

**(B) Recordkeeping requirements**

The Corporation shall ensure that each enterprise fund receiving support under this subsection—

- (i) keeps separate accounts with respect to such support; and
- (ii) maintains such records as may be reasonably necessary to facilitate effective audits under this paragraph.

**(9) Return of funds to Treasury**

Any funds resulting from any liquidation, dissolution, or winding up of an enterprise fund, in whole or in part, shall be returned to the Treasury of the United States.

**(10) Termination**

The authority of an enterprise fund to provide support under this subsection shall terminate on the earlier of—

- (A) the date that is 10 years after the date of the first expenditure of amounts from the enterprise fund; or
- (B) the date on which the enterprise fund is liquidated.

**(h) Supervision of support**

Support provided under this subchapter shall be subject to section 2382(c) of this title.

**(i) Small business development****(1) 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 businesses and cooperatives and other small United States investors in the development of small private enterprise in less developed friendly countries or areas.

**(2) Outreach to minority-owned and women-owned businesses****(A) In general**

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

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

**(B) Inclusion in annual report**

The Corporation shall include, in its annual report submitted to Congress under section 9653 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. 115-254, div. F, title II, §1421, Oct. 5, 2018, 132 Stat. 3492.)

## TERMINATION OF SECTION

*For termination of section 7 years after Oct. 5, 2018, see section 9624 of this title.*

**Editorial Notes**

## REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (b)(3), 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.

**§ 9622. Terms and conditions****(a) In general**

Except as provided in subsection (b), support provided by the Corporation under this subchapter shall be on such terms and conditions as the Corporation may prescribe.

**(b) Requirements**

The following requirements apply to support provided by the Corporation under this subchapter:

(1) The Corporation shall provide support using authorities under this subchapter only if it is necessary—

(A) to alleviate a credit market imperfection; or

(B) to achieve specified development or foreign policy objectives of the United States Government by providing support in the most efficient way to meet those objectives on a case-by-case basis.

(2) The final maturity of a loan made or guaranteed by the Corporation shall not exceed the lesser of—

(A) 25 years; or

(B) debt servicing capabilities of the project to be financed by the loan (as determined by the Corporation).

(3) The Corporation shall, with respect to providing any loan guaranty to a project, require the parties to the project to bear the risk of loss in an amount equal to at least 20 percent of the guaranteed support by the Corporation in the project.

(4) The Corporation may not make or guarantee a loan unless the Corporation determines that the borrower or lender is responsible and that adequate provision is made for servicing the loan on reasonable terms and protecting the financial interest of the United States.

(5) The interest rate for direct loans and interest supplements on guaranteed loans shall be set by reference to a benchmark interest rate (yield) on marketable Treasury securities or other widely recognized or appropriate benchmarks with a similar maturity to the loans being made or guaranteed, as determined in consultation with the Director of the Office of Management and Budget and the Secretary of the Treasury. The Corporation shall establish appropriate minimum interest rates for loans, guaranties, and other instruments as necessary.

(6) The minimum interest rate for new loans as established by the Corporation shall be adjusted periodically to take account of changes in the interest rate of the benchmark financial instrument.

(7)(A) The Corporation shall set fees or premiums for support provided under this subchapter at levels that minimize the cost to the Government while supporting achievement of the objectives of support.

(B) The Corporation shall review fees for loan guaranties periodically to ensure that the fees assessed on new loan guaranties are at a level sufficient to cover the Corporation's most recent estimates of its costs.

(8) Any loan guaranty provided by the Corporation shall be conclusive evidence that—

(A) the guaranty has been properly obtained;

(B) the loan qualified for the guaranty; and

(C) but for fraud or material misrepresentation by the holder of the guaranty, the guaranty is presumed to be valid, legal, and enforceable.

(9) The Corporation shall prescribe explicit standards for use in periodically assessing the credit risk of new and existing direct loans or guaranteed loans.

(10) The Corporation may not make loans or loan guaranties except to the extent that budget authority to cover the costs of the loans or guaranties is provided in advance in an appropriations Act, as required by section 661c of title 2.

(11) The Corporation shall rely upon specific standards to assess the developmental and strategic value of projects for which it provides support and should only provide the minimum level of support necessary in order to support such projects.

(12) Any loan or loan guaranty made by the Corporation should be provided on a senior basis or *pari passu* with other senior debt unless there is a substantive policy rationale to provide such support otherwise.

(Pub. L. 115-254, div. F, title II, §1422, Oct. 5, 2018, 132 Stat. 3497.)

#### TERMINATION OF SECTION

*For termination of section 7 years after Oct. 5, 2018, see section 9624 of this title.*

### § 9623. Payment of losses

#### (a) Payments for defaults on guaranteed loans

##### (1) In general

If the Corporation determines that the holder of a loan guaranteed by the Corporation suffers a loss as a result of a default by a borrower on the loan, the Corporation shall pay to the holder the percent of the loss, as specified in the guaranty contract, after the holder of the loan has made such further collection efforts and instituted such enforcement proceedings as the Corporation may require.

##### (2) Subrogation

Upon making a payment described in paragraph (1), the Corporation shall ensure the Corporation will be subrogated to all the rights of the recipient of the payment.

##### (3) Recovery efforts

The Corporation shall pursue recovery from the borrower of the amount of any payment made under paragraph (1) with respect to the loan.

#### (b) Limitation on payments

##### (1) In general

Except as provided by paragraph (2), compensation for insurance, reinsurance, or a guaranty issued under this subchapter shall not exceed the dollar value of the tangible or intangible contributions or commitments made in the project, plus interest, earnings, or profits actually accrued on such contributions or commitments, to the extent provided by such insurance, reinsurance, or guaranty.

##### (2) Exception

###### (A) In general

The Corporation may provide that—

(i) appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets; and

(ii) compensation for a claim of loss under insurance of an equity investment under section 9621 of this title may be computed on the basis of the net book value attributable to the equity investment on the date of loss.

##### (3) Additional limitation

###### (A) In general

Notwithstanding paragraph (2)(A)(ii) and except as provided in subparagraph (B), the Corporation shall limit the amount of direct insurance and reinsurance issued under section 9621 of this title with respect to a project so as to require that the insured and its affiliates bear the risk of loss for at least 10 percent of the amount of the Corporation's exposure to that insured and its affiliates in the project.

###### (B) Exception

The limitation under subparagraph (A) shall not apply to direct insurance or reinsurance of loans provided by banks or other financial institutions to unrelated parties.

#### (c) Actions by Attorney General

The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States as a result of the issuance of any loan or guaranty under this subchapter.

#### (d) Rule of construction

Nothing in this section shall be construed to preclude any forbearance for the benefit of a borrower that may be agreed upon by the parties to a loan guaranteed by the Corporation if budget authority for any resulting costs to the United States Government (as defined in section 661a of title 2) is available.

(Pub. L. 115-254, div. F, title II, §1423, Oct. 5, 2018, 132 Stat. 3498.)

#### TERMINATION OF SECTION

*For termination of section 7 years after Oct. 5, 2018, see section 9624 of this title.*

### § 9624. Termination

#### (a) In general

The authorities provided under this subchapter terminate on the date that is 7 years after October 5, 2018.