

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), 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.

§ 9633. Maximum contingent liability

The maximum contingent liability of the Corporation outstanding at any one time shall not exceed in the aggregate \$60,000,000,000.

(Pub. L. 115-254, div. F, title III, § 1433, Oct. 5, 2018, 132 Stat. 3501.)

§ 9634. Corporate funds**(a) Corporate Capital Account**

There is established in the Treasury of the United States a fund to be known as the “Corporate Capital Account” to carry out the purposes of the Corporation.

(b) Funding

The Corporate Capital Account shall consist of—

- (1) fees charged and collected pursuant to subsection (c);
- (2) any amounts received pursuant to subsection (e);
- (3) investments and returns on such investments pursuant to subsection (g);
- (4) unexpended balances transferred to the Corporation pursuant to subsection (i);
- (5) payments received in connection with settlements of all insurance and reinsurance claims of the Corporation; and
- (6) all other collections transferred to or earned by the Corporation, excluding the cost, as defined in section 661a of title 2, of loans and loan guaranties.

(c) Fee authority

Fees may be charged and collected for providing services in amounts to be determined by the Corporation.

(d) Uses**(1) In general**

Subject to Acts making appropriations, the Corporation is authorized to pay—

- (A) the cost, as defined in section 661a of title 2, of loans and loan guaranties;
- (B) administrative expenses of the Corporation;
- (C) for the cost of providing support authorized by subsections (c), (e), (f), and (g) of section 9621 of this title;¹
- (D) project-specific transaction costs.

(2) Income and revenue

In order to carry out the purposes of the Corporation, all collections transferred to or earned by the Corporation, excluding the cost, as defined in section 661a of title 2, of loans and loan guaranties, shall be deposited into the Corporate Capital Account and shall be available to carry out its purpose, including without limitation—

(A) payment of all insurance and reinsurance claims of the Corporation;

(B) repayments to the Treasury of amounts borrowed under subsection (e); and

(C) dividend payments to the Treasury under subsection (f).

(e) Full faith and credit**(1) In general**

All support provided pursuant to predecessor authorities or subchapter II of this chapter shall continue to constitute obligations of the United States, and the full faith and credit of the United States is hereby pledged for the full payment and performance of such obligations.

(2) Authority to borrow

The Corporation is authorized to borrow from the Treasury such sums as may be necessary to fulfill such obligations of the United States and any such borrowing shall be at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yields on outstanding marketable obligations of the United States of comparable maturities, for a period jointly determined by the Corporation and the Secretary, and subject to such terms and conditions as the Secretary may require.

(f) Dividends

The Board, in consultation with the Director of the Office of Management and Budget, shall annually assess a dividend payment to the Treasury if the Corporation’s insurance portfolio is more than 100 percent reserved.

(g) Investment authority**(1) In general**

The Corporation may request the Secretary of the Treasury to invest such portion of the Corporate Capital Account as is not, in the Corporation’s judgment, required to meet the current needs of the Corporate Capital Account.

(2) Form of investments

Such investments shall be made by the Secretary of the Treasury in public debt obligations, with maturities suitable to the needs of the Corporate Capital Account, as determined by the Corporation, and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(h) Collections

Interest earnings made pursuant to subsection (g), earnings collected related to equity investments, and amounts, excluding fees related to insurance or reinsurance, collected pursuant to subsection (c), shall not be collected for any fiscal year except to the extent provided in advance in appropriations Acts.

(i) Transfer from predecessor agencies and programs

By the end of the transition period described in subchapter VI of this chapter, the unexpended balances, assets, and responsibilities of any agency specified in the plan required by section

¹ So in original. Probably should be followed by “and”.

9682 of this title shall be transferred to the Corporation.

(j) Transfer of funds

In order to carry out this chapter, funds authorized to be appropriated to carry out the Foreign 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, as amended, 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