

by contribute to productive employment and sustainable growth. Congress recognizes that the Government of Israel is developing an economic strategy designed to achieve these goals, and that the Government of Israel intends to adopt a comprehensive, multi-year economic strategy based on prudent macroeconomic policies and structural reforms. Congress also recognizes that these policies are being designed to reduce direct involvement of the government in the economic system and to promote private enterprise, important prerequisites for economic stability and sustainable growth.

**(i) Consultations**

It is the sense of the Congress that, as agreed between the two Governments and in order to further the policies specified in subsection (h), Israel and the United States should continue to engage in consultations concerning economic and financial measures, including structural and other reforms, that Israel should undertake during the pendency of this program to enable its economy to absorb and resettle immigrants and to accommodate the increased debt burden that will result from loans guaranteed pursuant to this section. It is the sense of the Congress that these consultations on economic measures should address progress and plans in the areas of budget policies, privatization, trade liberalization, financial and capital markets, labor markets, competition policy, and deregulation.

**(j) Goods and services**

During the pendency of the loan program authorized under this section, it is anticipated that, in the context of the economic reforms undertaken pursuant to subsections (h) and (i) of this section, Israel's increased population due to its absorption of immigrants, and the liberalization by the Government of Israel of its trade policy with the United States, the amount of United States investment goods and services purchased for use in or with respect to the country of Israel will substantially increase.

**(k) Reports**

The President shall report to Congress by December 31 of each fiscal year until December 31, 1999, regarding the implementation of this section.

**(l) Applicability of certain sections**

Section 2183 of this title shall apply to guarantees issued under subsection (a) in the same manner as such section applies to guarantees issued under section 2182 of this title, except that subsections (a), (e)(1), (g), and (j) of section 2183 of this title shall not apply to such guarantees and except that, to the extent section 2183 of this title is inconsistent with the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.], that Act shall apply. Loans shall be guaranteed under this section without regard to sections 2181, 2182, and 2198(c) of this title. Notwithstanding section 2183(f) of this title, the interest rate for loans guaranteed under this section may include a reasonable fee to cover the costs and fees incurred by the borrower in connection with this program or financing under this section in the event the borrower elects not to finance such costs or fees out of loan principal. Guarantees

once issued hereunder shall be unconditional and fully and freely transferable.

**(m) Terms and conditions**

(1) Each loan guarantee issued under this section shall guarantee 100 percent of the principal and interest payable on such loans.

(2) The standard terms of any loan or increment guaranteed under this section shall be 30 years with semiannual payments of interest only over the first 10 years, and with semiannual payments of principal and interest on a level payment basis, over the last 20 years thereof, except that the guaranteed loan or any increments issued in a single transaction may include obligations having different maturities, interest rates, and payment terms if the aggregate scheduled debt service for all obligations issued in a single transaction equals the debt service for a single loan or increment of like amount having the standard terms described in this sentence. The guarantor shall not have the right to accelerate any guaranteed loan or increment or to pay any amounts in respect of the guarantees issued other than in accordance with the original payment terms of the loan. For purposes of determining the maximum principal amount of any loan or increment to be guaranteed under this section, the principal amount of each such loan or increment shall be—

(A) in the case of any loan issued on a discount basis, the original issue price (excluding any transaction costs) thereof; or

(B) in the case of any loan issue<sup>1</sup> on an interest-bearing basis, the stated principal amount thereof.

(Pub. L. 87-195, pt. I, § 226, as added Pub. L. 102-391, title VI, § 601, Oct. 6, 1992, 106 Stat. 1699.)

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsecs. (e)(1) and (l), is title V of Pub. L. 93-344 as added by Pub. L. 101-508, title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388-609, which is classified generally to subchapter III (§ 661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (g)(3), is section 601(b) of Pub. L. 94-329, title VI, June 30, 1976, 90 Stat. 765, which is not classified to the Code.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

SUBPART IV—OVERSEAS PRIVATE INVESTMENT CORPORATION

**§ 2191. Congressional statement of purpose; creation and functions of Corporation**

To mobilize and facilitate the participation of United States private capital and skills in the economic and social development of less developed countries and areas, and countries in transition from nonmarket to market economies, thereby complementing the development assist-

<sup>1</sup> So in original. Probably should be "issued".

ance objectives of the United States, there is hereby created the Overseas Private Investment Corporation (hereinafter called the "Corporation"), which shall be an agency of the United States under the policy guidance of the Secretary of State.

The Corporation, in determining whether to provide insurance, financing, or reinsurance for a project, shall especially—

(1) be guided by the economic and social development impact and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs or projects of the United States or other donors;

(2) give preferential consideration to investment projects in less developed countries that have per capita incomes of \$984 or less in 1986 United States dollars, and restrict its activities with respect to investment projects in less developed countries that have per capita incomes of \$4,269 or more in 1986 United States dollars (other than countries designated as beneficiary countries under section 2702 of title 19, Ireland, and Northern Ireland); and

(3) ensure that the project is consistent with the provisions of section 2151p of this title, section 2151p-1 of this title, and section 2151q of this title relating to the environment and natural resources of, and tropical forests and endangered species in, developing countries, and consistent with the intent of regulations issued pursuant to section 2151p of this title, section 2151p-1 of this title, and section 2151q of this title.

In carrying out its purpose, the Corporation, utilizing broad criteria, shall undertake—

(a) to conduct financing, insurance, and reinsurance operations on a self-sustaining basis, taking into account in its financing operations the economic and financial soundness of projects;

(b) to utilize private credit and investment institutions and the Corporation's guaranty authority as the principal means of mobilizing capital investment funds;

(c) to broaden private participation and revolve its funds through selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms;

(d) to conduct its insurance operations with due regard to principles of risk management including efforts to share its insurance and reinsurance risks;

(e) to the maximum degree possible consistent with its purposes—

(1) to give preferential consideration in its investment insurance, reinsurance, and guaranty activities to investment projects sponsored by or involving United States small business; and

(2) to increase the proportion of projects sponsored by or significantly involving United States small business to at least 30 percent of all projects insured, reinsured, or guaranteed by the Corporation;

(f) to consider in the conduct of its operations the extent to which less developed country governments are receptive to private enterprise, domestic and foreign, and their

willingness and ability to maintain conditions which enable private enterprise to make its full contribution to the development process;

(g) to foster private initiative and competition and discourage monopolistic practices;

(h) to further to the greatest degree possible, in a manner consistent with its goals, the balance-of-payments and employment objectives of the United States;

(i) to conduct its activities in consonance with the activities of the agency primarily responsible for administering subchapter I of this chapter and the international trade, investment, and financial policies of the United States Government, and to seek to support those developmental projects having positive trade benefits for the United States;

(j) to advise and assist, within its field of competence, interested agencies of the United States and other organizations, both public and private, national and international, with respect to projects and programs relating to the development of private enterprise in less developed countries and areas;

(k)(1) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause such investor (or the sponsor of an investment project in which such investor is involved) significantly to reduce the number of his employees in the United States production he is replacing his United States production with production from such investment which involves substantially the same product for substantially the same market as his United States production; and (2) to monitor conformance with the representations of the investor on which the Corporation relied in making the determination required by clause (1);

(l) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause a significant reduction in the number of employees in the United States;

(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; and

(n) to refuse to insure, reinsure, guarantee, or finance any investment in connection with a project which the Corporation determines will pose an unreasonable or major environmental, health, or safety hazard, or will result in the significant degradation of national parks or similar protected areas.

(Pub. L. 87-195, pt. I, §231, as added Pub. L. 91-175, pt. I, §105, Dec. 30, 1969, 83 Stat. 809; amended Pub. L. 93-390, §2(1), Aug. 27, 1974, 88 Stat. 763; Pub. L. 95-268, §2, Apr. 24, 1978, 92 Stat. 213; Pub. L. 97-65, §2, Oct. 16, 1981, 95 Stat. 1021; Pub. L. 99-204, §§3, 4(a), Dec. 23, 1985, 99 Stat. 1669; Pub. L. 100-461, title V, §555, Oct. 1, 1988, 102 Stat. 2268-36; Pub. L. 102-549, title I, §101, Oct. 28, 1992, 106 Stat. 3651; Pub. L. 103-392, title I, §105, Oct. 22, 1994, 108 Stat. 4099.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE  
CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§ 2346 et seq.), VI (§ 2348 et seq.), and VIII (§ 2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92-226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa-5 of this title.

CODIFICATION

Amendment by Pub. L. 100-461 is based on sections 102 and 110(a)(1) of title I of H.R. 5263, One Hundredth Congress, as passed by the House of Representatives on Sept. 20, 1988, and sections 102 and 110(a)(1) of title I of S. 2757, One Hundredth Congress, as reported Sept. 7, 1988, and enacted into law by Pub. L. 100-461.

PRIOR PROVISIONS

A prior section 231 of Pub. L. 87-195, pt. 1, Sept. 4, 1961, 75 Stat. 432, related to general authority of President to participate in financing of surveys of investment opportunities in less developed friendly countries, prior to the general reorganization of this subpart by Pub. L. 91-175, pt. I, § 105, Dec. 30, 1969, 83 Stat. 807.

AMENDMENTS

1994—Pub. L. 103-392 inserted “, Ireland, and Northern Ireland” after “title 19” in par. (2) of second undesignated par.

1992—Pub. L. 102-549, in first undesignated par., substituted “countries and areas, and countries in transition from nonmarket to market economies,” for “friendly countries and areas.”

1988—Pub. L. 100-461, in par. (2) of second undesignated par., substituted “984 or less in 1986 United States dollars” for “\$896 or less in 1983 United States dollars” and “\$4,269 or more in 1986 United States dollars (other than countries designated as beneficiary countries under section 2702 of title 19)” for “\$3,887 or more in 1983 United States dollars”.

Pub. L. 100-461, in par. (3) of second undesignated par., substituted “section 2151p of this title, section 2151p-1 of this title, and section” for “sections 2151p of this title and” and “tropical forests and endangered species” for “biological diversity”.

1985—Pub. L. 99-204, in second undesignated par., substituted “\$896 or less in 1983 United States dollars” for “\$680 or less in 1979 United States dollars” and “\$3,887 or more in 1983 United States dollars” for “\$2,950 or more in 1979 United States dollars” in par. (2), added par. (3), and added cl. (n).

1981—Pub. L. 97-65 substituted “\$680 or less in 1979 United States dollars” for “\$520 or less in 1975 United States dollars” and “\$2,950 or more in 1979 United States dollars” for “\$1,000 or more in 1975 United States dollars” in par. (2) of undesignated paragraph covering the guidelines to be used with regard to operations in less developed countries, inserted “, and to seek to support those developmental projects having positive trade benefits for the United States” in cl. (i) of undesignated paragraph enumerating the activities of the Corporation, and, in that unnumbered paragraph, added cl. (m), relating to investments which would reduce positive trade benefits.

1978—Pub. L. 95-268 inserted undesignated par. relating to determinations by the Corporation respecting insurance, financing, or reinsurance for a project, in cl. (e) designated existing provisions as subcl. (1) and, as so designated, substituted reference to guaranty activities for reference to financing activities and reference to small businesses for reference to businesses with a net worth of not more than \$2,500,000 or with total assets of not more than \$7,500,000, and added subcl. (2), struck out cl. (f) relating to encouragement and support of private investments for certain less developed friendly countries, redesignated former cls. (g) to (k) as (f) to (j), respectively, struck out former cl. (l) relating to preference by the Corporation for projects in countries

having a per capita income of \$450 or less in 1973 United States dollars, redesignated former cl. (m) as (k), and added cl. (n) which, as added, was redesignated as (l).

1974—Pub. L. 93-390, in introductory par., substituted “social development” for “social progress”, in cl. (a) inserted provisions for conducting insurance and reinsurance operations and substituted provisions requiring in financial operations consideration of economic and financial soundness of projects for provisions requiring consideration of economic and financial soundness of projects and availability of financing from other sources on appropriate terms, in cl. (d) substituted “efforts to share its insurance and reinsurance” for “when appropriate, efforts to share its insurance”, in cl. (e) substituted provisions requiring preferential treatment to investment projects involving businesses with enumerated net worth or total assets for provisions requiring utilization and encouragement for full participation in Corporation programs of small businesses, in cl. (i) inserted “and employment” before “objectives”, and added cls. (l) and (m).

OVERSEAS PRIVATE INVESTMENT CORPORATION;  
REAFFIRMATION OF SUPPORT

Pub. L. 100-418, title II, § 2203(a), Aug. 23, 1988, 102 Stat. 1328, provided that: “The Congress reaffirms its support for the Overseas Private Investment Corporation as a United States Government agency serving important development assistance goals. In order to enhance the Corporation’s ability to meet these goals, the Overseas Private Investment Corporation should increase its loan guaranty and direct investment programs.”

EX. ORD. NO. 11579. OVERSEAS PRIVATE INVESTMENT  
CORPORATION

Ex. Ord. No. 11579, Jan. 19, 1971, 36 F.R. 969, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, provided:

By virtue of the authority vested in me by the Foreign Assistance Act of 1961 (75 Stat. 424), as amended (hereinafter the “Act”) [section 2151 et seq. of this title] and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. *Transfer to Overseas Private Investment Corporation.* All obligations, assets and related rights and responsibilities arising out of, or related to, predecessor programs and authorities similar to those provided for in sections 234(a), (b) and (d) of the Act [section 2194(a), (b) and (d) of this title] are hereby transferred to the Overseas Private Investment Corporation (hereinafter the “Corporation”).

SEC. 2. *Delegation of functions.* (a) [Revoked by Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673.]

(b) The function of prescribing regulations relating to the reinstatement or restoration of officers and employees of the Corporation to other government positions, when their appointment to a position in the Corporation was made from another government position and their separation from the Corporation was not made for cause, is hereby delegated to the Office of Personnel Management.

SEC. 3. *Allocation and transfer of funds.* Funds made available under section 232 of the Act (repealed by section 105 of the Foreign Assistance Act of 1969) [section 2192 of this title] which are obligated but unexpended are hereby transferred to the Corporation.

SEC. 4. *General provisions.* (a) As used in this order, the words “function” or “functions” include any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

(b) The Corporation shall be deemed to be the successor of the Agency for International Development and the Administrator thereof, with respect to all functions vested in the Corporation pursuant to law.

(c) Except to the extent that they may be inconsistent with this order, all determinations, authorizations, regulations, rulings, certificates, orders, directives,

contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order and not revoked, superseded or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

(d) Executive Order No. 10973 of November 3, 1961, as amended [set out as a note under this section], is hereby superseded insofar as any provision therein is in conflict with any provision herein.

(e) The provisions of this order shall become effective upon adoption by the Board of Directors of bylaws for the Corporation.

### § 2191a. Additional requirements

#### (a) Worker rights

##### (1) Limitation on OPIC activities

The Corporation may insure, reinsure, guarantee, or finance a project only if the country in which the project is to be undertaken is taking steps to adopt and implement laws that extend internationally recognized worker rights, as defined in section 2467(4) of title 19, to workers in that country (including any designated zone in that country). The Corporation shall also include the following language, in substantially the following form, in all contracts which the Corporation enters into with eligible investors to provide financial support under this subpart:

“The investor agrees not to take actions to prevent employees of the foreign enterprise from lawfully exercising their right of association and their right to organize and bargain collectively. The investor further agrees to observe applicable laws relating to a minimum age for employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety, and not to use forced labor. The investor is not responsible under this paragraph for the actions of a foreign government.”

##### (2) Use of annual reports on workers rights

The Corporation shall, in making its determinations under paragraph (1), use the reports submitted to the Congress pursuant to section 2464 of title 19. The restriction set forth in paragraph (1) shall not apply until the first such report is submitted to the Congress.

##### (3) Waiver

Paragraph (1) shall not prohibit the Corporation from providing any insurance, reinsurance, guaranty, or financing with respect to a country if the President determines that such activities by the Corporation would be in the national economic interests of the United States. Any such determination shall be reported in writing to the Congress, together with the reasons for the determination.

##### (4) Operations of OPIC in the People's Republic of China

In making a determination under this section for the People's Republic of China, the Corporation shall discuss fully and completely the justification for making such determination with respect to each item set forth in subparagraphs (A) through (E) of section 2467(4) of title 19.

#### (b) Environmental impact

The Board of Directors of the Corporation shall not vote in favor of any action proposed to be taken by the Corporation that is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented, unless for at least 60 days before the date of the vote—

(1) an environmental impact assessment or initial environmental audit, analyzing the environmental impacts of the proposed action and of alternatives to the proposed action has been completed by the project applicant and made available to the Board of Directors; and

(2) such assessment or audit has been made available to the public of the United States, locally affected groups in the host country, and host country nongovernmental organizations.

#### (c) Public hearings

(1) The Board shall hold at least one public hearing each year in order to afford an opportunity for any person to present views as to whether the Corporation is carrying out its activities in accordance with section 2191 of this title and this section or whether any investment in a particular country should have been or should be extended insurance, reinsurance, guarantees, or financing under this subpart.

(2) In conjunction with each meeting of its Board of Directors, the Corporation shall hold a public hearing in order to afford an opportunity for any person to present views regarding the activities of the Corporation. Such views shall be made part of the record.

(Pub. L. 87-195, pt. I, § 231A, as added Pub. L. 99-204, § 5(a), Dec. 23, 1985, 99 Stat. 1670; amended Pub. L. 100-418, title II, § 2203(c), Aug. 23, 1988, 102 Stat. 1328; Pub. L. 102-549, title I, § 102(a), Oct. 28, 1992, 106 Stat. 3651; Pub. L. 104-188, title I, § 1954(b)(3), Aug. 20, 1996, 110 Stat. 1928; Pub. L. 106-158, § 3(a), Dec. 9, 1999, 113 Stat. 1745.)

#### AMENDMENTS

1999—Subsec. (b). Pub. L. 106-158, § 3(a)(2) added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 106-158, § 3(a)(1), (3), redesignated subsec. (b) as (c), designated existing provisions as par. (1), and added par. (2).

1996—Subsec. (a)(1). Pub. L. 104-188, § 1954(b)(3)(A), substituted “2467(4)” for “2462(a)(4)”.

Subsec. (a)(2). Pub. L. 104-188, § 1954(b)(3)(B), substituted “2464” for “2465(c)”.

Subsec. (a)(4). Pub. L. 104-188, § 1954(b)(3)(C), substituted “2467(4)” for “2462(a)(4)”.

1992—Subsec. (a)(1). Pub. L. 102-549 inserted at end provisions requiring Corporation to include certain language about employee rights in all contracts with eligible investors.

1988—Subsec. (a)(4). Pub. L. 100-418 added par. (4).

#### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-158, § 3(b), Dec. 9, 1999, 113 Stat. 1746, provided that: “The amendments made by subsection (a) [amending this section] shall take effect 90 days after the date of the enactment of this Act [Dec. 9, 1999].”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 applicable to articles entered on or after Oct. 1, 1996, with provisions relating to retroactive application, see section 1953 of Pub. L. 104-188, set out as an Effective Date note under section 2461 of Title 19, Customs Duties.

## EFFECTIVE DATE

Pub. L. 99-204, §5(b), Dec. 23, 1985, 99 Stat. 1671, provided that: “Subsection (a) of section 231A [subsec. (a) of this section], as added by subsection (a) of this section, shall not apply to projects insured, reinsured, guaranteed, or financed before the date of the enactment of this Act [Dec. 23, 1985].”

## DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

**§ 2191b. Worker rights and human rights guidelines**

The President of the Overseas Private Investment Corporation is hereby authorized and directed to issue, not later than 9 months after December 16, 2009, a comprehensive set of environmental, transparency and internationally recognized worker rights and human rights guidelines with requirements binding on the Corporation and its investors that shall be consistently applied to all projects, funds and sub-projects supported by the Corporation: *Provided*, That these regulations shall be no less rigorous than the environmental and social guidelines that the Corporation has made publicly available as of June 3, 2009, and the environmental and social policies of the World Bank Group, and hereafter may be issued and further revised only following public notice and opportunity for comment: *Provided further*, That the Overseas Private Investment Corporation shall issue a report, not later than 180 days after December 16, 2009, highlighting its substantial commitment to invest in renewable and other clean energy technologies and plans to significantly reduce greenhouse gas emissions from its portfolio: *Provided further*, That such commitment shall include implementing a revised climate change mitigation plan to reduce greenhouse gas emissions associated with projects and sub-projects in the agency’s portfolio as of June 30, 2008 by at least 30 percent over a 10-year period and by at least 50 percent over a 15-year period.

(Pub. L. 111-117, div. F, title VII, §7079(b), Dec. 16, 2009, 123 Stat. 3396.)

## CODIFICATION

Section was enacted as part of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010, and also as part of the Consolidated Appropriations Act, 2010, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

**§ 2192. Capital of the Corporation**

The President is authorized to pay in as capital of the Corporation, out of dollar receipts made available through the appropriation process from loans made pursuant to subchapter I of this chapter and from loans made under the Mutual Security Act of 1954, as amended, for the fiscal year 1970 not to exceed \$20,000,000 and for the fiscal year 1971 not to exceed \$20,000,000. Upon the payment of such capital by the President, the Corporation shall issue an equivalent amount of capital stock to the Secretary of the Treasury.

(Pub. L. 87-195, pt. I, §232, as added Pub. L. 91-175, pt. I, §105, Dec. 30, 1969, 83 Stat. 810.)

## REFERENCES IN TEXT

The Mutual Security Act of 1954, referred to in text, is act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended by acts July 8, 1955, ch. 301, 69 Stat. 283; July 18, 1956, ch. 627, §§2 to 11, 70 Stat. 555; Aug. 14, 1957, Pub. L. 85-141, 71 Stat. 355; June 30, 1958, Pub. L. 85-477, ch. 1, §§101 to 103, ch. II, §§201 to 205, ch. III, §301, ch. IV, §401, ch. V, §501, 72 Stat. 261; July 24, 1959, Pub. L. 86-108, §2, ch. 1, §101, ch. II, §§201 to 205(a) to (i), (k) to (n), ch. III, §301, ch. IV, §401(a) to (k), (m), 73 Stat. 246; May 14, 1960, Pub. L. 86-472, ch. I to V, 74 Stat. 134, which was principally classified to chapter 24 (§1750 et seq.) of this title and which was repealed by act July 18, 1956, ch. 627, §8(m), 70 Stat. 559, Pub. L. 85-141, §§2(e), 3, 4(b), 11(d), Aug. 14, 1957, 71 Stat. 356, Pub. L. 86-108, ch. II, §§205(j), ch. IV, 401(1), July 24, 1959, 73 Stat. 250, Pub. L. 86-472, ch. II, §§203(d), 204(k), May 14, 1960, 74 Stat. 138, Pub. L. 87-195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460, Pub. L. 94-329, title II, §212(b)(1), June 30, 1976, 90 Stat. 745, Pub. L. 104-127, title II, §228, Apr. 4, 1996, 110 Stat. 963, except for sections 1754, 1783, 1796, 1853, 1928, and 1937 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1754 of this title and Tables.

## REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92-226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa-5 of this title.

## PRIOR PROVISIONS

A prior section 232 of Pub. L. 87-195, pt. I, Sept. 4, 1961, 75 Stat. 432 as amended by Pub. L. 87-565, pt. I, §105, Aug. 1, 1962, 76 Stat. 257; Pub. L. 88-633, pt. I, §104, Oct. 7, 1964, 78 Stat. 1010; Pub. L. 90-137, pt. I, §105, Nov. 14, 1967, 81 Stat. 451, authorized appropriations for surveys of investment opportunities, prior to the general reorganization of this subpart by Pub. L. 91-175, pt. I, §105, Dec. 30, 1969, 83 Stat. 807.

## DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

**§ 2193. Organization and management****(a) Structure**

The Corporation shall have a Board of Directors, a President, an Executive Vice President, and such other officers and staff as the Board of Directors may determine.

**(b) Board of directors**

All powers of the Corporation shall vest in and be exercised by or under the authority of its Board of Directors (“the Board”) which shall consist of fifteen Directors, including the Chairman, with eight Directors constituting a quorum for the transaction of business. Eight Directors shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall not be officials or employees of the Government of the United States. At least two of the eight Directors appointed under the preceding sentence shall be experienced in small business, one in organized

labor, and one in cooperatives. Each such Director shall be appointed for a term of no more than three years. The terms of no more than three such Directors shall expire in any one year. Such Directors shall serve until their successors are appointed and qualified and may be reappointed.

The other Directors shall be principal officers of the Government of the United States whose duties relate to the programs of the Corporation, including the President of the Corporation, the Administrator of the Agency for International Development, the United States Trade Representative, and one such officer of the Department of Labor, designated by and serving at the pleasure of the President of the United States. The United States Trade Representative may designate a Deputy United States Trade Representative to serve on the Board in place of the United States Trade Representative.

There shall be a Chairman and a Vice Chairman of the Board, both of whom shall be designated by the President of the United States from among the Directors of the Board other than those appointed under the second sentence of the first paragraph of this subsection.

All Directors who are not officers of the Corporation or officials of the Government of the United States shall be compensated at a rate equivalent to that of level IV of the Executive Schedule when actually engaged in the business of the Corporation and may be paid per diem in lieu of subsistence at the applicable rate prescribed in the standardized Government travel regulations, as amended from time to time, while away from their homes or usual places of business.

**(c) President**

The President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. In making such appointment, the President shall take into account private business experience of the appointee. The President of the Corporation shall be its Chief Executive Officer and responsible for the operations and management of the Corporation, subject to bylaws and policies established by the Board.

**(d) Officers and staff**

The Executive Vice President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. Other officers, attorneys, employees, and agents shall be selected and appointed by the Corporation, and shall be vested with such powers and duties as the Corporation may determine. Of such persons employed by the Corporation, not to exceed twenty may be appointed, compensated, or removed without regard to the civil service laws and regulations: *Provided*, That under such regulations as the President of the United States may prescribe, officers and employees of the United States Government who are appointed to any of the above positions may be entitled, upon removal from such position, except for cause, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and

salary. Such positions shall be in addition to those otherwise authorized by law, including those authorized by section 5108 of title 5.

**(e) Investment advisory council**

The Board shall take prompt measures to increase the loan, guarantee, and insurance programs, and financial commitments, of the Corporation in sub-Saharan Africa, including through the use of an investment advisory council to assist the Board in developing and implementing policies, programs, and financial instruments with respect to sub-Saharan Africa. In addition, the investment advisory council shall make recommendations to the Board on how the Corporation can facilitate greater support by the United States for trade and investment with and in sub-Saharan Africa. The investment advisory council shall terminate 4 years after May 18, 2000.

(Pub. L. 87-195, pt. I, §233, as added Pub. L. 91-175, pt. I, §105, Dec. 30, 1969, 83 Stat. 810; amended Pub. L. 97-65, §3(a), (b), Oct. 16, 1981, 95 Stat. 1021, 1022; Pub. L. 106-158, §4, Dec. 9, 1999, 113 Stat. 1746; Pub. L. 106-200, title I, §123(c)(1), May 18, 2000, 114 Stat. 269; Pub. L. 108-158, §3(e), Dec. 3, 2003, 117 Stat. 1950.)

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (b), is set out in section 5315 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 233 of Pub. L. 87-195, pt. I, Sept. 4, 1961, 75 Stat. 432, contained definitions, prior to the general reorganization of this subpart by Pub. L. 91-175, pt. I, §105, Dec. 30, 1969, 83 Stat. 807.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108-158, in second par., substituted “principal officers” for “officials” and “one such officer” for “an official” and inserted “whose duties relate to the programs of the Corporation” after “Government of the United States”.

2000—Subsec. (e). Pub. L. 106-200 added subsec. (e).

1999—Subsec. (b). Pub. L. 106-158, §4(1), (2), in first par., struck out after first sentence “The Administrator of the Agency for International Development shall be the Chairman of the Board, ex officio. 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.” and struck out “(other than the President of the Corporation, appointed pursuant to subsection (c) of this section who shall serve as a Director, ex officio)” after “Eight Directors”.

Pub. L. 106-158, §4(3), in second par., inserted “the President of the Corporation, the Administrator of the Agency for International Development, the United States Trade Representative, and” after “United States, including” and inserted at end “The United States Trade Representative may designate a Deputy United States Trade Representative to serve on the Board in place of the United States Trade Representative.”

Pub. L. 106-158, §4(4), inserted after second par. “There shall be a Chairman and a Vice Chairman of the Board, both of whom shall be designated by the President of the United States from among the Directors of the Board other than those appointed under the second sentence of the first paragraph of this subsection.”

1981—Subsec. (b). Pub. L. 97-65 expanded to 15 the number of Directors on the Board, raised to 8 the num-

ber required to constitute a quorum and made other technical changes in connection with the increased size of the Board, inserted provision directing that the United States Trade Representative be the Vice Chairman of the Board, ex officio, but authorizing the United States Trade Representative to designate the Deputy United States Trade Representative to serve as Vice Chairman of the Board in place of the United States Trade Representative, provided that the President of the Corporation serve as a Director, ex officio, and inserted provision that an official of the Department of Labor be added to the Board as a Director.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-65, §3(c), Oct. 16, 1981, 95 Stat. 1022, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 1981."

#### DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

#### MEMBERS OF BOARD OF DIRECTORS OF OVERSEAS PRIVATE INVESTMENT CORPORATION

For provisions directing that the United States Trade Representative serve, ex officio, as an additional voting member of the Board of Directors of the Overseas Private Investment Corporation and to serve as the Vice Chair of that Board and authorizing and directing the appointment of an additional member of the Board of Directors of the Overseas Private Investment Corporation as part of the consolidation of the trade functions of the Federal government, see Reorg. Plan No. 3 of 1979, §4, 44 F.R. 69274, 93 Stat. 1381, eff. Jan. 2, 1980, as provided in section 1-107(a) of Ex. Ord. No. 12188, 45 F.R. 993, set out in the Appendix to Title 5, Government Organization and Employees.

### § 2194. Investment insurance and other programs

The Corporation is hereby authorized to do the following:

#### (a) Investment insurance

(1) To issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved—

(A) inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment therein, in whole or in part, or as compensation for the sale or disposition of all or any part thereof;

(B) loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government or any political subdivision thereof;

(C) loss due to war, revolution, insurrection, or civil strife; and

(D) loss due to business interruption caused by any of the risks set forth in subparagraphs (A), (B), and (C).

(2) Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make arrangements with

foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible hereunder, except that liabilities assumed by the Corporation under the authority of this subsection shall be consistent with the purposes of this subpart and that the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the project.

(3) Not more than 10 per centum of the maximum contingent liability of investment insurance which the Corporation is permitted to have outstanding under section 2195(a)(1)<sup>1</sup> of this title shall be issued to a single investor.

(4) Before issuing insurance for the first time for loss due to business interruption, 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" or "business interruption", 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 and, in the case of insurance for loss due to business interruption, an explanation of the underwriting basis upon which the insurance is to be offered. Any such report with respect to insurance for loss due to business interruption shall be considered in accordance with the procedures applicable to reprogramming notifications pursuant to section 2394-1 of this title.

#### (b) Investment guaranties

To issue to eligible investors guaranties of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine: *Provided, however*, That such guaranties on other than loan investments shall not exceed 75 per centum of such investment; *Provided further*, That except for loan investments for credit unions made by eligible credit unions or credit union associations, the aggregate amount of investment (exclusive of interest and earnings) so guaranteed with respect to any project shall not exceed, at the time of issuance of any such guaranty, 75 per centum of the total investment committed to any such project as determined by the Corporation, which determination shall be conclusive for purposes of the Corporation's authority to issue any such guaranty: *Provided further*, That not more than 15 per centum of the maximum contingent liability of investment guaranties which the Corporation is permitted to have outstanding under section 2195(a)(2)<sup>1</sup> of this title shall be issued to a single investor.

#### (c) Direct investment

To make loans in United States dollars repayable in dollars or loans in foreign currencies (including, without regard to section 1306 of title

<sup>1</sup> See References in Text note below.

31, such foreign currencies which the Secretary of the Treasury may determine to be excess to the normal requirements of the United States and the Director of the Office of Management and Budget may allocate) to firms privately owned or of mixed private and public ownership upon such terms and conditions as the Corporation may determine. Loans may be made under this subsection only for projects that are sponsored by or significantly involve United States small business or cooperatives.

The Corporation may designate up to 25 percent of any loan under this subsection for use in the development or adaptation in the United States of new technologies or new products or services that are to be used in the project for which the loan is made and are likely to contribute to the economic or social development of less developed countries.

No loan may be made under this subsection to finance any operation for the extraction of oil or gas. The aggregate amount of loans under this subsection to finance operations for the mining or other extraction of any deposit of ore or other nonfuel minerals may not in any fiscal year exceed \$4,000,000.

**(d) Investment encouragement**

To initiate and support through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, the identification, assessment, surveying and promotion of private investment opportunities, utilizing wherever feasible and effective the facilities of private organizations or private investors, except that—

(1) the Corporation shall not finance any survey to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of, oil or gas; and

(2) expenditures financed by the Corporation during any fiscal year on surveys to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of nonfuel minerals may not exceed \$200,000.

**(e) Special projects and programs**

To administer and manage special projects and programs, including programs of financial and advisory support which provide private technical, professional, or managerial assistance in the development of human resources, skills, technology, capital savings and intermediate financial and investment institutions and cooperatives and including the initiation of incentives, grants, and studies for renewable energy and other small business activities. The funds for these projects and programs may, with the Corporation's concurrence, be transferred to it for such purposes under the authority of section 2392(a) of this title or from other sources, public or private. Administrative funds may not be made available for incentives, grants, and studies for renewable energy and other small business activities.

**(f) Additional insurance functions**

(1) To make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, finan-

cial institutions, any other persons, or groups thereof, and employing the same, where appropriate, as its agent, or acting as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in any other matter incident to an insurance business; except that such agreements and contracts shall be consistent with the purposes of the Corporation set forth in section 2191 of this title and shall be on equitable terms.

(2) To enter into pooling or other risk-sharing arrangements with multinational insurance or financing agencies or groups of such agencies.

(3) To hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance.

(4) To issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof in respect of risks referred to in subsection (a)(1).

The amount of reinsurance of liabilities under this subpart which the Corporation may issue shall not in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 2195(a)(1)<sup>1</sup> of this title. All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his own account specified portions of liability, whether first loss or otherwise.

**(g) Pilot equity finance program**

**(1) Authority for pilot program**

In order to study the feasibility and desirability of a program of equity financing, the Corporation is authorized to establish a 4-year pilot program under which it may, on the limited basis prescribed in paragraphs (2) through (5), purchase, invest in, or otherwise acquire equity or quasi-equity securities of any firm or entity, upon such terms and conditions as the Corporation may determine, for the purpose of providing capital for any project which is consistent with the provisions of this subpart, except that—

(A) the aggregate amount of the Corporation's equity investment with respect to any project shall not exceed 30 percent of the aggregate amount of all equity investment made with respect to such project at the time that the Corporation's equity investment is made, except for securities acquired through the enforcement of any lien, pledge, or contractual arrangement as a result of a default by any party under any agreement relating to the terms of the Corporation's investment; and

(B) the Corporation's equity investment under this subsection with respect to any project, when added to any other investments made or guaranteed by the Corporation under subsection (b) or (c) with respect to such project, shall not cause the aggregate amount of all such investment to exceed, at the time any such investment is made or guaranteed by the Corporation, 75 percent of the total investment committed to such project as determined by the Corporation.



The determination of the Corporation under subparagraph (B) shall be conclusive for purposes of the Corporation's authority to make or guarantee any such investment.

**(2) Equity authority limited to projects in sub-Saharan Africa and Caribbean basin and marine transportation projects globally**

Equity investments may be made under this subsection only in projects in countries eligible for financing under this subpart that are countries in sub-Saharan Africa or countries designated as beneficiary countries under section 2702 of title 19 and in marine transportation projects in countries and areas eligible for OPIC support worldwide using United States commercial maritime expertise.

**(3) Additional criteria**

In making investment decisions under this subsection, the Corporation shall give preferential consideration to projects sponsored by or significantly involving United States small business or cooperatives. The Corporation shall also consider the extent to which the Corporation's equity investment will assist in obtaining the financing required for the project.

**(4) Disposition of equity interest**

Taking into consideration, among other things, the Corporation's financial interests and the desirability of fostering the development of local capital markets in less developed countries, the Corporation shall endeavor to dispose of any equity interest it may acquire under this subsection within a period of 10 years from the date of acquisition of such interest.

**(5) Implementation**

To the extent provided in advance in appropriations Acts, the Corporation is authorized to create such legal vehicles as may be necessary for implementation of its authorities, which legal vehicles may be deemed non-Federal borrowers for purposes of the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.]. Income and proceeds of investments made pursuant to this subsection may be used to purchase equity or quasi-equity securities in accordance with the provisions of this section: *Provided, however*, That such purchases shall not be limited to the 4-year period of the pilot program: *Provided further*, That the limitations contained in paragraph (2) shall not apply to such purchases.

**(6) Consultations with Congress**

The Corporation shall consult annually with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on the implementation of the pilot equity finance program established under this subsection.

**(h) Local currency guaranties for eligible investors**

To issue to—

- (1) eligible investors, or
- (2) local financial institutions, guaranties,

denominated in currencies other than United States dollars, of loans and other investments

made to projects sponsored by or significantly involving eligible investors, assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine, for projects that the Corporation determines to have significant developmental effects or as the Corporation determines to be necessary or appropriate to carry out the purposes of this subpart.

(Pub. L. 87-195, pt. I, §234, as added Pub. L. 91-175, pt. I, §105, Dec. 30, 1969, 83 Stat. 811; amended 1970 Reorg. Plan No. 2, §102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; Pub. L. 93-390, §2(2), Aug. 27, 1974, 88 Stat. 764; Pub. L. 95-268, §3, Apr. 24, 1978, 92 Stat. 214; Pub. L. 97-65, §4, Oct. 16, 1981, 95 Stat. 1022; Pub. L. 99-204, §§6(a), 7, 8, Dec. 23, 1985, 99 Stat. 1671, 1672; Pub. L. 100-461, title V, §555, Oct. 1, 1988, 102 Stat. 2268-36; Pub. L. 101-218, §8(c), Dec. 11, 1989, 103 Stat. 1868; Pub. L. 102-549, title I, §103, Oct. 28, 1992, 106 Stat. 3651; Pub. L. 106-31, title VI, §6001, May 21, 1999, 113 Stat. 112; Pub. L. 108-158, §§4(a), 5(a), Dec. 3, 2003, 117 Stat. 1950.)

REFERENCES IN TEXT

Section 2195(a) of this title, referred to in subsecs. (a)(3), (b), and (f), was amended by Pub. L. 105-118, title V, §581, Nov. 26, 1997, 111 Stat. 2435, and, as so amended, provisions formerly appearing in pars. (1) and (2) of subsec. (a) are now contained in par. (1).

The Federal Credit Reform Act of 1990, referred to in subsec. (g)(5), is title V of Pub. L. 93-344, as added by Pub. L. 101-508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388-609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

CODIFICATION

Amendment by Pub. L. 100-461 is based on sections 103 and 104 of title I of H.R. 5263, One Hundredth Congress, as passed by the House of Representatives on Sept. 20, 1988, and sections 103 and 104 of title I of S. 2757, One Hundredth Congress, as reported Sept. 7, 1988, and enacted into law by Pub. L. 100-461.

In subsec. (c), "section 1306 of title 31" substituted for "section 1415 of the Supplemental Appropriation Act, 1953, [31 U.S.C. 724]" on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

2003—Subsec. (a)(1)(B), Pub. L. 108-158, §4(a), inserted "or any political subdivision thereof" after "government".

Subsec. (h), Pub. L. 108-158, §5(a), added subsec. (h).  
 1999—Subsec. (g), Pub. L. 106-31, §6000(1), struck out heading and text of par. designated as (c). Text read as follows: "The Corporation is authorized to establish a revolving fund to be available solely for the purposes specified in this subsection and to make transfers to the fund of a total of \$10,000,000 (less amounts transferred to the fund before October 28, 1992) from its non-credit account revolving fund. The Corporation shall transfer to the fund in each fiscal year all amounts received by the Corporation during the preceding fiscal year as income on securities acquired under this subsection, and from the proceeds on the disposition of such securities. Purchases of, investments in, and other acquisitions of equity from the fund are authorized for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations Acts or are transferred to the Corporation pursuant to section 2392(a) of this title."

Subsec. (g)(2), Pub. L. 106-31, §6001(2), in heading, substituted "Equity authority limited to projects in sub-

Saharan Africa and Caribbean basin and marine transportation projects globally” for “Limitation to projects in sub-Saharan Africa and Caribbean basin”, and, in text, inserted “and in marine transportation projects in countries and areas eligible for OPIC support worldwide using United States commercial maritime expertise” after “section 2702 of title 19”.

Subsec. (g)(5). Pub. L. 106-31, §6001(3), added par. (5). 1992—Subsec. (g)(5). Pub. L. 102-549 amended par. (5) generally, substituting designation “(c)” for “(5)”. Prior to amendment, par. (5) read as follows: “CREATION OF FUND FROM CORPORATE REVENUES.—The Corporation is authorized to establish a fund to be available solely for the purposes specified in this subsection and to make a one-time transfer to the fund of \$10,000,000 from its income and revenues.”

1989—Subsec. (e). Pub. L. 101-218 inserted “and including the initiation of incentives, grants, and studies for renewable energy and other small business activities” after “cooperatives” and inserted at end “Administrative funds may not be made available for incentives, grants, and studies for renewable energy and other small business activities.”

1988—Subsec. (c). Pub. L. 100-461, at end of first undesignated par., struck out “The Corporation may not purchase or invest in any stock in any other corporation, except that it may (1) accept as evidence of indebtedness debt securities convertible to stock, but such debt securities shall not be converted to stock while held by the Corporation, and (2) acquire stock through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness which would otherwise be in default, or as the result of any payment under any contract of insurance or guaranty. The Corporation shall dispose of any stock it may so acquire as soon as reasonably feasible under the circumstances then pertaining.” and added second undesignated par. relating to designation of up to 25 percent of loan for use in development or adaptation of new technologies or new products or services.

Subsec. (f). Pub. L. 100-461, which directed that first sentence of last par. be struck out, was executed as probable intent of Congress by striking out first sentence of concluding provisions, before “The amount of reinsurance”, which read as follows: “The authority granted by paragraph (3) may be exercised notwithstanding the prohibition under subsection (c) of this section against the Corporation purchasing or investing in any stock in any other corporation.”

Subsec. (g). Pub. L. 100-461 added subsec. (g).

1985—Subsec. (a)(1)(D). Pub. L. 99-204, §6(a)(1), added subpar. (D).

Subsec. (a)(4). Pub. L. 99-204, §6(a)(2), substituted “insurance for the first time for loss due to business interruption” for “civil strife insurance for the first time” and “definition of ‘civil strife’ or ‘business interruption’” for “definition of civil strife” and inserted provision that in the case of insurance for loss due to business interruption an explanation of the underwriting basis upon which the insurance is to be offered be submitted and provision that any report with respect to insurance for loss due to business interruption be considered in accordance with procedures applicable to reprogramming notifications pursuant to section 2394-1 of this title.

Subsec. (b). Pub. L. 99-204, §7, substituted “15” for “10”.

Subsec. (f)(2). Pub. L. 99-204, §8, struck out “other national or” after “arrangements with”.

1981—Subsec. (a)(1)(C). Pub. L. 97-65, §4(a)(1), inserted reference to civil strife.

Subsec. (a)(2). Pub. L. 97-65, §4(a)(2), substituted “eligible investors in the project” for “eligible investors in the total project financing”.

Subsec. (a)(3). Pub. L. 97-65, §4(a)(3), substituted “which the Corporation is permitted to have outstanding under section 2195(a)(1) of this title” for “which the Corporation is authorized to issue under this subsection”.

Subsec. (a)(4). Pub. L. 97-65, §4(a)(4), added par. (4).

Subsec. (b). Pub. L. 97-65, §4(b)(1), substituted “which the Corporation is permitted to have outstanding under section 2195(a)(2) of this title” for “which the Corporation is authorized to issue under this subsection”.

Subsec. (f)(1). Pub. L. 97-65, §4(b)(2), struck out provisions under which the Corporation was prohibited from making or carrying out any association or risk-sharing agreement for the direct underwriting of insurance by the Corporation with others, other than on an individual basis where such direct underwriting facilitated the purposes of the Corporation as set forth in section 2191 of this title.

Subsec. (f)(4). Pub. L. 97-65, §4(b)(3), struck out provisions which had placed a \$600,000,000 limit in any one year on the amount of reinsurance which the Corporation may issue and which had directed the Corporation to endeavor to increase to the maximum extent possible the specified portions of liability, whether first loss or otherwise, which a reinsured party must retain for his own account.

1978—Subsec. (a)(2). Pub. L. 95-268, §3(1), struck out provisions relating to limitations on maximum share of liabilities assumed under par. (1) of this subsection.

Subsec. (a)(3). Pub. L. 95-268, §3(2), substituted “maximum contingent liability” for “total face amount”.

Subsec. (a)(4) to (7). Pub. L. 95-268, §3(3), struck out pars. (4) to (7) which set forth requirements for participation by private insurance companies, multilateral organizations, or others in insurance programs, and limitations respecting participation by the Corporation as insurer under contracts of insurance.

Subsec. (b). Pub. L. 95-268, §3(2), substituted “maximum contingent liability” for “total face amount”.

Subsec. (c). Pub. L. 95-268, §3(4), (5), inserted provisions setting forth requirements respecting United States small businesses or cooperatives, and substituted provisions relating to aggregate amount of loans for mining or other extraction of ores or other nonfuel minerals, for provisions prohibiting loans for mining or other extraction of ores or other minerals.

Subsec. (d). Pub. L. 95-268, §3(6), substituted provisions setting forth exception for financing surveys relating to oil and gas and limitation on amount of expenditures for surveys relating to nonfuel minerals, for provisions setting forth proviso relating to surveys for mining of any deposit of ore, oil, gas, or other mineral.

Subsec. (f)(1). Pub. L. 95-268, §3(7), inserted provisions setting forth exceptions for agreements and contracts.

1974—Subsec. (a)(2). Pub. L. 93-390, §2(2)(B), inserted “and institutions” after “multilateral organizations” and provisions relating to the maximum share of liabilities assumed under par. (1)(A) to (C) of this subsection.

Subsec. (a)(4) to (7). Pub. L. 93-390, §2(2)(C), added pars. (4) to (7).

Subsec. (f). Pub. L. 93-390, §2(2)(D), added subsec. (f).

#### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-31, title VI, §6001, May 21, 1999, 113 Stat. 112, provided that the amendment made by section 6001 is effective Oct. 1, 1999.

#### TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of 1970 Reorg. Plan No. 2 redesignated Bureau of the Budget as Office of Management and Budget. For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

#### EXTENSION OF OPIC AUTHORITY

Pub. L. 114-113, div. K, title VII, §7061(b), Dec. 18, 2015, 129 Stat. 2810, provided that: “Notwithstanding section 235(a)(2) of the Foreign Assistance Act of 1961 [22 U.S.C.

2195(a)(2)], the authority of subsections (a) through (c) of section 234 of such Act [22 U.S.C. 2194(a)–(c)] shall remain in effect until September 30, 2016.”

Similar provisions were contained in the following prior appropriations acts:

Pub. L. 113–235, div. J, title VII, § 7073(b), Dec. 16, 2014, 128 Stat. 2679.

Pub. L. 113–76, div. K, title VII, § 7064(b), Jan. 17, 2014, 128 Stat. 557.

Pub. L. 112–74, div. I, title VII, § 7065(b), Dec. 23, 2011, 125 Stat. 1252.

Pub. L. 111–117, div. F, title VII, § 7079(c), Dec. 16, 2009, 123 Stat. 3396.

Pub. L. 111–8, div. H, title VII, § 7081(a), Mar. 11, 2009, 123 Stat. 910.

Pub. L. 110–161, div. J, title VI, § 634(t), Dec. 26, 2007, 121 Stat. 2331.

APPROPRIATION OF MONEYS IN ADVANCE AS REQUISITE TO PURCHASES, INVESTMENTS, OR OTHER ACQUISITIONS OF EQUITY BY FUND CREATED UNDER PILOT EQUITY FINANCE PROGRAM

Pub. L. 100–461, title V, § 555, Oct. 1, 1988, 102 Stat. 2268–36, provided in part: “That purchases, investments or other acquisitions of equity by the fund created by section 104 of H.R. 5263 as hereby enacted [22 U.S.C. 2194(g)(5)] are limited to such amounts as may be provided in advance in appropriations Acts”, and further provided “That purchases, investments or other acquisitions of equity by the fund created by section 104 of S. 2757 as hereby enacted [22 U.S.C. 2194(g)(5)] are limited to such amounts as may be provided in advance in appropriations Acts”.

**§ 2194a. Contract authority of Corporation; specific authorization in appropriation Acts required**

The authority of the Overseas Private Investment Corporation to enter into contracts under section 2194(a) of this title 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.

(Pub. L. 97–65, § 5(b)(2), Oct. 16, 1981, 95 Stat. 1023.)

CODIFICATION

Section was enacted as part of the Overseas Private Investment Corporation Amendments of 1981, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

**§ 2194b. Enhancing private political risk insurance industry**

**(a) Cooperative programs**

In order to encourage greater availability of political risk insurance for eligible investors by enhancing the private political risk insurance industry in the United States, and to the extent consistent with this subpart, the Corporation shall undertake programs of cooperation with such industry, and in connection with such programs may engage in the following activities:

(1) Utilizing its statutory authorities, encourage the development of associations, pools, or consortia of United States private political risk insurers.

(2) Share insurance risks (through coinsurance, contingent insurance, or other means) in a manner that is conducive to the growth and development of the private political risk insurance industry in the United States.

(3) Notwithstanding section 2197(e) of this title, upon the expiration of insurance pro-

vided by the Corporation for an investment, enter into risk-sharing agreements with United States private political risk insurers to insure any such investment; except that, in cooperating in the offering of insurance under this paragraph, the Corporation shall not assume responsibility for more than 50 percent of the insurance being offered in each separate transaction.

**(b) Advisory group**

**(1) Establishment and membership**

The Corporation shall establish a group to advise the Corporation on the development and implementation of the cooperative programs under this section. The group shall be appointed by the Board and shall be composed of up to 12 members, including the following:

(A) Up to seven persons from the private political risk insurance industry, of whom no fewer than two shall represent private political risk insurers, one shall represent private political risk reinsurers, and one shall represent insurance or reinsurance brokerage firms.

(B) Up to four persons, other than persons described in subparagraph (A), who are purchasers of political risk insurance.

**(2) Functions**

The Corporation shall call upon members of the advisory group, either collectively or individually, to advise it regarding the capability of the private political risk insurance industry to meet the political risk insurance needs of United States investors, and regarding the development of cooperative programs to enhance such capability.

**(3) Meetings**

The advisory group shall meet not later than September 30, 1989, and at least annually thereafter. The Corporation may from time to time convene meetings of selected members of the advisory group to address particular questions requiring their specialized knowledge.

**(4) Federal Advisory Committee Act**

The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(Pub. L. 87–195, pt. I, § 234A, as added Pub. L. 99–204, § 9(a), Dec. 23, 1985, 99 Stat. 1672; amended Pub. L. 100–461, title V, § 555, Oct. 1, 1988, 102 Stat. 2268–36.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(4), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Amendment by Pub. L. 100–461 is based on section 105(a) of title I of H.R. 5263, One Hundredth Congress, as passed by the House of Representatives on Sept. 20, 1988, and section 105(a) of title I of S. 2757, One Hundredth Congress, as reported Sept. 7, 1988, and enacted into law by Pub. L. 100–461.

AMENDMENTS

1988—Pub. L. 100–461 amended section generally, substituting provisions relating to enhancing private po-

litical risk insurance industry for provisions which related to facultative reinsurance program.

**§ 2195. Issuing authority, direct investment authority and reserves**

**(a) Issuing authority**

**(1) Insurance and financing**

(A) The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 2194(a) of this title, and the amount of financing issued under sections<sup>1</sup> 2194(b) and (c) of this title, shall not exceed in the aggregate \$29,000,000,000.

(B) Subject to spending authority provided in appropriations Acts pursuant to section 661c(b) of title 2, the Corporation is authorized to transfer such sums as are necessary from its noncredit activities to pay for the subsidy and administrative costs of the investment guaranties and direct loan programs under subsections (b) and (c) of section 2194 of this title.

**(2) Termination of authority**

The authority of subsections (a), (b), and (c) of section 2194 of this title shall continue until September 30, 2007.

**(b) Repealed. Pub. L. 102-549, title I, § 104(a)(3), Oct. 28, 1992, 106 Stat. 3652**

**(c) Insurance Reserve; Guaranty Reserve**

There shall be established in the Treasury of the United States a noncredit account revolving fund, which shall be available for discharge of liabilities, as provided in subsection (d) of this section, until such time as all such liabilities have been discharged or have expired or until all of the fund has been expended in accordance with the provisions of this section. Such fund shall be funded by: (1) the funds heretofore available to discharge liabilities under predecessor guaranty authority (including housing guaranty authorities), less both the amount made available for housing guaranty programs pursuant to section 2183(b) of this title and the amount made available to the Corporation pursuant to subsection (e) of this section; and (2) such sums as shall be appropriated pursuant to subsection (f) of this section for such purpose. Additional amounts may thereafter be transferred to such fund pursuant to section 2196 of this title.

**(d) Priority of funds used to discharge liabilities**

Any payments made to discharge liabilities under investment insurance or reinsurance issued under section 2194 of this title, under similar predecessor guaranty authority, or under section 2194b of this title shall be paid first out of the noncredit account revolving fund, as long as such fund remains available, and thereafter out of funds made available pursuant to subsection (f) of this section. Any payments made to discharge liabilities under guaranties issued under section 2194(b) of this title or 2194(c) of this title shall be paid in accordance with the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.].

<sup>1</sup> So in original. Probably should be "section".

**(e) Reserves from predecessor guaranty authority**

There is hereby authorized to be transferred to the Corporation at its call, for the purposes specified in section 2196 of this title, all fees and other revenues collected under predecessor guaranty authority from December 31, 1968, available as of the date of such transfer.

**(f) Authorization of appropriations; issuance, etc., of obligations by Corporation for purchase by Secretary of the Treasury**

There are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the noncredit account revolving fund, to discharge the liabilities under insurance, reinsurance, or guaranties issued by the Corporation or issued under predecessor guaranty authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to this subsection. However, no appropriations shall be made to augment the noncredit account revolving fund until the amount of funds in the noncredit account revolving fund is less than \$25,000,000. Any appropriations to augment the noncredit account revolving fund shall then only be made either pursuant to specific authorization enacted after August 27, 1974, or to satisfy the full faith and credit provision of section 2197(c) of this title. In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed \$100,000,000. Any such obligation shall be repaid to the Treasury within one year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase he may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31 after August 27, 1974. The purpose for which securities may be issued under such chapter shall include any such purchase.

(Pub. L. 87-195, pt. I, §235, as added Pub. L. 91-175, pt. I, §105, Dec. 30, 1969, 83 Stat. 813; amended Pub. L. 93-189, §6(1), Dec. 17, 1973, 87 Stat. 717; Pub. L. 93-390, §2(3), Aug. 27, 1974, 88 Stat. 766; Pub. L. 95-268, §4, Apr. 24, 1978, 92 Stat. 214; Pub. L. 97-65, §5(a), (b)(1), (c), Oct. 16, 1981, 95 Stat. 1022, 1023; Pub. L. 99-204, §§9(b)(1), 10, 17(b), Dec. 23, 1985, 99 Stat. 1673, 1676; Pub. L. 100-418, title II, §2203(b), Aug. 23, 1988, 102 Stat. 1328; Pub. L. 100-461, title V, §555, Oct. 1, 1988, 102 Stat. 2268-36; Pub. L. 102-549, title I, §104, Oct. 28, 1992, 106 Stat. 3652; Pub. L. 103-392, title I, §§101-104, Oct. 22, 1994, 108 Stat. 4098; Pub. L. 104-208, div. A, title I, §101(c) [title I], Sept. 30, 1996, 110 Stat. 3009-121, 3009-123; Pub. L. 105-118,

title V, § 581, Nov. 26, 1997, 111 Stat. 2435; Pub. L. 106-113, div. B, § 1000(a)(2) [title V, § 599E], Nov. 29, 1999, 113 Stat. 1535, 1501A-132; Pub. L. 106-158, § 2, Dec. 9, 1999, 113 Stat. 1745; Pub. L. 108-158, §§ 2, 3(a)-(d), Dec. 3, 2003, 117 Stat. 1949.)

## REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (d), is title V of Pub. L. 93-344, as added by Pub. L. 101-508, title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388-609, as amended, which is classified generally to subchapter III (§ 661 et seq.) of chapter 17A of title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

## CODIFICATION

Amendment by Pub. L. 100-461 is based on sections 106 and 107 of title I of H.R. 5263, One Hundredth Congress, as passed by the House of Representatives on Sept. 20, 1988, and sections 106 and 107 of title I of S. 2757, One Hundredth Congress, as reported Sept. 7, 1988, and enacted into law by Pub. L. 100-461.

In subsec. (f), “chapter 31 of title 31” and “such chapter” substituted for “the Second Liberty Bond Act” and “such Bond Act”, respectively, on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

## AMENDMENTS

2003—Subsec. (a)(1)(B). Pub. L. 108-158, § 3(a), substituted “subsidy and administrative costs” for “subsidy cost”.

Subsec. (a)(2). Pub. L. 108-158, § 2, substituted “2007” for “November 1, 2000”.

Subsec. (c). Pub. L. 108-158, § 3(b), substituted “a non-credit account revolving fund, which” for “an insurance and guaranty fund, which shall have separate accounts to be known as the Insurance Reserve and the Guaranty Reserve, which reserves” and “of the fund has” for “such reserves have” in first sentence, struck out third sentence which read: “The allocation of such funds to each such reserve shall be determined by the Board after consultation with the Secretary of the Treasury.”, and substituted “fund” for “reserves” in last sentence.

Subsec. (d). Pub. L. 108-158, § 3(c), in first sentence, substituted “noncredit account revolving fund, as long as such fund” for “Insurance Reserve, as long as such reserve” and, in second sentence, substituted “or 2194(c) of this title shall be paid in accordance with the Federal Credit Reform Act of 1990” for “or under similar predecessor guaranty authority shall be paid first out of the Guaranty Reserve as long as such reserve remains available, and thereafter out of funds made available pursuant to subsection (f) of this section”.

Subsec. (f). Pub. L. 108-158, § 3(d), substituted “non-credit account revolving fund” for “insurance and guaranty fund” in first sentence and for “Insurance Reserve” wherever appearing.

1999—Subsec. (a)(2). Pub. L. 106-158, which directed the amendment of par. (2) by substituting “2003” for “1999” could not be executed because “1999” did not appear in text subsequent to amendment by Pub. L. 106-113. See below.

Pub. L. 106-113 substituted “November 1, 2000” for “1999”.

1997—Subsec. (a). Pub. L. 105-118 added heading and text of par. (1)(A), redesignated par. (2)(B) as subpar. (B) of par. (1), redesignated par. (3) as (2) and substituted “subsections (a), (b), and (c) of section 2194 of this title” for “subsections (a) and (b) of section 2194 of this title” and “September 30, 1999” for “September 30, 1997”, and struck out former pars. (1) and (2)(A) which read as follows:

“(1) INSURANCE.—The maximum contingent liability outstanding at any one time pursuant to insurance is-

sued under section 2194(a) of this title shall not exceed in the aggregate \$13,500,000,000.

“(2) FINANCING.—(A) The maximum contingent liability outstanding at any one time pursuant to financing issued under subsections (b) and (c) of section 2194 of this title shall not exceed in the aggregate \$9,500,000,000.”

1996—Subsec. (a)(3). Pub. L. 104-208 substituted “1997” for “1996”.

1994—Subsec. (a)(1). Pub. L. 103-392, § 101, substituted “\$13,500,000,000” for “\$9,000,000,000”.

Subsec. (a)(2). Pub. L. 103-392, § 102, amended heading and text of par. (2). Prior to amendment, text read as follows:

“(A) The maximum contingent liability outstanding at any one time pursuant to guarantees issued under section 2194(b) of this title shall not exceed in the aggregate \$2,500,000,000.

“(B) Subject to spending authority provided in appropriations Acts, pursuant to section 661c(b) of title 2, the Corporation is authorized—

“(i) to transfer \$9,800,000, or such sums as are necessary, from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan and loan guarantee program under subsections (b) and (c) of section 2194 of this title of \$650,000,000 for fiscal year 1993; and

“(ii) to transfer such sums as are necessary from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan and loan guarantee program under subsections (b) and (c) of section 2194 of this title of \$850,000,000 for fiscal year 1994.”

Subsec. (a)(3). Pub. L. 103-392, § 103, substituted “1996” for “1994”.

Subsec. (g). Pub. L. 103-392, § 104, struck out heading and text of subsec. (g). Text read as follows: “Subject to spending authority provided in appropriations Acts, the Corporation is authorized to draw from its non-credit account revolving fund for the administrative costs of its direct loan and loan guarantee programs—

“(1) \$8,128,000 for fiscal year 1993; and

“(2) \$11,000,000 for fiscal year 1994.”

1992—Pub. L. 102-549, § 104(a)(1), amended section catchline.

Subsec. (a). Pub. L. 102-549, § 104(a)(2), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

“(1) The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 2194(a) of this title shall not exceed \$7,500,000,000.

“(2) The maximum contingent liability outstanding at any one time pursuant to guaranties issued under section 2194(b) of this title shall not exceed in the aggregate \$1,500,000,000. Commitments to guarantee loans are authorized for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

“(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 2194(b) of this title or similar predecessor guaranty authority.

“(4) The Congress, in considering the budget programs transmitted by the President for the Corporation, pursuant to section 9104 of title 31, may limit the obligations and contingent liabilities to be undertaken under section 2194(a) and (b) of this title as well as the use of funds for operating and administrative expenses.

“(5) Subject to paragraphs (2), (3), and (4), the Corporation shall issue guaranties under section 2194(b) of this title having an aggregate contingent liability with respect to principal of not less than \$200,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation’s criteria for such guaranties.

“(6) The authority of section 2194(a) and (b) of this title shall continue until September 30, 1992.”

Subsec. (b). Pub. L. 102-549, §104(a)(3), struck out subsec. (b) which provided for establishment of a revolving fund, known as the Direct Investment Fund, to be held by the Corporation.

Subsec. (g). Pub. L. 102-549, §104(b), added subsec. (g). 1988—Subsec. (a)(2). Pub. L. 100-461 substituted “\$1,500,000,000” for “\$1,000,000,000”.

Pub. L. 100-418, §2203(b)(1)(A), substituted “\$1,000,000,000” for “\$750,000,000”.

Subsec. (a)(5). Pub. L. 100-418, §2203(b)(1)(C), added par. (5). Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 100-461 substituted “1992” for “1988”.

Pub. L. 100-418, §2203(b)(1)(B), redesignated par. (5) as (6).

Subsec. (b). Pub. L. 100-418, §2203(b)(2), in cl. (2), substituted “1981.” for “1981,,” and in closing provisions substituted “The Corporation shall make loans under section 2194(c) of this title in an aggregate amount of not less than \$25,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation’s criteria for such loans” for “and the Corporation shall use the funds so transferred to make loans under section 2194(c) of this title to the extent that there are eligible projects which meet the Corporation’s criteria for funding”.

1985—Subsec. (a)(5). Pub. L. 99-204, §10, substituted “1988” for “1985”.

Subsec. (c). Pub. L. 99-204, §17(b)(1), substituted references to subssecs. (d), (e), and (f) of this section for references to sections 2195(d), 2194(e), and 2195(f), respectively, of this title.

Subsec. (d). Pub. L. 99-204, §9(b)(1), substituted “, under similar predecessor guaranty authority, or under section 2194b of this title” for “or under similar predecessor guaranty authority”.

Pub. L. 99-204, §17(b)(2), substituted reference to subsec. (f) of this section for reference to section 2195(f) of this title wherever appearing.

1981—Subsec. (a)(2). Pub. L. 97-65, §5(a)(1), substituted provisions that commitments to guarantee loans are authorized for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts for provisions that the Corporation not make any commitment to issue any guaranty which would result in a fractional reserve less than 25 per centum of the maximum contingent liability then outstanding against guaranties issued or commitments made pursuant to section 2194(b) of this title or similar predecessor guaranty authority. See par. (3).

Subsec. (a)(3). Pub. L. 97-65, §5(a)(2), added par. (3) which consisted of provisions formerly contained in par. (2). Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 97-65, §5(a)(2)(A), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 97-65, §5(a)(2)(A), (b)(1), redesignated former par. (4) as (5) and substituted “September 30, 1985” for “September 30, 1981”.

Subsec. (b). Pub. L. 97-65, §5(c), inserted provisions relating to the transfer to the Fund of certain moneys in fiscal year 1982 and in each fiscal year thereafter and the making of loans from those moneys under section 2194(c) of this title to the extent that there are eligible projects which meet the Corporation’s criteria for funding.

1978—Subsec. (a)(2). Pub. L. 95-268, §4(1), struck out limitation on guaranties by credit unions of not to exceed \$1,250,000.

Subsec. (a)(4). Pub. L. 95-268, §4(2), substituted “September 30, 1981” for “December 31, 1977”.

1974—Subsec. (a)(4). Pub. L. 93-390, §2(3)(A), substituted “December 31, 1977” for “December 31, 1974”.

Subsec. (d). Pub. L. 93-390, §2(3)(B), substituted “insurance or reinsurance issued under section 2194 of this title” for “insurance issued under section 2194(a) of this title”.

Subsec. (f). Pub. L. 93-390, §2(3)(C), inserted provisions authorizing appropriations to discharge liabilities under reinsurance or obligations of the Corporation purchased by the Secretary of the Treasury, provisions

relating to appropriations to augment the Insurance Reserve, and provisions relating to the issuance, sale, etc., of notes, debentures, bonds, or other obligations by the Corporation for purchase by the Secretary of the Treasury.

1973—Subsec. (a)(4). Pub. L. 93-189 substituted “December 31, 1974” for “June 30, 1974”.

#### EXTENSION OF PERIOD UNDER SUBSECTION (a)(2)

For delayed applicability of subsec. (a)(2), see section 7079(c) of Pub. L. 111-117, set out as a note under section 2194 of this title.

### § 2196. Income and revenues

In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from whatever source derived, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

(a) payment of all expenses of the Corporation, including investment promotion expenses;

(b) transfers and additions to the insurance or guaranty reserves, the Direct Investment Fund established pursuant to section 2195 of this title, and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine; and

(c) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under subsections (a) and (b) hereof.

(Pub. L. 87-195, pt. I, §236, as added Pub. L. 91-175, pt. I, §105, Dec. 30, 1969, 83 Stat. 814.)

### § 2197. General provisions relating to insurance, guaranty, financing, and reinsurance programs

#### (a) Scope

Insurance, guaranties, and reinsurance issued under this subpart shall cover investment made in connection with projects in any less developed friendly country or area with the government of which the President of the United States has agreed to institute a program for insurance, guaranties, or reinsurance.

#### (b) Protection of interest

The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance, guaranty or reinsurance issued under this subpart, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance, guaranty or reinsurance is to be made, and any right, title, claim, or cause of action existing in connection therewith.

#### (c) Guaranties as obligations backed by full faith and credit of United States

All guaranties issued prior to July 1, 1956, all guaranties issued under sections 1872(b)<sup>1</sup> and 1933(b)<sup>1</sup> of this title, all guaranties heretofore issued pursuant to prior guaranty authorities re-

<sup>1</sup> See References in Text note below.

pealed by the Foreign Assistance Act of 1969, and all insurance, reinsurance and guaranties issued pursuant to this subpart shall constitute obligations, in accordance with the terms of such insurance, reinsurance or guaranties, of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

**(d) Fees**

**(1) In general**

Fees may be charged for providing insurance, reinsurance, financing, and other services under this subpart in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, financing, or other services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, financing, or services and for similar guaranties issued under predecessor guaranty authority may be reduced.

**(2) Credit transaction costs**

Project-specific transaction costs incurred by the Corporation relating to loan obligations or loan guaranty commitments covered by the provisions of the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.], including the costs of project-related travel and expenses for legal representation provided by persons outside the Corporation and other similar expenses which are charged to the borrower, shall be paid out of the appropriate finance account established pursuant to section 505(b) of such Act [2 U.S.C. 661d(b)].

**(3) Noncredit transaction costs**

Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 2194 of this title (other than those covered in paragraph (2)), including financing, insurance, reinsurance, missions, seminars, conferences, and other preinvestment services, shall be available for obligation for the purposes for which they were collected, notwithstanding any other provision of law.

**(e) Maximum term of obligation**

No insurance, guaranty, or reinsurance of any equity investment shall extend beyond twenty years from the date of issuance.

**(f) Limitations on amounts**

Compensation for insurance, reinsurance, or guaranties issued under this subpart 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, (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, and (3) compensation for loss due to business

interruption may be computed on a basis to be determined by the Corporation which reflects amounts lost. Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued by it under section 2194 or 2194b of this title so that risk of loss as to at least 10 per centum of the total investment of the insured and its affiliates in the project is borne by the insured and such affiliates, except that such limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties.

**(g) Fraud or misrepresentation**

No payment may be made under any guaranty, insurance, or reinsurance issued pursuant to this subpart for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

**(h) Limits of obligation**

Insurance, guaranties, or reinsurance of a loan or equity investment of an eligible investor in a foreign bank, finance company, or other credit institution shall extend only to such loan or equity investment and not to any individual loan or equity investment made by such foreign bank, finance company, or other credit institution.

**(i) Claims settlement**

Claims arising as a result of insurance, reinsurance, or guaranty operations under this subpart or under predecessor guaranty authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

**(j) Presumption of compliance**

Each guaranty contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this chapter.

**(k) Balance of payments**

In making a determination to issue insurance, guaranties, or reinsurance under this subpart, the Corporation shall consider the possible adverse effect of the dollar investment under such insurance, guaranty, or reinsurance upon the balance of payments of the United States.

**(l) Convictions under Foreign Corrupt Practices Act of 1977; prohibition on payments for losses resulting from unlawful activities; suspension from eligibility of receipt of financial support**

(1) No payment may be made under any insurance or reinsurance which is issued under this subpart on or after April 24, 1978, for any loss occurring with respect to a project, if the preponderant cause of such loss was an act by the investor seeking payment under this subpart, by a person possessing majority ownership and control of the investor at the time of the act, or by any agent of such investor or controlling person, and a court of the United States has entered a

final judgment that such act constituted a violation under the Foreign Corrupt Practices Act of 1977.

(2) Not later than 120 days after April 24, 1978, the Corporation shall adopt regulations setting forth appropriate conditions under which any person convicted under the Foreign Corrupt Practices Act of 1977 for an offense related to a project insured or otherwise supported by the Corporation shall be suspended, for a period of not more than five years, from eligibility to receive any insurance, reinsurance, guaranty, loan, or other financial support authorized by this subpart.

**(m) Notification of countries of environmental restrictions on certain activities**

(1) Before finally providing insurance, reinsurance, guarantees, or financing under this subpart for any environmentally sensitive investment in connection with a project in a country, the Corporation shall notify appropriate government officials of that country of—

(A) all guidelines and other standards adopted by the International Bank for Reconstruction and Development and any other international organization relating to the public health or safety or the environment which are applicable to the project; and

(B) to the maximum extent practicable, any restriction under any law of the United States relating to public health or safety or the environment that would apply to the project if the project were undertaken in the United States.

The notification under the preceding sentence shall include a summary of the guidelines, standards, and restrictions referred to in subparagraphs (A) and (B), and may include any environmental impact statement, assessment, review, or study prepared with respect to the investment pursuant to section 2199(g) of this title.

(2) Before finally providing insurance, reinsurance, guarantees, or financing for any investment subject to paragraph (1), the Corporation shall take into account any comments it receives on the project involved.

(3) On or before September 30, 1986, the Corporation shall notify appropriate government officials of a country of the guidelines, standards, and legal restrictions described in paragraph (1) that apply to any project in that country—

(A) which the Corporation identifies as potentially posing major hazards to public health and safety or the environment; and

(B) for which the Corporation provided insurance, reinsurance, guarantees, or financing under this subpart before December 23, 1985, and which is in the Corporation's portfolio on that date.

**(n) Penalties for fraud**

Whoever knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the action of the Corporation with respect to any insurance, reinsurance, guarantee, loan, equity investment, or other activity of the Corporation under section 2194 of this title or any change or extension of any such insurance, reinsurance, guarantee, loan, equity

investment, or activity, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

**(o) Use of local currencies**

Direct loans or investments made in order to preserve the value of funds received in inconvertible foreign currency by the Corporation as a result of activities conducted pursuant to section 2194(a) of this title shall not be considered in determining whether the Corporation has made or has outstanding loans or investments to the extent of any limitation on obligations and equity investment imposed by or pursuant to this subpart. The provisions of section 504(b) of the Federal Credit Reform Act of 1990 [2 U.S.C. 661c(b)] shall not apply to direct loan obligations made with funds described in this subsection.

(Pub. L. 87-195, pt. I, §237, as added Pub. L. 91-175, pt. I, §105, Dec. 30, 1969, 83 Stat. 814; amended Pub. L. 93-390, §2(4), Aug. 27, 1974, 88 Stat. 767; Pub. L. 95-268, §§5, 6, Apr. 24, 1978, 92 Stat. 215; Pub. L. 97-65, §6, Oct. 16, 1981, 95 Stat. 1023; Pub. L. 99-204, §§4(b), 6(b), 9(b)(2), Dec. 23, 1985, 99 Stat. 1670, 1671, 1673; Pub. L. 100-461, title V, §555, Oct. 1, 1988, 102 Stat. 2268-36; Pub. L. 102-549, title I, §105, Oct. 28, 1992, 106 Stat. 3652.)

REFERENCES IN TEXT

Sections 1872(b) and 1933(b) of this title, referred to in subsec. (c), were repealed by Pub. L. 87-195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460. Section 642(b) of Pub. L. 87-195 provided that references to provisions of law repealed by subsec. (a) were to be deemed references to the appropriate provisions of Pub. L. 87-195. See sections 2163 and 2351 of this title.

The Foreign Assistance Act of 1969, referred to in subsec. (c), is Pub. L. 91-175, Dec. 30, 1969, 83 Stat. 805, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables. The guaranty authorities repealed by the 1969 Act were the guaranty authorities contained in sections 2181 to 2184 prior to the general reorganization of subpart III by the 1969 Act.

The Federal Credit Reform Act of 1990, referred to in subsec. (d)(2), is title V of Pub. L. 93-344, as added by Pub. L. 101-508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388-609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

This chapter, referred to in subsec. (j), was in the original "this Act", meaning Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Foreign Corrupt Practices Act of 1977, referred to in subsec. (l), is title I of Pub. L. 95-213, Dec. 19, 1977, 91 Stat. 1494, as amended, which enacted sections 78dd-1 to 78dd-3 of Title 15, Commerce and Trade, and amended sections 78m and 78ff of Title 15. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 78a of Title 15 and Tables.

CODIFICATION

Amendment by Pub. L. 100-461 is based on section 110(c) of title I of H.R. 5263, One Hundredth Congress, as passed by the House of Representatives on Sept. 20, 1988, and section 110(c) of title I of S. 2757, One Hun-



dredth Congress, as reported Sept. 7, 1988, and enacted into law by Pub. L. 100-461.

#### AMENDMENTS

1992—Subsec. (d). Pub. L. 102-549, §105(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “Fees shall be charged for insurance, guaranty, and reinsurance coverage in amounts to be determined by the Corporation. In the event fees charged for investment insurance, guaranties, or reinsurance are reduced, fees to be paid under existing contracts for the same type of insurance, guaranties, or reinsurance and for similar guaranties issued under predecessor guaranty authority may be reduced.”

Subsecs. (n), (o). Pub. L. 102-549, §105(b), (c), added subsecs. (n) and (o).

1988—Pub. L. 100-461 inserted reference to financing in section catchline.

1985—Subsec. (f). Pub. L. 99-204, §6(b), added cl. (3).

Pub. L. 99-204, §9(b)(2), inserted “or 2194b” after “section 2194”.

Subsec. (m). Pub. L. 99-204, §4(b), added subsec. (m).

1981—Subsec. (f). Pub. L. 97-65 substituted “Compensation for insurance, reinsurance, or guaranties issued under this subpart 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” for “No insurance, reinsurance, or guaranty issued under this subpart shall 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 said investment to the extent provided by such insurance, reinsurance, or guaranty, except that the Corporation may provide for appropriate adjustments in the insured dollar value to reflect the replacement cost of project assets”, and struck out provision that the preceding sentence not apply to the extent not permitted by State law.

1978—Subsec. (f). Pub. L. 95-268, §5, inserted provisions excepting from dollar amounts adjustments in the insured dollar amounts to reflect replacement cost of project assets, and provisions excepting from limitations loans by banks or other financial institutions to unrelated parties.

Subsec. (l). Pub. L. 95-268, §6, added subsec. (l).

1974—Subsecs. (a) to (c). Pub. L. 93-390, §2(4)(A)-(C), inserted references to reinsurance wherever appearing.

Subsec. (d). Pub. L. 93-390, §2(4)(D), inserted provisions authorizing fees to be charged for reinsurance and reduction of reinsurance fees under existing contracts in the event fees charged for reinsurance are reduced.

Subsec. (e). Pub. L. 93-390, §2(4)(E), inserted reference to reinsurance.

Subsec. (f). Pub. L. 93-390, §2(4)(F), (G), inserted “reinsurance” before “or guaranty” wherever appearing and provisions relating to limitations on the amount of direct insurance or reinsurance.

Subsec. (g). Pub. L. 93-390, §2(4)(H), inserted applicability to insurance and reinsurance.

Subsecs. (h) to (k). Pub. L. 93-390, §2(4)(I)-(K), inserted reference to reinsurance wherever appearing.

#### DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

#### § 2198. Definitions

As used in this subpart—

(a) the term “investment” includes any contribution or commitment of funds, commodities, services, patents, processes, or techniques, in the form of (1) a loan or loans to an approved project, (2) the purchase of a share of ownership in any such project, (3) participation in royalties, earnings, or profits of any such project, and (4) the furnishing of commodities or services pursuant to a lease or other contract;

(b) the term “expropriation” includes, but is not limited to, any abrogation, repudiation, or impairment by a foreign government, a political subdivision of a foreign government, or a corporation owned or controlled by a foreign government, of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor’s own fault or misconduct, and materially adversely affects the continued operation of the project;

(c) the term “eligible investor” means: (1) United States citizens; (2) corporations, partnerships, or other associations including nonprofit associations, created under the laws of the United States, any State or territory thereof, or the District of Columbia, and substantially beneficially owned by United States citizens; and (3) foreign corporations, partnerships, or other associations wholly owned by one or more such United States citizens, corporations, partnerships, or other associations: *Provided, however*, That the eligibility of such foreign corporation shall be determined without regard to any shares, in aggregate less than 5 per centum of the total of issued and subscribed share capital, held by other than the United States owners: *Provided further*, That in the case of any loan investment a final determination of eligibility may be made at the time the insurance or guaranty is issued; in all other cases, the investor must be eligible at the time a claim arises as well as at the time the insurance or guaranty is issued;

(d) the term “noncredit account revolving fund” means the account in which funds under section 2196 of this title and all funds from noncredit activities are held;

(e) the term “noncredit activities” means all activities of the Corporation other than its loan guarantee program under section 2194(b) of this title and its direct loan program under section 2194(c) of this title;

(f) the term “predecessor guaranty authority” means prior guaranty authorities (other than housing guaranty authorities) repealed by the Foreign Assistance Act of 1969, and sections 1509(b)(3), 1872(b), and 1933(b)<sup>1</sup> of this title (exclusive of authority relating to informational media guaranties); and

(g) the term “local financial institution”—

(1) means any bank or financial institution that is organized under the laws of any country or area in which the Corporation operates; but

(2) does not include a branch, however organized, of a bank or other financial institution that is organized under the laws of a country in which the Corporation does not operate.

<sup>1</sup> See References in Text note below.

(Pub. L. 87-195, pt. I, §238, as added Pub. L. 91-175, pt. I, §105, Dec. 30, 1969, 83 Stat. 815; amended Pub. L. 92-226, pt. I, §104(a), Feb. 7, 1972, 86 Stat. 22; Pub. L. 97-65, §7, Oct. 16, 1981, 95 Stat. 1024; Pub. L. 99-204, §17(a), Dec. 23, 1985, 99 Stat. 1676; Pub. L. 102-549, title I, §106, Oct. 28, 1992, 106 Stat. 3653; Pub. L. 108-158, §§4(b), 5(b), Dec. 3, 2003, 117 Stat. 1950.)

#### REFERENCES IN TEXT

The Foreign Assistance Act of 1969, referred to in subsec. (f), is Pub. L. 91-175, Dec. 30, 1969, 83 Stat. 805, as amended. For complete classification of this Act to the Code, see Short Title of 1969 Amendment note set out under section 2151 of this title and Tables. The guaranty authorities repealed by the 1969 Act were the guaranty authorities contained in sections 2181 to 2184 prior to the general reorganization of subpart III by the 1969 Act.

Section 1509(b)(3) of this title, referred to in subsec. (f), was repealed by act Aug. 26, 1954, ch. 937, title V, §542(a)(4), 68 Stat. 861.

Sections 1872(b) and 1933(b) of this title, referred to in subsec. (f), were repealed by Pub. L. 87-195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460. Section 642(b) of Pub. L. 87-195 provided that references to provisions of law repealed by subsec. (a) were to be deemed references to the appropriate provisions of Pub. L. 87-195. See sections 2163 and 2351 of this title.

#### AMENDMENTS

2003—Subsec. (b). Pub. L. 108-158, §4(b), inserted “, a political subdivision of a foreign government, or a corporation owned or controlled by a foreign government,” after “government”.

Subsec. (d). Pub. L. 108-158, §5(b)(1), struck out “and” after semicolon at end.

Subsec. (g). Pub. L. 108-158, §5(b)(2), (3), added subsec. (g).

1992—Subsecs. (c) to (f). Pub. L. 102-549 struck out “and” at end of subsec. (c), added subsecs. (d) and (e), and redesignated former subsec. (d) as (f).

1985—Subsec. (c)(2). Pub. L. 99-204 inserted reference to the District of Columbia.

1981—Subsec. (a). Pub. L. 97-65 substituted “contribution or commitment of funds” for “contribution of funds”.

1972—Subsec. (c). Pub. L. 92-226 struck out “required by law to be” after “share capital,” in first proviso.

### § 2199. General provisions and powers

#### (a) Place of residence

The Corporation shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof.

#### (b) Transfer of prior obligations, etc.; administration prior to transfer

The President shall transfer to the Corporation, at such time as he may determine, all obligations, assets and related rights and responsibilities arising out of, or related to, predecessor programs and authorities similar to those provided for in section 2194(a), (b), and (d) of this title. Until such transfer, the agency heretofore responsible for such predecessor programs shall continue to administer such assets and obligations, and such programs and activities authorized under this subpart as may be determined by the President.

#### (c) Audits of the Corporation

(1) The Corporation shall be subject to the applicable provisions of chapter 91 of title 31, except as otherwise provided in this subpart.

(2) An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Corporation at least once every three years, in accordance with generally accepted Government auditing standards for a financial and compliance audit, as issued by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Board. The financial statements of the Corporation shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 9106 of title 31, and which the Corporation shall submit to the Congress not later than six and one-half months after the end of the last fiscal year covered by the audit. The Government Accountability Office may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Government Accountability Office considers necessary.

(3) In lieu of the financial and compliance audit required by paragraph (2), the Government Accountability Office shall, if the Office considers it necessary or upon the request of the Congress, audit the financial statements of the Corporation in the manner provided in paragraph (2). The Corporation shall reimburse the Government Accountability Office for the full cost of any audit conducted under this paragraph.

(4) All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Corporation and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the Government Accountability Office.

#### (d) Powers of Corporation

To carry out the purposes of this subpart, the Corporation is authorized to adopt and use a corporate seal, which shall be judicially noticed; to sue and be sued in its corporate name; to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law; to acquire, hold or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein; to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it shall deem appropriate; to indemnify directors, officers, employees and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities; notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings; to enter into limited-term contracts with nationals of the United States for personal services to carry out activities in the United States and abroad under subsections (d) and (e) of section 2194 of this title; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guar-

anty, and guarantee notes, participation certificates, and other evidence of indebtedness (provided that the Corporation shall not issue its own securities, except participation certificates for the purpose of carrying out section 2191(c) or participation certificates as evidence of indebtedness held by the Corporation in connection with settlement of claims under section 2197(i) of this title); to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business; to exercise any priority of the Government of the United States in collecting debts from bankrupt, insolvent, or decedents' estates; to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations; to collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation; and to take such actions as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon it.

**(e) Reviews, investigations, and inspections by Inspector General of Agency for International Development**

The Inspector General of the Agency for International Development (1) may conduct reviews, investigations, and inspections of all phases of the Corporation's operations and activities and (2) shall conduct all security activities of the Corporation relating to personnel and the control of classified material. With respect to his responsibilities under this subsection, the Inspector General shall report to the Board. The agency primarily responsible for administering subchapter I of this chapter shall be reimbursed by the Corporation for all expenses incurred by the Inspector General in connection with his responsibilities under this subsection.

**(f) Programs for Yugoslavia, Poland, Hungary, Romania, the People's Republic of China, or Pakistan; national interest**

Except for the provisions of this subpart, no other provision of this chapter or any other law shall be construed to prohibit the operation in Yugoslavia, Poland, Hungary, or any other East European country, or the People's Republic of China, or Pakistan of the programs authorized by this subpart, if the President determines that the operation of such program in such country is important to the national interest.

**(g) Environmental impact assessments**

The requirements of section 2151p(c) of this title relating to environmental impact statements and environmental assessments shall apply to any investment which the Corporation insures, reinsures, guarantees, or finances under this subpart in connection with a project in a country.

**(h) Preparation, maintenance, and contents of development impact profile for investment projects; development of criteria for evaluating projects**

In order to carry out the policy set forth in paragraph (1) of the second undesignated para-

graph of section 2191 of this title, the Corporation shall prepare and maintain for each investment project it insures, finances, or reinsures, a development impact profile consisting of data appropriate to measure the projected and actual effects of such project on development. Criteria for evaluating projects shall be developed in consultation with the Agency for International Development.

**(i) Observance of and respect for human rights and fundamental freedoms as considerations for conduct of assistance programs, etc.; provisions applicable for determinations; exceptions**

The Corporation shall take into account in the conduct of its programs in a country, in consultation with the Secretary of State, all available information about observance of and respect for human rights and fundamental freedoms in such country and the effect the operation of such programs will have on human rights and fundamental freedoms in such country. The provisions of section 2151n of this title shall apply to any insurance, reinsurance, guaranty, or loan issued by the Corporation for projects in a country, except that in addition to the exception (with respect to benefiting needy people) set forth in subsection (a) of such section, the Corporation may support a project if the national security interest so requires.

**(j) Exemption from taxation**

The Corporation, including its franchise, capital, reserves, surplus, advances, intangible property, and income, shall be exempt from all taxation at any time imposed by the United States, by any territory, dependency, or possession of the United States, or by any State, the District of Columbia, or any county, municipality, or local taxing authority.

**(k) Publication of policy guidelines**

The Corporation shall publish, and make available to applicants for insurance, reinsurance, guarantees, financing, or other assistance made available by the Corporation under this subpart, the policy guidelines of the Corporation relating to its programs.

(Pub. L. 87-195, pt. I, §239, as added Pub. L. 91-175, pt. I, §105, Dec. 30, 1969, 83 Stat. 816; amended Pub. L. 92-226, pt. I, §104(b), Feb. 7, 1972, 86 Stat. 22; Pub. L. 92-310, title II, §227(d), June 6, 1972, 86 Stat. 207; Pub. L. 93-390, §2(5), Aug. 27, 1974, 88 Stat. 768; Pub. L. 95-268, §§7, 8, Apr. 24, 1978, 92 Stat. 215, 216; Pub. L. 95-598, title III, §318, Nov. 6, 1978, 92 Stat. 2678; Pub. L. 96-327, Aug. 8, 1980, 94 Stat. 1026; Pub. L. 97-65, §8, Oct. 16, 1981, 95 Stat. 1024; Pub. L. 97-113, title VII, §705(b)(2), Dec. 29, 1981, 95 Stat. 1545; Pub. L. 99-204, §§4(c), 11-13, Dec. 23, 1985, 99 Stat. 1670, 1673, 1674; Pub. L. 100-461, title V, §555, Oct. 1, 1988, 102 Stat. 2268-36; Pub. L. 101-167, title V, §597(a), Nov. 21, 1989, 103 Stat. 1257; Pub. L. 101-179, title III, §302(a), Nov. 28, 1989, 103 Stat. 1311; Pub. L. 101-513, title V, §576(a), Nov. 5, 1990, 104 Stat. 2044; Pub. L. 102-549, title I, §107, Oct. 28, 1992, 106 Stat. 3654; Pub. L. 105-118, title V, §579(a), Nov. 26, 1997, 111 Stat. 2435; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE  
CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§ 2346 et seq.), VI (§ 2348 et seq.), and VIII (§ 2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92-226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa-5 of this title.

CODIFICATION

Amendment by Pub. L. 100-461 is based on sections 108 and 110(a)(2) of title I of H.R. 5263, One Hundredth Congress, as passed by the House of Representatives on Sept. 20, 1988, and sections 108 and 110(a)(2) of title I of S. 2757, One Hundredth Congress, as reported Sept. 7, 1988, and enacted into law by Pub. L. 100-461.

AMENDMENTS

2004—Subsec. (c)(2) to (4). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” wherever appearing.

1997—Subsec. (f). Pub. L. 105-118 inserted “, or Pakistan” after “China”.

1992—Subsec. (d). Pub. L. 102-549, after “legal and arbitral proceedings;”, inserted “to enter into limited-term contracts with nationals of the United States for personal services to carry out activities in the United States and abroad under subsections (d) and (e) of section 2194 of this title;”.

1990—Subsec. (f). Pub. L. 101-513 inserted “or any other East European country,” after “Hungary.”.

1989—Subsec. (f). Pub. L. 101-179 inserted “, Poland, Hungary,” after “Yugoslavia”.

Pub. L. 101-167, which directed amendment of subsec. (f) by inserting “Poland, Hungary,” after “Yugoslavia,” did not take effect due to similar amendment by section 302(a) of Pub. L. 101-179. See amendment note above and section 302(c) of Pub. L. 101-179, set out below.

1988—Subsec. (f). Pub. L. 100-461, which directed that “, Romania,” be struck out, was executed by striking out “, Romania” after “Yugoslavia”, as the probable intent of Congress, because no comma followed “Romania” in original.

Subsec. (g). Pub. L. 100-461 made technical amendment to reference to section 2151p(c) of this title to reflect renumbering of corresponding section of original act.

1985—Subsec. (c). Pub. L. 99-204, § 11, amended subsec. (c) generally, designating existing provisions as par. (1), substituting “chapter 91 of title 31” for “the Government Corporation Control Act”, and adding pars. (2) to (4).

Subsec. (g). Pub. L. 99-204, § 4(c), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: “Within six months after August 27, 1974, the Corporation shall develop and implement specific criteria intended to minimize the potential environmental implications of projects undertaken by investors abroad in accordance with any of the programs authorized by this subpart.”

Subsecs. (j), (k). Pub. L. 99-204, §§ 12, 13, added subsecs. (j) and (k).

1981—Subsec. (d). Pub. L. 97-65, § 8(1), inserted provision authorizing the Corporation to collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation.

Subsec. (e). Pub. L. 97-65, § 8(2)(A), and Pub. L. 97-113, § 705(b)(2), made identical amendments by substituting references to Inspector General for references to Auditor-General wherever appearing.

Pub. L. 97-65, § 8(2)(B), substituted language referring to Inspector General’s authority to reviews, investigate, and conduct inspections of all phases of the Corporation’s operations and activities for provisions which had formerly placed upon that official the responsibility for planning and directing the execution of

audits, reviews, investigations, and inspections of all phases of the Corporation’s operations and activities.

Subsecs. (f) to (l). Pub. L. 97-65, § 8(3), redesignated subsecs. (g), (h), (i), and (l) as (f), (g), (h), and (i), respectively. Former subsecs. (f) providing for the establishment of an Advisory Council, (j) providing limits for projects involving the exploration for or the mining of or other extraction of copper, and (k) prohibiting the granting of insurance, reinsurance, guaranty, financing, or other financial support for projects to establish or expand production or processing of palm oil, sugar, or citrus crops for export, were struck out.

1980—Subsec. (g). Pub. L. 96-327 substituted “Yugoslavia, Romania or the People’s Republic of China” for “Yugoslavia or Romania”.

1978—Subsec. (b). Pub. L. 95-268, § 7(1), struck out provisions relating to the cessation on Dec. 31, 1979, of programs operated by the Corporation under sections 2194(b) to (e) and 2200 of this title and transfer by the President of such programs and all obligations, etc., arising out of such programs to other agencies of the United States.

Subsec. (d). Pub. L. 95-598 substituted “any priority” for “the priority”.

Pub. L. 95-268, § 7(2), inserted provision relating to participation certificates as evidence of indebtedness held by Corporation for settlement of claims under section 2197(i) of this title.

Subsecs. (i) to (k). Pub. L. 95-268, § 7(3), added subsecs. (i) to (k).

Subsec. (l). Pub. L. 95-268, § 8, added subsec. (l).

1974—Subsec. (b). Pub. L. 93-390, § 2(5)(A), inserted provisions relating to the cessation on Dec. 31, 1979, of programs operated by the Corporation under sections 2194(b) to (e) and 2200 of this title and transfer by the President of such programs and all obligations, etc., arising out of such programs to other agencies of the United States.

Subsec. (h). Pub. L. 93-390, § 2(5)(B), added subsec. (h).

1972—Subsec. (d). Pub. L. 92-310 struck out provisions which authorized the Corporation to require bonds of officers and employees and to pay premiums therefor.

Subsec. (g). Pub. L. 92-226 added subsec. (g).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

ENHANCEMENT OF NONGOVERNMENTAL SECTOR IN  
POLAND AND HUNGARY

Pub. L. 101-179, title III, § 302(b), Nov. 28, 1989, 103 Stat. 1311, provided that: “In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland and Hungary which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.”

## AVOIDANCE OF DUPLICATIVE AMENDMENTS

Pub. L. 101-179, title III, §302(c), Nov. 28, 1989, 103 Stat. 1311, provided that: "If the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 [Pub. L. 101-167], contains the same amendment that is made by subsection (a) of this section [see 1989 Amendment note set out above], the amendment made by that Act shall not be effective."

**§ 2200. Small business development in less developed friendly countries or areas; encouragement by other Federal departments, etc., of broadened participation by United States small business cooperatives and investors; project funding**

**(a) In general**

The Corporation shall undertake, in cooperation with appropriate departments, agencies, and instrumentalities of the United States as well as private entities and others, to broaden the participation of United States small business, cooperatives, and other small United States investors in the development of small private enterprise in less developed friendly countries or areas. The Corporation shall allocate up to 50 per cent of its annual net income, after making suitable provision for transfers and additions to reserves, to assist and facilitate the development of projects consistent with the provisions of this section. Such funds may be expended, notwithstanding the requirements of section 2191(a) of this title, on such terms and conditions as the Corporation may determine, through loans, grants, or other programs authorized by section 2194 of this title and section 2194b of this title.

**(b) Outreach to minority-owned and women-owned businesses**

The Corporation shall collect data on the involvement of minority- and women-owned businesses in projects supported by the Corporation, including—

- (1) the amount of insurance and financing provided by the Corporation to such businesses in connection with projects supported by the Corporation; and
- (2) to the extent such information is available, the involvement of such businesses in procurement activities conducted or supported by the Corporation.

The Corporation shall include, in its annual report submitted to the Congress under section 2200a of this title, the aggregate data collected under this paragraph, in such form as to quantify the effectiveness of the Corporation's outreach activities to minority- and women-owned businesses.

(Pub. L. 87-195, pt. I, §240, as added Pub. L. 95-268, §9, Apr. 24, 1978, 92 Stat. 216; amended Pub. L. 99-204, §9(b)(3), Dec. 23, 1985, 99 Stat. 1673; Pub. L. 108-158, §6(a), Dec. 3, 2003, 117 Stat. 1950.)

## PRIOR PROVISIONS

A prior section 2200, Pub. L. 87-195, pt. I, §240, as added Pub. L. 91-175, pt. I, §105, Dec. 30, 1969, 83 Stat. 817; amended Pub. L. 92-226, pt. I, §104(c), Feb. 7, 1972, 86 Stat. 22; Pub. L. 93-189, §6(2), Dec. 17, 1973, 87 Stat. 717; Pub. L. 93-390, §2(6), Aug. 27, 1974, 88 Stat. 768, provided for agricultural credit and self-help community

development projects in Latin America, prior to repeal by Pub. L. 93-559, §8(b), Dec. 30, 1974, 88 Stat. 1797. See section 2182a of this title.

## AMENDMENTS

2003—Pub. L. 108-158 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1985—Pub. L. 99-204 inserted reference to section 2194b of this title.

**§ 2200a. Report to Congress**

**(a) Annual report**

After the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year. Such report shall include—

- (1) an assessment, based upon the development impact profiles required by section 2199(h) of this title, of the economic and social development impact and benefits of the projects with respect to which such profiles are prepared, and of the extent to which the operations of the Corporation complement or are compatible with the development assistance programs of the United States and other donors; and
- (2) a description of any project for which the Corporation—

(A) refused to provide any insurance, reinsurance, guaranty, financing, or other financial support, on account of violations of human rights referred to in section 2199(i) of this title; or

(B) notwithstanding such violations, provided such insurance, reinsurance, guaranty, financing, or financial support, on the basis of a determination (i) that the project will directly benefit the needy people in the country in which the project is located, or (ii) that the national security interest so requires.

**(b) Effect of all projects on employment in United States to be included in annual report**

(1) Each annual report required by subsection (a) shall contain projections of the effects on employment in the United States of all projects for which, during the preceding fiscal year, the Corporation initially issued any insurance, reinsurance, or guaranty or made any direct loan. Each such report shall include projections of—

(A) the amount of United States exports to be generated by those projects, both during the start-up phase and over a period of years;

(B) the final destination of the products to be produced as a result of those projects; and

(C) the impact such production will have on the production of similar products in the United States with regard to both domestic sales and exports.

(2) The projections required by this subsection shall be based on an analysis of each of the projects described in paragraph (1).

(3) In reporting the projections on employment required by this subsection, the Corporation shall specify, with respect to each project—

(A) any loss of jobs in the United States caused by the project, whether or not the project itself creates other jobs;

(B) any jobs created by the project; and

(C) the country in which the project is located, and the economic sector involved in the project.

No proprietary information may be disclosed under this paragraph.

**(c) Repealed. Pub. L. 100-461, title V, § 555, Oct. 1, 1988, 102 Stat. 2268-36**

**(d) Maintenance of records**

The Corporation shall maintain as part of its records—

(1) all information collected in preparing the report required by subsection (c) (as in effect before October 1, 1988), whether the information was collected by the Corporation itself or by a contractor; and

(2) a copy of the analysis of each project analyzed in preparing the reports required either by subsection (b), or by subsection (c) (as in effect before October 1, 1988).

**(e) Assessment of cooperative political risk insurance program**

Each annual report required by subsection (a) shall include an assessment of programs implemented by the Corporation under section 2194b(a) of this title, including the following information, to the extent such information is available to the Corporation:

(1) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was not permitted to provide under this subpart.

(2) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was permitted to provide under this subpart.

(3) The manner in which such private insurers and the Corporation cooperated in recovery efforts and claims management.

**(f) Information not required to be made available to public excluded from reports**

Subsections (b) and (e) do not require the inclusion in any report submitted pursuant to those subsections of any information which would not be required to be made available to the public pursuant to section 552 of title 5 (relating to freedom of information).

(Pub. L. 87-195, pt. I, §240A, as added Pub. L. 91-175, pt. I, §105, Dec. 30, 1969, 83 Stat. 818; amended Pub. L. 93-390, §2(7), Aug. 27, 1974, 88 Stat. 768; Pub. L. 95-268, §10, Apr. 24, 1978, 92 Stat. 216; Pub. L. 97-65, §9, formerly §9(a), Oct. 16, 1981, 95 Stat. 1024, renumbered §9, Pub. L. 99-204, §17(c)(1), Dec. 23, 1985, 99 Stat. 1677; Pub. L. 99-204, §14(a), Dec. 23, 1985, 99 Stat. 1674; Pub. L. 100-461, title V, §555, Oct. 1, 1988, 102 Stat. 2268-36; Pub. L. 102-549, title I, §108, Oct. 28, 1992, 106 Stat. 3654.)

**CODIFICATION**

Amendment by Pub. L. 100-461 is based on sections 105(b) and 110(b) of title I of H.R. 5263, One Hundredth Congress, as passed by the House of Representatives on Sept. 20, 1988, and sections 105(b) and 110(b) of title I of S. 2757, One Hundredth Congress, as reported Sept. 7, 1988, and enacted into law by Pub. L. 100-461.

**AMENDMENTS**

1992—Subsec. (b)(2), (3). Pub. L. 102-549 added pars. (2) and (3) and struck out former par. (2) which read as follows: “Each report required by this subsection shall be

based on an analysis of each of the projects described in paragraph (1). The reports may, however, present information and analysis in aggregate form, but only if—

“(A) those projects which are projected to have a positive effect on employment in the United States and those projects which are projected to have a negative effect on employment in the United States are grouped separately; and

“(B) there is set forth for each such grouping the key characteristics of the projects within that grouping, including the number of projects in each economic sector, the countries in which the projects in each economic sector are located, and the projected level of the impact of the projects in each economic sector on employment in the United States and on United States trade.”

1988—Subsec. (c). Pub. L. 100-461 repealed subsec. (c) which related to actual effect of all projects on employment in United States as of Sept. 30, 1986, presentation of information, and methodology used in acquiring information and making analysis.

Subsec. (d)(1). Pub. L. 100-461 inserted “(as in effect before October 1, 1988)” after “subsection (c)”.

Subsec. (d)(2). Pub. L. 100-461 substituted “either by subsection (b), or by subsection (c) (as in effect before October 1, 1988)” for “by either subsection (b) or (c)”.

Subsec. (e). Pub. L. 100-461 added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 100-461 redesignated subsec. (e) as (f) and substituted “(e)” for “(c)”.

1985—Pub. L. 99-204, §14(a), designated existing provisions as subsec. (a) and added subsecs. (b) to (e).

1981—Pub. L. 97-65 struck out designation “(a)” before “After the end of each fiscal year”, substituted references to section 2199(h) and (i) of this title for references to section 2199(i) and (l) of this title, respectively, in pars. (1) and (2)(A), and struck out subsec. (b) which had provided that, not later than Sept. 30, 1980, the Corporation was to submit to the Congress a report on the development of private and multilateral programs for investment insurance and any reinsurance arrangements the Corporation had made with private insurance companies, multilateral organizations and institutions or other entities.

1978—Subsec. (a). Pub. L. 95-268 added cls. (1) and (2) setting forth required contents of report.

Subsec. (b). Pub. L. 95-268 substituted provisions relating to report to be submitted not later than Sept. 30, 1980 involving the development and any arrangements by the Corporation with private insurance companies, etc., for provisions relating to report submitted not later than Jan. 1, 1976 involving the possibilities of the Corporation transferring all of its activities to private insurance companies, etc.

1974—Subsec. (b). Pub. L. 93-390 substituted “January 1, 1976” for “March 1, 1974” and “of its activities to private insurance companies, multilateral organizations and institutions, or other entities” for “or part of its activities to private United States citizens, corporations, or other associations”.

REPORT TO CONGRESS NOT LATER THAN JUNE 30, 1982, ON METHODS FOR ESTIMATING THE IMPACT ON INVESTMENTS IF INSURANCE OR OTHER SUPPORT IS NOT PROVIDED

Pub. L. 97-65, §9(b), Oct. 16, 1981, 95 Stat. 1024, which provided for a report to Congress by the Overseas Private Investment Corporation on the effect on investments of lack of insurance, was repealed by Pub. L. 99-204, §17(c)(2), Dec. 23, 1985, 99 Stat. 1677.

**§ 2200b. Prohibition on noncompetitive awarding of insurance contracts on OPIC supported exports**

**(a) Requirement for certification**

**(1) In general**

Except as provided in paragraph (3), the investor on whose behalf insurance, reinsurance,

guaranties, or other financing is provided under this subpart with respect to a project shall be required to certify to the Corporation that any contract for the export of goods as part of that project will include a clause requiring that United States insurance companies have a fair and open competitive opportunity to provide insurance against risk of loss of such export.

**(2) When certification must be made**

The investor shall be required, in every practicable case, to so certify before the insurance, reinsurance, guarantee, or other financing is provided. In any case in which such a certification is not made in advance, the investor shall include in the certification the reasons for the failure to make a certification in advance.

**(3) Exception**

Paragraph (1) does not apply with respect to an investor who does not, because of the nature of the investment, have a controlling interest in fact in the project in question.

**(b) Reports by United States Trade Representative**

The United States Trade Representative shall review the actions of the Corporation under subsection (a) and, after consultation with representatives of United States insurance companies, shall report to the Congress in the report required by section 2241(b) of title 19 with respect to such actions.

**(c) Definitions**

For purposes of this section—

(1) the term “United States insurance company” includes—

(A) an individual, partnership, corporation, holding company, or other legal entity which is authorized, or in the case of a holding company, subsidiaries of which are authorized, by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

(B) foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in subparagraph (A);

(2) United States insurance companies shall be considered to have had a “fair and open competitive opportunity to provide insurance” if they—

(A) have received notice of the opportunity to provide insurance; and

(B) have been evaluated on a nondiscriminatory basis; and

(3) the term “State” includes the District of Columbia and any commonwealth, territory, or possession of the United States.

(Pub. L. 87-195, pt. I, §240B, as added Pub. L. 102-549, title I, §109, Oct. 28, 1992, 106 Stat. 3654.)

PRIOR PROVISIONS

A prior section 2200b, Pub. L. 87-195, pt. I, §240B, as added Pub. L. 97-65, §10, Oct. 16, 1981, 95 Stat. 1024, related to return of appropriated funds, prior to repeal by Pub. L. 99-204, §15, Dec. 23, 1985, 99 Stat. 1676.

SUBPART V—DISADVANTAGED CHILDREN IN ASIA

**§ 2201. Assistance to disadvantaged children in Asia**

**(a) Congressional findings**

The Congress recognizes the humanitarian needs of disadvantaged children in Asian countries where there has been or continues to be a heavy presence of United States military and related personnel in recent years. Moreover, the Congress finds that inadequate provision has been made for the care and welfare of such disadvantaged children, particularly those fathered by the<sup>1</sup> United States citizens.

**(b) Authority of President**

Accordingly, the President is authorized to expend up to \$3,000,000 of funds made available under part I of this subchapter, in addition to funds otherwise available for such purposes, to help meet the needs of these disadvantaged children in Asia by assisting in the expansion and improvement of orphanages, hostels, day care centers, school feeding programs, and health, education, and welfare programs. Assistance provided under this section shall be furnished under the auspices of and by international organizations or private voluntary agencies operating within, and in cooperation with, the countries of Asia where these disadvantaged children reside.

(Pub. L. 87-195, pt. I, §241, as added Pub. L. 95-424, title I, §116, Oct. 6, 1978, 92 Stat. 952; amended Pub. L. 99-83, title IX, §903(a), Aug. 8, 1985, 99 Stat. 268.)

REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of this subchapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

PRIOR PROVISIONS

A prior section 2201, Pub. L. 87-195, pt. I, §241, Sept. 4, 1961, 75 Stat. 433; Pub. L. 88-205, pt. I, §105, Dec. 16, 1963, 77 Stat. 382, related to general authority of President respecting development research and use of funds for research into problems of population growth, prior to repeal by Pub. L. 94-161, title III, §306(1), Dec. 20, 1975, 89 Stat. 858.

AMENDMENTS

1985—Subsec. (b). Pub. L. 99-83 substituted “\$3,000,000” for “\$2,000,000”.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99-83, set out as a note under section 2151-1 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 605 of Pub. L. 95-424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

<sup>1</sup> So in original.