



The Overseas Private Investment Corporation: Background and Legislative Issues

Shayerah Ilias

Analyst in International Trade and Finance

December 1, 2009

Congressional Research Service

7-5700

www.crs.gov

98-567

Summary

The Overseas Private Investment Corporation (OPIC) was established in 1969 and began operations in 1971 as a development agency to promote and assist U.S. business investment in developing nations. Today, OPIC is a U.S. government agency that provides project financing, investment insurance, and other services for U.S. businesses in over 150 developing nations and emerging economies. To date, OPIC has funded, guaranteed, or insured over \$180 billion in investments.

OPIC's activities are guided by U.S. foreign policy objectives. Geographical priority areas for OPIC-supported activities are sub-Saharan Africa, the Broader Middle East and North Africa, and Asia. Sectoral priorities for the agency are renewable energy and access to credit for micro-, small-, and medium-sized enterprises. OPIC-supported projects must not have negative economic effects on U.S. employment and industry and must fulfill other statutory requirements.

OPIC's budget is fully self-sustaining from its own revenues. Congress, as part of its oversight activities, annually provides OPIC with the authority to cover its administrative expenses and credit subsidy funding from user fees and its own income. The Omnibus Appropriations Act of 2009 (P.L. 111-8) extended OPIC's authority through September 30, 2009. The Act provided \$50.6 million for OPIC's administrative expenses and authorized a transfer of \$29 million from OPIC's noncredit account to conduct its credit and insurance programs. Legislation to extend OPIC reauthorization until September 30, 2013 (S. 705) has been introduced in the 111th Congress.

Contents

Background	1
Programs	2
Finance	2
Insurance	3
Investment Development.....	4
OPIC’s Budget.....	5
Recent Developments.....	7
Legislative Issues	8
Economic and Policy Issues	9

Tables

Table 1. OPIC’s Budget Summary.....	6
-------------------------------------	---

Contacts

Author Contact Information	10
----------------------------------	----

Background

The Overseas Private Investment Corporation (OPIC) is a U.S. government agency that provides project financing, investment insurance, and other services for U.S. businesses in over 150 developing nations and emerging economies.¹ Structured like a private corporation, OPIC operates on a self-sustaining basis to mobilize and facilitate private capital investment in developing countries. The agency has recorded a positive net income for every year of operation, with reserves (comprised of U.S. Treasury securities) totaling about \$5 billion.²

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.³

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.

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... under the policy guidance of the Secretary of State.”⁴ OPIC’s programs are intended to promote U.S. private investment in less developed countries by mitigating risks, such as political risks (including currency inconvertibility, expropriation, political violence, and terrorism), for U.S. firms making qualified investment overseas. 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 financial resources.

In addition to their development objectives, OPIC’s activities are intended to assist U.S. firms and small businesses’ foreign operations. For instance, Congress directed OPIC to focus on projects

¹ For additional information, see OPIC’s website: <http://www.opic.gov/>.

² Estimated at fair value. OPIC, *OPIC 2008 Annual Report*, p. 34.

³ *Public Papers of the Presidents: Richard Nixon*. Washington, U.S. Government Printing Office, 1969. p. 412.

⁴ 22 U.S.C. Section 2191.

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.⁵ 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 over 150 countries and areas worldwide. As OPIC’s activities are guided by U.S. foreign policy objectives, OPIC has identified three priority regions—sub-Saharan Africa, the Broader Middle East and North Africa, and Asia—where it believes that OPIC-supported private investment could advance U.S. foreign policy goals. In recent years, OPIC also has identified sectoral priorities for its activities, including renewable energy and access to credit for micro-, small-, and medium-sized enterprises. To date, OPIC has funded, guaranteed, or insured over \$180 billion in investments.⁶ Although OPIC offers U.S. firms an array of services, its activities can be grouped into three categories: finance, insurance, and support for private equity funds.

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 small- and medium-sized enterprises and the other that focuses on larger infrastructure and financial services projects involving larger U.S. businesses.

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.

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

⁵ 22 U.S.C. Section 2191, 3(k)(1).

⁶ OPIC, annual reports, various years. OPIC, *Budget Request of the Overseas Private Investment Corporation, Fiscal Year 2009*, Congressional Budget Justification, February 2008, pp. 9-16. Telephone conversation with OPIC official, April 14, 2009.

certain cases. Direct loans are available only for ventures sponsored by, or significantly involving, U.S. small- and medium-sized businesses 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. OPIC recently announced the selection of several financial consulting firms to serve as loan originators in the EDN.⁷

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

⁷ OPIC, "OPIC Selects Global Export Finance, LLC as Originator in Enterprise Development Network," press release, November 20, 2009. OPIC, "OPIC Selects Alliant Emerging Markets as Originator in Enterprise Development Network," press release, November 20, 2009. OPIC, "OPIC Selects Ignite Corporate Financial Solutions as Originator in Enterprise Development Network," press release, November 20, 2009. OPIC, "OPIC Selects Saltus, LLC as Originator in Enterprise Development Network," press release, November 20, 2009. OPIC, "OPIC Selects Global Business Advisory Services, LLC as Originator in Enterprise Development Network," press release, November 20, 2009.

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 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 also 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. Since the initiation of its investment funds program in 1987, OPIC has committed \$3.6 billion in funding to more than 50 private equity funds. These funds subsequently have invested \$4.6 billion in over 470 privately owned and privately managed companies, mainly in small- and medium-sized enterprises, in regions eligible for OPIC support.

By geographical area, nearly half (47%) of all of OPIC-supported investment funds are located in Africa. For example, as part of OPIC's initiative to broaden and deepen capital markets in Sub-Saharan Africa, OPIC's Board of Directors has approved a number of investment funds, including the Africa Catalyst Fund, Atlantic Coast Regional Fund, and Millennium Global Africa Opportunities. For each fund, OPIC will provide around \$100 million in financing.⁸ Other regions where OPIC-supported investment funds are concentrated include Central/Eastern Europe (15%), Latin America/Caribbean (15%), and Asian (12%).⁹

OPIC supports investment funds in a range of economic sectors. Projects in the technology/media/telecommunications area and in financial services account for about one-fifth of all of OPIC-supported investment funds. In line with OPIC's sectoral focus on renewable energy, OPIC's Board of Directors has approved \$505 million in financing for several new private equity funds established to invest in clean and renewable energy projects in developing markets. These funds include the Middle East & Asia Capital Partners Clean Energy Fund II, South Asia Clean Energy Fund, FE Global Clean Energy Services Fund IV, and US Renewable Group Emerging Market Fund.¹⁰

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

⁸ OPIC, *Budget Request of the Overseas Private Investment Corporation, Fiscal Year 2009*, Congressional Budget Justification, February 2008, pp. 20-21. OPIC, "OPIC: Making Difference in Africa's Capital Markets," *OPIC News*, Winter 2008, p. 4.

⁹ OPIC website, <http://www.opic.gov/investment-funds/participating-funds>.

¹⁰ OPIC, "OPIC Board Approves Over \$500 Million for New Renewable Energy Funds," *OPIC News*, Fall 2008, pp. 1-2.

workshops to provide women- and minority-owned businesses with information and contacts for investing in overseas markets.¹¹

OPIC's Budget

OPIC's budget is fully self-funded from its own revenues. Each year, however, Congress provides through the appropriations process authority for OPIC to pay its administrative expenses and credit subsidy funding from 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 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 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 (see **Table 1**). The noncredit 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. OPIC has accumulated \$4.7 billion in assets in its noncredit account, which it uses to fund losses it may experience in its guarantees and insurance coverage.¹² 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 its credit accounts.

In FY2008, the maximum exposure of OPIC's insurance and finance programs stood at \$11.3 billion. Of this amount, OPIC's maximum insurance exposure stood at \$2.9 billion. The agency's direct loan exposure was \$1.2 billion, of which \$766 million was outstanding. OPIC had \$7.2 billion in exposure for its investment guarantees, of which \$4.8 billion was outstanding. Although the agency's total maximum exposure in FY2007 and FY2008 was about the same, OPIC's insurance liability decreased and investment guarantees liability increased from FY2007 to FY2008.

OPIC regularly returns "surplus" funds to the U.S. Treasury. These funds represent a reserve fund against losses that OPIC may accrue from losses through its financing and insurance programs. 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).¹³

¹¹ 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.

¹² OPIC, *Budget Request of the Overseas Private Investment Corporation: Fiscal Year 2009*, Congressional Budget Justification.

¹³ Estimated at fair value. OPIC, *OPIC 2008 Annual Report*, p. 34.

Table I. OPIC's Budget Summary

(in millions of dollars)

	FY04 Actual	FY05 Actual	FY06 Actual	FY07 Actual	FY08 Actual	FY09 Est.	FY10 Est.
NON CREDIT ACCOUNT							
Operating Expenses	\$41	\$43	\$42	\$43	\$48	\$50	\$52
Noncredit administrative expenses	16	17	17	18	29	20	21
Credit administrative expenses ^a	25	26	25	25	19	30	31
Other Noncredit Expenses	53	4	120	45	28	24	23
Insurance claim payments/provisions	—	—	118	33	25	10	20
Adjustments to accounts	3	2	2	4	3	5	3
Iraq Middle Market Development Foundation	50	2	—	8	—	9	—
Subtotal, Budget authority (gross)	81	51	172	112	83	201	182
Subtotal, Outlays (gross)	180	-10	46	52	49	55	70
Offsetting collections	-316	-257	-323	-292	-295	-260	-242
Federal sources	-50	-26	-25	-34	-39	-30	-31
Interest on U.S. securities	-222	-203	-200	-206	-212	-210	-191
Non-Federal sources	-44	-28	-22	-24	-18	-20	-20
<i>Budget authority (net)</i>	-229	-201	-153	-185	-208	-59	-60
<i>Outlays (net)</i>	-135	-267	-277	-240	-246	-205	-172
Budget authority:							
Transferred to other accounts ^b	48	49	45	45	52	59	60
CREDIT ACCOUNT							
Total New Program Obligations ^c	198	180	167	177	110	144	72
Direct loan subsidy	6	22	7	16	6	7	13
Guaranteed loan subsidy	33	11	1	20	5	14	19
Program cost re-estimates	134	121	134	116	70	89	—
Credit administrative expenses ^a	25	26	25	25	29	29	31
Budget Authority (net)	182	174	179	161	123	148	60
Appropriations ^d	134	120	134	116	71	89	—
From other accounts ^c	48	49	45	45	52	59	60

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

Notes:

- a. Credit administrative expenses originate from noncredit account balances 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.
- b. Budget authority transferred to other accounts, including OPIC's credit account.

- c. These funds include transfers from OPIC's noncredit account (see footnote 'a') and from the Export-Import Bank and AID for OPIC guarantees to Newly Independent States (NIS) countries.
- d. OPIC does not receive an appropriation for the initial funding of its credit program subsidy. In accordance with the Federal Credit Reform Act, OPIC receives an appropriation for the funding of the upward subsidy re-estimates.

Recent Developments

With the advent of the current international financial crisis,¹⁴ OPIC has reported that the risks associated with its investment projects have increased. Private sponsors of OPIC-supported investment projects have faced challenges obtaining private equity and debt financing for projects scheduled to be conducted in the future. Businesses financed and insured by OPIC also have been affected by the global decline in demand. OPIC notes that it has taken measures to monitor current and potential projects in view of the current economic climate.¹⁵

According to OPIC, the challenges posed by the financial crisis have heightened the need for OPIC's services by U.S. business companies. The international financial crisis has spurred liquidity problems for the U.S. financial sector, leading to a contraction of credit and insurance available in private markets. U.S. companies that are interested in investing in developing countries may turn to OPIC loans, guarantees, and political risk insurance to fill the gap in commercial capacity. OPIC reports that it has experienced an increase in inquiries for its services as a result of tightening of private credit sources.¹⁶

In other developments, in February 2009, a settlement was reached in an environmental lawsuit brought by Friends of the Earth, Greenpeace, and four cities (Boulder, Colorado and the cities of Arcata, Santa Monica, and Oakland in California) against OPIC and another U.S. government agency, the Export-Import Bank (Ex-Im Bank), in 2002.¹⁷ In the lawsuit, the environmental groups and cities alleged that OPIC and the Ex-Im Bank provided more than \$32 billion in financing and insurance from 1990 to 2003, without assessing the extent to which the projects contributed to climate change in the United States as required by the National Environmental Policy Act (NEPA, P.L. 91-190).

Under the settlement, OPIC is able to continue funding such projects, but must take several measures. Among the settlement provisions, OPIC agreed to subject "Category A" projects, those resulting in emissions of more than 100,000 tons of carbon dioxide equivalents, to a NEPA-equivalency Environmental Impact Analysis; to make public its determinations about the environmental impact of such projects on its agency website and to provide opportunity for comment; and, on an annual basis, to publicly report greenhouse gas emissions from projects in its active portfolio that emit more than 100,000 tons of carbon dioxide equivalents a year. Consistent with OPIC's ongoing commitment to support renewable energy projects, OPIC also agreed to provide at least \$250 million for investment funds to give priority and preferential financing terms to renewable energy projects and to encourage applicants seeking OPIC support

¹⁴ 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.

¹⁵ OPIC, *Budget Request of the Overseas Private Investment Corporation: Fiscal Year 2009*, Congressional Budget Justification, p. iii.

¹⁶ Ibid.

¹⁷ *Friends of the Earth v. Mosbacher*, 488 F. Supp. 2d 889 (N.D. Cal. 2007).

to explore opportunities to employ renewable energy sources in project designs. In addition, OPIC has agreed to reduce by 20% over the next ten years the greenhouse gas emissions associated with Category A projects. This is in line with an initiative previously adopted by OPIC in June 2007.¹⁸

OPIC has taken a series of actions to increase transparency and accountability and to facilitate receipt of information from the public in the project review process. In 2004, OPIC created an Office of Accountability to assess and review complaints about OPIC-supported projects. OPIC also posts on its website public summaries of OPIC-supported projects approved by the OPIC Board of Directors and those delegated by the OPIC Board of Directors to be approved by OPIC management. Recently, OPIC announced several new transparency initiatives, including the posting of detailed project summaries prior to all Board of Directors meetings and the revision of its Environmental Handbook for the first time since 2004 (to be renamed the OPIC Environmental and Social Policy Statement).¹⁹

Legislative Issues

Congress does not approve individual OPIC projects, but has a number of oversight responsibilities related to the agency and its activities. The Senate confirms Presidential appointments to OPIC's Board of Directors and to the agency positions of President and Executive Vice President.²⁰ Congress authorizes OPIC's ability to conduct its credit and insurance programs for a period of time chosen by Congress. In addition, Congress approves an annual appropriation for OPIC that sets an upper limit on the agency's administrative expenses to conduct its programs. Congress also can amend or change OPIC's governing legislation, the Foreign Assistance Act of 1961 (P.L. 87-195) as amended.

The Omnibus Appropriations Act of 2009 (P.L. 111-8) extended OPIC's operating authority through September 30, 2009. The Act provided self-funding for OPIC; it set a limit of \$50.6 million for OPIC's administrative expenses and authorized a transfer of \$29 million from OPIC's noncredit account to conduct its credit and insurance programs. For FY2010, the State-Foreign Operations Appropriations bills (H.R. 3081, S. 1434) would set a limit of \$52.31 million to fund OPIC's administrative expenses and would authorize a transfer of \$29 million for its credit and insurance programs to be funded by a transfer from OPIC's noncredit account.

On March 25, 2009, the Senate introduced S. 705 to reauthorize OPIC until September 30, 2013. The bill directs OPIC to ensure transparency and accountability of its investments funds through the use of competitive, open procedures in the selection of its investment fund managers and through annual reporting requirements. The bill also requires OPIC to provide more information to the public on the methodology used to evaluate the impacts of OPIC projects and to provide more opportunity for public input on OPIC projects. In addition, the legislation directs OPIC to

¹⁸ "Lawsuit Forces U.S. Financing Agencies to Account for Climate," *Environment News Service*, February 7, 2009. Gerald Karey, "ExIm Bank, OPIC agree to provide \$500 mil for renewable energy," *Platts Commodity News*, February 6, 2009. Meeting with Export-Import Bank officials, March 9, 2009. Overseas Private Investment Corporation, "OPIC Announces Greenhouse Gas Initiative Capping Emissions on New Projects, Shifting Emphasis to Renewable Energy," press release, June 14, 2007.

¹⁹ OPIC, "OPIC to Disclose Detailed Project Information in New Commitment to Transparency," press release, April 8, 2009, <http://www.opic.gov/news/pressreleases/2007/pr040809.asp>.

²⁰ Telephone conversation with OPIC congressional liaison, February 10, 2009.

ensure that extractive industry projects conform to Extractive Industry Transparency Initiative (EITI) standards and principles and to give preference to projects in which eligible investors have agreed to implement the transparency standards and principles. The bill also extends OPIC's authority to conduct projects in Iraq. Among other provisions, the bill strengthens statutory provisions on workers' rights overseas and prohibits OPIC assistance to entities with investments of \$20 million or more in countries that are state sponsors of terrorism.

OPIC's authorization has lapsed periodically. When OPIC's authorization lapses, OPIC is able to continue operating; the agency is able to disburse funds for already committed projects, but is unable to sign contracts for new projects. OPIC's Small and Mid-Size Enterprise Finance Division reportedly developed a large backlog of unapproved transactions during the lapse in reauthorization. Expiration of reauthorization also reportedly affects OPIC's capacity for long-term planning and ability to provide assurances to investors about OPIC programs.²¹ From an operational standpoint, some argue that OPIC would benefit from multi-year authorizations. Others argue that frequent reauthorizations allow for more opportunity for congressional oversight of OPIC's activities.

Previous reauthorization bills introduced in the 110th Congress (H.R. 2798, S. 3297) included new directives for OPIC, such as to promote the use of clean energy technology and reduce greenhouse gas emissions associated with OPIC-supported projects. The Senate did not act on S. 3297 because some Members were reportedly opposed to the provisions on clean energy technology. The OPIC reauthorization bill introduced in the 111th Congress (S. 705) does not include any such directives for OPIC.

Other legislation pertaining to OPIC was introduced in the 110th Congress. The Energy Independence and Security Act of 2007, P.L. 110-140, expressed the sense of Congress that OPIC should promote greater investment in clean energy technologies and includes a reporting requirement. The Caribbean Coral Reef Protection Act, H.R. 1679, would have prohibited OPIC from providing its services to any person who has made investments contributing to the development of petroleum resources off Cuba's coast. H.R. 1886 would have prohibited OPIC from supporting any oil or gas project. The Currency Reform for Fair Trade Act of 2007, H.R. 2942, would have prohibited 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. 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 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

²¹ 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.

argue that, with a total finance and insurance portfolio of \$11.3 billion, OPIC is not large enough to affect the cost of capital in the United States. They also argue that OPIC screens proposed investments to ensure that they would not affect U.S. employees negatively or displace U.S. production domestically or in overseas markets.

OPIC was established as part of the Foreign Assistance Act of 1961, as amended. As such, much of the rationale for OPIC relates to U.S. foreign policy goals, a premise that is being questioned by some Members of Congress. 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, including those in Latin America, Africa, and the Middle East, experiencing economic transformations that require the type of private sector-oriented support provided by OPIC.

Author Contact Information

Shayerah Ilias
Analyst in International Trade and Finance
siliias@crs.loc.gov, 7-9253