

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 provided 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 political 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

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

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.].

**(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 noncredit 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 “noncredit 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 issued 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 noncredit 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 subsecs. (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 repealed 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 guarantees issued under predecessor guarantee authority may be reduced.

##### (2) Credit transaction costs

Project-specific transaction costs incurred by the Corporation relating to loan obligations or loan guarantee 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

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