

eign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) may be transferred to the Corporation and funds authorized to be appropriated to the Corporation may be transferred to the Department of State and the United States Agency for International Development.

(k) Definition

In this section, the term “project-specific transaction costs”—

(1) means those costs incurred by the Corporation for travel, legal expenses, and direct and indirect costs incurred in claims settlements associated with the provision of support under subchapter II of this chapter and shall not be considered administrative expenses for the purposes of this section; and

(2) does not include information technology (as such term is defined in section 11101 of title 40).

(Pub. L. 115–254, div. F, title III, §1434, Oct. 5, 2018, 132 Stat. 3501.)

Editorial Notes

REFERENCES IN TEXT

Subchapter VI of this chapter, referred to in subsec. (i), was in the original “title VI”, meaning title VI (§§1461–1470) of div. F of Pub. L. 115–254, Oct. 5, 2018, 132 Stat. 3510, which is classified principally to subchapter VI of this chapter and which repealed title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.), other than subsections (g), (l), (m), and (n) of section 237 thereof (22 U.S.C. 2197(g), (l), (m), (n)), among other amendments. For complete classification of title VI to the Code, see Tables.

This chapter, referred to in subsec. (j), was in the original “this division”, meaning division F of Pub. L. 115–254, Oct. 5, 2018, 132 Stat. 3485, which is classified principally to this chapter. For complete classification of division F to the Code, see Short Title note set out under section 9601 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (j), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Statutory Notes and Related Subsidiaries

AUTHORIZATION FOR COLLECTIONS

Pub. L. 116–94, div. G, title VI, Dec. 20, 2019, 133 Stat. 2841, provided in part: “That in this fiscal year, and each fiscal year thereafter, the Corporation shall collect the amounts described in section 1434(h) of the BUILD Act of 2018 [22 U.S.C. 9634(h)]”.

§ 9635. Coordination with other development agencies

It is the sense of Congress that the Corporation should use relevant data of the Department of State, the Millennium Challenge Corporation, the United States Agency for International Development, and other departments and agencies that have development functions to better inform the decisions of the Corporation with respect to providing support under subchapter II of this chapter.

(Pub. L. 115–254, div. F, title III, §1435, Oct. 5, 2018, 132 Stat. 3503.)

SUBCHAPTER IV—MONITORING,
EVALUATION, AND REPORTING

§ 9651. Establishment of risk and audit committees

(a) In general

To assist the Board to fulfill its duties and responsibilities under section 9621(a) of this title, the Corporation shall establish a risk committee and an audit committee.

(b) Duties and responsibilities of risk committee

Subject to the direction of the Board, the risk committee established under subsection (a) shall have oversight responsibility of—

(1) formulating risk management policies of the operations of the Corporation;

(2) reviewing and providing guidance on operation of the Corporation’s global risk management framework;

(3) developing policies for enterprise risk management, monitoring, and management of strategic, reputational, regulatory, operational, developmental, environmental, social, and financial risks;

(4) developing the risk profile of the Corporation, including a risk management and compliance framework and governance structure to support such framework; and

(5) developing policies and procedures for assessing, prior to providing, and for any period during which the Corporation provides, support to any foreign entities, whether such entities have in place sufficient enhanced due diligence policies and practices to prevent money laundering and corruption to ensure the Corporation does not provide support to persons that are—

(A) knowingly engaging in acts of corruption;

(B) knowingly providing material or financial support for terrorism, drug trafficking, or human trafficking; or

(C) responsible for ordering or otherwise directing serious or gross violations of human rights.

(c) Duties and responsibilities of audit committee

Subject to the direction of the Board, the audit committee established under subsection (a) shall have the oversight responsibility of—

(1) the integrity of the Corporation’s financial reporting and systems of internal controls regarding finance and accounting;

(2) the integrity of the Corporation’s financial statements;

(3) the performance of the Corporation’s internal audit function; and

(4) compliance with legal and regulatory requirements related to the finances of the Corporation.

(Pub. L. 115–254, div. F, title IV, §1441, Oct. 5, 2018, 132 Stat. 3503.)

§ 9652. Performance measures, evaluation, and learning

(a) In general

The Corporation shall develop a performance measurement system to evaluate and monitor

projects supported by the Corporation under subchapter II of this chapter and to guide future projects of the Corporation.

(b) Considerations

In developing the performance measurement system required by subsection (a), the Corporation shall—

(1) develop a successor for the development impact measurement system of the Overseas Private Investment Corporation (as such system was in effect on the day before October 5, 2018);

(2) develop a mechanism for ensuring that support provided by the Corporation under subchapter II of this chapter is in addition to private investment;

(3) develop standards for, and a method for ensuring, appropriate financial performance of the Corporation's portfolio; and

(4) develop standards for, and a method for ensuring, appropriate development performance of the Corporation's portfolio, including—

(A) measurement of the projected and expected development impact of a project; and

(B) the information necessary to comply with section 9653 of this title.

(c) Public availability of certain information

The Corporation shall make available to the public on a regular basis information about support provided by the Corporation under subchapter II of this chapter and performance metrics about such support on a country-by-country basis.

(d) Consultation

In developing the performance measurement system required by subsection (a), the Corporation shall consult with the Development Advisory Council established under section 9613(i) of this title and other stakeholders and interested parties engaged in sustainable economic growth and development.

(Pub. L. 115-254, div. F, title IV, §1442, Oct. 5, 2018, 132 Stat. 3504.)

§ 9653. Annual report

(a) In general

After the end of each fiscal year, the Corporation shall submit to the appropriate congressional committees a complete and detailed report of its operations during that fiscal year, including an assessment of—

(1) the economic and social development impact, including with respect to matters described in subsections (d), (e), and (f) of section 9651 of this title, of projects supported by the Corporation under subchapter II of this chapter;

(2) the extent to which the operations of the Corporation complement or are compatible with the development assistance programs of the United States and qualifying sovereign entities;

(3) the Corporation's institutional linkages with other relevant United States Government department¹ and agencies, including efforts to strengthen such linkages; and

(4) the compliance of projects supported by the Corporation under subchapter II of this chapter with human rights, environmental, labor, and social policies, or other such related policies that govern the Corporation's support for projects, promulgated or otherwise administered by the Corporation.

(b) Elements

Each annual report required by subsection (a) shall include analyses of the effects of projects supported by the Corporation under subchapter II of this chapter, including—

(1) reviews and analyses of—

(A) the desired development outcomes for projects and whether or not the Corporation is meeting the associated metrics, goals, and development objectives, including, to the extent practicable, in the years after conclusion of projects; and

(B) the effect of the Corporation's support on access to capital and ways in which the Corporation is addressing identifiable market gaps or inefficiencies and what impact, if any, such support has on access to credit for a specific project, country, or sector;

(2) an explanation of any partnership arrangement or cooperation with a qualifying sovereign entity in support of each project;

(3) projections of—

(A) development outcomes, and whether or not support for projects are meeting the associated performance measures, both during the start-up phase and over the duration of the support, and to the extent practicable, measures of such development outcomes should be on a gender-disaggregated basis, such as changes in employment, access to financial services, enterprise development and growth, and composition of executive boards and senior leadership of enterprises receiving support under subchapter II of this chapter; and

(B) the value of private sector assets brought to bear relative to the amount of support provided by the Corporation and the value of any other public sector support; and

(4) an assessment of the extent to which lessons learned from the monitoring and evaluation activities of the Corporation, and from annual reports from previous years compiled by the Corporation, have been applied to projects.

(Pub. L. 115-254, div. F, title IV, §1443, Oct. 5, 2018, 132 Stat. 3505.)

§ 9654. Publicly available project information

The Corporation shall—

(1) maintain a user-friendly, publicly available, machine-readable database with detailed project-level information, as appropriate and to the extent practicable, including a description of the support provided by the Corporation under subchapter II of this chapter, including, to the extent feasible, the information included in the report to Congress under section 9653 of this title and project-level performance metrics; and

(2) include a clear link to information about each project supported by the Corporation

¹ So in original. Probably should be "departments".