will also be required to continue making the required employee and employer contributions to the Trust. The Commonwealth's General Fund will be required to continue making its required employer contributions. The Trust will be responsible for benefit payments afterwards. As of June 30, 2019, the Trust's liability amounts to approximately \$7.3 million for its responsibility as an employer under Act No. 70.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

On December 8, 2015, the Commonwealth enacted the Voluntary Early Retirement Law, Act No. 211 of 2015 (Act No. 211), establishing a voluntary program to provide preretirement benefits to eligible employees, as defined. Act No. 211 applies to eligible employees of agencies and component units whose budgets are funded in whole or in part by the Commonwealth's General Fund, municipalities, component units that operate with their own resources (except those that have their own retirement system), Judiciary Branch, except judges, and the Commonwealth Employees Association. Act No. 211, among other provisions, established that preretirement benefits would be provided to eligible employees who started contributing to the Trust before April 1, 1990 with at least 20 years of service and would consist of biweekly benefits of 60% of the of each employee's salary as of December 31, 2015, as defined. Pursuant to Act No. 211, the employers will continue making the applicable employee and employer contributions to the Retirement Systems and the employer Social Security and Medicare contributions based on average employee salary, as defined, as of December 31, 2015. Individual Social Security and Medicare contribution would be deducted from the biweekly benefits to be paid to the participant. These payments would be made until the employee reaches the age of 61 years. Other benefits would include the payment of the participant's healthcare plan during the first two years of the program. Once the participant reaches 61 years of age, the participant would be eligible to receive payments from the Trust and would be entitled to a guaranteed minimum pension of 50% of their average salary (except police officers, which would be paid 60%), and related costs would be paid by the employer. As of June 30, 2019, the Trust's liability amounts to approximately \$6.9 million for its responsibility as an employer under Act No. 211.

Act 106-2017 repealed Act No. 211, while creating other incentives, opportunities, and retraining program for public workers.

**(10) Contingencies**

**(a) Litigation Filed by Creditors Against the Trust Before Commencement of the Title III Case**

*Administración de los Sistemas de Retiro de los Empleados del Gobierno y la Judicatura de Puerto Rico, et. al v. UBS Fin. Servs. Inc. of Puerto Rico, et al.*, Civ. No. KAC-2011-1067 (803) (P.R. Ct. of First Instance Sept. 29, 2011)

On September 29, 2011, two beneficiaries commenced a derivative suit in the Commonwealth of Puerto Rico Court of First Instance, San Juan Part (the Commonwealth Court), alleging breach of fiduciary duties and breach of contract against the underwriters in the issuance and underwriting of \$3 billion of the Trust bonds in 2008 (the UBS Action). On December 7, 2016, the Commonwealth Court allowed the Trust to intervene and ordered the plaintiffs, which now include the Trust and seven individual plaintiffs (collectively, the Plaintiffs), to file a third amended complaint against the underwriters, including UBS Financial Services Inc. of Puerto Rico (UBS), and related entities (collectively, the UBS Defendants). UBS had served as the lead underwriter of the 2008 ERS bonds.

Among other things, Plaintiffs allege that by participating as the lead underwriter of the 2008 ERS bonds, UBS violated its contractual, noncontractual and fiduciary obligations to the Trust. The Plaintiffs seek a ruling that UBS is liable to the Trust for over \$800 million for underwriting the 2008 ERS bonds.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

On March 6, 2019, Plaintiffs filed the Fourth Amended Complaint against the UBS Defendants, which was accepted by the Commonwealth Court on April 15, 2019. On April 29, 2019, UBS filed its answer and an informative motion regarding its intent to file a counterclaim if the Trust's Title III automatic stay were to be lifted. The proposed counterclaim attached to the informative motion alleges breach of contract and indemnification arising out of the Trust's issuance of the 2008 ERS bonds.

On June 25, 2019, the Oversight Board filed a motion to stay certain contested matters pending confirmation of a proposed plan of adjustment for the Commonwealth. On July 24, 2019, the Title III Court entered an order staying until November 30, 2019, various adversary proceedings and claims objections before it with overlapping issues, including those involving the validity of the Trust bond issuances. UBS contends that the UBS Action in the Commonwealth Court should be stayed pending the Title III Court's resolution of alleged common legal issues.

On October 8, 2019, UBS filed a motion for relief from the automatic stay in order to assert counterclaims in the Commonwealth Court for breach of contract and indemnification against the Trust in the UBS Action. UBS asserted that the Trust represented in the 2008 Bond Offering Statements that it was issuing the 2008 ERS bonds in accordance with the authority provided under the Retirement Act, and that the 2008 ERS bonds would be legally binding special obligations of the Trust. UBS also argued that the Trust represented in the purchase contracts entered into with UBS that the Trust had full right, power and legal authority to issue the bonds, and it was not in violation of any law. On December 11, 2019, the Title III Court held a hearing on UBS's stay relief motion. On December 16, 2019, the Title III Court granted UBS limited relief from the stay solely to allow UBS to present its proposed counterclaims in the Commonwealth Court. On February 4, 2020, UBS submitted its counterclaims in the Commonwealth Court. On March 9, 2020, the Oversight Board filed its objections to the counterclaims. On March 30, 2020, UBS renewed its stay relief motion, arguing that the Oversight Board's objection to the counterclaims violated the December limited lift-stay order and the Commonwealth Court should now be free to hear the Oversight Board's objections. On April 22, 2020, the Title III Court denied the motion. The case remains pending in the Commonwealth Court and is currently in discovery.

UBS has also filed two proofs of claim against the Trust related to the UBS Action, as well as two proofs of claim related to *Casasnovas Balado v. UBS Fin. Servs., Inc.*, No. K AC-2014-0072 (905) (P.R. Ct. of First Instance Jan. 29, 2016), an action filed by a group of individual plaintiffs arising from the Trust bond issuances.

**(b) Litigation Filed by Creditors Against the Trust After Commencement of the Title III Case**

*Employees Ret. Sys. of the Gov't of the Commonwealth of Puerto Rico, et al. v. Altair Global Credit Opportunities Fund (A), LLC, et al.*, Adv. Pro. No. 17-00213 (D.P.R. July 21, 2017)

On July 21, 2017, the Oversight Board, as representative of the Trust in its Title III case, commenced an adversary proceeding challenging the Trust bondholders' security interests in various trust assets through a declaratory relief action (the Trust Declaratory Relief Action). Through the Trust Declaratory Relief Action, the Oversight Board, as representative of the Trust in the Title III case, sought declaratory relief challenging the validity, priority, extent, and enforceability of the petition and

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

postpetition liens and security interests asserted by defendants with respect to bonds issued by the Trust. The complaint contends that the Trust bondholders' alleged liens and security interests are not perfected because the required UCC financing statements and subsequent amendments were defective, and therefore, the liens could be avoided in the Title III case. The Trust Declaratory Relief Action also challenged, among other things, the Trust bondholders' alleged security interest in postpetition employer contributions.

On August 17, 2018, the Title III Court granted partial summary judgment in favor of the Trust. The Title III Court held, among other things, that the Trust bondholders' liens are not perfected and their security interests are avoidable under Bankruptcy Code section 544. On September 5, 2018, the Title III Court entered an order dismissing the remaining counts and counterclaims. This decision was appealed to the United States Court of Appeals for the First Circuit (the First Circuit).

On January 30, 2019, the First Circuit (i) affirmed the Title III Court's holding that the 2018 financing statements related to the Trust's bonds did not perfect the Trust bondholders' security interest in pledged property, (ii) affirmed the dismissal of the Trust bondholders' claim regarding a January 2017 stipulation, and (iii) reversed the Title III Court by finding that the Trust bondholders met the requirement for perfection beginning on December 17, 2015. In addition, the First Circuit remanded certain counterclaims to the Title III Court for further consideration. On April 30, 2019, the Oversight Board, on behalf of the Trust, filed a petition for a *writ of certiorari* with the United States Supreme Court, seeking to reverse the First Circuit's decision. The petition was denied on October 7, 2019.

On remand, the Trust requested that the Title III Court (i) determine the undecided issue of whether the Trust bondholders' security interests attach to revenues received by the Trust after commencement of its Title III case (the Postpetition Revenue Issue) and (ii) grant it leave to file an amended adversary complaint to raise issues concerning the nature or extent of the Trust bondholders' security interests. On May 6, 2019, the Title III Court agreed to determine the Postpetition Revenue Issue, but denied the Trust's request for leave to amend its complaint. On June 27, 2019, the Title III Court granted summary judgment in favor of the Trust on the Postpetition Revenue Issue, holding that Bankruptcy Code section 552 prevents the Trust bondholders' security interests from attaching to revenues received by the Trust postpetition, and finding that employers' contributions are not "special revenues" within the meaning of Bankruptcy Code section 902. On July 18, 2019, the Trust's bondholders appealed the Title III Court's decision to the United States Court of Appeals for the First Circuit. On January 30, 2020, the First Circuit issued an opinion affirming the Title III Court's decision. On March 3, 2020, the First Circuit denied the Trust bondholders petition for rehearing *en banc*. On July 31, 2020, the Trust bondholders filed a petition for a *writ of certiorari* with the United States Supreme Court, which was denied on November 16, 2020.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

*Andalusian Global Designated Activity Co., et al. v. Commonwealth of Puerto Rico, et al.*, Adv. Pro. Nos. 17-00219-LTS, 17-00220-LTS (D.P.R. July 27, 2017)

On July 27, 2017, a group of ERS bondholders commenced adversary proceedings against the Commonwealth and the Trust in the cases initially captioned as *Altair Global Credit Opp. Fund (A), LLC, et al. v. Commonwealth of Puerto Rico, et al.*, Adv. Pro. Nos. 17-00219-LTS, 17-00220-LTS (D.P.R. July 27, 2017) (collectively, the PayGo Litigation), seeking a declaration that Joint Resolution 188 and Act 106-2017 (collectively, the PayGo Statute)—which requires the Trust to liquidate its assets for distribution to the Commonwealth's General Fund—are void *ab initio* because they violate the Title III automatic stay and the Contracts Clause and Takings Clause of the United States Constitution.

On November 17, 2017, the Oversight Board, as representative of the Trust in its Title III case and joined by FAFAA and the Retiree Committee, filed a motion to dismiss the PayGo Litigation. On February 2, 2018, the Title III Court issued an order informing the parties that the motion to dismiss would be taken under submission. On September 9, 2018, the Title III Court stayed the case pending the United States Court of Appeals for the First Circuit's decision on the summary judgment appeal in the Trust Declaratory Relief Action, which decision was rendered on January 30, 2019 (as discussed above). In light of the stay, on September 27, 2018, the Title III Court terminated the motion to dismiss without prejudice to its restoration on request following termination of the stay. No parties have moved to lift the stay.

On March 1, 2019, the Title III Court dismissed this case without prejudice as to Altair Global Credit Opportunities Fund (A), LLC and Nokota Capital Master Fund, L.P. As a result, the case was recaptioned *Andalusian Global Designated Activity Co. et al. v. Commonwealth of Puerto Rico, et al.*, Adv. Pro. Nos. 17-00219-LTS, 17-00220-LTS (D.P.R.). On March 5, 2019, the Title III Court entered an order allowing certain ERS bondholders—Crown Managed Accounts (for and on behalf of Crown/PW SP), LMA SPC (for and on behalf of Map 98 Segregated Portfolio), Oceana Master Fund Ltd., Pentwater Merger Arbitrage Master Fund Ltd., and PWCM Master Fund Ltd.—to intervene in the adversary proceeding. On October 25, 2019, the Trust bondholders filed a motion to inform the Title III Court that they filed a response to certain arguments concerning the validity of bonds issued by ERS raised in the ERS Bond Claims Objections (as defined and discussed below), which relate to the *ultra vires* arguments raised in the Oversight Board's motion to dismiss the PayGo Litigation. In light of ongoing litigation before the Title III Court and inactivity in these adversary proceedings, the Title III Court administratively closed the PayGo Litigation for statistical purposes only pending determinations in related proceedings.

After years of litigation, on April 2, 2021, the Oversight Board and certain ERS bondholders entered into the ERS Stipulation, which set forth the economic terms on which the ERS bondholders would support a plan of adjustment. As agreed in the ERS Stipulation, the Oversight Board filed a motion on April 5, 2021 seeking a stay of various ERS-related litigation (including the PayGo Litigation) pending the adjudication of the plan of adjustment for the Commonwealth, ERS, and PBA. On April 12, 2021, the Title III Court granted the motion and stayed the PayGo Litigation until further notice.



**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

On July 30, 2021, the Oversight Board—as representative of the Commonwealth, ERS, and PBA in their respective Title III cases—filed the Seventh Amended Plan and Seventh Amended Disclosure Statement, which incorporated the terms of the ERS Stipulation. On November 3, 2021, the Oversight Board filed the Eighth Amended Plan, which further revised the plan to eliminate its pension benefit modification provisions, among other things. The Eighth Amended Plan remains subject to future amendments and Title III Court approval, and it is not certain that the Title III Court will ultimately confirm any such plan. The hearing to consider confirmation of the Eighth Amended Plan commenced on November 8, 2021 and remains ongoing as of the date hereof.

For further information, refer to the currently filed versions of the Eighth Amended Plan and Seventh Amended Disclosure Statement, which are available at <https://cases.primeclerk.com/puertorico/Home-DocketInfo>.

**(c) Key Contested Matters in the Trust's Title III Case**

*Appointments Clause Litigation, Case No. 17-3566-LTS (D.P.R. Aug. 7, 2017)*

On August 7, 2017, a group of GO bondholders led by Aurelius Investment, LLC, Aurelius Opportunities Fund, LLC, and Lex Claims, LLC (collectively, Aurelius) filed a motion to dismiss the Title III petitions. In the motion, Aurelius argued that the appointment of the Oversight Board members violated the “Appointments Clause” of the United States Constitution, which requires that “principal officers” of the United States be appointed by the President and confirmed by the Senate. The Title III Court denied Aurelius’ motion to dismiss, and Aurelius appealed to the United States Court of Appeals for the First Circuit. On February 15, 2019, the First Circuit reversed the Title III Court, holding that the Oversight Board members’ appointment process violated the Appointments Clause. The First Circuit stayed its ruling for 90 days to allow the President and Senate to appoint the members of the Oversight Board in accordance with the United States Constitution. It also expressly validated all of the Oversight Board’s past actions, including any actions taken by the Oversight Board during the 90-day stay period.

On June 1, 2020, the United States Supreme Court unanimously reversed the First Circuit’s opinion, holding that PROMESA’s method of appointment of the Oversight Board’s members is constitutional.

*Motion of Certain Secured Creditors of the Trust for Relief from the Automatic Stay, Case No. 17-3566-LTS (D.P.R. July 3, 2018)*

On July 3, 2018, a group of ERS bondholders (including Altair Global, Andalusian Global, Glendon Opportunities Fund, Mason Capital, Nokota Capital, Oaktree, Ocher Rose, SV Credit and a number of Puerto Rico-based mutual funds) filed a motion (the Stay Relief Motion) in the Trust’s Title III case arguing that the Prepetition Segregated Account would run out of funds in August 2018, depriving bondholders of adequate protection in the form of monthly interest payments, and therefore, leaving movants’ constitutionally protected property interests unprotected. Movants asserted that relief from the Title III stay was necessary in order to maintain the status quo pending the Title III Court’s resolution of the cross-motions for summary judgment in the Trust Declaratory Relief Action (discussed above). In the alternative, movants requested adequate protection of their liens on property of the Trust. On

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

August 21, 2018, the Title III Court denied the Stay Relief Motion, and on August 29, 2018, the Trust bondholders filed an appeal to the United States Court of Appeals for the First Circuit.

On February 21, 2019, movants renewed their Stay Relief Motion following the First Circuit's January 30, 2019 reversal, in part, of the Title III Court's August 17, 2018 order in the Trust Declaratory Relief Action. In light of the Title III Court's June 27, 2019 decision in the Trust Declaratory Relief Action, the Title III Court terminated the renewed Stay Relief Motion without prejudice on July 8, 2019.

*Am. Fed. of Teachers, AFL-CIO, et al. v. Commonwealth of Puerto Rico, et al.*, Case No. 18-00134-LTS (D.P.R. Nov. 15, 2018)

On November 15, 2018, the American Federation of Teachers, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) and American Federation of State, County & Municipal Employees filed a complaint against the Commonwealth, the Governor, Raul Maldonado Gautier, Teresa Fuentes, the Retirement Board of Puerto Rico and its voting members, FAFAA, Banco Popular de Puerto Rico, the Oversight Board, and John Does 1-10 alleging unconstitutional takings by Banco Popular and the Commonwealth, seeking declaratory and injunctive relief along with damages and disgorgement related to the implementation of Act 106-2017. The Oversight Board filed a motion to dismiss on January 8, 2019. Throughout the remainder of calendar year 2019, the parties continued discussions about implementation of Act 106-2017 and the plaintiffs have determined that there is no imminent need to proceed with this action while discussion remain ongoing. On November 4, 2019, the Title III Court entered an order requiring the parties to submit a joint status report by January 24, 2020. On January 24, 2020 and April 30, 2020, the parties filed status reports and further adjourned all case deadlines until further notice. On June 22, 2020, the Governor and FAFAA filed a status report announcing the official launch of the new retirement plan and establishment of all individual retirement accounts for government employees and retirees as required under Act 106-2017. On September 11, 2020, the Title III Court entered an order dismissing the case.

*Omnibus Objections to ERS Bondholder Claims*, Case No. 17-3566-LTS

On March 12, 2019, the Creditors' Committee filed an omnibus objection to all claims asserted against the Trust based on the approximately \$3.1 billion of outstanding bonds issued by the Trust in 2008 (the Creditors' Committee System Bond Claims Objection). The Creditors' Committee System Bond Claims Objection argues that the Trust was only authorized to issue a "direct placement of debts," which the Creditors' Committee claims means a "private placement, not a public offering." Because the Trust bonds were issued in a public offering, the Creditors' Committee asserts that the Trust bonds were *ultra vires* and are thus "null and void." As a result, the Creditors' Committee seeks an order disallowing all ERS bond claims in their entirety.

After years of litigation, on April 2, 2021, the Oversight Board and certain ERS bondholders entered into the ERS Stipulation, which set forth the economic terms on which the ERS bondholders would support a plan of adjustment. As agreed in the ERS Stipulation, the Oversight Board filed a motion on April 5, 2021 seeking a stay of various ERS-related litigation (including the Creditors' Committee ERS Bond Claims Objection) pending the adjudication of the plan of adjustment for the Commonwealth,

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

ERS, and PBA. On April 12, 2021, the Title III Court granted the motion and stayed the Creditors' Committee ERS Bond Claims Objection until further notice.

On July 30, 2021, the Oversight Board—as representative of the Commonwealth, ERS, and PBA in their respective Title III cases—filed the Seventh Amended Plan and Seventh Amended Disclosure Statement, which incorporated the terms of the ERS Stipulation. On November 3, 2021, the Oversight Board filed the Eighth Amended Plan, which further revised the plan to eliminate its pension benefit modification provisions, among other things. The Eighth Amended Plan remains subject to future amendments and Title III Court approval, and it is not certain that the Title III Court will ultimately confirm any such plan. The hearing to consider confirmation of the Eighth Amended Plan commenced on November 8, 2021 and remains ongoing as of the date hereof.

For further information, refer to the currently filed versions of the Eighth Amended Plan and Seventh Amended Disclosure Statement, which are available at <https://cases.primeclerk.com/puertorico/Home-DocketInfo>.

*ERS Clawback Litigation*, Adv. Pro. Nos. 19-355, 19-356, 19-357, 19-358, 19-359, 19-360, and 19-361-LTS (D.P.R. May 19, 2019)

On May 19, 2019, the Creditors' Committee and the Oversight Board, acting through its Special Claims Committee, commenced seven adversary proceedings (collectively, the ERS Clawback Litigation) against approximately 230 defendants that owned or currently own Bonds. The plaintiffs seek declaratory relief relating to the Bonds and recovery of certain payments of principal and interest on the Bonds. On May 21, 2019, the plaintiffs filed a motion requesting that the Title III Court enter an order (i) extending the period for serving domestic defendants in the Avoidance Actions to November 18, 2019, and (ii) otherwise staying the Avoidance Actions pending a joint request by both plaintiffs to resume a particular proceeding or further order of the Title III Court.

After years of litigation, on April 2, 2021, the Oversight Board and certain ERS bondholders entered into the ERS Stipulation, which set forth the economic terms on which the ERS bondholders would support a plan of adjustment. As agreed in the ERS Stipulation, the Oversight Board filed a motion on April 5, 2021 seeking a stay of various ERS-related litigation (including the ERS Clawback Litigation) pending the adjudication of the plan of adjustment for the Commonwealth, ERS, and PBA. On April 12, 2021, the Title III Court granted the motion and stayed the ERS Clawback Litigation until further notice.

On July 30, 2021, the Oversight Board—as representative of the Commonwealth, ERS, and PBA in their respective Title III cases—filed the Seventh Amended Plan and Seventh Amended Disclosure Statement, which incorporated the terms of the ERS Stipulation. On November 3, 2021, the Oversight Board filed the Eighth Amended Plan, which further revised the plan to eliminate its pension benefit modification provisions, among other things. The Eighth Amended Plan remains subject to future amendments and Title III Court approval, and it is not certain that the Title III Court will ultimately confirm any such plan. The hearing to consider confirmation of the Eighth Amended Plan commenced on November 8, 2021 and remains ongoing as of the date hereof.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

For further information, refer to the currently filed versions of the Eighth Amended Plan and Seventh Amended Disclosure Statement, which are available at <https://cases.primeclerk.com/puertorico/Home-DocketInfo>.

*Lien-Scope Adversary Proceedings*, Adv. Pro. Nos. 19-00366-LTS (D.P.R.) and 19-00367-LTS (D.P.R.).

On May 20, 2019, the Trust and the Creditors' Committee commenced separate adversary proceedings (collectively, the Lien-Scope Actions) against the Fiscal Agent and certain beneficial owners of the Bonds, alleging that the defendants do not hold valid and enforceable security interests in any of the Trust's remaining assets or the proceeds thereof (except certain accounts receivable).

On July 24, 2019, the Title III Court entered the Stay Order, which stayed the Lien-Scope Actions through November 30, 2019, and required mandatory mediation of the issues during the stay period. On October 18, 2019, the parties to the Lien-Scope Actions jointly filed a motion and stipulated order seeking to modify the Stay Order by allowing for issues regarding the scope of the Trust bondholders' liens raised in the complaints to proceed.

On April 17, 2020, the Title III Court entered an order regarding the discovery and briefing schedule in the Lien-Scope Actions. The Title III Court's discovery and briefing schedule was last modified on August 25, 2020. The Oversight Board and certain defendant bondholders filed cross motions for summary judgment on September 11, 2020; summary judgment briefing was completed on November 19, 2020. As of the date hereof, the cross motions for summary judgment remain pending before the Title III Court.

After years of litigation, on April 2, 2021, the Oversight Board and certain ERS bondholders entered into the ERS Stipulation, which set forth the economic terms on which the ERS bondholders would support a plan of adjustment. As agreed in the ERS Stipulation, the Oversight Board filed a motion on April 5, 2021 seeking a stay of various ERS-related litigation (including the Lien-Scope Actions) pending the adjudication of the plan of adjustment for the Commonwealth, ERS, and PBA. On April 12, 2021, the Title III Court granted the motion and stayed the Lien-Scope Actions until further notice.

On July 30, 2021, the Oversight Board—as representative of the Commonwealth, ERS, and PBA in their respective Title III cases—filed the Seventh Amended Plan and Seventh Amended Disclosure Statement, which incorporated the terms of the ERS Stipulation. On November 3, 2021, the Oversight Board filed the Eighth Amended Plan, which further revised the plan to eliminate its pension benefit modification provisions, among other things. The Eighth Amended Plan remains subject to future amendments and Title III Court approval, and it is not certain that the Title III Court will ultimately confirm any such plan. The hearing to consider confirmation of the Eighth Amended Plan commenced on November 8, 2021 and remains ongoing as of the date hereof.

For further information, refer to the currently filed versions of the Eighth Amended Plan and Seventh Amended Disclosure Statement, which are available at <https://cases.primeclerk.com/puertorico/Home-DocketInfo>.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

*The Fin. Oversight & Mgmt. Bd. for Puerto Rico v. Vásquez*, Adv. Pro. No. 19-00393 (D.P.R.) (Jul. 3, 2019)

On July 3, 2019, the Oversight Board filed a complaint against the Governor and FAFAA seeking injunctive relief to prevent the implementation and enforcement of Act 29-2019, which eliminated the obligation of municipalities to make PayGo payments to the Commonwealth, and various joint resolutions because (i) Act 29-2019 violated PROMESA sections 204(a) and 207; (ii) Act 29-2019 and the joint resolutions violated PROMESA section 204(c); (iii) Act 29-2019 and the joint resolutions violated PROMESA section 108(a) because they impair and/or defeat the purposes of PROMESA, as determined by the Oversight Board; and (iv) the Governor's alleged policy of not providing certifications as required under PROMESA section 204 violated PROMESA section 108(a) because it impairs and/or defeats the purposes of PROMESA, as determined by the Oversight Board.

On July 15, 2019, the Governor and FAFAA moved to dismiss the complaint. On August 22, 2019, the Title III Court denied the motion to dismiss in its entirety. On September 10, 2019, the Governor and FAFAA answered the complaint. On April 15, 2020, the Title III Court granted in part the Oversight Board's summary judgment motion, holding that Act 29-2019 is unenforceable under PROMESA sections 204(a) and 204(c) and permanently enjoining the Commonwealth from implementing it and enforcing it.

*ERS Administrative Expense Motions*, Case No. 17-03566-LTS (D.P.R. Nov. 19, 2019)

On November 21, 2019, the Trust bondholders filed motions for payment of administrative expense claims against the Commonwealth and the Trust (the ERS Administrative Expense Motions). The Fiscal Agent joined the Trust bondholders' motions. The claims against the Commonwealth allege liability arising from the postpetition enactment of Joint Resolution 188 and Act 106-2017 (the PayGo Legislation), which together eliminated employers' contributions and changed the funding of pension payments to a pay-as-you-go system. Because the bondholders' prepetition collateral consisted of employers' contributions, they contend that the PayGo Legislation violated the Takings and Contracts Clauses of the U.S. and Commonwealth Constitutions, and the Title III automatic stay. The claims against the Trust allege postpetition violations of prepetition covenants. By agreement, the Oversight Board is also prosecuting objections to the Trust bondholders' Proofs of Claim and Fiscal Agent's Proofs of Claim simultaneously and in the same briefing as the prosecution of the ERS Administrative Expense Motions (collectively, the ERS Administrative Expense Litigation).

On May 6, 2020, the Commonwealth and the Trust, through the Oversight Board and the Retiree Committee, moved to dismiss the ERS Administrative Expense Motions, arguing that under the First Circuit's January 30, 2020 decision the Trust bondholders' liens were cut off at the petition date by Bankruptcy Code section 552. The Oversight Board and certain ERS bondholders moved for judgment on the pleadings. Briefing on the cross motions has been completed but the Title III Court has not yet rendered a decision.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
"ERS LEGACY TRUST"**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

After years of litigation, on April 2, 2021, the Oversight Board and certain ERS bondholders entered into the ERS Stipulation, which set forth the economic terms on which the ERS bondholders would support a plan of adjustment. As agreed in the ERS Stipulation, the Oversight Board filed a motion on April 5, 2021 seeking a stay of various ERS-related litigation (including the ERS Administrative Expense Litigation) pending the adjudication of the plan of adjustment for the Commonwealth, ERS, and PBA. On April 12, 2021, the Title III Court granted the motion and stayed the ERS Administrative Expense Litigation until further notice.

On July 30, 2021, the Oversight Board—as representative of the Commonwealth, ERS, and PBA in their respective Title III cases—filed the Seventh Amended Plan and Seventh Amended Disclosure Statement, which incorporated the terms of the ERS Stipulation. On November 3, 2021, the Oversight Board filed the Eighth Amended Plan, which further revised the plan to eliminate its pension benefit modification provisions, among other things. The Eighth Amended Plan remains subject to future amendments and Title III Court approval, and it is not certain that the Title III Court will ultimately confirm any such plan. The hearing to consider confirmation of the Eighth Amended Plan commenced on November 8, 2021 and remains ongoing as of the date hereof.

For further information, refer to the currently filed versions of the Eighth Amended Plan and Seventh Amended Disclosure Statement, which are available at <https://cases.primeclerk.com/puertorico/Home-DocketInfo>.

**(11) Subsequent Events**

Subsequent events were evaluated through January 7, 2022, the date the financial statements were available to be issued, to determine if such events should be recognized or disclosed in the 2019 financial statements. The subsequent events disclosed below are principally those related to debt activities, including fiscal events and related legislation, both local and federal, that management believes are of public interest for disclosure.

**(a) Oversight Board Files Joint Plan of Adjustment for the Commonwealth, the ERS, and PBA**

On September 27, 2019, the Oversight Board—as representative of the Commonwealth, ERS and PBA in their respective Title III cases—filed its initial joint Title III plan of adjustment for the Commonwealth, ERS, and PBA [ECF No. 8765] (the Initial Plan) along with a disclosure statement related thereto [ECF No. 8765] (the Initial Disclosure Statement), which was founded upon the pre-COVID-19 economic assumptions contained in the Commonwealth fiscal plan as certified by the Oversight Board on May 9, 2019. The Initial Plan incorporated the terms of a restructuring support agreement with the Retiree Committee (the Retiree Committee RSA), in which the Retiree Committee agreed to a maximum 8.5% pension cut that would only be applicable to retirees with monthly retirement benefits of more than \$1,200, as well as freezes in pension benefits for teachers and judges.

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

On February 9, 2020, the Oversight Board announced that it entered into a plan support agreement (the 2020 PSA) with certain Commonwealth general obligation bondholders and PBA bondholders (collectively, the PSA Creditors), which would require revisions to the Initial Plan. On February 28, 2020, the Oversight Board filed its Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, et al. [ECF No. 11946] (the Amended Plan) and an amended disclosure statement related thereto [ECF No. 11947] (the Amended Disclosure Statement), which revised the Initial Plan to conform to the 2020 PSA while retaining the terms of the Retiree Committee RSA. However, due to the national economic shut down caused by the global spread of COVID-19 that has had substantial negative effects on the people and businesses in Puerto Rico, the Oversight Board decided to pause discussion and prosecution of the Amended Plan, including reevaluation of the 2020 PSA.

In its September 9, 2020 status update to the Title III Court, the Oversight Board noted that it resumed formal discussions with creditors under the guidance of the Title III mediation team after certifying a revised fiscal plan for the Commonwealth on May 27, 2020. According to the status report, these negotiations must continue before a revised plan confirmation timeline can be determined.

On October 6, 2020, the PSA Creditors filed a motion to impose certain deadlines on the Oversight Board to prosecute or modify the Amended Plan. Moreover, the PSA Creditors argued that the Title III Cases should be dismissed if the Oversight Board did not meet the PSA Creditors' proposed deadlines. FAFAA objected to the PSA Creditors' motion, noting that the unrealistic timeline the PSA Creditors proposed ignored the setbacks and realities forced upon Puerto Rico due to the ongoing COVID-19 crisis and, if such deadlines were imposed, they would severely undermine the Government of Puerto Rico's ability to carry out its obligation to protect its people. FAFAA also argued that dismissal of the Title III Case would end PROMESA's litigation stay and unleash another round of piecemeal litigation (similar to what Puerto Rico and its people experienced prior to 2017) and would do nothing to advance a restructuring or repayment of debt.

On October 29, 2020, the Title III Court ordered the Oversight Board to file an informative motion by February 10, 2021 presenting a term sheet disclosing the material economic and structural features of an amended plan of adjustment that the Oversight Board intends to propose for confirmation, and a motion for approval of a proposed timetable for the filing of an amended plan of adjustment, discovery, and litigation in connection with such proposal, solicitation, voting, and confirmation proceedings [ECF No. 14987].

In light of the Title III Court's order, the Oversight Board, AAFAF, certain creditors, and parties in interest recommenced mediation with a view to reaching consensus on an amended plan of adjustment for the Commonwealth. The mediation sessions began on December 3, 2020 and continued through February 2021.

In its December 4, 2020 status update to the Title III Court, the Oversight Board informed the Court that the parties will continue ongoing discussion and will file with the Court either a term sheet for a proposed restructuring or a further amended plan of adjustment and disclosure statement on or prior to February 10, 2021, which deadline was subsequently extended to March 8, 2021. On February 9, 2021, the Oversight Board and the PSA Parties announced that they reached an agreement in principle

**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

regarding the terms of an amended plan of adjustment, subject to the execution of definitive documentation. On February 23, 2021, the Oversight Board announced the termination of the 2020 PSA and execution of a new plan support agreement, dated February 22, 2021 (the 2021 PSA), and indicated its intent to file an amended plan of adjustment on March 8, 2021.

On March 8, 2021, the Oversight Board—as representative to the Commonwealth, ERS, and PBA in their respective Title III cases—filed its second Amended Plan and Second Amended Disclosure Statement, which incorporates the terms of the 2021 PSA and the Retiree Committee RSA with modifications increasing the threshold level for pension cuts from \$1,200 to \$1,500 of monthly retirement benefits per retiree, among other things.

On April 2, 2021, the Oversight Board and certain ERS bondholders entered into the ERS Stipulation, which set forth the economic terms on which the ERS bondholders would support a plan of adjustment.

On July 30, 2021, the Oversight Board filed the Seventh Amended Plan and Seventh Amended Disclosure Statement, which incorporated the terms of the ERS Stipulation.

On October 26, 2021, the Government enacted Act No. 53 of 2021 in support of the securities transactions contemplated in the Seventh Amended Plan, subject to certain plan amendments that would protect government pensioners from additional cuts to their pension benefits.

On November 3, 2021, the Oversight Board filed the Eighth Amended Plan, which further revised the plan to eliminate its pension benefit modification provisions, among other things. The Eighth Amended Plan remains subject to future amendments and Title III Court approval, and it is not certain that the Title III Court will ultimately confirm any such plan. The hearing to consider confirmation of the Eighth Amended Plan commenced on November 8, 2021 and remains ongoing as of the date hereof.

For further information, refer to the currently filed versions of the Eighth Amended Plan and Seventh Amended Disclosure Statement, which are available at <https://cases.primeclerk.com/puertorico/Home-DocketInfo>.

**(b) Cybersecurity Attack**

During January 2020, the Trust discovered that an external agent gained access to the Trust's Office 365 application. Apparently, the attacker impersonated a Finance Department's employee email account and sent electronic communications to multiple public corporations. In the aforementioned electronic communications, the attacker gave instructions to change deposit bank accounts. As a result of this event four public corporations transferred funds to the fraudulent banks' accounts in the amount of approximately \$ 4.4 million. This event, at the request of the Trust, was investigated by state and federal agencies. Also, the Trust contracted the services of GM Security Technologies and Microsoft to investigate in depth this incident. These entities concluded their respective investigations and provided recommendations to the Trust's IT security policies, which as of the date these financial statements were available to be issued were already implemented.



**EMPLOYEES' RETIREMENT SYSTEM OF THE GOVERNMENT  
OF THE COMMONWEALTH OF PUERTO RICO—  
“ERS LEGACY TRUST”**

(A Component Unit of the Commonwealth of Puerto Rico)

Notes to Basic Financial Statements

June 30, 2019

**(c) Impact of COVID-19**

*(i) Executive Orders*

On March 11, 2020, the World Health Organization (WHO) declared the Coronavirus disease caused by a novel coronavirus (COVID-19) as a global pandemic. As a result of the health threat and to contain the virus spread across the island, Governor Vázquez-Garced issued executive order 2020-020, on March 12, 2020, declaring a state of emergency in Puerto Rico to concentrate all efforts and implement necessary measures to safeguard the health, well-being and public safety of the citizens of Puerto Rico. The executive order authorizes the Secretary of the Treasury and the Executive Director of the Oversight Board to set up a special budget, from any available funds, including the Emergency Fund, to cover all necessary costs for the containment of the virus throughout the island and sharing information with the municipalities. Numerous executive orders have been subsequently issued by the Governor to manage all COVID-19 matters.

As the Government observes and assesses the results of its measures to control the negative health and economic effects of COVID-19 on the people of Puerto Rico and Puerto Rico's economy, it will reevaluate and further amend business restrictions as necessary to promote economic recovery while preserving the health, welfare, and safety of the people of Puerto Rico.

*(ii) Fluctuations in Global Markets*

Subsequent to the declaration of a global pandemic by WHO, the United States and global markets experienced initial significant declines in value resulting from uncertainty caused by COVID-19. Management is closely monitoring the Trust's investment portfolio and its liquidity and has been actively working to minimize the impact of these declines. The accompanying financial statements do not include adjustments to fair value, if any, that have resulted from these potential declines.