



**4 FORECASTS,  
4 THEMES &  
4 REACTIONS for Perambulating Global Interruption**

*As we share this issue of The Zenith Investor, I would like to first thank Francisco “Paco Pepe” Rodríguez Castro, President & CEO of Birling Capital for his valuable contributions to the Puerto Rico Chamber of Commerce all these years with his collaboration and leadership in various successful investor conferences, such as the Puerto Rico Conference to be celebrated in February. This time, we have the opportunity to collaborate in a monthly financial publication. If you want to stay on top of the latest financial trends, as well as getting solid, long-term insight that you can use in your financial and investment planning efforts, reading The Zenith Investor on a regular basis can be a big help.*

*I take this opportunity to also invite you to have a deep and active reflection about our role as business men and women, and encourage you to be well informed about our global competitive environment. Today, our country’s context and global competitive position demands that we reinvent ourselves, rediscover new strengths and advantages, focusing more on our human capital; along with the financial and social capital. We are planning significant events for 2020 that will provide a timely and unparalleled opportunity for deep discussion that we hope will lead to the type of entrepreneurial solutions that will rekindle our economy and lead to sustained growth. We look forward to seeing you all at the Puerto Rico Conference!*

*Jose E. Ledesma-Fuentes, CFA  
President and Chairman of the Board  
Puerto Rico Chamber of Commerce*

*Business acumen ("business savvy" and "business sense" are often used as synonyms) is defined as the keenness and quickness in understanding and dealing with a "business situation" (risks and opportunities) in a manner that is likely to lead to a good outcome. Additionally, business acumen has emerged as a vehicle for improving financial performance and leadership development. Consequently, several different types of strategies have developed around improving business acumen.*

*Financial literacy is a comprehensive understanding of the drivers of growth, profitability, and cash flow; an organization's financial statements; key performance measures; and the implications of decisions on value creation. It entails the ability to take the knowledge of business fundamentals and use it to think strategically and then take appropriate action.*

*And while financial literacy is almost never a need for senior managers and high potentials; most already possess degrees in business, including MBAs, and many have also had experience in the business sides of their professional roles, we are privileged to count with the knowledge, experience, and business acumen of our collaborator, Francisco J. Rodríguez-Castro, to help us navigate these tempestuous waters.*

*Particularly in times like the ones we are living now, with unprecedented natural disasters and the menace of a possible war in the Middle East, it is more important than ever to be prepared and ready to traverse these tempestuous periods. The need for managers will always be to understand how their actions and their behavior impact their financial decision-making and how this in turn affects financial outcomes at the unit and the corporate level.*

*Please enjoy this issue of our Zenith Investor.*

*Miguel L. Vargas-Jiménez  
Executive Director & CEO*

As we publish The Zenith Investor, January 2020 Issue, Perambulating Global Interruption. We are dealing with the aftermath of two destructive earthquakes that have destroyed hundreds of homes, business, schools, churches, and has shaken Puerto Rico to its core. In the southern part of Puerto Rico, thousands of residents are sleeping outside for fear of being trapped by a sudden earthquake. In Puerto Rico, for economic reasons, houses on stilts are quite predominant, not just in the mountains, but all around Puerto Rico. Houses on stilts, if not built correctly and without the advice of a structural engineer, may collapse during an earthquake as we have seen this past week. The Government estimates that there are north of 100,000 houses built on stilts with more than 450,000 residents living in them, and that presents quite a worrisome scenario. We are living in an era that used to be the future, and in this era, interruption, transformation, and innovation are changing how we live, study, play, socialize, work, and die. The rising fortunes of economies such as China, India, and other emerging countries, combined with how technology is impacting everything we do not just locally but globally. Also, the creation of new businesses that have altered the way humans receive information. Between 2000-2019 a significant amount of business trends and products have defined this decade, and they include:

•**The Impactful Growth of Big-Tech/Data-** between Amazon, Google, and Facebook, these companies have changed the way we shop, socialize, and seek information more than any time in history.

•**Smartphones, Wifi, and the Internet-** we have now in our hand's super-powerful computers that allow us to work anywhere we want. Apps such as Waze, make dinner reservations with Opentable, get rides with Uber, and many other now standard advances that were unthinkable before 2010. As for wifi, in most houses, when a visitor arrives before saying hello, they ask for the wifi password.

•**The Era of the Entrepreneur-** during this decade, the mentality of people changed from studying to find an excellent job to start a business. This change impacted millions, and now with a solid idea and a laptop, anyone can start a business. The entrepreneurs amount to 1–2% of the workforce; however, entrepreneurs are vital to the competitiveness of the economy. The gains of entrepreneurship are only realized, jet, if the business environment is receptive to innovation.

•**The Rise of Women in Business-** it has taken nearly a century to witness material growth in women acquiring leadership roles in business. Women C.E.O.'s are leading all kinds of enterprises at never before seen levels. In this decade alone, the number of women on boards doubled.

•**The Products that defined the decade-** while it seemed quite startling that 2020 is here and with it we can analyze the contribution of products that were created during the 2010-2019 period:

- Apple Ipad
- iPhone 4
- Microsoft Surface
- Samsung Galaxy Note
- Apple Watch
- Ring Doorbell
- Amazon Echo

- Apple Air Pods
- Nintendo Switch
- iPhone X
- Tesla Powerwall



We can be sure that many of you have at least 5 or 6 of these products created in this decade that changed your life. Can you imagine your life now without them?

With so much change in only ten years, we must expect significant changes to our lives in the decade ahead.

While in the latter part of the decade, the recent focus of globalization has been trade wars and tariffs, rising nationalistic protectionism, and increased hostility towards people. As a change agent, globalization has not gone into reverse; instead, it has become data-driven and more focused to continue its growth.

#### U.S. Economic Indicators Review at Year-End

- Target Federal Funds Rate Lower Limit 1.50%
- US Consumer Price Index \$257.94
- US GDP \$21.54Trillion
- US Housing Starts 1.365Million
- US Manufacturing New Orders \$496.96Billion
- US Personal Consumption Expense \$14.82Trillion
- US Retail Sales \$462.78Billion
- US Total Nonfarm Payrolls \$152.25Million

## Forecast 1: What to Expect for 2020

•**Global Economic Outlook:** we expect global GDP to be 3.3%, as the slowdown that began during the latter part of 2018 subsides. Below are our forecasts for the specific nations.

- U.S. 2.2%
- Euro Zone 1.2%
- Japan 0.3%
- UK 1.0%
- China 5.7%
- India 6.8%
- Russia 2.0%
- Brazil 2.0%

•**U.S. Stock-market gains will become modest:** as through the new year and quite possibly the decade ahead.



•**Consumer Spending:** shall remain stable for the U.S. economy.

•**Jobs Growth:** will slow its pace, and we forecast that it will stay well into the 100,000 levels needed to offer positions for new entrants into the labor force.

•**2020 an Election Year Full of Precariousness:** No clear leader among the democrats and with Michael Bloomberg, a new entry adds to the drama. Even as Trump is facing impeachment, he may survive it and be re-elected.

We embark on the new year 2020; we do so with a positive outlook and understanding of the

significant challenges that await us.

Overall, we expect 2020 to be a transformative year and will obligate investors to deal with significant volatility for most asset classes, even more, so that previous periods. Like all transformative years, it brings renewed opportunities for investors. Our recommendation is to stay focused, invested, and diversified and always, always, have a trusted advisor.

## Forecast 2: Puerto Rico's 2020 Economic Outlook

The year 2019 turned out to be a positive year for the Puerto Rico Economy reaching 1.7% GDP growth for the first time in a decade, this is an improvement of 276% considering that 2018 ended with minus -4.7% GDP. We must concentrate our focus on the new year. Birling Capital's 2020 Economic Outlook:

### P.R.2020 Economic Forecasts

- Gross National Product 1.9%
- Personal Consumption 1.3%
- Government Expenses 1.1%
- Gross Domestic Investment 11.5%
- Construction 24.90%
  - Public 49.2%
  - Private 10.6%
- Exports 2.10%.
- Imports 2.90%
- Population 3,100 million
- Unemployment at 7.0%
- Labor force at 1,100 mm
- Labor participation rate increases to 41.0%

## Forecast 3: Birling Capital's Global 2020 outlook:

For our vantage point, we would like to review the economic and market data dynamics that we are analyzing for the year ahead:

•**2020 global growth remains timid:** With the world a forecast of

3.3 percent for 2020, and 3.4 percent for 2021, we must wait until the ink is dry in the U.S. and China trade deal; we expect global growth to remain suppressed until the headline risks are eliminated, and supply chains return back to normal.

•**Mixed monetary policy gamut:** With most Central Banks adopting "swinging toward easing," we must remain vigilant to the economic impact of the normalization of the U.S. and China trade war and its impact on the world economies.

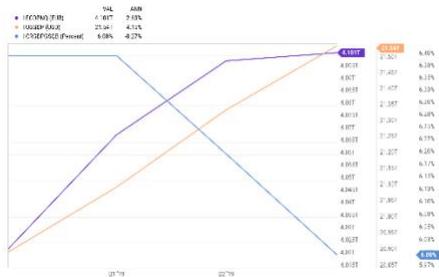
•**Growth in the European Union:** The E.U. projected growth at 1.2 percent in 2020, which remains low as the E.U. has suffered the global trade disruption harder than other regions of the world.

•**Brexit and the U.K.:** The United Kingdom is set to expand 1.0 percent in 2020, assuming an orderly outcome to Brexit and a partial economic recovery for 2020.

•**Asian growth in the spotlight:** China is expected to grow at 5.7 percent for 2020, which is highly dependent on the outcome of the trade deal. Japan's economy is set to decline to 0.3 percent in 2020, with fiscal measures expected to mitigate the growth volatility somewhat.

•**Latin America and the Caribbean:** We expect 2.5 percent growth in 2020. After the overall economy contracted by 35 percent in 2019.

•**The Middle East and Africa:** With 1.3 percent growth to end 2019, we expect 3.5 percent growth in the region for 2020.



**Forecast 4: How much will geopolitics matter for the economy?**

The U.S. Presidential election will dominate headlines in 2020 as both candidates and proposals take the centerstage. For the U.S., the impeachment process that President Trump finds himself immersed adds to the political uncertainty and raises several questions.

**Will Trump be Impeached out of office?**

The impeachment process has moved to the Senate, should begin its trial by January 6. Senate Majority Leader Mitch McConnell (R-KY) and Minority Leader Chuck Schumer (D-NY) have disagreed on how the trial should be structured. We expect a short proceeding lasting through January. The likely outcome for Trump is that he will be reprimanded, not impeached.

**Who will be the Democratic Candidate for President?**

With a field that includes Bernie Sanders, Joe Biden, Pete Buttigieg, Elizabeth Warren, and now Mike Bloomberg, We expect a showdown between Biden & Bloomberg, with Biden winning the nomination.

**Who becomes our next President?**

The latest poll presented by Real Clear Politics on December 31, 2019, shows the following results:

- **Trump vs. Biden**  
Biden 48.5%, Trump 44%
- **Trump vs. Sanders**  
Sanders 47.8%, Trump 45.2%
- **Trump vs. Warren**  
Trump 46.2%, Warren 46%
- **Trump vs. Buttigieg**  
Trump 45%, Buttigieg 43.8%
- **Trump vs. Bloomberg.**  
Trump 43%, Bloomberg 43.2%.



While its too early to tell, this analysis clearly shows that the Presidential election will be a toss-up. Although entertaining Politics is not your ally when it comes to investing, for any investor market fundamentals, the economic landscape and corporate earnings are the keys.

**Theme 1: Reviewing 2019: The End of a Strong year**

As 2019 comes to its end, so does the cycle for the calendar year for every investor, however, long-term investment goals continue, and they must be adjusted to consider new opportunities, changes in outlook, and to better diversify their portfolios.

While we lived through a kaleidoscope of headlines that drove the market volatility, performance, and overall discussion. Out of all the

headlines, there are several that have kept investors sleepless all year long, and it includes:

- **U.S. Monetary Policy Swings:** The Federal Reserve Bank went from Tightening to Easing with lowering rates three times.
- **The Recession Fears:** the inverted curve, lower GDP, and slowdown of job creation performance.
- **The U.S. & China Trade War:** After a year of hundreds of billions in tariffs being imposed finally, both countries agreed on what is called the "Phase One" trade agreement, with the last remaining items the U.S. Agricultural purchases.
- **Market Volatility offers 34 record highs:** after the disastrous 2018-year end, all indices rose to reach double-digit returns during the year, as it now stands Nasdaq is inline to surpass 2013 levels at 35.23% returns.
- **The Longest Economic Expansion on Record:** The U.S. Economy in June 2019 exceeded the 90's economic expansion to become the longest on record.
- **Unemployment Rate reached a 50-year low:** Even as the economy had significant challenges, the U.S. increased job growth by 2 million jobs in 2019, allowing the unemployment rate to reach 3.5%, the lowest level since the late 1960s.
- **Global Economic Growth Impacted:** amid increased trade and political turmoil, the manufacturing activity worldwide took a toll with GDP growth decelerating close to 3.3%.
- **Inverted Yield-Curve Increased Recession Scare:** when the 10-year treasuries fall below the 90 days treasuries in the past, it has been a signal that a recession is coming. Although this time, it proved to be wrong, some signs could point in that direction.

**Theme 2: U.S. Stock Market Ends 2019 with Double-Digit Returns:**

The U.S. stock market ended 2019 and finished the month with positive results as the U.S. stock market rose to record highs to finish the year in a high note. While it's hard to imagine when the current economic boom began back in 2009, we could not tweet, you could not go to meet your date by "Ubering." Please make no mistake the current Growth we have seen all year long for the U.S. economy by far the lengthiest recorded. While there are concerns as to how long this expansion can last, we predict that it will continue through 2020; however it will face significant volatility, as well as certain economic uncertainties, give the length of the expansion. There are several factors to consider.

- 1. Economic Growth has slowed:** other expansion periods have lasted an average of six years, and we believe our current expansion could last anywhere between twelve to fourteen years.
- 2. GDP & Job's Growth:** while it's clear that the GDP has slowed, the U.S. Jobs growth continues to grow at a healthy pace, only some kind of bubble or uncertain factor would derail the current trend.
- 3. The market begins losing confidence:** After a decade of Growth, even the bulliest of investors may lose faith and start realizing profits; that scenario may impact the overall market.
- 4. U.S. and China trade deal:** Some experts believe that the U.S. and

China are not on the same page on relevant issues of the trade deal.

**2019 a Banner Year for Stocks**

The Dow Jones Industrial Average closed 2019 at 28,538.44 for a gain of 5,210.98 points, or 22.34 percent return. Besides, the S&P 500 closed 2019 at 3,230.78, for a gain of 723.93, a return of 28.88 percent. The Nasdaq closed 2019 at 8,972.60 for an increase of 2,337.32 and a 35.23 percent return. The Birling Capital Puerto Rico Stock Index closed 2019 at 1,729.29 or a gain of 345.97, and a yield of 25.01 percent. Meanwhile, the U.S. Treasury's 10-year note lost during 2019, closing at 1.92 percent, or a decrease of -28.62 percent. The U.S. Treasury's 2-year note lost during 2019 to close at 1.58 percent, a return of minus -36.29 percent.

**Theme 3: Modest & Stable U.S. Economic Growth**

The consensus among economists is that 2020 will be an "Ordinary Year" for most U.S. consumers, an active job market mixed with low-interest rates will maintain the U.S. economy on solid ground. The pace of U.S. growth continues to slow, but the current speed comes after the longest expansion in recent history. When we consider the current employment levels, job growth, and overall unemployment rate, one could estimate that the U.S. is in the midst of the late-cycle phase of recovery. On the flip side, we see that the overall global economy has begun to show

signs of stability and growth, as the world economies grow so do the U.S. exports, services, and business investment, which had been impacted. To place it in the proper perspective, Birling Capital forecasts that the U.S. GDP will grow at a rate of 2.2% in 2020, versus the consensus estimate of 2.3% in 2019 on a 4Q/4Q basis.



**Theme 4: PR's 12 Governors Lacked Transcendent Goals**

Since 1948 we have elected democratically 11 of our twelve Governors, beginning with Luis Muñoz Marin and, most recently, with Ricardo Rossello. We have had industrialists, engineers, lawyers, career politicians, and the son of a Governor. What we never had until recently was an unelected Governor that rose to power after a Governor resigned after what many people call "**The Summer of Ricky.**"

Out of our Governors, ten have been men and only two females, ten hailed from the metropolitan area and two from Ponce. By and large, a great variety of smart and transforming initiatives were delivered or attributed to our Governors, as well as significant blunders and mistakes.

Every governor is remembered for one or two key issues that let examine the accomplishments of our past Governors.

Yearly Market Close Comparison	12/31/19	12/31/18	Return
Dow Jones Industrial Average	28,538.44	23,327.46	22.34%
Standard & Poor's 500	3,230.78	2,506.85	28.88%
Nasdaq	8,972.60	6,635.28	35.23%
Birling Puerto Rico Stock Index	1,729.29	1,383.32	25.01%
U.S. Treasury 10-Year Note	1.92%	2.69%	-28.62%
U.S. Treasury 2-Year Note	1.58%	2.48%	-36.29%

**Luis Muñoz-Marín**- his legacy is being the "Father of Modern Puerto Rico" and the "Architect of the Commonwealth."

**Roberto Sánchez-Villella**- his legacy the most efficient public administration of all Puerto Rican-born governors, and he is blamed for the PDP's loss in the 1968 elections.

**Luis A. Ferré**- his legacy includes the PR 52 Autopista system, the Christmas Bonus, forty-hour workweek, and the Ponce Museum of Art.

**Rafael Hernández-Colón**- the 936 economic booms with GDP growth at 5% during the years 1987–1989 the highest since Operation Bootstrap. The Teodoro Moscoso Bridge and the controversial Pabellon de Sevilla in Spain.

**Carlos Romero-Barceló**- his legacy includes the Minillas Tunnel, Roberto Clemente Coliseum, the creation of the Puerto Rico Federal Affairs Administration. He was frequently associated with the Cerro Maravilla Shootings in 1978.

**Pedro J. Rosselló**-his legacy includes the Puerto Rico Healthcare plan, Convention Center, Coliseum of Puerto Rico, Super aqueduct. The rampant corruption of some of his associates.

**Sila M. Calderón**- her legacy includes being the only woman governor elected in Puerto Rico, took action to eliminate corruption through a Blue-Ribbon Committee that largely stalled the work in Government. Restore the citizen's confidence in the government, revamp Government finances and retain credit quality, spurred economic growth and job creation, and gave attention to the most disadvantaged sectors. The

controversial Special Communities Program that provided 1.4 Billion dollars to poor communities and funding it with \$1 Billion from the now-defunct Government Development Bank.

**Anibal Acevedo-Vilá**- his legacy includes the adoption of the sales and use tax, the government shut-down, and the shared government. He was also indicted charged in the long-running public corruption probe, along with 12 other people, he was later acquitted.

**Luis Fortuño**- his legacy includes attempting to fix the Government finances; law 7 that eliminated 20,000 employees, the 4% tax to the pharmaceutical sector, and the Public-Private Partnership law that converted the Luis Muñoz Marin Airport and the PR 22 into P3s.

**Alejandro García-Padilla**- his legacy includes the Puerto Rico Government Debt Crisis, the Puerto Rico Bankruptcy law that was declared unconstitutional. Declaring Puerto Rico could not pay its debts and defaulting its bond payments, even those that were prone to by the constitution, thus forcing the U.S. Congress to enact the PROMESA Law.

**Ricardo Rosselló**- his legacy includes spearheading Puerto Rico's economic recovery after Hurricane Maria that grew the GDP to 1.7% a 136 % increase, lowering unemployment to 9.0% the lowest levels in thirty years, increasing the per capita income to \$20,873.00, among other initiatives. He is also remembered by the Controversial Telegram Chat that forced him to resign

**Wanda Vázquez**- While it is too early to tell, she provided much-needed stability to the Government after Rossello's resignation. However, there are some cracks in the style of leadership, as it seems

that she is prone to react to published criticism.

It is often said that great Governors have been those that served in times of crisis, and to a high degree, the mystery of human nature comes into play. As I see it to be an effective Governor or leader, you must develop an emotional connection with your supporters, and I like to remember a snippet from St. Supery The Little Prince when the Fox says, "What is essential is invisible." So, it is with the subject of the Governorship, to a considerable part what is essential, it's invisible. One of the relevant cohesive stories from these 12 Governors is the fact not a single one of them was able to develop a plan for Puerto Rico, A plan that would be larger and broader than their term and an aspiration the whole country would support and protect. That is why we need to develop Supra National Goals, goals that would live beyond the four-year Governor's term, and allow Puerto Rico to grow and prosper.

### What are these Supra National Goals?

- Transform Puerto Rico with robust economic development and sustained the growth of 4% over the next four years
- Have an industrial structure in which employment in activities related to the production of knowledge is not less than 25% within a period of ten years
- Create 300,000 new jobs in the private sector in the next six years
- Increase the labor participation rate to 55%
- Reduce the unemployment rate to 5% in six years.

- Reduce the government apparatus by transferring to the private sector any corporation, operation, or service that the private sector can perform more efficiently.
- Transform the educational system from primary to university level into one focused on entrepreneurship, trades, and transformation.

While the election is just shy of a year away, there are three candidates for the Governorship from the PPD, one from the PIP, one from Victoria Ciudadana, and two from the PNP. With primaries seven months away, the 2020 elections are going to be an interesting one and an election that very well defines the future of Puerto Rico; however, not a single candidate has embraced the Supra National Goals as their path for the future of Puerto Rico.

Our 12 Governors did all the right things to be re-elected. However, none of them would get re-elected by eliminating deficits, solving pension shortfalls, defining essential services, or by not allowing the bonded debt burden to increase to un-payable levels.

Governors concerned about the future consequences would not allow themselves to spiral Puerto Rico into the disaster that it has become.

**President John F. Kennedy and his parallelism to Puerto Rico's Supra-National Goals**

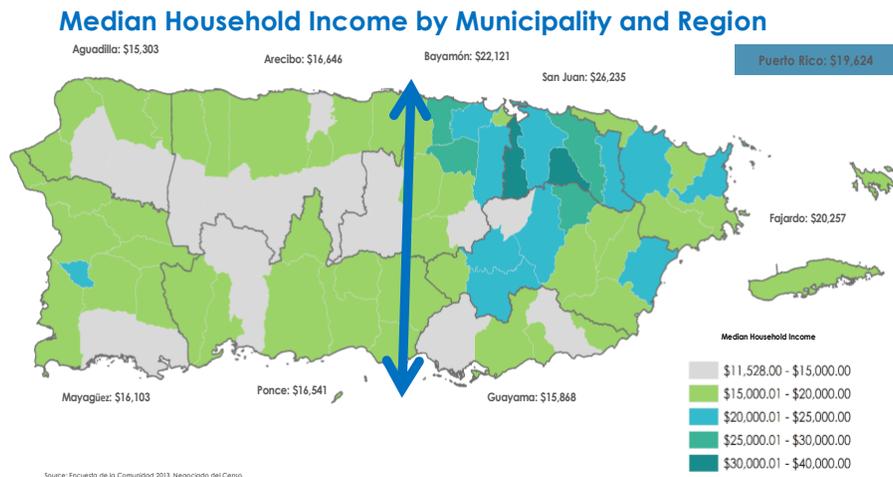
Every November 22, for the past 56 years, we have honored the memory of President John F. Kennedy.

President Kennedy in 1962 spoke to all U.S. Citizens with a sense of purpose and charm that no one had heard before. His ambition to make not just the U.S. better, but the whole world was the frame with his speech that said, "Let the world

go forth... that the torch has been passed to a new generation of Americans."

This was an exciting time, not too different from our current time and challenges. Like his time, this is an exciting time. All that we need to transform is spelled out; As well as our unity of purpose in Puerto Rico, our way of life, our kindred spirit, our education, and our future. The Supra National Goals, which I speak of, is not a set of promises; it's a set of challenges that will transform Puerto Rico. These goals do not sum up what I intend to offer to all Puerto Ricans, instead what I expect to ask of them to achieve the economic and social transformation that all Puerto Ricans deserve. If we draw an imaginary line from Vega Baja to Ponce, you will note we have two Puerto Rico's in terms of income. The time has come to distribute wealth, not poverty.

**Puerto Rico has Stark geographic differences in terms of income**



**The imaginary line presents how much poorer the west regions are from the north eastern side.**



## Labor Laws Update

By CPA Cesar Hernández-Monagas, Esq. Principal Birling Capital

During 2019, the US Department of Labor (DOL) worked on several initiatives that could have a significant economic impact on your company operations. Two of these initiatives are – the changes in earnings threshold for exempt employees and the changes in rules for tipped and non-tipped work.

### Exemption Threshold increase

In September 2019, the DOL announced the final regulations related to the changes in income limits necessary to qualify as an exempt employee under the minimum wage and overtime regulation of the Fair Labor Standards Act (FLSA). By increasing the requirements to qualify as an exempt employee, the DOL estimates that some 1.3 million employees will change from exempt to non-exempt. It should be noted that given the current economic condition of the island, the DOL determined, via exemption, that for Puerto Rico, the standard salary level will remain unchanged. However, the DOL reserves the right to increase it and employers should be prepared in case the threshold is increased.

Wage requirements under this regulation were last revised in 2004, and following the steady increase in wages since then, the DOL determined that an update of the regulation was necessary.

### The new requirements are as follows:

1. Increase in the standard salary level for salaried employees from \$455 per week to \$684 per week. Annually, the increase would be from \$23,660 to \$35,568 for full-time employees. Again, for Puerto Rico, the threshold remained the same, \$455 per week or \$23,660 per year.
2. Increase in the highly compensated employees' threshold from \$100,000 per year to \$107,432 per year. The highly compensated employees are those who earn more than \$100,000, perform one or more executive or administrative tasks, and their primary duty includes office related duties or non-manual work.
3. Allow greater flexibility by considering bonuses or incentives as part of the minimum wage calculation, up to 10% for the standard salary level.
4. The new rule does not change the test related to primary tasks required to determine whether an employee is exempt, does not change the salary basis definition, does not create a new compensation standard for lawyers, doctors, teachers, or external sales employees, and does not alter the exemption for computer employees.

### The effective date of this regulation is January 1, 2020. Employers should perform the following analyses to determine how to comply with the new rule:

1. Determine which employees are between \$455 and \$684 per week. Then, decide whether or not it makes sense for the business to increase the salary of those employees or to reclassify them as non-exempt. By classifying them as non-exempt, these employees will be entitled to overtime pay.
2. For those employees who switch to non-exempt, consideration should be given to the impact on changing their schedules to avoid the additional cost of overtime pay. It is necessary to consider whether local labor laws allow flexible work.
3. Update the payroll systems to reflect the changes of these employees between exempt and non-exempt.
4. Educate “new” non-exempt employees about timekeeping rules to ensure that their hours worked are reported correctly. Rules for exempted employees do not require hourly records to be kept because the employee receives a salary regardless of the hours worked.

## Tipped and non-tipped work

Recently, the DOL's salary and time division overturned its "80/20 rule" regulation for tipping employees. In general terms, this rule stipulated that if an employee spent more than 20% of his time in tasks that do not generate tips, the employer is not entitled to a tip credit and had to pay that employee no less than the applicable minimum wage.

Under the current rule, in the vast majority of states, including Puerto Rico, employers can pay their tipped employees a minimum of \$2.13 per hour and may apply for a \$5.12 credit on tips received by that employee to complete the current federal minimum wage of \$7.25 per hour. This credit applies only to employees who work in a position that customarily and regularly receives tips. The employee must generate at least \$30 in tips per month in order to qualify for the tip credit. The current rule also states that if that same employee works on other tasks not associated with a position that customarily and regularly does not generate gratuities, the employee must be paid the federal minimum for those hours.

The DOL is aware that there are tipped employees that do not spend 100% of their time on tasks that generate tips. For example, a waiter does not generate tips when performing cleaning tasks at the end of his/her shift. In order to clarify the application of the rule to these situations, the DOL allows an employer to take the tip credit for the hours dedicated to these tasks that, although do not generate tips, are directly related to the position. It should be clarified that these non-tipped tasks should be tasks that are regularly assigned to that tipped employee. If the cleaning of the tables in a restaurant is regularly assigned to a maintenance person, the employer will not be able to take the tip credit when those tasks are performed by a waiter. The rule allows the employer to take the tip credit if the employee does not spend more than 20% of his time on those tasks that do not generate a tip.

Several recent decisions by the federal courts strongly attacked the 80/20 rule, forcing the DOL to issue a letter opinion, repealing the 80/20 rule. In short, the DOL's opinion stated that if the employee performs tasks that are classified as tipped activities, the tip credit rule would be applied to those related tasks that the employee performs. In the case of the waiter presented earlier, the employer can take the tipped credit when the waiter is cleaning the tables at the end of his shift, regardless of how long it takes to perform those tasks within his/her work shift. The DOL determined that its Occupational Information Network database would be used to determine which are the tipped occupations and the tasks related to those occupations. Employers may not take tipped credit for tasks not included in the database task list. Therefore, it is important for employers to review the tasks assigned to tipped employees, to ascertain that assigned activities comply with the rule.

Finally, on October 8, 2019, the DOL proposed a new rule to regulate tipping under the FLSA. The most notable changes under the rule are:

1. Employers, managers, and supervisors are prohibited from withholding tips received by employees, even though the employer is not taking the tip credit.
2. Employers can pay the federal minimum wage to employees who regularly receive tips and implement a tip pool in which tips are distributed among all employees of the operation, including those who typically do not receive tips. An example of this would be to make tips available to kitchen employees.
3. The 80/20 rule is eliminated. The new rule proposes that employers take the tip credit for any time that an employee in a tipping position performs tasks that do not typically generate tips as long as those tasks are performed at the same time as their tasks that generate tips or within a reasonable period, before or after, performing the tasks that generate tips.

As employers, it is important to be aware of these and other changes in FLSA rules and regulations. This will help in avoiding possible fines, penalties, and back pay in case of an employee's claim.

At Birling Capital, we can help you reviewing your labor policies and procedures to ensure that you comply with current rules and regulations. You can contact us at 787-247-2500 or by email to [chernandez@birlingcapital.com](mailto:chernandez@birlingcapital.com).

## The Final Word: Birling's Puerto Rico Stock Index finished 2019 with a 25.01% Return.

The Birling Capital Puerto Rico Stock Index includes the five institutions, three bank holding companies, one fin-tech company, and an insurance company. The Birling Capital Puerto Rico Stock Index (BCPRSI), is a market value-weighted index, composed of five companies headquartered and/or their principal place of business in Puerto Rico. All trade-in national stock markets—NYSE, AMEX or Nasdaq. The BCPRISI includes the following institutions:

- **Evertec Inc. (EVTC) Operating locally as Evertec, Inc.**
- **First Bancorp. (FBP) Operating locally as FirstBank.**
- **OFG Bancorp. (OFG) operating locally as Oriental Bank.**
- **Popular, Inc. (BPOP) Operating locally as Banco Popular.**
- **Triple S (GTS) operating locally as Triple-S.**

To frame this discussion, we analyzed how Puerto Rico's public companies have performed from January 1, 2019, to December 31, 2019.

The impact of the island's great financial crisis, its bankruptcy, and the post-crisis regulatory-market environment has had a dramatic effect on the global banking sector. As a direct response to their new operating landscape, banks have been re-assessing their business strategies, models, and markets. In this assessment, for Global Banks their Puerto Rico operations have become low scale and less profitable operations, this created an array of M&A activity for the local bank sector as Oriental completed the acquisition of Scotiabank in Puerto Rico and the USVI and Firstbank announced the acquisition of Santander Puerto Rico that is still pending regulatory approval. If we mix in the myriad of legacy problems, it creates a perfect setting to leave the Puerto Rico market. For Evertec 2019 was a significantly good year with lots of growth in the LatAm markets that have added to increased profitability and has provided with a better geographic mix. Triple S 2019 was a year of adjusted that saw their revenues increase as much as 20% in the 3Q19 and provided guidance of adjusted earnings per share of \$2.50 and \$2.70.

We examine how each company has performed during 2019 compared with the Dow Jones Industrial Average (DJIA) and how each has managed against the BCPRSI. When we compare the BCPRSI to the DJIA, note that the return on the BCPRSI was 25.01 percent for 2019, and the DJIA return was 22.34 percent. The PRSI includes the five institutions, and we rank them according to the performance against the DJIA and BCPRSI:

- **OFG Bancorp** achieved an overall return of 43.44 percent, which beats both the DJIA and Birling PRSI.
- **Popular Inc.** achieved an overall return of 24.42 percent, which beats both the DJIA and Birling PRSI.
- **First Bancorp** achieved an overall return of 23.14 percent, which beats both the DJIA and Birling PRSI.
- **Evertec Inc.** achieved an overall return of 18.61 percent, which underperformed both the DJIA and Birling PRSI
- **Grupo Triple S** achieved an overall return of 11.76 percent, which underperformed both the DJIA and Birling PRSI.



In the illustration below, we compare the performance of the Birling Puerto Rico Stock Index to the Dow Jones Industrial Average historical returns since 2015 and as you can tell although 2019 was a good year 2018 was an extraordinary year. Lets see what 2020 has in store for all of us.

Yearly Performance Comparison	2015	2016	2017	2018	2019
Dow Jones Industrial Average	-2.23%	13.42%	25.08%	-5.63%	22.34%
Birling Puerto Rico Stock Index	-26.28%	34.84%	-13.16%	40.81%	25.01%

Our market perspective Report Perambulating Global Interruption 2020 contains both our expectations and analysis that the economy in the U.S. and Puerto Rico will maintain their current growth pattern. We also expect the world economic outlook to continue to improve as the geopolitical issues that have hampered its growth prospects keep dissipating.

We hope that you have enjoyed this issue of The Zenith Investor ©, and we very much welcome your comments, thoughts, and ideas; you may reach us at [frc@birlingcapital.com](mailto:frc@birlingcapital.com) or 787-247-2500.



Francisco Rodríguez-Castro  
President & CEO

#### About Birling Capital

Birling Capital is a boutique corporate advisory & consulting firm that offers broad corporate finance & advisory services to institutional, government, corporate, middle-market companies, family corporations, and their owners in identifying and resolving organizational finance-related issues. We use a holistic approach to both assets and liabilities sides with integrated business, personal, family needs and objectives. Over the past two decades, our firm's principals have advised on more than hundreds of transactions in the corporate, healthcare, retail, education, insurance, banking and government markets.

**You have particular problems. We provide long term solutions. Doing the right thing at the right time.**



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