

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.

(2) Consultation

Not later than 15 days before the date on which the plan is transmitted pursuant to this subsection, the President shall consult with the appropriate congressional committees on such plan.

(b) Plan elements

The plan transmitted under subsection (a) shall contain, consistent with this chapter, such elements as the President deems appropriate, including the following:

(1) Identification of any functions of agencies transferred to the Corporation pursuant to this subchapter that will not be transferred to the Corporation under the plan.

(2) Specification of the steps to be taken to organize the Corporation, including the delegation or assignment of functions transferred to the Corporation.

(3) Specification of the funds available to each agency that will be transferred to the Corporation as a result of transfers under the plan.

(4) Specification of the proposed allocations within the Corporation of unexpended funds transferred in connection with transfers under the plan.

(5) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations of agencies transferred under the plan.

(6) Specification of the number of authorized positions and personnel employed before the end of the transition period that will be transferred to the Corporation, including plans to mitigate the impact of such transfers on the United States Agency for International Development.

(c) Report on coordination**(1) In general**

The transfer of functions authorized by this section may occur only after the President and Chief Executive Officer of the Overseas Private Investment Corporation and the Administrator of the United States Agency for International Development jointly submit to the Committee on Foreign Affairs and Committee on Appropriations of the House of Representatives and Committee on Foreign Relations and Committee on Appropriations of the Senate a report in writing that contains the information required by paragraph (2).

(2) Information required

The information required by this paragraph includes a description in detail of the procedures to be followed after the transfer of functions authorized by this section have occurred to coordinate between the Corporation and the United States Agency for International Development in carrying out the functions so transferred.

(d) Modification of plan

The President shall consult with the appropriate congressional committees before making any material modification or revision to the plan before the plan becomes effective in accordance with subsection (e).

(e) Effective date**(1) In general**

The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (c), shall become effective for an agency on the date specified in the plan (or the plan as modified pursuant to subsection (d)), except that such date may not be earlier than 90 days after the date the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a).

(2) Statutory construction

Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balances of appropriations, or other assets of an agency on a single date.

(Pub. L. 115-254, div. F, title VI, §1462, Oct. 5, 2018, 132 Stat. 3511.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a)(1) and (b)(1), 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. Section 1464(2) of title VI of div. F of Pub. L. 115-254 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)), effective at the end of the transition period, as defined in section 9681 of this title. The reorganization plan described in this section was submitted on Mar. 8, 2019, with a proposed effective date of Oct. 1, 2019, and funding authorized on Dec. 20, 2019. For complete classification of title VI to the Code, see Tables.

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.

Executive Documents

DELEGATION OF FUNCTIONS AND AUTHORITIES UNDER THE BETTER UTILIZATION OF INVESTMENTS LEADING TO DEVELOPMENT ACT OF 2018

Memorandum of President of the United States, Sept. 24, 2019, 84 F.R. 52353, provided:

Memorandum for the President of the Overseas Private Investment Corporation [and] the Administrator of the United States Agency for International Development

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1462 of title VI of division F of Public Law 115-254 (section 9682 of title 22, United States Code) (the “Act”), and section 301 of title 3, United States Code, I hereby delegate to the President of the Overseas Private Investment Corporation, in consultation with the Administrator of the United States Agency for International Development, the functions and authorities vested in the President by the Act to submit a reorganization plan, including any modifications or revisions thereto, and to consult with the appropriate congressional committees on such plan, including any modifications and revisions thereto.

The President of the Overseas Private Investment Corporation is authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

§ 9683. Transfer of functions**(a) In general**

Effective at the end of the transition period, there shall be transferred to the Corporation the functions, personnel, assets, and liabilities of—

(1) the Overseas Private Investment Corporation, as in existence on the day before October 5, 2018; and

(2) the following elements of the United States Agency for International Development:

(A) The Development Credit Authority.

(B) The existing Legacy Credit portfolio under the Urban Environment Program and any other direct loan programs and non-Development Credit Authority guaranty programs authorized by the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or other predecessor Acts, as in existence on October 5, 2018, other than any sovereign loan guaranties.

(b) Additional transfer authority

Effective at the end of the transition period, there is authorized to be transferred to the Corporation, with the concurrence of the Administrator of the United States Agency for International Development, the functions, personnel, assets, and liabilities of the following elements of the United States Agency for International Development:

(1) The Office of Private Capital and Micro-enterprise.

(2) The enterprise funds.

(c) Sovereign loan guaranty transfer**(1) In general**

Effective at the end of the transition period, there is authorized to be transferred to the Corporation or any other appropriate department or agency of the United States Government the loan accounts and the legal rights and responsibilities for the sovereign loan guaranty portfolio held by the United States Agency for International Development as in existence on the day before October 5, 2018.

(2) Inclusion in reorganization plan

The President shall include in the reorganization plan submitted under section 9682 of this title a description of the transfer authorized under paragraph (1).

(d) Bilateral agreements

Any bilateral agreement of the United States in effect on October 5, 2018, that serves as the basis for programs of the Overseas Private Investment Corporation and the Development Credit Authority shall be considered as satisfying the requirements of section 9631(a) of this title.

(e) Transition

During the transition period, the agencies specified in subsection (a) shall—

(1) continue to administer the assets and obligations of those agencies; and

(2) carry out such programs and activities authorized under this chapter as may be determined by the President.

(Pub. L. 115-254, div. F, title VI, §1463, Oct. 5, 2018, 132 Stat. 3512.)

Editorial Notes

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(2)(B), 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.

This chapter, referred to in subsec. (e)(2), 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.

Statutory Notes and Related SubsidiariesENHANCEMENT OF NONGOVERNMENTAL SECTOR IN
POLAND AND HUNGARY

Pub. L. 101-179, title III, §302(b), Nov. 28, 1989, 103 Stat. 1311, provided that: “In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland and Hungary which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.”

[For transfer of functions, personnel, assets, and liabilities of the Overseas Private Investment Corporation to the United States International Development Finance Corporation and treatment of related references, see this section and section 9686(d) of this title.]

Pub. L. 101-179, title III, §302(c), Nov. 28, 1989, 103 Stat. 1311, provided that: “If the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 [Pub. L. 101-167], contains the same amendment that is made by subsection (a) of this section [amending former section 2199(f) of this title by inserting “, Poland, Hungary,” after “Yugoslavia”], the amendment made by that Act shall not be effective.”

§ 9684. Termination of Overseas Private Investment Corporation and other superceded authorities

Effective at the end of the transition period—

(1) the Overseas Private Investment Corporation is terminated; and

(2) Omitted.

(Pub. L. 115-254, div. F, title VI, §1464, Oct. 5, 2018, 132 Stat. 3513.)

Editorial Notes

CODIFICATION

Section is comprised of section 1464 of Pub. L. 115-254. Par. (2) of section 1464 of Pub. L. 115-254 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)).

§ 9685. Transitional authorities**(a) Provision of assistance by officials**

Until the transfer of an agency to the Corporation under section 9683 of this title, any official having authority over, or functions relating to, the agency on the day before October 5, 2018, shall provide to the Corporation such assistance, including the use of personnel and assets, as the Corporation may request in preparing for the transfer and integration of the agency into the Corporation.