

## Update on Puerto Rico's Situation

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### McV News

**October 4, 2017**

As we begin to recover from Hurricane María's passage, we want, first of all, to thank you for your kind words and wishes—relationships wrought over 70 years of service hold strong and true!

We also take this opportunity to update you on Puerto Rico's situation and provide some important information.

Hurricane Maria—the fifth strongest hurricane to ever hit the United States and the strongest hurricane to hit Puerto Rico since 1932—made landfall in Puerto Rico on September 20, 2017 as a strong Category 4 storm bringing sustained winds of up to 155 miles per hour and up to 40 inches or more of rain in some regions. Arriving only two weeks after Hurricane Irma—a Category 5 storm that became one of the strongest hurricanes ever recorded in the Atlantic—it substantially impaired Puerto Rico's infrastructure, particularly electricity and telecommunication services.

### 1. Disaster Relief and Assistance

- On September 21, 2017, President Donald J. Trump approved a disaster declaration for Puerto Rico, stating that “a major disaster exists in Puerto Rico and order[ing] federal assistance to supplement the Commonwealth and local recovery efforts in the areas affected by Hurricane Maria beginning on September 17, 2017, and continuing.” According to the White House press release, this federal funding is available to the Government, its municipalities, and certain nonprofit organizations on a cost-sharing basis for emergency relief work. The funding can also include grants for temporary housing and home repairs, low-cost loans to cover uninsured property losses, and other programs to help individuals and business owners in their recovery efforts. The disaster declaration was amended on September 26, 2017, to make additional assistance available through an increase in the level of federal funding for debris removal and emergency protection measures undertaken in the Commonwealth. See Press releases dated September 21 and 27, 2017, respectively, President Donald J. Trump Approves Puerto Rico Disaster Relief; President Donald J. Trump Amends Puerto Rico Disaster Relief, both available at <http://www.whitehouse.gov>.

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- On September 28, 2017, Lt. General Jeffrey Buchanan, from U.S. Army North (5th Army), was named to coordinate military relief efforts in Puerto Rico. A three-star general with a solid military record, Lt. General Buchanan previously deployed to San Antonio, Texas to oversee a largely land-based response to Hurricane Harvey. He will be the Defense Department's main liaison with the Federal Emergency Management Agency (FEMA), and focus on aid distribution.

### **2. Power, Water and Telecommunications**

- Power generation facilities were not materially affected, but approximately 80% of the energy transmission infrastructure was damaged. As of today, the Puerto Rico Electric Power Authority is powering approximately 5% of its customers; priority is restoring service to hospitals and telecommunication facilities.
- Approximately half of the customers of the Puerto Rico Aqueduct and Sewer Authority are also without potable water, principally as a result of lack of electric power.
- Telecommunications are still spotty in the San Juan metropolitan area and practically nonexistent in the rest of the island. Around 30% of residents now have cellular telephone service.

*We have been informed that, in view of the situation, the Government is accepting proposals for public/private partnerships to update/upgrade damaged infrastructure. Proposals are to be submitted to the Puerto Rico Public-Private Partnerships Authority.*

### **3. Fuel**

- Most shelters, medical facilities and businesses are running on power generators, which has increased the demand for diesel and other fuels. Approximately 70% of gas stations are operating and providing fuel.

### **4. Security/Curfew**

- The Government has imposed a 9:00 p.m. to 5:00 a.m. curfew; various exemptions apply, among them: public safety personnel (both Government and private companies), health services, relief functions, hospitality industry employees on their way to or from work, and persons waiting for or returning home from purchasing gasoline or diesel.

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### 5. Limited Business Activity

- Businesses are slowly beginning to reopen, but the lack of electricity and telecommunications, problems with diesel distribution for emergency generators, and the curfew implementation, still present significant challenges for full operation.

### 6. Government Operations

- **Emergency Management:** To address the immediate needs of the people of Puerto Rico, the Government has transformed the Puerto Rico Convention Center into a joint emergency management center and shelter for refugees. All Government recovery efforts will be coordinated from there. The Government is also identifying buildings to use as shelters, including properties owned and/or operated by the Puerto Rico Industrial Development Company and the Public Buildings Authority. In addition, FEMA is establishing 12 distribution/logistics zones across Puerto Rico. Water, food, fuel, and other resources will be distributed through these zones.
- **Puerto Rico Treasury Department:** Treasury issued Administrative Determinations 17-13 and 17-14 to, respectively, (1) exempt prepared foods and carbonated beverages from sales and use taxes ("SUT") through 11:59 p. m. on Sunday October 8, 2017; and (2) provide for the issuance of temporary Class A and Class B Gasoline Retailer licenses to applicants that had submitted all the documentation for such licenses by September 20, 2017. The applicants are required to provide evidence of the documentation submitted at [puertos@hacienda.pr.gov](mailto:puertos@hacienda.pr.gov); the temporary licenses will be free of charge and will be effective for 60 days. Treasury recently announced extensions of time to file returns and pay taxes due. In view of the Government's financial situation and cash needs, the extension periods vary among categories of taxpayers, with more generous terms for individuals and small businesses. We will discuss the specific provisions in a separate Tax Alert.
- **Ports, Airports and Transportation:** Treasury has issued instructions allowing immediate lifting of all merchandise at the ports, which we will discuss in a separate Tax Alert. Various seaports are currently accepting cargoes and all 10 airports have reopened, although on a limited basis.
- **Courts and Administrative Proceedings:**
  - Commonwealth: The Commonwealth's judicial system remains closed, except for certain limited urgent matters. All hearings scheduled before the

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passage of Hurricane Maria have been vacated and continued *sine die*. The Supreme Court also extended all deadlines expiring on September 19, and during the emergency, until court operations resume. However, the courts' Unified System for Management and Administration of Cases ("SUMAC," for its Spanish acronym) is operational for electronic filing in cases for which it has been implemented.

- United States District Court ("USDC") for the District of Puerto Rico: The USDC is closed until further notice. The court extended the deadline for any filing due during the period of September 18, through and including September 22, until 5 working days after it resumes operations. Although the Clerk's notice was entered on September 18, and has not been updated, the court has not yet resumed operations. The court's electronic filing system is operational. No civil or criminal jury trials will be held before the USDC prior to November 6, 2017. The court will revisit this determination depending on the progress in reestablishing power and communications.
- United States Bankruptcy Court ("USBC") for the District of Puerto Rico: The USBC is closed until further notice. All the hearings scheduled for the period of September 19, through and including November 6, have been vacated and continued *sine die*. All periods set by statutes of limitations applicable to causes of action, cases and proceedings filed, or to be filed with the court, have been extended until Monday, November 6, 2017. The court's electronic filing system is operational. However, emergency filings may be submitted through the following e-mail address: [emergencyfilings@prb.uscourts.gov](mailto:emergencyfilings@prb.uscourts.gov). It is important to include the movant's telephone number in the emergency filing email. The court will be contacting the movant to provide instructions.
- United States Court of Appeals for the First Circuit: The court issued a notice for all Puerto Rico cases, automatically extending to November 1, 2017 the deadline for any non-emergency filing (e.g. case opening documents, briefs, petitions for rehearing) due to be filed in the First Circuit Court of Appeals between September 18 and October 31, 2017, as long as the deadline is one within the court's power to extend. The court has indicated that it will re-evaluate at the end of October 2017 whether an additional automatic extension of case filing deadlines is necessary. Additional information regarding deadlines in Puerto Rico cases referred for mediation pursuant to the Civil Appeals Management Program is available on the court's website at <http://www.ca1.uscourts.gov/settlement-program>.

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- Financial Industry Regulatory Authority ("FINRA"): FINRA Office of Dispute Resolution administratively stayed all cases venued in Puerto Rico until October 20, 2017. This includes canceling all hearings, conference calls and deadlines scheduled during this time. FINRA will begin the process of rescheduling any impacted hearings and pre-hearings as soon as reasonably practicable, once the stay is lifted. However, if parties mutually agree otherwise, they should communicate that agreement to FINRA at their earliest convenience. For cases not venued in Puerto Rico but which may also be affected by the passage of Hurricane Maria, the parties may agree to stay the case. Any agreement reached should be notified to FINRA in writing at the earliest convenience. FINRA will then alert the panel in the affected case of the agreed-upon stay. FINRA has indicated that it will continue to monitor the situation in Puerto Rico and will make any necessary adjustments to the foregoing as conditions warrant.
- Administrative Proceedings: We have been informed that deadlines in Commonwealth administrative proceedings will also be extended.

We will keep updating you on changes as they occur. Lets re-build Puerto Rico together!

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