

under subchapter II of this chapter on the internet website of the Department of State, “ForeignAssistance.gov”, or a successor website or other online publication.

(Pub. L. 115–254, div. F, title IV, §1444, Oct. 5, 2018, 132 Stat. 3506.)

§ 9655. Engagement with investors

(a) In general

The Corporation, acting through the Chief Development Officer, shall, in cooperation with the Administrator of the United States Agency for International Development—

(1) develop a strategic relationship with private sector entities focused at the nexus of business opportunities and development priorities;

(2) engage such entities and reduce business risks primarily through direct transaction support and facilitating investment partnerships;

(3) develop and support tools, approaches, and intermediaries that can mobilize private finance at scale in the developing world;

(4) pursue highly developmental projects of all sizes, especially those that are small but designed for work in the most underdeveloped areas, including countries with chronic suffering as a result of extreme poverty, fragile institutions, or a history of violence; and

(5) pursue projects consistent with the policy of the United States described in section 9611 of this title and the Joint Strategic Plan and the Mission Country Development Cooperation Strategies of the United States Agency for International Development.

(b) Assistance

To achieve the goals described in subsection (a), the Corporation shall—

(1) develop risk mitigation tools;

(2) provide transaction structuring support for blended finance models;

(3) support intermediaries linking capital supply and demand;

(4) coordinate with other Federal agencies to support or accelerate transactions;

(5) convene financial, donor, civil society, and public sector partners around opportunities for private finance within development priorities;

(6) offer strategic planning and programming assistance to catalyze investment into priority sectors;

(7) provide transaction structuring support;

(8) deliver training and knowledge management tools for engaging private investors;

(9) partner with private sector entities that provide access to capital and expertise; and

(10) identify and screen new investment partners.

(c) Technical assistance

The Corporation shall coordinate with the United States Agency for International Development and other agencies and departments, as necessary, on projects and programs supported by the Corporation that include technical assistance.

(Pub. L. 115–254, div. F, title IV, §1445, Oct. 5, 2018, 132 Stat. 3506.)

§ 9656. Notifications to be provided by the Corporation

(a) In general

Not later than 15 days prior to the Corporation making a financial commitment associated with the provision of support under subchapter II of this title in an amount in excess of \$10,000,000, the Chief Executive Officer of the Corporation shall submit to the appropriate congressional committees a report in writing that contains the information required by subsection (b).

(b) Information required

The information required by this subsection includes—

(1) the amount of each such financial commitment;

(2) an identification of the recipient or beneficiary; and

(3) a description of the project, activity, or asset and the development goal or purpose to be achieved by providing support by the Corporation.

(c) Bilateral agreements

The Chief Executive Officer of the Corporation shall notify the appropriate congressional committees not later than 30 days after entering into a new bilateral agreement described in section 9631(a) of this title.

(Pub. L. 115–254, div. F, title IV, §1446, Oct. 5, 2018, 132 Stat. 3507.)

SUBCHAPTER V—CONDITIONS, RESTRICTIONS, AND PROHIBITIONS

§ 9671. Limitations and preferences

(a) Limitation on support for single entity

No entity receiving support from the Corporation under subchapter II of this chapter may receive more than an amount equal to 5 percent of the Corporation’s maximum contingent liability authorized under section 9633 of this title.

(b) Preference for support for projects sponsored by United States persons

(1) In general

The Corporation should give preferential consideration to projects sponsored by or involving private sector entities that are United States persons.

(2) United States person defined

In this subsection, the term “United States person” means—

(A) a United States citizen; or

(B) an entity owned or controlled by an individual or individuals described in subparagraph (A).

(c) Preference for support in countries in compliance with international trade obligations

(1) Consultations with United States Trade Representative

Not less frequently than annually, the Corporation shall consult with the United States Trade Representative with respect to the status of countries eligible to receive support from the Corporation under subchapter II of this chapter and the compliance of those coun-

tries with their international trade obligations.

(2) Preferential consideration

The Corporation shall give preferential consideration to providing support under subchapter II of this chapter for projects in countries in compliance with or making substantial progress coming into compliance with their international trade obligations.

(d) Worker rights

(1) In general

The Corporation shall only support projects under subchapter II of this chapter in countries that are taking steps to adopt and implement laws that extend internationally recognized worker rights (as defined in section 2467 of title 19) to workers in that country, including any designated zone in that country.

(2) Required contract language

The Corporation shall also include the following language, in substantially the following form, in all contracts which the Corporation enters into with persons receiving support under subchapter II of this chapter: “The person receiving support 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 person 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 or the worst forms of child labor (as defined in section 507 of the Trade Act of 1974 (19 U.S.C. 2467)). The person is not responsible under this paragraph for the actions of a foreign government.”

(e) Impact notification

The Board shall not vote in favor of any project proposed to be supported by the Corporation under subchapter II of this chapter that is likely to have significant adverse environmental or social impacts that are sensitive, diverse, or unprecedented, unless—

(1) at least 60 days before the date of the vote, an environmental and social impact assessment or initial environmental and social audit, analyzing the environmental and social impacts of the proposed project and of alternatives to the proposed project, including mitigation measures, is completed;

(2) such assessment or audit has been made available to the public of the United States, locally affected groups in the country in which the project will be carried out, and nongovernmental organizations in that country; and

(3) the Corporation, applying best practices with respect to environmental and social safeguards, includes in any contract relating to the project provisions to ensure the mitigation of any such adverse environmental or social impacts.

(f) Women’s economic empowerment

In utilizing its authorities under subchapter II of this chapter, the Corporation shall consider

the impacts of its support on women’s economic opportunities and outcomes and shall prioritize the reduction of gender gaps and maximize development impact by working to improve women’s economic opportunities.

(g) Preference for provision of support in countries embracing private enterprise

(1) In general

The Corporation should give preferential consideration to projects for which support under subchapter II of this chapter may be provided in countries the governments of which have demonstrated consistent support for economic policies that promote the development of private enterprise, both domestic and foreign, and maintaining the conditions that enable private enterprise to make a full contribution to the development of such countries, including—

- (A) market-based economic policies;
- (B) protection of private property rights;
- (C) respect for the rule of law; and
- (D) systems to combat corruption and bribery.

(2) Sources of information

The Corporation should rely on both third-party indicators and United States Government information, such as the Department of State’s Investment Climate Statements, the Department of Commerce’s Country Commercial Guides, or the Millennium Challenge Corporation’s Constraints Analysis, to assess whether countries meet the conditions described in paragraph (1).

(h) Consideration of foreign boycott participation

In providing support for projects under subchapter II of this chapter, the Corporation shall consider, using information readily available, whether the project is sponsored by or substantially affiliated with any person taking or knowingly agreeing to take actions, or having taken or knowingly agreed to take actions within the past 3 years, which demonstrate or otherwise evidence intent to comply with, further, or support any boycott described in section 4842(a) of title 50.

(i) Ensuring opportunities for small businesses in foreign development

The Corporation shall, using broad criteria, make, to the maximum extent possible consistent with this chapter, efforts—

(1) to give preferential consideration in providing support under subchapter II of this chapter to projects sponsored by or involving small businesses; and

(2) to ensure that the proportion of projects sponsored by or involving United States small businesses, including women-, minority-, and veteran-owned small businesses, is not less than 50 percent of all projects for which the Corporation provides support and that involve United States persons.

(Pub. L. 115–254, div. F, title V, §1451, Oct. 5, 2018, 132 Stat. 3507.)

Editorial Notes

REFERENCES IN TEXT

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

§ 9672. Additionality and avoidance of market distortion**(a) In general**

Before the Corporation provides support for a project under subchapter II of this chapter, the Corporation shall ensure that private sector entities are afforded an opportunity to support the project.

(b) Safeguards, policies, and guidelines

The Corporation shall develop appropriate safeguards, policies, and guidelines to ensure that support provided by the Corporation under subchapter II of this chapter—

- (1) supplements and encourages, but does not compete with, private sector support;
- (2) operates according to internationally recognized best practices and standards with respect to ensuring the avoidance of market distorting government subsidies and the crowding out of private sector lending; and
- (3) does not have a significant adverse impact on United States employment.

(Pub. L. 115-254, div. F, title V, §1452, Oct. 5, 2018, 132 Stat. 3509.)

§ 9673. Prohibition on support in countries that support terrorism or violate human rights and with sanctioned persons**(a) In general**

The Corporation is prohibited from providing support under subchapter II of this chapter for a government, or an entity owned or controlled by a government, if the Secretary of State has determined that the government—

- (1) has repeatedly provided support for acts of international terrorism for purposes of—
 - (A) section 4813(c)(1)(A)(i) of title 50;
 - (B) section 2371(a) of this title;
 - (C) section 2780(d) of this title; or
 - (D) any other relevant provision of law; or
- (2) has engaged in a consistent pattern of gross violations of internationally recognized human rights for purposes of section 2151n(a) or 2304(a)(2) of this title or any other relevant provision of law.

(b) Prohibition on support of sanctioned persons

The Corporation is prohibited from all dealings related to any project under subchapter II of this chapter prohibited under United States sanctions laws or regulations, including dealings with persons on the list of specially designated persons and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury, except to the extent otherwise authorized by the Secretary of the Treasury or the Secretary of State.

(c) Prohibition on support of activities subject to sanctions

The Corporation shall require any person receiving support under subchapter II of this chap-

ter to certify that the person, and any entity owned or controlled by the person, is in compliance with all United States sanctions laws and regulations.

(Pub. L. 115-254, div. F, title V, §1453, Oct. 5, 2018, 132 Stat. 3510.)

§ 9674. Applicability of certain provisions of law

Subsections (g), (l), (m), and (n) of section 2197 of this title shall apply with respect to the Corporation to the same extent and in the same manner as such subsections applied with respect to the Overseas Private Investment Corporation on the day before October 5, 2018.

(Pub. L. 115-254, div. F, title V, §1454, Oct. 5, 2018, 132 Stat. 3510.)

SUBCHAPTER VI—TRANSITIONAL PROVISIONS

§ 9681. Definitions

In this subchapter:

(1) Agency

The term “agency” includes any entity, organizational unit, program, or function.

(2) Transition period

The term “transition period” means the period—

- (A) beginning on October 5, 2018; and
- (B) ending on the effective date of the reorganization plan required by section 9682(e) of this title.

(Pub. L. 115-254, div. F, title VI, §1461, Oct. 5, 2018, 132 Stat. 3510.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this title”, meaning title VI (§§1461-1470) of div. F of Pub. L. 115-254, Oct. 5, 2018, 132 Stat. 3510, which is classified principally to this subchapter 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.

§ 9682. Reorganization plan**(a) Submission of plan****(1) In general**

Not later than 120 days after October 5, 2018, the President shall transmit to the appropriate congressional committees a reorganization plan regarding the following:

(A) The transfer of agencies, personnel, assets, and obligations to the Corporation pursuant to this subchapter.

(B) Any consolidation, reorganization, or streamlining of agencies transferred to the Corporation pursuant to this subchapter.

(C) Any efficiencies or cost savings achieved or additional costs incurred as a result of the transfer of agencies, personnel, assets, and obligations to the Corporation pursuant to this subchapter, including reductions in unnecessary or duplicative operations, assets, and personnel.