

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 sec-

tion 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 re-

ported 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.