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The Overseas Private Investment Corporation: Background and Legislative Issues

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Summary

The Overseas Private Investment Corporation (OPIC), which was established in 1969 and began operations in 1971, is an independent U.S. government agency that provides political risk insurance, project finance, and other services to support U.S. investment in over 150 developing countries and emerging economies. OPIC's programs are intended to promote U.S. private investment, by mitigating risks, such as political risks (including currency inconvertibility, expropriation, political violence, and terrorism), for U.S. firms making qualified investments overseas. OPIC's governing legislation is the Foreign Assistance Act of 1961 (P.L. 87-195) as amended. The agency's authority will expire at the end of FY2011 unless extended by Congress.

OPIC's activities are guided by U.S. foreign policy and development objectives. OPIC operates in over 150 countries around the world and across a range of economic sectors. Its regional priorities are the Broader Middle East, Sub-Saharan Africa, and South Asia, and its sectoral priorities are clean and renewable energy; critical natural resources (such as agriculture, water, and food security); and "impact investing" projects. U.S. investors that utilize OPIC services vary from large to small, but OPIC has placed special emphasis on encouraging U.S. small businesses to invest overseas. In FY2010, OPIC provided $2.4 billion in new market-based financing and political risk insurance to U.S. businesses. Since its inception, OPIC has funded, guaranteed, or insured over $180 billion in investments. Congress does not approve individual OPIC transactions. However, it places statutory requirements on OPIC's activities, such as those related to economic and environmental impacts of projects.

While OPIC's budget is fully self-sustaining from its own revenues, Congress annually provides OPIC with the authority to cover its administrative expenses and credit subsidy funding from its offsetting collections, which include user fees and interest from U.S. Treasury securities. For FY2011, Congress provided $52.31 million for OPIC's administrative expenses and authorized a transfer of $18.115 million from OPIC's noncredit account to conduct its credit and administrative programs (P.L. 112-10). President Obama's budget proposal for FY2012 requested $57.89 million for OPIC's administrative expenses and a transfer of $31 million from OPIC's noncredit account to conduct it programs.

The 112th Congress may consider legislation to extend OPIC's authority. In doing so, Congress may examine the policy debate related to OPIC's mission, the length of time for which to extend the agency's authority, the statutory restrictions and limitations on its support for investments, and the agency's organizational structure.

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Introduction

The Overseas Private Investment Corporation (OPIC), which was established in 1969 and began operations in 1971, is an independent U.S. government agency that provides international development finance. OPIC's governing legislation, the Foreign Assistance Act of 1961 (P.L. 87-195), as amended, directs OPIC to "mobilize and facilitate the participation of United States private capital and skills in the economic and social development of less developed countries and areas, and countries in transition from nonmarket to market economies... under the policy guidance of the Secretary of State."[1]

OPIC works to fulfill its mandate by providing project finance (loans and guarantees), political risk insurance, and other investor services to support U.S. investment in over 150 developing countries and emerging markets. These services are intended to mitigate the risks affecting U.S. international investment, such as political risks (including currency inconvertibility, expropriation, political violence, and terrorism), for U.S. firms making qualified investments overseas. OPIC's authority to guaranty and insure U.S. investments abroad is backed by the full faith and credit of the U.S. government and OPIC's own financial resources.

Structured like a private corporation, OPIC operates on a self-sustaining basis to mobilize and facilitate private capital investment in developing countries. It charges fees and earns interest on its accumulated reserves. The agency has recorded a positive net income for every year of operation. It has accumulated reserves (comprised of U.S. Treasury securities) of about $5 billion, which help to protect against potential losses from OPIC-supported projects.[2]

Although OPIC is not charged directly with promoting U.S. exports, OPIC activities may nevertheless contribute to U.S. exports and employment.[3] OPIC is a member of the Export Promotion Cabinet, created under President Obama's National Export Initiative, a plan to double U.S. exports by 2015 to support U.S. jobs. By OPIC's estimates, since 1971, it has helped to generate "over $74 billion in U.S. exports and support more than 274,000 American jobs, while creating economic opportunities in the host developing country." [4]

Congress does not approve individual OPIC projects, but has authorization, appropriations, and oversight responsibilities related to the agency and its activities. Congress authorizes OPIC's ability to conduct its credit and insurance programs for a period of time chosen by Congress. Currently, OPIC's authority has been extended through FY2011, and will expire unless renewed by Congress. Congress can amend or change OPIC's governing legislation as it deems appropriate. Congress approves an annual appropriation for OPIC that sets an upper limit on the agency's administrative expenses to conduct its programs. The Senate confirms Presidential appointments to OPIC's Board of Directors and to the agency positions of President and Executive Vice President.[5]

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[1] 22 U.S.C. Section 2191.

[2] OPIC, *Congressional Budget Justification –FY2010*, p. 3.

[3] For additional information, see OPIC's website: http://www.opic.gov/.

[4] It should be noted that a combination of factors, such as domestic macroeconomic factors and global economic developments, generally determine a nation's level of exports.

[5] Telephone conversation with OPIC congressional liaison, February 10, 2009.

Background

Created under the Foreign Assistance Act of 1961 (P.L. 87-195) as amended, OPIC was established in 1969 and began operations in 1971 as a development agency amid an atmosphere of congressional disillusionment overall with U.S. aid programs, especially large infrastructure projects. In his first message to Congress on aid, President Nixon recommended the creation of OPIC to assume the investment guaranty and promotion functions that were being conducted by the U.S. Agency for International Development (AID). President Nixon also directed that OPIC would provide "businesslike management of investment incentives" to contribute to the economic and social progress of developing nations.[6]

In creating OPIC, the Nixon Administration indicated that it was not attempting to end official U.S. foreign assistance, because "private capital and technical assistance cannot substitute for government assistance programs," a combination that can provide, "official aid on the one hand, and private investment and technical assistance on the other." Private investment activities, however, were meant to complement the official assistance programs and, thereby, multiply the benefits of both. In addition, market-oriented private investment was viewed as an antidote to the government-oriented aid projects that were considered by some to be costly and inefficient. OPIC was created as a first step in the eventual overhaul of the entire U.S. aid program. In 1973, this overhaul was completed as the United States largely abandoned infrastructure building and other large capital projects in favor of humanitarian aid to meet basic human needs.

OPIC Budget

OPIC's budget is fully self-funded from its offsetting collections, which are derived from the premiums, interest, and fees generated from its political risk insurance, investment guaranty, and direct loan services and the accumulated interest generated from the agency's investment in U.S. Treasury securities. Each year, however, Congress provides through the appropriations process authority for OPIC to pay its administrative expenses and credit subsidy funding from its own resources, including user fees and other income. This fulfills OPIC's statutory mandate to conduct its operations on a "self-sustaining basis." These funds are not actually provided to OPIC, because OPIC relies on its own resources. Congress follows this appropriations procedure in order to exercise its oversight role and to set limits on the extent to which OPIC can obligate U.S. government resources.

For FY2011, Congress provided $52.31 million for OPIC's administrative expenses (same as FY2010 amount) and authorized a transfer of $18.115 million from OPIC's noncredit account to conduct its credit and administrative programs (down from $29 million in FY2010) (P.L. 112-10).

For FY20112, President Obama requested $57.89 million for OPIC's administrative expenses (10.7% higher than the FY2010 enacted level) and a transfer of $31 million from OPIC's noncredit account to conduct its credit and administrative programs (6.9% higher than FY2010 enacted level). According to OPIC, the increased level of funding requested is associated with increased demand for OPIC financing in countries that are foreign policy priorities and risk-intensive; OPIC's increasing emphasis on assisting SMEs access emerging markets; and the

[6] *Public Papers of the Presidents: Richard Nixon.* Washington, U.S. Government Printing Office, 1969. p. 412.

higher "upfront costs in analysis and business development" related to OPIC's efforts to reduce the greenhouse gas emissions of its outstanding portfolio.[7]

Prior to FY1992, OPIC relied exclusively on non-appropriated resources (fees and interest on Treasury securities) to fund its operations. With federal government credit reform, however, OPIC was required to receive an appropriation based on an estimate of its credit programs (direct loans and guarantees). From 1992 to 1994, OPIC returned to the General Fund of the U.S. Treasury an amount equal to its direct appropriation. For FY1998 and beyond, OPIC's appropriations language provides OPIC with the authority to spend from its own income.

OPIC's budget is composed of noncredit and credit accounts, in conformity with the standards set out in the Federal Credit Reform Act of 1990. The noncredit portion of OPIC's budget relates to OPIC's political risk insurance program, while the credit portion is comprised of OPIC's direct and guaranteed loans. OPIC uses premium income and the interest it accrues from the assets in its noncredit account to fund the direct and indirect expenses in its noncredit and credit accounts (see **Table 1**).

OPIC has a net negative budget authority, as its offsets to budget authority have been greater than its appropriations. For more than thirty years, OPIC has regularly returned "surplus" funds to the U.S. Treasury. Strictly speaking, OPIC's net negative budget authority is not necessarily a "surplus" for the agency. These funds represent a reserve fund against losses that OPIC may accrue through its financing and insurance programs. The surplus may reflect revenues which OPIC has earned (such as through the premiums, interest, and fees generated from OPIC's services), but for which OPIC has not received payment yet. The surplus also may reflect expenses (such as financing, insurance, or investment commitments) that OPIC has incurred but for which OPIC has not yet disbursed payment. The transfer of these funds to the Treasury essentially is a transaction in the accounting ledger between the Treasury and OPIC, rather than a cash transfer of funds.

Currently, OPIC has accumulated about $5 billion in reserves (comprised of U.S. Treasury securities).[8] On a private sector accounting basis, in FY2010, OPIC generated $397.5 million in revenues and incurred $137.6 million in expenses, earning a net income $259.9 million. OPIC had a positive net contribution to the federal budget of $352 million.[9]

[7] OPIC FY2012 congressional budget justification.

[8] Estimated at fair value. OPIC, *OPIC 2008 Annual Report*, p. 34.

[9] OPIC, "OPIC Reports Fiscal Year 2010 Net Income of $259.9 Million," press release, November 17, 2010, http://www.opic.gov/news/press-releases/2009/pr111710. OPIC prepares its annual financial statements using the accrual basis of accounting under the U.S. Generally Accepted Accounting Principles (GAAP). OPIC is mandated by its authorizing legislation to use the GAAP – the accounting policies used by the private sector. In contrast to federal budgeting, under the accrual basis of accounting, revenues are recognized when they are earned and expenses are recognized *when* they are incurred, whether or not cash is received or disbursed.

Table 1. OPIC's Budget Summary

(in millions of dollars)

	FY07	FY08	FY09	FY10	FY11 Est.[a]	FY12 Est.
NONCREDIT ACCOUNT						
Operating Expenses	43	48	51	52	52	58
Noncredit administrative expenses	18	29	51	21	21	23
Credit administrative expenses[b]	25	19	---	31	31	35
Other Noncredit Expenses	45	28	38	29	30	37
Insurance claim payments/provisions	33	25	26	26	27	29
Other program obligations	12	3	12	3	3	8
Subtotal, Budget authority (gross)	112	83	215	209	185	165
Subtotal, Outlays (gross)	52	49	59	54	63	56
Offsetting collections	-292	-295	-282	-272	-250	-236
Federal sources	-34	-39	-32	-31	-31	-35
Interest on U.S. securities	-206	-212	-209	-200	-180	-162
Non-federal insurance premiums	-24	-18	-15	-41	-39	-39
Claim recoveries	-28	-26	-26	---	---	---
Budget authority (net)	-185	-208	-59	-60	-60	-66
Outlays (net)	-210	-240	-223	-218	-187	-180
Budget authority:						
Transferred to other accounts[c]	-45	-52	-59	-43	-60	-66
CREDIT ACCOUNT						
Total New Program Obligations	177	110	145	81	251	71
Direct loan subsidy	16	6	14	24	29	29
Loan guarantee subsidy	20	5	11	9	7	7
Program cost re-estimates	116	70	90	17	184	---
Credit administrative expenses	25	29	30	31	31	35
Budget Authority (net)	161	123	148	76	244	66
Appropriations[d]	116	71	89	16	184	---
From other accounts[e]	45	52	59	60	60	66

Source: *Budget of the United States Government*, various years. U.S. Government Printing Office, Washington.

Notes:

a. The amounts for FY11 are base don the annualized level provided by continuing resolution.

b. Credit administrative expenses originate from noncredit account balance and are transferred to the program account where they are returned to the noncredit account as collection. In this way, the program account reflects the cost of the credit program.

c. Budget authority transferred to other accounts, including OPIC's credit account.

d. OPIC does not receive an appropriation for the initial funding of this credit program subsidy. In accordance with the Federal Credit Reform Act, OPIC receives an appropriation for the funding of the upward subsidy re-estimates.

e. These funds include transfers from OPIC's noncredit account (see footnote 'a') and from the Export-Import Bank and the U.S. Agency for International Aid and Development to finance projects in the New Independent States (NIS).

OPIC Activity

Since 1971, OPIC programs have supported $200 billion of private investment in nearly 4,000 projects in developing countries and emerging markets. In FY2010, OPIC facilitated 97 new projects totaling $2.4 billion in new market-based financing. In that year, U.S. small- and medium-sized enterprises (SMEs) were involved in 82% of OPIC's projects. OPIC's exposure for financing and insurance was $14 billion for its credit and insurance projects.[10] During the recent international financial crisis,[11] OPIC reported an increase in demand for its services, as U.S. companies sought OPIC's loans, guarantees, and political risk insurance to fill the gap in commercial capacity.[12]

Overview of Programs

OPIC operates three main programs—finance, insurance, and investment funds—that are intended to promote U.S. private investment in less developed countries by mitigating risks, such as political risks, for U.S. firms making qualified investment overseas.

Finance

OPIC's finance program operates like an investment bank, customizing and structuring a complete package for individual projects in countries where conventional financing institutions often are unwilling or unable to lend on a reasonable basis. The finance program is carried out through two departments, one that focuses on projects involving SMEs (with annual revenues of under $250 million) and the other for larger U.S. businesses (with annual revenues of over $250 million) participating in large-scale capital projects, such as infrastructure, telecommunications, power, water, housing, airports, hotels, high-technology, financial services, and natural resource extraction industries.[13]

To obtain OPIC financing, the venture must be commercially and financially sound and have some portion of U.S. ownership. Projects may be wholly owned by U.S. companies, foreign subsidiaries of U.S. companies, or joint ventures involving local companies and U.S. sponsored firms. In the case of a joint venture involving existing firms, the U.S. investor generally is expected to own at least 25% of the equity of the project. For new ventures, financing may be equal to 50% of the total project cost; a larger share is possible for plant expansions.

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[10] OPIC's maximum contingent liability outstanding at any one time for its projects has been statutorily set at $29 billion.

[11] For a thorough background and analysis of the international financial crisis, see CRS Report RL34742, *The Global Financial Crisis: Analysis and Policy Implications*, coordinated by Dick K. Nanto.

[12] Ibid.

[13] For more information on OPIC's financing program, see http://www.opic.gov/financing.

The amount of OPIC's participation may vary taking into consideration financial risks and benefits. In general, OPIC will not support more than 75% of the total investment. OPIC provides financing to investors through two major programs: direct loans and loan guarantees. **Direct loans** generally range between $100,000 and $10 million, although they can be more in certain cases. Direct loans are available only for ventures sponsored by, or significantly involving, U.S. SMEs or cooperatives (such as joint ventures).

Loan guarantees typically are used for larger projects, ranging in size from $10 million to $250 million, but in certain cases can be as high as $400 million. OPIC's guarantees are issued to financial institutions that are more than 50%-owned by U.S. citizens, corporations, or partnerships. Rates and conditions on loans and guarantees depend on financial market conditions at the time and on OPIC's assessment of the financial and political risks involved. Consistent with commercial lending practices, OPIC charges up-front, commitment, and cancellation fees, and reimbursement is required for project-related expenses.

As part of its thrust toward U.S. small business investors, OPIC established the Enterprise Development Network (EDN) in June 2007. Under the EDN, OPIC collaborates with participating financial intermediaries to expand access of small businesses to OPIC-supported products and services.[14]

Insurance

OPIC political risk insurance is available to U.S. citizens, U.S. firms, or to the foreign subsidiaries of U.S. firms as long as the foreign subsidiary is at least 95%-owned by a U.S. citizen. According to OPIC, such insurance is available for investments in new ventures or in expansions of existing enterprises, and can cover equity investments, parent company and third party loans and loan guarantees, technical assistance agreements, cross-border leases, assigned inventory or equipment, and other forms of investment. This insurance covers three broad areas of political risk: currency inconvertibility, expropriation, and political violence. **Currency inconvertibility** coverage compensates investors if new currency restrictions are imposed which prevent the conversion and transfer of remittances from insured investments, but it does not protect against currency devaluation.

Expropriation coverage protects U.S. firms against the nationalization, confiscation, or expropriation of an enterprise, including actions by foreign governments that deprive an investor of fundamental rights or financial interests in a project for a period of at least six months. This coverage excludes losses that may arise from lawful regulatory or revenue actions by a foreign government and actions instigated or provoked by the investor of foreign firm.

Political violence coverage compensates U.S. citizens and firms for property and income losses directly caused by various kinds of violence, including declared or undeclared wars, hostile actions by national or international forces, civil war, revolution, insurrection, and civil strife (including politically motivated terrorism and sabotage). Income loss insurance protects the investor's share of income from losses that result from damage to the insured property caused by political violence. Assets coverage compensates U.S. citizens and firms for losses of or damage to tangible property caused by political violence. OPIC also has a number of special programs that protect U.S. banks from political violence. This type of insurance reduces risks for banks and

[14] For more information on the Enterprise Development Network (EDN), see: http://www.opic.gov/doing-business/edn.

other institutional investors, which allows them to play a more active role in financing projects in developing countries. Specialized types of insurance coverage also is available for U.S. investors involved with certain contracting, exporting, licensing, or leasing transactions that are undertaken in a developing country.

Investment Development

OPIC supports and mobilizes risk capital by providing debt capital for the creation of privately-owned and privately-managed equity **investment funds**. These funds make direct equity and equity-related investments in new, expanding or privatizing emerging market economies. In most instances, OPIC provides up to one-third of the fund's total capital, and receives debt returns on its investment. OPIC supports these funds in situations where U.S. firms either cannot allocate or cannot raise sufficient capital to start or expand their businesses overseas. OPIC uses a competitive selection process in order to select fund managers with venture capital investment capability and experience. In FY2010, OPIC-supported investment funds supported projects in a range of economic sectors, including financial services; insurance; housing; renewable energy; and information technology.

In addition, OPIC offers limited pre-investment services to aid U.S. investors. For instance, OPIC sponsors periodic investment conferences to inform U.S. businesses about investment opportunities. As part of these activities, OPIC has sponsored a series of regional outreach workshops to provide women- and minority-owned businesses with information and contacts for investing in overseas markets.[15]

Examples of OPIC Activity

Examples of OPIC's activities include the following:

- In December 2010, OPIC announced its plans to provide at least $300 million in financing for new private equity investment funds that could lead to more than $1 billion in investment in high-growth renewable resources projects in emerging markets.
- OPIC plans to provide up to $2 billion in financing for private sector investment in Egypt, Tunisia, Morocco, Iraq, Jordan, Lebanon, and the Palestinian Territories, as well as possibly Algeria, Oman, and Yemen. As part of that effort, in June 2011, OPIC announced its approval of $500 million in small business lending in Egypt and Jordan.
- In 2010, OPIC announced efforts to support reconstruction in Haiti by providing financing and insurance to U.S. businesses for projects in areas such as housing, access to finance for SMEs, power generation, and cellular service.

Sources: OPIC, "OPIC to Mobilize $1 Billion to Assist Developing Nations in Combating Climate Change," press release, December 6, 2010, http://www.opic.gov/news/press-releases/2009/pr120610; OPIC, "OPIC Board Approves $500 Million for Small Business Lending in Egypt and Jordan," press release, July 1, 2011, http://www.opic.gov/news/press-releases/2009/pr070111; and OPIC, "OPIC Announces Special Initiatives to Support Reconstruction and Relief in Haiti," press release, February 17, 2010, http://www.opic.gov/www.opic.gov/news/press-releases/2010/pr021710.

[15] OPIC, "OPIC Workshops Help U.S. Minority and Women-Owned Business Go Global," *OPIC News*, Winter 2008, p. 1. OPIC, "OPIC Workshop for Minority and Women-Owned Businesses Draws 120," press release, October 22, 2009.

Statutory and Policy Criteria for OPIC-Supported Projects

OPIC-supported projects are governed by congressionally-mandated statutory requirements and general OPIC policy. OPIC's Office of Investment Policy has identified four main criteria with which projects must qualify to receive OPIC support.

- **Environmental and social impact:** In determining whether to support a project, OPIC is directed to "be guided by the economic and social impact and benefits" of the project and is generally barred by its enabling legislation from participating in projects that pose an "unreasonable or major environmental health, or safety, hazard."[16] OPIC's Board of Directors shall not vote in favor of any project that is likely to have "significant adverse environmental impacts that are sensitive, diverse, or unprecedented" unless for at least 60 days before the vote, an environmental impact assessment of the project is conducted and is made available to the public.[17]
- **Worker and human rights:** OPIC-supported projects can be implemented only in countries that currently have, or are taking steps to adopt and implement, laws that uphold internationally recognized worker rights.[18] Any such determination shall be reported in writing to the Congress, together with the reasons for the determination.[19]
- **U.S. economic impact:** OPIC's activities are intended to assist U.S. firms and small businesses' foreign operations. For instance, Congress directed OPIC to focus on projects that have "positive trade benefits for the United States." OPIC is required to decline its services, however, if it determines an overseas investment may reduce employment in the United States, either because a U.S. firm shifts part of its production abroad, or because output from an overseas investment will be shipped to the United States and "reduce substantially the positive trade benefits" of the investment.[20]
- **Development effects on the host country:** OPIC is directed to "mobilize and facilitate the participation of United States private capital and skills in the economic and social development of less developed countries and areas, and countries in transition from nonmarket to market economies... under the policy guidance of the Secretary of State."[21] Factors considered when evaluating the developmental impact of OPIC-supported projects on the host country include: human capacity building and job creation, social policies and corporate social responsibility initiatives, infrastructure improvements, and technology and knowledge transfer.

[16] Sec. 231(1), Sec. 231(b)

[17] Sec. 231A(b) of the Foreign Assistance Act of 1961 (P.L. 87-195), as amended.

[18] Sec. 231A(a)(1) of the Foreign Assistance Act of 1961 (P.L. 87-195), as amended.

[19] Sec. 231A(a)(3) of the Foreign Assistance Act of 1961 (P.L. 87-195), as amended.

[20] 22 U.S.C. Section 2191, 3(k)(1).

[21] 22 U.S.C. Section 2191.

OPIC's Environmental and Social Policy Statement

In 2010, OPIC released a "revised and strengthened" Environmental and Social Policy Statement regarding the projects that it supports. The policy statement adopts the International Finance Corporation's Performance Standards on Social and Environmental Sustainability, aligning OPIC more effectively with the international development finance community on investment policy. OPIC's statement discusses OPIC, investor, and host country requirements and the processes by which OPIC ensures that its projects support environmental, social, labor, human rights, and transparency goals. The Statement also codifies previously established OPIC environmental and social commitments or practices, including to reduce greenhouse gas emissions of OPIC projects by 30% between 2008-2018 and by 50% between 2008-2023 and provide information on the agency website on the most environmentally- or socially-sensitive projects at least 30 days before the OPIC Board makes any decision on supporting them.

Sources: OPIC, *OPIC 2010 Annual Report*, p. 19. OPIC's Environmental and Social Policy Statement is accessible at: http://www.opic.gov/doing-business/investment/environment/policies.

Focus Areas

OPIC has identified several regional, sectoral, and investor priorities in terms of its activities.

- **Regional focus:** OPIC operates in over 150 countries, but has prioritized the Broader Middle East, Sub-Saharan Africa, and South Asia for OPIC-supported investment based on foreign policy objectives.
- **Sectoral focus:** While OPIC operates across a range of economic sectors, its sectoral priorities, based on development objectives, are: clean and renewable energy; critical natural resources (such as agriculture, water, and food security); and "impact investing" projects, which "generate financial returns while having measurable positive impacts on social, economic, or environmental conditions in OPIC-eligible countries."[22]
- **Investor focus:** U.S. investors that utilize OPIC services vary from large to small, but OPIC has placed special emphasis on encouraging U.S. small businesses to invest overseas.

Issues for Congress

Congressional consideration of OPIC for reauthorization may include an examination of issues such as: the economic and foreign policy rationale behind OPIC; the length of time for which to renew OPIC's authority; the statutory and policy requirements on OPIC's support for investment projects; and the agency's organizational structure.

Economic and Foreign Policy Debate about OPIC's Mission

Economists generally oppose the use of subsidized credits to promote trade or investment abroad. They believe such subsidies tend to distort the flow of capital and resources away from the most efficient uses. They also believe that by promoting investment abroad, OPIC may be crowding out, and thereby reducing, some domestic investment. As long as OPIC's non-federal collections—or the fees it charges the public for its services—are sufficient to cover all of its

[22] Fiscal Year 2012 Foreign Operations Congressional Budget Justification.

credit and noncredit activities (as indicated by some estimates), it may not have a negative impact on the federal government's budget. OPIC's impact on U.S. capital and resource markets, however, may well be negative due to the distorting effects of subsidized credits. Some supporters argue that OPIC is not large enough to affect the cost of capital in the United States. They also argue that the agency screens proposed investments to ensure that they would not affect U.S. employees negatively or displace U.S. production domestically or in overseas markets.

Members of Congress may debate the foreign policy rationales behind OPIC. Initially, OPIC was established to enhance U.S. aid policy during a period when policymakers were dissatisfied with the focus of U.S. aid programs on officially supported capital intensive projects. OPIC was designed to assist U.S. private firms to take the lead in developing projects that not only would enhance economic development but be economically viable as well. In this role, OPIC's programs may serve to rectify certain "market failures" that dissuade U.S. firms from investing in developing countries. In many of these countries, labor, goods, and capital markets are not well established, and information about the economy often is difficult to obtain. Given this lack of information, individual firms may well attach more risk to investing in developing economies than is warranted. Until the firms gain greater experience or information, or otherwise change their assessments of the risks and rewards of investing in developing countries, they may be overly reluctant to commit resources to investments in the least developed countries without OPIC's guarantees. While critics argue that many countries may no longer need OPIC support due to the successful transformation of their markets, supporters maintain that there are numerous countries around the world experiencing economic transformations that require the type of private sector-oriented support provided by OPIC.

Length of Reauthorization

Congress may examine the length of time for which to extend OPIC's authority. From an operational standpoint, some argue that OPIC would benefit from multi-year authorizations or a permanent authorization, which may enhance OPIC's capacity for long-term planning and ability to provide assurances to investors about OPIC programs. Others argue that frequent reauthorizations allow for more opportunity for congressional oversight of OPIC's activities.

The most recent long-term, stand-alone reauthorization of OPIC was through the Overseas Private Investment Corporation Amendments Act of 2003 (P.L. 108-158), which reauthorized OPIC through November 1, 2007. Since then, OPIC's authority has been extended through annual appropriations vehicles for varying periods of up to a year.

The most recently introduced stand-alone bill to renew OPIC's authority was S. 705. On March 25, 2009, the Senate introduced S. 705 to reauthorize OPIC until September 30, 2013. The bill included provisions related to the transparency and accountability of OPIC's investment funds, extended OPIC's authority to conduct projects in Iraq, strengthened statutory provisions on workers' rights overseas, and contained prohibitions on OPIC assistance to entities in countries designated as state sponsors of terrorism. On December 15, 2009, S. 705 was placed on Senate Legislative Calendar under General Orders.

OPIC's authorization has lapsed periodically, most recently from April-September 2008. When its authorization lapses, OPIC is able to disburse funds for already committed projects, but it is unable to sign contracts for new projects.[23]

Policies for Supporting Investments

In considering OPIC's authority, Congress could examine and potentially revise the requirements and limitations on OPIC's credit and insurance activities. Some business groups contend that OPIC's ability to support U.S. overseas investment in developing countries and emerging markets has been limited because of environmental requirements and other pre-conditions on host countries that they view as overly stringent. They encourage re-examination of these restrictions with a view towards supporting OPIC's development mandate and its role in promoting exports through the NEI.[24] Others may argue that it is important for OPIC's policies to balance U.S. investment and export interests with U.S. foreign policy, development, environmental and social, and other policy objectives.

Organizational Structure

Congress may examine OPIC's organizational structure in terms of the agency's effectiveness and efficiency in fulfilling its mandate. Congress could consider maintaining OPIC as an independent agency, reorganize the functions of OPIC, or privatize or terminate the agency's functions. Such consideration may take place in the context of a possible reorganization of the U.S. government agencies involved in export promotion. On March 11, 2011, President Obama issued a memorandum directing the Office of Management and Budget (OMB) to conduct a review of federal agencies and programs involved in trade and competitiveness and to submit recommendations on reorganizing and streamlining federal government functions in these areas. Members of Congress also may introduce their own proposals.

Proponents of trade reorganization argue that consolidation may increase the effectiveness of federal export promotion efforts; reduce federal spending on duplicative, unnecessary, or wasteful programs; and ensure a coherent, unified message by the federal government on U.S. trade and investment policy. Critics contend that such proposals could result in the creation of a large, costly federal bureaucracy or in federal assistance that is not responsive to the specific needs of certain exporters. Terminating certain agencies may result in cost-savings, but there also may be costs associated with transferring their functions, if deemed necessary, to other agencies.

Congress also may consider privatizing or terminating the functions of OPIC. Supporters of such options may argue that the self-sustaining nature of OPIC is proof that there is no market failure. They also may support such options based on views that OPIC competes with or crowds out private sector investment support; the private sector is more efficient and better suited than the federal government to support investments; and OPIC's activities impose potential costs and risks on U.S. taxpayers, since its activities are backed by the full faith and credit of the U.S. government. Critics may argue that the federal government plays a unique role in its capacity to

[23] Small Business Exporters Association, "Congress Restores Authority for Key Small Business International Trade Agency," press release, October 1, 2008, http://www.nsba.biz/content/2018.shtml. OPIC, *Budget Request of the Overseas Private Investment Corporation: Fiscal Year 2009*, Congressional Budget Justification, p. iii.

[24] See National Foreign Trade Council (NFTC) or Coalition for Exports through Employment (CEE) for such views.

address market failures; OPIC's backing by the full faith and credit the of U.S. government may make certain transactions more commercially attractive or give OPIC leverage to guarantee repayment in a way that is not available to the private sector; and federal investment support is critical when there is a shortfall in private sector financing..

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