The BUILD Act – A Restructuring of American Development Finance

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On October 5th, President Trump signed the Better Utilization of Investments Leading to Development (BUILD) Act of 2018 into law. The act transforms and combines existing American development finance institutions – the Overseas Private Investment Corporation (OPIC) and USAID's Development Credit Authority – into a new entity, the *U.S. International Development Finance Corporation*. The sudden impetus and support for this initiative seems to be as a strategic response to China's ambitious Belt and Road Initiative (BRI) – a $1 trillion initiative of the Chinese government to finance and invest in infrastructure in over 70 countries.

OPIC and Development Finance Institutions (DFIs)

OPIC, America's primary Development Finance Institution (DFI), was established in 1971 by President Richard Nixon as an agency of the U.S. Government mandated to support American businesses investing in emerging markets. The agency "provides businesses with the tools to manage the risks associated with foreign direct investment, fosters economic development in emerging market countries and advances U.S. foreign policy and national security priorities. OPIC fulfills its mission by providing businesses with financing, political risk insurance, advocacy and by partnering with private equity investment fund managers."

Many developed countries have established DFIs with similar missions that support development goals through various financing products, including loans, loan guarantees, and political risk insurance. To provide this development financing, DFIs' products are typically backed by government guarantees, which allow the agencies to provide financing based on the developed country's credit rating rather than the credit rating of the emerging market borrower or partner. This function essentially provides government-backed financing to support private sector capital investments in emerging markets.

To be eligible for OPIC support, projects must demonstrate:

- No negative impact on U.S. jobs or the U.S. economy
- U.S. ownership or strong U.S. involvement
- Strong business plan and a successful track record in the industry
- An inability to attract sufficient private finance or insurance

OPIC's current portfolio represents exposures of $23.2 billion and represents approximately 641 projects. 26% of those projects are in Africa, 21% in Latin America and 20% in Asia with the rest of projects occurring in Europe, the Middle East and spanning multiple regions. Of the 641 projects, OPIC provides financing for 412, political risk insurance for 186 and invests in 43 equity funds. The largest sectors OPIC provides support for are: Finance and Insurance 45%, Utilities 31%, Manufacturing 4%, Transportation and Warehousing 3%, Construction 3%, Information 3%, Health Care and Social Assistance 3%, Mining, Quarrying, and Oil and Gas Extraction 2% and the remainder of projects in other industries. Examples of finance support in Africa are a $75 million loan to First City Monument Bank in Nigeria to expand its SME lending and infrastructure portfolio and a $30 million loan to Ghana Home Loans Limited to fund mortgages to be held by an SPV which is 100% owned by local start-up mortgage banking company. OPIC also provided $209 million in loans and political risk insurance to a New York-based company, ContourGlobal, to build a 100 MW power plant in the Republic of Togo, which provides much-needed electricity capacity.

For several years there have been calls from various groups in the U.S., including from some members of the current administration, to review OPIC's practices and policies, as well as development finance and foreign aid in general. Some critics claimed OPIC was too conservative in its investment strategy, in effect crowding out private financing that would have participated on these projects regardless of OPIC's involvement. Critics further claimed it supported low-risk projects in middle-income countries and/or it's support benefited very large American companies such as GE and Bechtel.

The Trump administration previously considered cutting funding for OPIC, though the sentiment seems to have now changed and the administration is supporting enhancing American DFIs to serve as a counterweight to China's development initiative in emerging markets. A White House National Security Strategy document in December 2017 recommended reforms and support for a new American DFI and was again recommended in the President's 2019 Budget

The BUILD Act and the newly established USIDFC

With the administration's recent support and initiative, the BUILD Act was passed out of both the house and the senate with bi-partisan support. The act itself establishes the USIDFC and notes "it is the policy of the United States to facilitate market-based private sector development and inclusive economic growth in less developed countries through the provision of credit, capital and other financial support." In a specific nod to counter China's efforts and worries that their BRI can create a "debt-trap" for participating countries, another line of the Statement of Policy notes "to provide countries a robust alternative to state-directed investments by authoritarian governments and United States strategic competitors using best practices with respect to transparency and environmental and social safeguards, and which take into account the debt sustainability of partner countries."

The legislation also states boldly in the Purpose of establishing the USIDFC, "The Corporation shall prioritize the provision of support under Title II in less developed countries with a low income economy or a lower-middle income economy" and further states that support to upper-middle income countries will be restricted unless "the President certifies to the appropriate congressional committees that such support furthers the national economic or foreign policy interests of the United States; and such support is designed to produce significant developmental outcomes or provide developmental benefits to the poorest population of that country." Thus, seeming to address concerns raised about OPIC's conservative investment strategy and record.

Other important changes to the new U.S.'s development financing tools and mission are:

- Limited ability to make direct equity investments in projects (minority-interest only)
- Doubling the investment cap from $29 billion to $60 billion – with increased oversight
- Ability to conduct technical and feasibility studies specific to projects
- Increased integration and coordination with the State Department and USAID

Another notable change to requirements for USIDFC support are around the previous requirement for OPIC support to have a "meaningful connection to the U.S. private sector." For debt- financing support this meant that a project-company must have at least 25% U.S. involvement in the project company's equity. U.S. involvement was defined as a U.S.-organized entity that is 25% or more U.S.-owned. In the language of the bill establishing the USIDFC, it now simply notes "The Corporation should give preferential consideration to projects sponsored by or involving private sector entities that are United States persons." Thus, the USIDFC would only have to give preferential consideration to projects involving the U.S. private sector.

All-in-all, the BUILD Act includes reforms and policies that are in line with other countries' DFIs, such as the ability to take equity positions in projects, and it refines and adds oversight of the U.S.'s development finance mission.

What does this mean for U.S.-organized entities exploring opportunities in emerging markets

U.S.-organized enterprises seeking new opportunities and markets abroad might consider exploring the possibility of USIDFC support. For example, U.S.-organized entities could be considered more attractive JV partners in emerging markets if they are able to bring USIDFC financing and/or support to a project. Further, while the goal of DFIs in general is to supply capital in difficult markets, accessing this support could also represent an excellent growth opportunity for U.S.-organized entities looking to build a reputation in emerging markets where economies are growing and there is expected to be a large increase in construction spending over the next decade, such as India and Nigeria.

According to the World Economic League Table (WELT) 2018 published by Global Construction Perspectives and the Centre for Economics and Business Research, as developing countries and their economies grow, they will command a larger share of the global economy. The WELT 2018 report predicts that by 2032, formerly developing nations will account for 56% of the world economy. The growing importance of developing markets to the world economy means that accessing these markets now may put global contractors in an advantageous position going forward.

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