

§ 5414. Debt-for-equity swaps and other special techniques

(a) Reduction of debt burden

The President shall take all appropriate actions to explore and encourage innovative approaches to the reduction of the government-to-government and commercial debt burden of East European countries which have taken substantive steps toward political democracy and economic pluralism.

(b) Authority for discounted sales of debt

Notwithstanding any other provision of law, the President may undertake the discounted sale, to private purchasers, of United States Government debt obligations of an East European country which has taken substantive steps toward political democracy and economic pluralism, subject to subsection (c).

(c) Condition

An obligation may be sold under subsection (b) only if the sale will facilitate so-called debt-for-equity or debt-for-development swaps wherein such newly privatized debt is exchanged by the new holder of the obligation for—

- (1) local currencies, policy commitments, or other assets needed for development or other economic activities, or
- (2) for an equity interest in an enterprise theretofore owned by the particular East European government.

(Pub. L. 101-179, title I, § 104, Nov. 28, 1989, 103 Stat. 1304.)

Executive Documents

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of the Treasury by section 4 of Ex. Ord. No. 12703, Feb. 20, 1990, 55 F.R. 6351, set out as a note under section 5401 of this title.

SUBCHAPTER II—PRIVATE SECTOR
DEVELOPMENT

§ 5421. Enterprise Funds for Poland and Hungary

(a) Purposes

The purposes of this section are to promote—

- (1) development of the Polish and Hungarian private sectors, including small businesses, the agricultural sector, and joint ventures with United States and host country participants, and
- (2) policies and practices conducive to private sector development in Poland and Hungary,

through loans, grants, equity investments, feasibility studies, technical assistance, training, insurance, guarantees, and other measures.

(b) Authorization of appropriations

To carry out the purposes specified in subsection (a), there are authorized to be appropriated to the President—

- (1) \$240,000,000 to support the Polish-American Enterprise Fund; and
- (2) \$60,000,000 to support the Hungarian-American Enterprise Fund.

Such amounts are authorized to be made available until expended.

(c) Nonapplicability of other laws

The funds appropriated under subsection (b) may be made available to the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund and used for the purposes of this section notwithstanding any other provision of law.

(d) Designation of Enterprise Funds

(1) Designation

The President is authorized to designate two private, nonprofit organizations as eligible to receive funds and support pursuant to this section upon determining that such organizations have been established for the purposes specified in subsection (a). For purposes of this chapter, the organizations so designated shall be referred to as the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund (hereinafter in this section referred to as the "Enterprise Funds").

(2) Consultation with Congress

The President shall consult with the leadership of each House of Congress before designating an organization pursuant to paragraph (1).

(3) Board of Directors

(A) Each Enterprise Fund shall be governed by a Board of Directors comprised of private citizens of the United States, and citizens of the respective host country, who have demonstrated experience and expertise in those areas of private sector development in which the Enterprise Fund is involved.

(B) A majority of the members of the Board of Directors of each Enterprise Fund shall be United States citizens.¹ *Provided*, That, as to Enterprise Funds established with respect to more than one host country, such Enterprise Fund may, in lieu of the appointment of citizens of the host countries to its Board of Directors, establish an advisory council for the host region comprised of citizens of each of the host countries or establish separate advisory councils for each of the host countries (hereinafter in this section referred to as the "Advisory Councils"), with which the Enterprise Fund's policies and proposed activities and such host country citizens shall satisfy the experience and expertise requirements of this clause.

(C) A host country citizen who is not committed to respect for democracy and a free market economy may not serve as a member of the Board of Directors of an Enterprise Fund.

(4) Eligibility of Enterprise Funds for grants

Grants may be made to an Enterprise Fund under this section only if the Enterprise Fund agrees to comply with the requirements specified in this section.

(5) Private character of Enterprise Funds

Nothing in this section shall be construed to make an Enterprise Fund an agency or establishment of the United States Government, or to make the officers, employees, or members

¹ So in original.

of the Board of Directors of an Enterprise Fund officers or employees of the United States for purposes of title 5.

(e) Grants to Enterprise Funds

Funds appropriated to the President pursuant to subsection (b) shall be granted to the Enterprise Funds to carry out the purposes specified in subsection (a) and for the administrative expenses of each Enterprise Fund—

(1) except as provided in paragraph (2), by the United States Agency for International Development; or

(2) if the Enterprise Funds are transferred to the United States International Development Finance Corporation pursuant to section 9683(b) of this title, by the Corporation.

(f) Eligible programs and projects

(1) In general

The Enterprise Funds may provide assistance pursuant to this section only for programs and projects which are consistent with the purposes set forth in subsection (a).

(2) Employee stock ownership plans

Funds available to the Enterprise Funds may be used to encourage the establishment of Employee Stock Ownership Plans (ESOPs) in Poland and Hungary.

(3) Indigenous credit unions

Funds available to the Enterprise Funds may be used for technical and other assistance to support the development of indigenous credit unions in Poland and Hungary. As used in this paragraph, the term “credit union” means a member-owned, nonprofit, cooperative depository institution—

(A) which is formed to permit individuals in the field of membership specified in such institution’s charter to pool their savings, lend the savings to one another, and own the organization where they save, borrow, and obtain related financial services; and

(B) whose members are united by a common bond and democratically operate the institution.

(4) Telecommunications modernization in Poland

The Polish-American Enterprise Fund may use up to \$25,000,000 for grants for projects providing for the early introduction in Poland of modern telephone systems and telecommunications technology, which are crucial in establishing the conditions for successful transition to political democracy and economic pluralism.

(5) Economic foundation of NSZZ Solidarność

Funds available to the Polish-American Enterprise Fund may be used to support the Economic Foundation of NSZZ Solidarność.

(g) Matters to be considered by Enterprise Funds

In carrying out this section, each Enterprise Fund shall take into account such considerations as internationally recognized worker rights and other internationally recognized human rights, environmental factors, United States economic and employment effects, and the likelihood of commercial viability of the ac-

tivity receiving assistance from the Enterprise Fund.

(h) Retention of interest

An Enterprise Fund may hold funds granted to it pursuant to this section in interest-bearing accounts, prior to the disbursement of such funds for purposes specified in subsection (a), and may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

(i) Use of United States private venture capital

In order to maximize the effectiveness of the activities of the Enterprise Funds, each Enterprise Fund may conduct public offerings or private placements for the purpose of soliciting and accepting United States venture capital which may be used, separately or together with funds made available pursuant to this section, for any lawful investment purpose that the Board of Directors of the Enterprise Fund may determine in carrying out this section. Financial returns on Enterprise Fund investments that include a component of private venture capital may be distributed, at such times and in such amounts as the Board of Directors of the Enterprise Fund may determine, to the investors of such capital.

(j) Financial instruments for individual investment in Poland

In order to maximize the effectiveness of the activities of the Polish-American Enterprise Fund, that Enterprise Fund should undertake all possible efforts to establish financial instruments that will enable individuals to invest in the private sectors of Poland and that will thereby have the effect of multiplying the impact of United States grants to that Enterprise Fund.

(k) Nonapplicability of other laws

Executive branch agencies may conduct programs and activities and provide services in support of the activities of the Enterprise Funds notwithstanding any other provision of law.

(l) Limitation on payments to Enterprise Fund personnel

(1) No part of the funds of an Enterprise Fund shall inure to the benefit of any board member, officer, or employee of such Enterprise Fund, except as salary or reasonable compensation for services subject to paragraph (2).

(2) An Enterprise Fund shall not pay compensation for services to—

(A) any board member of the Enterprise Fund, except for services as a board member; or

(B) any firm, association, or entity in which a board member of the Enterprise Fund serves as partner, director, officer, or employee.

(3) Nothing in paragraph (2) shall preclude payment for services performed before the date of enactment of this subsection nor for arrangements approved by the grantor and notified in writing to the Committees on Appropriations.

(m) Independent private audits

The accounts of each Enterprise Fund shall be audited annually in accordance with generally

accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by this section.

(n) GAO audits

The financial transactions undertaken pursuant to this section by each Enterprise Fund may be audited by the Government Accountability Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States, so long as the Enterprise Fund is in receipt of United States Government grants.

(o) Recordkeeping requirements

The Enterprise Funds shall ensure—

(1) that each recipient of assistance provided through the Enterprise Funds under this section keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(C) such other records as will facilitate an effective audit; and

(2) that the Enterprise Funds, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Enterprise Funds under this section.

(p) Annual reports

Each Enterprise Fund shall publish an annual report, which shall include a comprehensive and detailed description of the Enterprise Fund's operations, activities, financial condition, and accomplishments under this section for the preceding fiscal year. This report shall be published not later than January 31 each year, beginning in 1991.

(Pub. L. 101-179, title II, §201, Nov. 28, 1989, 103 Stat. 1305; Pub. L. 104-107, title II, [(v)], Feb. 12, 1996, 110 Stat. 714; Pub. L. 105-118, title V, §588, Nov. 26, 1997, 111 Stat. 2438; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 115-254, div. F, title VI, §1470(m)(2), Oct. 5, 2018, 132 Stat. 3518.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(1), was in the original "this Act", meaning Pub. L. 101-179, Nov. 28, 1989, 103 Stat. 1298, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

The date of enactment of this subsection, referred to in subsec. (l)(3), probably means the date of enactment

of Pub. L. 105-118 which amended subsec. (l) generally and was approved Nov. 26, 1997.

AMENDMENTS

2018—Subsec. (e). Pub. L. 115-254 added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: "Funds appropriated to the President pursuant to subsection (b) shall be granted to the Enterprise Funds by the Agency for International Development to enable the Enterprise Funds to carry out the purposes specified in subsection (a) and for the administrative expenses of each Enterprise Fund."

2004—Subsec. (n). Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office".

1997—Subsec. (l). Pub. L. 105-118, which directed the general amendment of section 201(l) of the Support for East European Democracy Act, was executed by amending heading and text of section 201(l) of the Support for East European Democracy (SEED) Act of 1989, subsec. (l) of this section, generally, to reflect the probable intent of Congress. Prior to amendment, text read as follows: "No part of the funds of either Enterprise Fund shall inure to the benefit of any board member, officer, or employee of such Enterprise Fund, except as salary or reasonable compensation for services."

1996—Subsec. (d)(3)(B). Pub. L. 104-107 inserted at end "Provided, That, as to Enterprise Funds established with respect to more than one host country, such Enterprise Fund may, in lieu of the appointment of citizens of the host countries to its Board of Directors, establish an advisory council for the host region comprised of citizens of each of the host countries or establish separate advisory councils for each of the host countries (hereinafter in this section referred to as the 'Advisory Councils'), with which the Enterprise Fund's policies and proposed activities and such host country citizens shall satisfy the experience and expertise requirements of this clause."

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-254 effective at the end of the transition period, as defined in section 9681 of this title, see section 1470(w) of Pub. L. 115-254, set out as a note under section 905 of Title 2, The Congress.

Executive Documents

DELEGATION OF FUNCTIONS

Functions of President under this section relating to Enterprise Funds for Poland and Hungary delegated to Secretary of State by section 2 of Ex. Ord. No. 12703, Feb. 20, 1990, 55 F.R. 6351, as amended, set out as a note under section 5401 of this title.

§ 5422. Labor market transition in Poland and Hungary

(a) Technical assistance

The Secretary of Labor (hereinafter in this section referred to as the "Secretary"), in consultation with representatives of labor and business in the United States, shall—

(1) provide technical assistance to Poland and Hungary for the implementation of labor market reforms; and

(2) provide technical assistance to Poland and Hungary to facilitate adjustment during the period of economic transition and reform.

(b) Types of technical assistance authorized

In carrying out subsection (a), the Secretary is authorized to provide technical assistance regarding policies and programs for training and retraining, job search and employment services,