

Public Law 97-65
97th Congress

An Act

To amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

Oct. 16, 1981
[H.R. 3136]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Overseas Private
Investment
Corporation
Amendments
Act of 1981.
22 USC 2151
note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Overseas Private Investment Corporation Amendments Act of 1981".

CREATION, PURPOSE AND POLICY

SEC. 2. Section 231 of the Foreign Assistance Act of 1961 (22 U.S.C. 2191) is amended—

(1) in paragraph (2)—

(A) by striking out "\$520 or less in 1975 United States dollars" and inserting in lieu thereof "\$680 or less in 1979 United States dollars"; and

(B) by striking out "\$1,000 or more in 1975 United States dollars" and inserting in lieu thereof "\$2,950 or more in 1979 United States dollars";

(2) in subsection (i) by inserting immediately before the semicolon the following: ", and to seek to support those developmental projects having positive trade benefits for the United States"; and

(3)(A) in subsection (k) by striking out "and" after "required by clause (1)";

(B) in subsection (l) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subsection:
"(m) to refuse to insure, reinsure, or finance any investment subject to performance requirements which would reduce substantially the positive trade benefits likely to accrue to the United States from the investment."

ORGANIZATION AND MANAGEMENT

SEC. 3. (a) The first paragraph of section 233(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2193(b)) is amended—

(1) by striking out in the first sentence "eleven" and "six" and inserting in lieu thereof "fifteen" and "eight", respectively;

(2) by inserting after the second sentence the following: "The United States Trade Representative shall be the Vice Chairman of the Board, ex officio, except that the United States Trade Representative may designate the Deputy United States Trade Representative to serve as Vice Chairman of the Board in place of the United States Trade Representative.";

(3) by striking out "Six", "six", and "two" in the fourth, fifth, and seventh sentences of such section, as amended by paragraph (2), and inserting in lieu thereof "Eight", "eight", and "three", respectively;

(4) by striking out in the fifth sentence of such section, as amended by paragraph (2), "one" the first place it appears and inserting in lieu thereof "two"; and

(5) by striking out in the fourth sentence of such section, as amended by paragraph (2), "also serve as a Director" and inserting in lieu thereof "serve as a Director, ex officio".

(b) The second paragraph of such section is amended by inserting "including an official of the Department of Labor," after "United States,".

(c) The amendments made by this section shall take effect on October 1, 1981.

Effective date.
22 USC 2193
note.

INVESTMENT INSURANCE AND OTHER PROGRAMS

SEC. 4. (a) Section 234 of the Foreign Assistance Act of 1961 (22 U.S.C. 2194) is amended—

(1) in subsection (a)(1)(C), by striking out "or insurrection" and inserting in lieu thereof "insurrection, or civil strife";

(2) in subsection (a)(2), by striking out "total" and "financing" at the end thereof;

(3) in subsection (a)(3), by striking out "authorized to issue under this subsection" and inserting in lieu thereof "permitted to have outstanding under section 235(a)(1)"; and

(4) by adding at the end of subsection (a) the following new paragraph:

"(4) Before issuing civil strife insurance for the first time, and in each subsequent instance in which a significant expansion is proposed in the type of risk to be insured under the definition of civil strife, the Corporation shall, at least sixty days before such insurance is issued, submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report with respect to such insurance, including a thorough analysis of the risks to be covered, anticipated losses, and proposed rates and reserves."

(b) Section 234 of such Act is further amended—

(1) in subsection (b), by striking out in the last proviso "authorized to issue under this subsection" and inserting in lieu thereof "permitted to have outstanding under section 235(a)(2)";

(2) in subsection (f)(1), by striking out "(A)" and by striking out ", and (B)" and all that follows through the end of the paragraph and inserting in lieu thereof a period; and

(3) in the last paragraph of subsection (f)—

(A) by striking out in the second sentence "exceed \$600,000,000 in any one year, and the amount of such reinsurance shall not"; and

(B) by striking out in the last sentence "and the Corporation" and all that follows through the end of the sentence and inserting in lieu thereof a period.

ISSUING AUTHORITY, DIRECT INVESTMENT FUND AND RESERVES

SEC. 5. (a)(1) Section 235(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)) is amended in paragraph (2) by striking out "Provided" and all that follows through the end of the paragraph and inserting in lieu thereof a period and the following: "Commit-

Report to
congressional
committees.

ments to guarantee loans are authorized for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.”.

(2) Section 235(a) of such Act is further amended—

22 USC 2195.

(A) By redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(B) by inserting the following after paragraph (2):

“(3) The Corporation shall not make any commitment to issue any guaranty which would result in a reserve less than 25 per centum of the maximum contingent liability then outstanding against guaranties issued or commitments made pursuant to section 234(b) or similar predecessor guaranty authority.”.

22 USC 2194.

(b)(1) Section 235(a)(5) of such Act, as redesignated by subsection (a)(2)(A) of this section, is amended by striking out “September 30, 1981” and inserting in lieu thereof “September 30, 1985”.

(2) The authority of the Overseas Private Investment Corporation to enter into contracts under section 234(a) of the Foreign Assistance Act of 1961 shall be effective for any fiscal year beginning after September 30, 1981, only to such extent or in such amounts as are provided in appropriation Acts.

Contract
authority.
22 USC 2194a.

(c) Section 235(b) of such Act is amended by adding at the end thereof the following: “The Corporation shall transfer to the Fund in the fiscal year 1982, and in each fiscal year thereafter—

“(1) at least 10 per centum of the net income of the Corporation for the preceding fiscal year, and

“(2) all amounts received by the Corporation during the preceding fiscal year as repayment of principal and interest on loans made under section 234(c), to the extent such amounts have not been expended or obligated before the effective date of the Overseas Private Investment Corporation Amendments Act of 1981,

22 USC 2194.

Ante, p. 1021.

and the Corporation shall use the funds so transferred to make loans under section 234(c) to the extent that there are eligible projects which meet the Corporation’s criteria for funding: *Provided, however,* That loans from the Direct Investment Fund are authorized for any fiscal year only to the extent or in such amounts as provided in advance in appropriation Acts.”.

GENERAL PROVISIONS RELATING TO INSURANCE AND GUARANTY PROGRAM

SEC. 6. (a) Section 237(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2197(f)) is amended by amending the first sentence to read as follows: “Compensation for insurance, reinsurance, or guaranties issued under this title shall not exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings, or profits actually accrued on such investment to the extent provided by such insurance, reinsurance, or guaranty, except that the Corporation may provide that (1) appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets, and (2) compensation for a claim of loss under insurance of an equity investment may be computed on the basis of the net book value attributable to such equity investment on the date of loss.”.

(b) Such section is further amended by striking out the last sentence.

DEFINITIONS

SEC. 7. Section 238(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2198(a)) is amended by inserting "or commitment" after "includes any contribution".

GENERAL PROVISIONS AND POWERS

SEC. 8. Section 239 of the Foreign Assistance Act of 1961 (22 U.S.C. 2199) is amended—

(1) in subsection (d), by inserting after the last semicolon the following: "to collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation;";

(2) in subsection (e)—

(A) by striking out "Auditor-General" each place it appears and inserting in lieu thereof "Inspector General"; and

(B) by striking out in the first sentence "shall have the responsibility for planning and directing the execution of audits," and inserting in lieu thereof "may conduct"; and

(3) by striking out subsections (f), (j), and (k) and redesignating subsections (g), (h), (i), and (l) as subsections (f), (g), (h), and (i), respectively.

REPORTS

SEC. 9. (a) Section 240A of the Foreign Assistance Act of 1961 (22 U.S.C. 2200a) is amended—

(1) in subsection (a)—

(A) by striking out "(a)";

(B) in paragraph (1), by striking out "239(i)" and inserting in lieu thereof "239(h)"; and

(C) in paragraph (2)(A), by striking out "239(l)" and inserting in lieu thereof "239(i)"; and

(2) by striking out subsection (b).

(b) The Overseas Private Investment Corporation shall prepare and submit to the Congress, not later than June 30, 1982, a report on methods for estimating the probability that particular investments or types of investments will or will not be made if insurance or other support by the Corporation is not provided. The report should review methods of taking into consideration the availability of insurance in the private sector as well as the self-insurance capabilities of investors. The report shall include recommendations on how the Corporation can incorporate consideration of such estimates when deciding which investments to support, particularly if not all applications of eligible investors can be approved. The report shall be based on studies conducted by persons who are not officers or employees of the Corporation as well as on studies conducted by the Corporation.

RETURN OF APPROPRIATED FUNDS

SEC. 10. Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 240B. RETURN OF APPROPRIATED FUNDS.—The Corporation shall return to the general fund of the Treasury, in a manner consistent with the objectives set forth in section 231, amounts equal to the total amounts which were appropriated to the Corporation

Submittal to
Congress.
22 USC 2200a
note.

22 USC 2200b.

22 USC 2191.

before January 1, 1975, pursuant to section 235(f). In order to carry out the preceding sentence, the Corporation shall, in each fiscal year, pay to the Treasury an amount equal to 25 per centum of the net income of the Corporation for the preceding fiscal year, after making suitable provisions for transfers to reserves and capital, until the aggregate amount of such payments equals the amounts required to be returned to the Treasury by the preceding sentence.”.

Approved October 16, 1981.

LEGISLATIVE HISTORY—H.R. 3136 (H.R. 3566) (S. 1196):

HOUSE REPORT No. 97-195 (Comm. on Foreign Affairs).

SENATE REPORT No. 97-83 accompanying S. 1196 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 127 (1981):

Sept. 21, 22, considered and passed House.

Sept. 23, 24, 30, S. 1196 considered in Senate.

Sept. 25, considered and passed Senate, amended.

Sept. 28, House concurred in Senate amendment with an amendment.

Sept. 30, Senate concurred in House amendment with an amendment.

Oct. 2, House concurred in Senate amendment.