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CRS Report for Congress

The Overseas Private Investment Corporation: Background and Legislative Issues

Danielle Langton
Analyst in International Trade and Finance
Foreign Affairs, Defense, and Trade Division

Summary

The Overseas Private Investment Corporation (OPIC)[1] was established in 1969 and began operations in 1971 to promote and assist U.S. business investment in developing nations. OPIC is a U.S. government agency that provides project financing, investment insurance, and other services for U.S. businesses in 154 developing nations and emerging economies. Congress reauthorized OPIC through April 1, 2008 in the Consolidated Appropriations Act of 2008 (**P.L. 110-161**). On July 23, 2007, the House approved **H.R. 2798** to reauthorize OPIC through 2011 and make other changes. The Senate has not considered this bill. The Consolidated Appropriations Act of 2008 provides $47.5 million for OPIC's FY2008 administrative expenses and allows a transfer of $20 million from OPIC's non-credit account to fund its credit program. This report will be updated as events warrant.

Background

Structured like a private corporation, OPIC operates on a self-sustaining basis and has recorded a positive net income for every year of operation, with reserves now totaling more than $3 billion. OPIC was established in 1969 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 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.[2]

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

[1] For additional information, see OPIC's Internet address: [http://www.opic.gov/].

[2] *Public Papers of the Presidents: Richard Nixon*. Washington, U.S. Govt. Print. Off., 1969. p. 412.

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 viewed by some as 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.

At present, 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."[3] OPIC's programs are intended to promote U.S. private investment in less developed countries by reducing risks, especially political risks (including currency inconvertibility, expropriation, political violence, and terrorism), for U.S. firms associated with overseas investment. To accomplish these goals, OPIC is authorized to finance U.S. investment through loans and guarantees, insure against political risk, and provide various investor services. 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 substantial financial resources. OPIC's activities also were 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 believes 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.[4] OPIC also is generally barred by its enabling legislation from participating in projects that pose an "unreasonable or major environmental health, or safety, hazard," or participating in countries that do not "extend internationally recognized workers rights," or that impose domestic content requirements.

Programs

OPIC operates in approximately 154 countries and areas worldwide, including countries in Central and Eastern Europe.[5] Although OPIC offers U.S. firms an array of services, its activities can be grouped into three categories: finance, insurance, and investment development.

Finance. OPIC's finance program operates like an investment bank, customizing and structuring a complete package for each project. To obtain OPIC financing, the venture must be commercially and financially sound and 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

[3] 22 U.S.C. Section 2191.

[4] 22 U.S.C. Section 2191, 3(k)(1).

[5] *Annual Report*, various years. Overseas Private Investment Corporation.

firms, the U.S. investor is expected to own at least 25% of the equity of the venture. For new ventures, financing may be equal to 50% of the total project cost; a larger share is possible for plant expansions. OPIC provides financing to investors through two major programs: direct loans and loan guarantees. **Direct loans** generally range between $2 million and $10 million and are available only for ventures sponsored by, or significantly involving, U.S. small businesses or cooperatives (such as joint ventures).

Loan guarantees typically are used for larger projects, ranging in size from $10 million to $75 million, but in certain cases can be as high as $200 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. OPIC charges up-front, commitment, and cancellation fees, and reimbursement is required for related administrative expenses. OPIC also requires that proceeds of its financing be spent for capital goods and services in the United States, in the host country, or in other less developed countries, but not in other industrialized countries.

OPIC also sponsors a number of funds that offer equity financing to U.S. firms that either cannot allocate or cannot raise sufficient capital to start or expand their businesses overseas. These funds represent a blend of public and private sector capital and are managed by firms with venture capital investment capability and experience. Among the direct investment funds OPIC has invested in are: the Africa Growth Fund, Africa Growth Fund II, the Central and Eastern European Growth Fund, the India Private Equity Fund, the Israel Growth Fund, and the InterArab Investment Fund. OPIC also is supplying guarantees for private funds to assist the Newly Independent States (NIS). These efforts include the Russia Partners Fund, the Poland Partners Fund, and the Global Environment Emerging Markets Fund.

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

Investment Development. OPIC also offers various pre-investment services to aid U.S. investors. For instance, OPIC sponsors periodic investment missions with U.S. businesses to developing countries and investor conferences to inform U.S. businesses about investment opportunities.

OPIC's Budget

OPIC regularly turns funds back to the Treasury Department. Each year, however, Congress approves a credit program level for OPIC and appropriates funds for its administrative expenses. These funds are not actually provided to OPIC, because OPIC relies on its own resources. Congress follows this procedure in order to exercise its oversight role and to set limits on the extent to which OPIC can obligate U.S. government resources. 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 an amount equal to its direct appropriation. For FY1995 and beyond, OPIC has received authority to forego additional appropriations.

OPIC's budget is composed of non-credit and credit accounts, in conformity with the standards set out in the Federal Credit Reform Act of 1990 (see **Table 1**). The non-credit portion of OPIC's budget relates to OPIC's political risk insurance program; its credit program accounts are comprised of OPIC's direct and guaranteed loans. In FY2004, OPIC extended about $1.9 billion in insurance to U.S. firms and had $12 billion in insurance policies outstanding. OPIC also disbursed $300 million in direct loans and $1.1 billion in guaranteed loans. OPIC has accumulated over $3.5 billion in assets in its non-credit account, which it uses to fund losses it may experience in its guarantee and insurance coverage. OPIC uses premium income and the interest it accrues from the assets in its non-credit account to fund the direct and indirect expenses in its non-credit and its credit accounts.

Table 1. OPIC's Budget Summary
(in millions of dollars)

	FY02	FY03	FY04	FY05	FY06	FY07	FY08
NON CREDIT ACCOUNT							
Operating Expenses	$74	$84	$94	$46	$166	$104	$85
Non credit personnel costs	16	16	16	17	17	17	20
Insurance payments/provisions	34	—	—	—	118	50	35
Administration costs	23	24	25	26	25	26	28
Adjustments to accounts	1	44	3	2	1	3	2
Iraq Middle Market Dev. Foundation			50	1	—	8	—
Budget authority (gross)	38	56	81	51	172	125	88
Outlays (gross)	49	76	180	-10	46	141	90
Offsetting collections	-308	-346	-316	-257	-323	-249	-265
Federal sources	-23	-24	-50	-26	-25	-26	-28
Interest on U.S. securities	-223	-272	-222	-203	-200	-203	-217
Non-Federal sources	-62	-50	-44	-28	-22	-20	-20
Budget authority (net)	-268	-287	-229	-201	-153	-133	-177
Outlays (net)	-239	-270	-135	-267	-277	-108	-175
Budget authority:							
Transferred to other accounts[a]	47	48	48	49	45	35	58
CREDIT ACCOUNT							
Program Expenses[c]	160	211	198	180	167	165	59
Direct loan subsidy	5	17	6	22	7	10	16
Guaranteed loan subsidy	14	1	33	11	1	9	11
Program cost re-estimates	118	168	134	131	134	120	3
Administrative expenses	23	25	25	26	25	26	29
Budget authority	23	216	182	174	179	151	58
Appropriation[b]	—	168	134	120	134	116	—
From other accounts[c]	47	48	48	49	45	35	58

Source: *Budget of the United States Government*, various years. U.S. Govt. Print. Off., Washington.

a. Budget authority transferred to other accounts, including OPIC's credit account.
b. OPIC does not receive an actual appropriation. The figure listed here is calculated by OMB to approximate the total subsidy OPIC provides through its programs, using its own resources. FY2003 and 2004 appropriations included guarantees for private funds and OPIC finance to assist the NIS.
c. These funds include transfers from OPIC's Non-Credit Account (see footnote 'a') and from the Export-Import Bank and AID for OPIC guarantees to NIS countries.

Legislative Issues

Congress reauthorized OPIC through April 1, 2008 in the Consolidated Appropriations Act of 2008 (**P.L. 110-161**). The House previously approved **H.R. 2798** on July 23, 2007 to reauthorize OPIC through 2011 and introduce new requirements for OPIC. The bill includes specific actions for OPIC to take, such as to post summaries of all new projects publicly on its website; consult with affected communities on environmentally sensitive projects; promote "clean energy technologies;" institute a climate change mitigation action plan; create an Office of Accountability; refer certain fraud cases to the Department of Justice; institute a competitive process for the selection of investment fund managers; report to Congress on investment funds' performance and status; notify Congress before approving projects involving extractive industries; and notify Congress if OPIC's maximum contingent liability outstanding exceeds the previous year's by 25%. The bill would also prohibit OPIC from supporting any project where an applicant for OPIC assistance has provided a loan to a government that is a state sponsor of terrorism, or has an investment of $20 million or more in the energy sector in a country that is a state sponsor of terrorism.

Other legislation pertaining to OPIC has been introduced in the 110th Congress. The Energy Independence and Security Act of 2007, **P.L. 110-140**, expresses the sense of Congress that OPIC should undertake certain activities to promote greater investment in clean and efficient energy technologies and requires OPIC to include a description of such activities in its annual report. The Caribbean Coral Reef Protection Act, **H.R. 1679**, would prohibit OPIC from providing its services to any person who has made investments contributing to the Government of Cuba's ability to develop petroleum resources off the coast of Cuba. **H.R. 1886** would prohibit OPIC from supporting an investment involving an oil or gas project. The Currency Reform for Fair Trade Act of 2007, **H.R. 2942**, would prohibit OPIC from supporting projects in designated countries that issue fundamentally misaligned currencies.

Economic and Policy Issues

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 and to distort trade and investment flows abroad. As a result, they conclude 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 credit and non-credit activities (as indicated by some estimates), its impact on the federal government's budget may not be negative. OPIC's impact on U.S. capital and resource markets, however, may well be negative due to the distortionary effects of subsidized credits.

Much of the rationale for OPIC relates to U.S. foreign policy goals, a premise that is being questioned by Members of Congress in a number of ways. 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 take the lead in developing projects that not only would enhance economic development but be economically viable as well. In recent years, OPIC has supported efforts within the Newly Independent States to convert defense industries into market-oriented industries producing consumer products. 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.