

North American Regional Meeting

The Overseas Private Investment Corporation – Perspective of the General Counsel

GUEST SPEAKER

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Vice President and General Counsel

Overseas Private Investment Corporation (OPIC)



Overseas Private Investment Corporation

Overview

Don De Amicis
Vice President & General Counsel
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1 Our Agency

2 OPIC's Strategic Priorities

3 Portfolio & Financial Performance

4 Doing Business

Our Organization

As the U.S. Government's development finance institution, OPIC mobilizes U. S. private capital to help solve critical development challenges and in doing so, advances U.S. foreign policy.



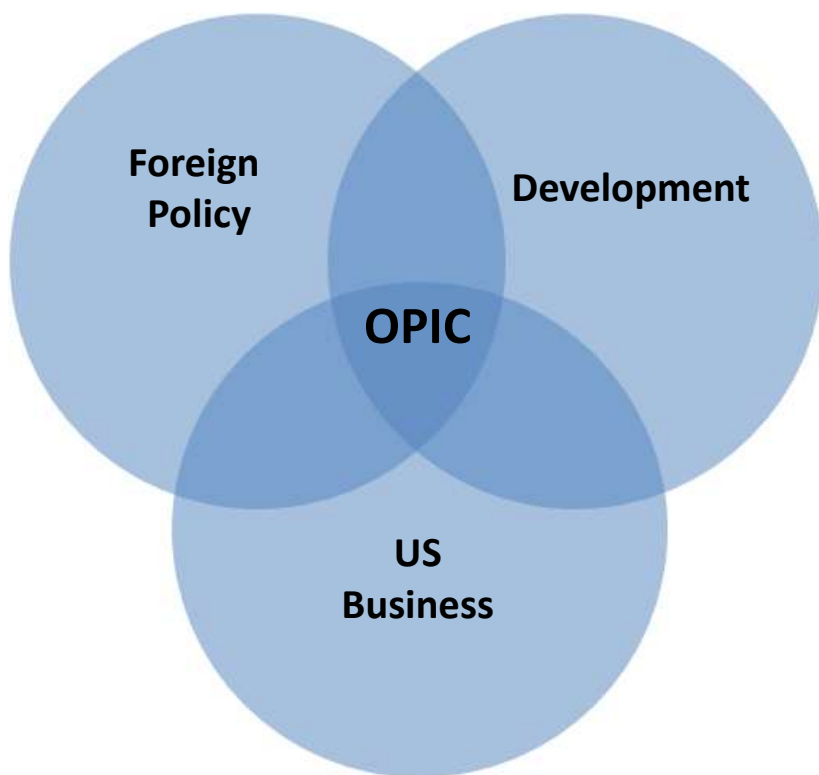
*Shading denotes
OPIC-eligible countries*

OPIC currently manages a \$16.4B committed exposure consisting of projects in 103 countries and operates on a self-sustaining basis at no net cost to the American taxpayer.

Administration Development Priorities

OPIC is uniquely positioned to support the administration's new development strategy.

OPIC's Unique Position



Administration Priorities

"We're changing how we define development...we need to harness all the tools at our disposal—from our diplomacy to our trade and investment policies."

~President Obama, 9/22/10

- **Support broad-based, sustainable economic growth**
- **Proactively target specific countries, regions, sectors, and technologies**
- **Mobilize private sector investment**
- **Elevate development as a central pillar of national security policy**



Our Solutions

OPIC offers innovative financial solutions to support private investors including debt financing, insurance, and support for private equity investment funds.

Products

■ Investment Finance

- Limited recourse, long-term finance for private sector, commercial projects
- Loan amounts up to \$250M per project
- Specific programs for providing finance to small-and-medium-sized enterprises

■ Political Risk Insurance

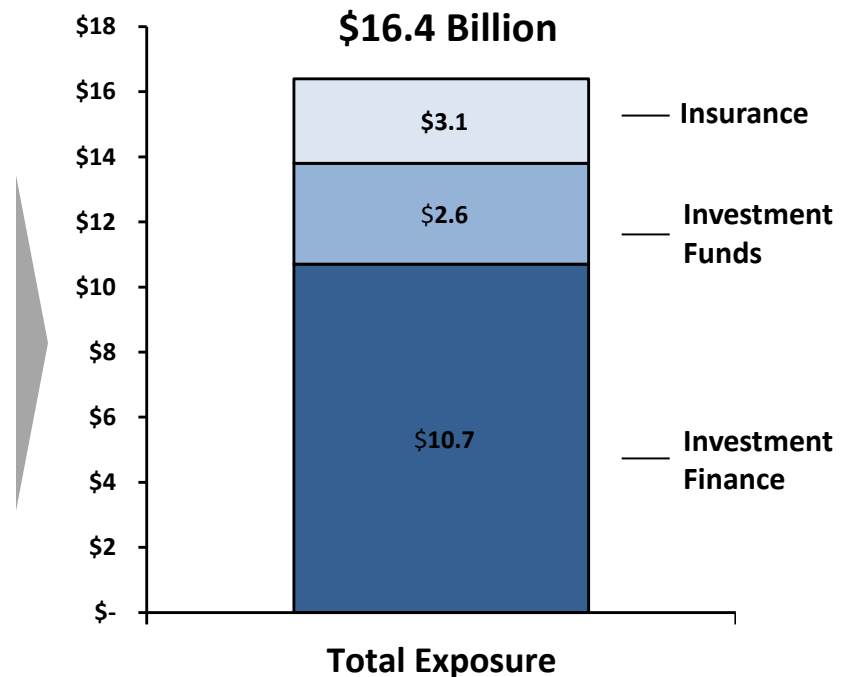
- Protection against currency inconvertibility, expropriation and political violence, including terrorism
- Policy coverage up to \$250M per project, up to 20 year term
- Fixed premium, cancellable only by insured

■ Investment Funds

- Senior debt for private equity funds selected by competitive process
- Investment decisions made independently by selected fund managers
- Provide up to \$250M with bullet repayment, zero coupon structure

Current Portfolio*

OPIC operates under a \$29B Statutory Capacity



*As of September 30, 2012

Our Clients and Alliances

OPIC coordinates with other U.S. government agencies and international partners to provide financing and risk mitigation products to a wide range of clients.

Current Clients

Multinationals and Small/Medium Businesses



Nonprofits and Impact Investors



Strategic Alliances

U.S. Government

- Departments of State, Commerce, and Treasury
- USAID & USTDA
- Ex-Im Bank and SBA
- Millennium Challenge

Development Finance Institutions

- IFC and MIGA
- Regional Development Banks (IDB, ADB, AfDB, EBRD)
- Other Bilaterals (CDC, FMO, DEG)

Other Partners

- Chambers of Commerce
- AmChams
- NGOs
- Financial Institutions



Our Policy Standards

Investors and project proposals must satisfy certain policy criteria to receive OPIC financing and insurance.

Eligibility Criteria for Investors

To be eligible for OPIC financing and insurance, applicants must:

- ✓ Have a **commercially viable business plan** and successful track record
- ✓ **Involve the U.S. private sector** in a meaningful way in the project seeking OPIC support
- ✓ Maintain **private sector control** (<50% government ownership)

Policy Standards for Projects

OPIC supported projects must:

- ✓ Contribute to **sustainable development** goals
- ✓ Be located in one of our **~160 eligible countries**
- ✓ Comply with international **environmental standards**
- ✓ Support international **human rights** and **worker rights** regulations
- ✓ Cause **no loss of U.S. jobs** or adverse impact on the U.S. economy



U.S. Connections in OPIC-Supported Projects

OPIC policy requires that finance and direct insurance projects have a meaningful connection to the U.S. private sector.

How Does OPIC Define U.S.?

- A U.S.-organized entity generally must be at least 25% U.S.-owned.
- A foreign organized entity generally must be at least majority U.S.-owned.

How Does OPIC Measure U.S. Involvement?

- OPIC requires U.S. involvement in the project company in an amount that is equivalent to 25% of the project company's equity, which may be met with equity, long-term debt or other U.S. contracts or, by combining these types of involvement.
- OPIC will support investment funds if the fund has raised U.S. equity equal to 25% of OPIC's loan support or if the fund is managed by a U.S. manager.

How Does OPIC Measure the Duration of U.S. Involvement?

- For an ongoing project, U.S. entities need to retain a 25% interest in the project through final disbursement of the OPIC loan. In the case of a start-up or 'greenfield' project, the U.S. entities need to retain a 25% interest through physical completion of the project.
- OPIC must approve any proposed transferee of the interest.

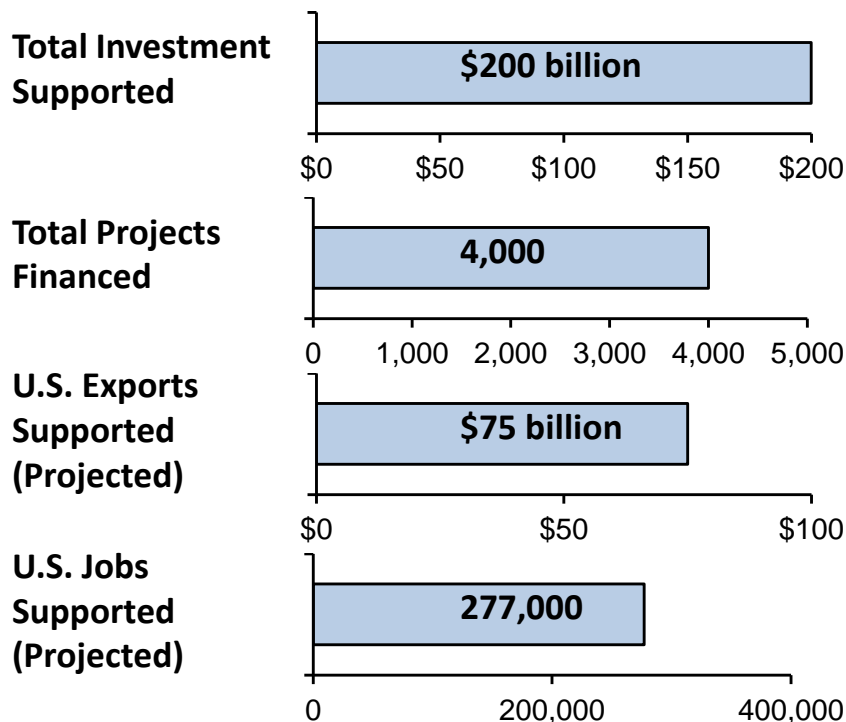
How Does OPIC Define U.S. Small Business?

- For OPIC to finance a project with a direct loan, the US involvement must come from US small business. A "small" business includes: a business with annual revenues during the last fiscal year of less than \$400M; entities/individuals without revenues, net worth of less than \$100M.
- Consistent with the U.S. Small Business Administration, OPIC also considers a business with 500 or fewer employees as "small."

Our Impact

Over the past 41 years OPIC has supported over \$200 billion of investment in developing markets that is projected to support over 277,000 U.S. jobs.

OPIC By the Numbers*



*Since 1971

Success Stories



- **Haiti:** \$6 million loan to Haiti 360 to produce high-quality concrete to rebuild homes and other infrastructure destroyed in the 2010 earthquake.



- **India:** \$750,000 in financing for Husk Power for small generators that provide clean power to rural Indians from discarded rice husks.



- **Iraq:** \$26M in financing to Claremont Erbil for affordable housing hundreds of families in need.



- **Ghana:** \$150M in political risk insurance to Belstar for a project that will increase clean water access and make the country's water treatment plants more efficient.

^ [photo: Soma Vatsa/for NPR]

OPIC's Strategic Priorities

OPIC: Financing solutions for sustainable prosperity



Renewable Resources

- OPIC has a strong track record of supporting renewable energy and clean technology projects in emerging markets
- Renewable *resources* includes not just energy, but projects that foster more efficient use of existing resources across the board – such as water, fuel, fiber and food
- From food security to agriculture and water, OPIC seeks to expand its reach to support innovate technologies to increase efficiency, increase sources and ensure access



OPIC Support for Administration Priorities

USG Global Climate Change Commitments	<ul style="list-style-type: none">▪ Goal: Promote sustainable economic growth and meet the climate change challenge through clean energy investments and standards.▪ OPIC commitments in renewable energy have grown from under \$10m in 2008 to \$1.1 billion in 2012, and to \$1.6 billion for all renewable resources.
Economic Opportunity in MENA	<ul style="list-style-type: none">▪ Goal: Mobilize private sector investment essential for security, stability, economic growth and job creation in the region.▪ OPIC is halfway toward its public commitments to provide up to \$2 billion in financing for private sector investment in MENA and \$1 billion to support infrastructure and job creation in Egypt.
Economic Opportunity in Strategic Priority Countries /Regions	<ul style="list-style-type: none">▪ Goal: Create sustainable jobs and economic opportunity in key strategic regions including Afghanistan, Iraq, Pakistan, sub-Saharan Africa and SE Asia.▪ OPIC supports a robust portfolio of projects in key strategic countries by catalyzing investment in critical infrastructure and industries, expanding access to capital for SMEs, and creating much needed jobs.
Impact Investing	<ul style="list-style-type: none">▪ Goal: Support and grow impact economy through investments that seek to have a social and/or environmental return as well as a financial return.▪ Over 85% of our investments from 2008 to 2011 were in Impact sectors, representing over \$6.9 billion in new project commitments.

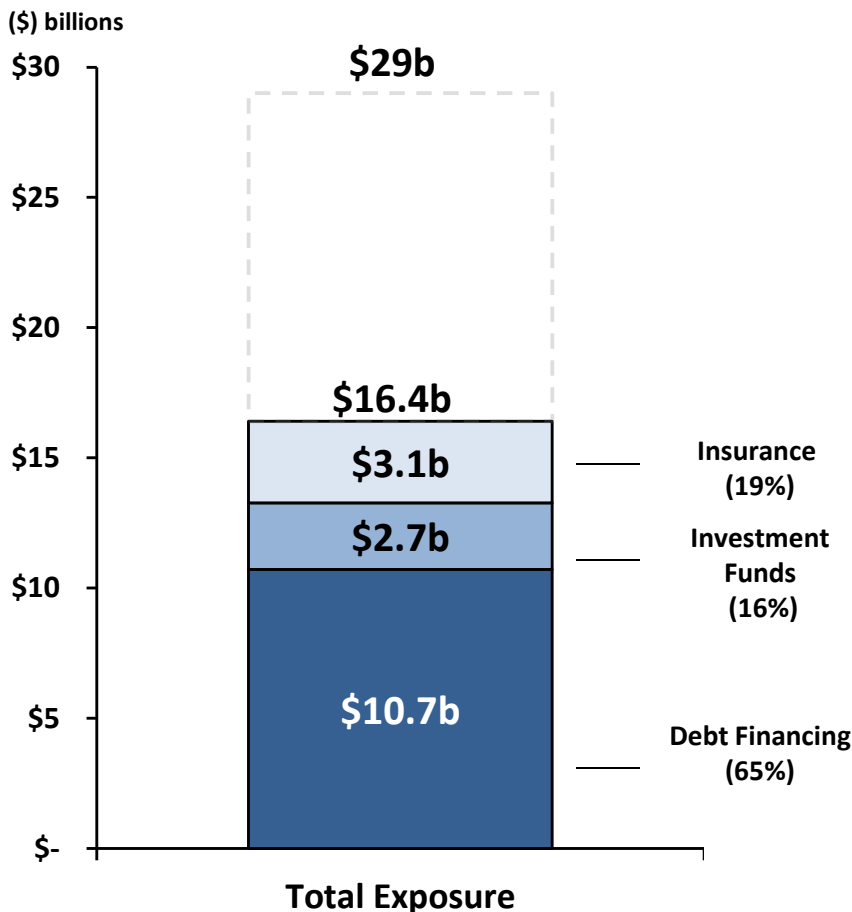


Fiscal Year 2012 Highlights

Current Portfolio

As of 9/30/2012

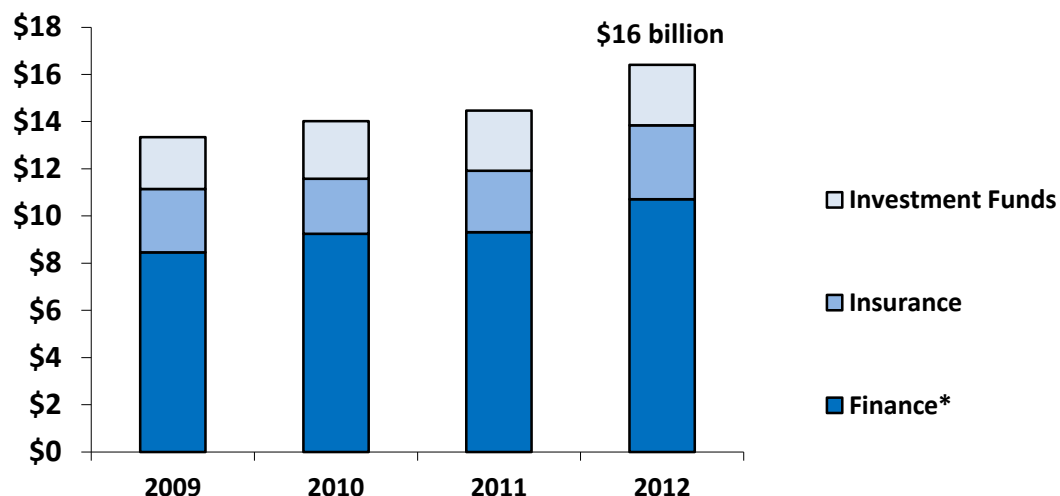
- \$3.6 billion in new commitments
 - \$1.6 billion in renewable resources
 - \$1 billion in renewable energy
- \$257 million in deficit reduction
 - 35th consecutive year OPIC has contributed to reducing the U.S. deficit
- GAAP Net Income of \$273 million
- Currently using 57% of legislated limit (\$29 billion)



Portfolio: Landmark growth for FY 2012

The portfolio showed net total Exposure growth of 13.4% over prior year

Exposure by Product



Product Line	Exposure As of FYE12 (M)	% of Total
Investment Funds	\$2,556	19%
Insurance	\$3,134	16%
Finance	\$10,711	65%
Total	\$16,401	100%

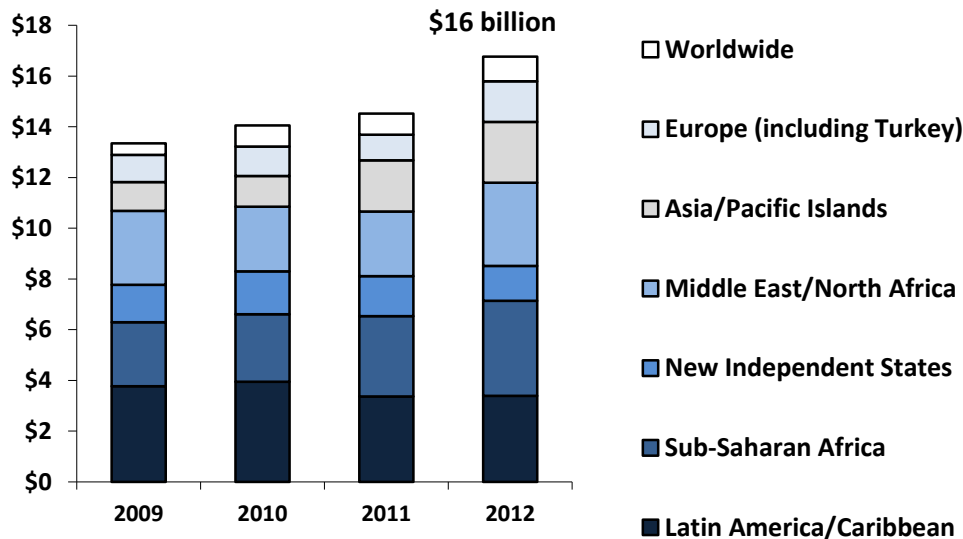
*Includes Non-Honoring Sovereign Guaranties but excludes Arbitral Award Guaranties

- Insurance reversed prior years' downward trend with a 21% increase over FY 2011 - led by commitment of \$477 million in coverage for two Belstar projects in Ghana and coverage for Citibank in Egypt, Jordan, and Pakistan
- Finance net new commitments of \$2.2 billion, offset by scheduled amortizations, resulted in net growth of 15% over the fiscal year.
- Modest growth in Investment Funds Exposure over the fiscal year.

Regions: Distribution has shifted since 2009

Sub-Saharan Africa is now the largest regional concentration, overtaking Latin America and MENA

Exposure by Region



Region	Exposure As of FYE12(M)	% of Total
Worldwide	\$966	6%
Europe	\$1,601	10%
Asia/Pacific Islands	\$2,403	15%
MENA	\$3,285	20%
NIS	\$1,374	8%
Sub-Saharan Africa	\$3,743	23%
Latin Amer/Carib	\$3,392	21%
Total	\$16,401	100%

- Portfolio distribution shifted over fiscal year, as MENA & Sub-Saharan Africa Exposure continued to increase with significant transactions in: South Africa, Ghana, Jordan, Egypt, and Middle East Regional.
- Europe also gained share, largely due to the Turkish projects, albeit, remaining a smaller percentage of the portfolio.
- Latin America showed a decline as percentage of portfolio.



OPIC Project Lifecycle





Sourcing

Clients & Partners	Interagency	Business Development
<ul style="list-style-type: none"> Repeat clients and referrals Enterprise Development Network (EDN) of Loan and Insurance Originators Delegated Lenders/Framework Agreements Financial Institutions: U.S. Banks, Insurers, MDBs and IFIs 	<ul style="list-style-type: none"> U.S. Department of State (HQ, Embassies) U.S. Department of Commerce (HQ, Foreign Commercial Service, U.S. Export Assistance Centers) USAID (HQ, Missions) Other U.S. Agencies (USTDA, Ex-Im, Treasury, Energy, etc.) OPIC's Board of Directors 	<ul style="list-style-type: none"> Conferences, workshops and association meetings U.S. Companies and Chambers of Commerce Law firms, financial advisors, insurance brokers and risk managers Website, social media, and marketing Cold calls

Investment Funds: OPIC initiates formal “Call for Proposals” typically with a specific region or sector focus. A gatekeeper manages the marketing of the call and first round of screening. Existing OPIC-supported funds may be considered directly for new funds through a follow-on process.



Pre-Screening and Sample Questions

- **Development Impact** – *Contributes to the development goals of host country*
 - “Will your project have a positive developmental effect on the local community?”
- **Financial Viability** – *Project is a sound investment for OPIC*
 - “Is your project financially sound and commercially viable?”
 - “Have you raised the equity?”
- **Statutory Eligibility** – *Compliance with OPIC’s statutes and Federal Law*
 - “Are you a U.S. business with a project located in an OPIC-eligible country?”
- **Policy Eligibility** – *Compliance with OPIC’s environmental, social, labor, and U.S. effects policies*
 - “Would your project have adverse effects on the host country’s environment, the U.S. economy, or U.S. jobs?”
- **Additionality** – *Project is additional to private sector banks and insurers*
 - “Have you contacted a private sector lender or insurer for involvement in your project?”

Application

Online/electronic application process which may include:

- Business plan (including sponsor and management relevant experience)
- Documentation supporting the commercial viability and development impact of project
- Relevant contracts or agreements
- Financial statements
- Financial projections
- Sponsor Disclosure Report
- References
- Investment strategy, fund manager track record, and plan for fundraising (Investment Funds)

Due Diligence/Policy Review



Credit and Risk Underwriting

- All OPIC supported projects are subject to a robust credit/risk analysis and prudent underwriting standards
- Internal and external resources dedicated to evaluating the project's commercial viability or creditworthiness and mitigating/managing risks
- Due diligence process identifies, evaluates and addresses country, financial, performance and contractual risks to arrive at acceptable risk allocation (key areas include: market, sponsors, EPC, technology, regulatory, legal, cash flow)
- Expert advisors retained when needed as integral part of process (engineers, auditors, market/sector experts, insurance, lawyers)
- Project teams develop, negotiate and document loan/insurance terms and conditions with acceptable risk allocation for approval by OPIC senior management

Policy Review

- **Policy Compliance and Consultation**
 - **Labor and Human Rights**
 - Respects human rights, including the rights of workers
 - **Environmental and Social Impact**
 - Has no significant adverse impact on the host country's environment or affected community/communities
 - **U.S. Effects**
 - Does not cause a significant adverse effect on the U.S. economy or harm U.S. jobs
 - **Additionality**
 - Is complementary (or “additional”) to private sector banks and insurers
- **Development Impact**
 - Each project must help OPIC fulfill its mission as a development agency and is assigned a development score based on specific development indicators including:
 - Human capacity building and job creation
 - Social policies and corporate social responsibility initiatives
 - Infrastructure improvements
 - Technology and knowledge transfer

Legal Review

■ Compliance Review

- The terms of OPIC support (*e.g.*, 10% risk retention for insurance, an eligible investor for insurance and guaranties, significant involvement by a U.S. small business or cooperative for a direct loan)
- The scope of OPIC activities (*e.g.*, that the project be in a country where OPIC is permitted by law to operate)
- The impact of the project (*e.g.*, requirements as to its environmental, developmental and U.S. effects)
- Requirements for approval and authority to act
- Compliance with transparency requirements and other OPIC policies

■ Consultations with Local Counsel

- Review of in country laws and legal protections
- Drafting of specific local legal requirements and facilitating with other legal issues.

■ Documentation

- Negotiation of commercially reasonable terms and conditions
- Inclusion of certifications, representations to ensure compliance with corrupt practices laws, other applicable law and other matters



Character Risk Due Diligence (“CRDD”)

- Completion of CRDD on original and any additional individuals and entities
 - Sponsor Disclosure Reports
 - OPIC background searches
 - Terrorist Screening Center & Treasury Financial Crimes Enforcement Network (FINCEN)
 - OPIC local counsel and other foreign searches
 - U.S. Embassy information

- CRDD must be performed on potential transferees of more than *de minimis* equity in all OPIC-supported projects

- Certifications, representations, and warranties given in applications, SDRs, subscription agreements, and closing documentation

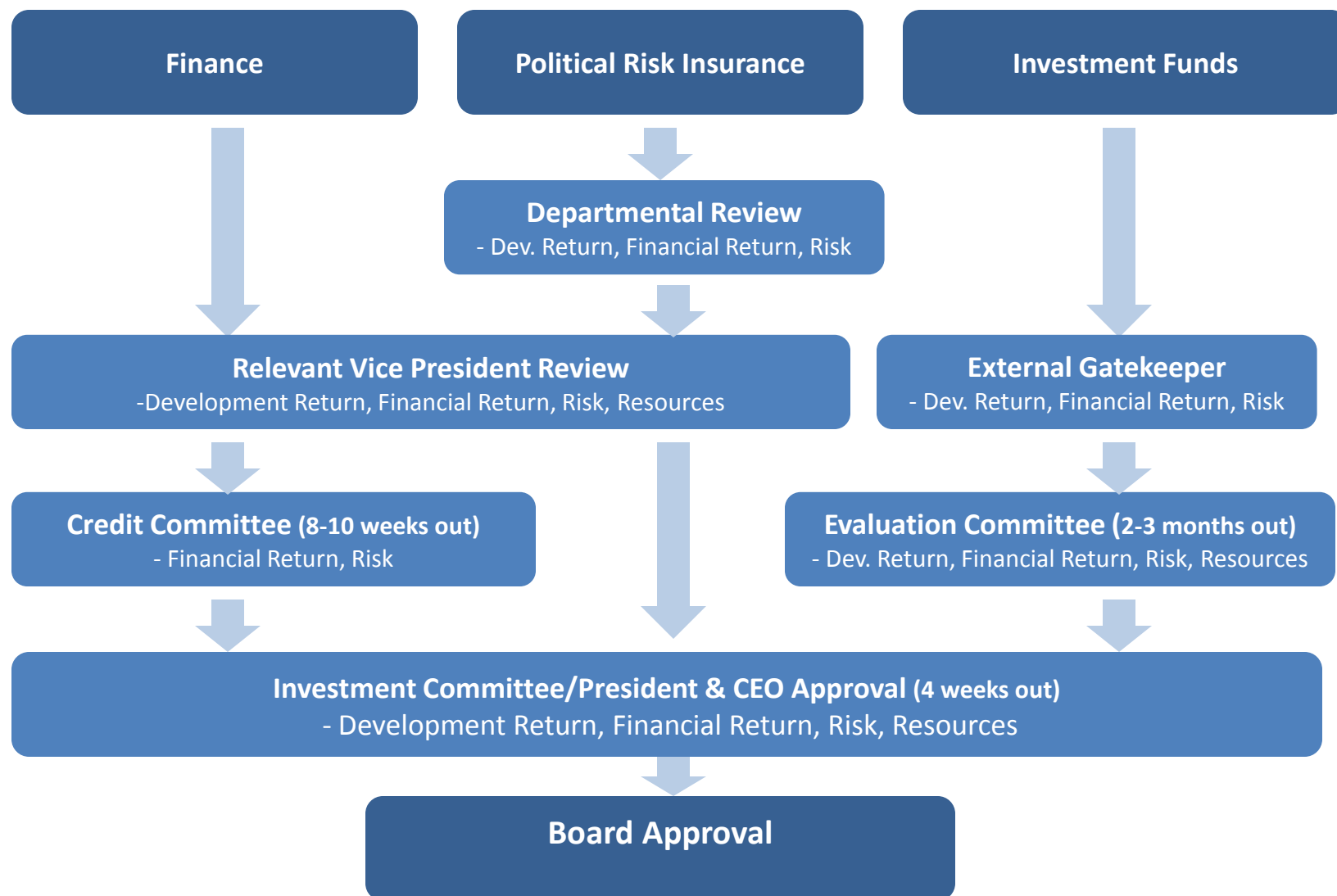
- In the case of financial institutions, OPIC must be satisfied as to the adequacy of their Know Your Customer (KYC) and Anti-Money Laundering (AML) procedures



Final Approval Thresholds

	Finance	Political Risk Insurance	Investment Funds
Relevant Vice President	Up to \$20M (w/ Credit Policy Review)	Up to \$25M (w/ Full Dept. Review)	
Credit Committee	<i>Review all projects above \$10M</i>		
Evaluation Committee			<i>Review all Funds</i>
Investment Committee/ President and CEO	\$20 – 50M (w/ CC Review)	\$25 – 50M (w/ VP Review)	<i>Review all Funds</i>
Board of Directors	Above \$50M (w/ CC & IC Review)	Above \$50M (w/ IC Review)	All Funds (w/EC & IC Review)

Board Level Projects



Project Close

Credit & Risk	Legal	Policy	CRDD
<ul style="list-style-type: none"> • Negotiation of final structure and pricing • Completion of independent project reviews • Review updated financial statements and economic tests • Complete financial and credit conditions precedents • Fund transaction • Direct lending via Treasury • Investment Guarantees via issuance of Certificates of Participation (COPs) 	<ul style="list-style-type: none"> • Conduct additional legal due diligence • Complete local counsel review of project and in-country legal issues • Complete any legal conditions precedents • Draft all financing and legal agreements • Review all additional certifications, representations, etc to ensure OPIC legal and policy compliance 	<ul style="list-style-type: none"> • Complete any outstanding environmental, social, labor & human rights review and clearance • Ensure project and financing documentation contains necessary policy provisions • Review and clear any policy conditions to financial close • Familiarize project sponsor with policy monitoring requirements 	<ul style="list-style-type: none"> • Complete database and interagency checks on project sponsors and other individuals • Review financial institution CRDD policies • Complete additional checks on new sponsors and affiliated individuals • Refresh CRDD reviews if more than 180 days old

Investment Funds: In addition to the steps above, funds selected for OPIC support often need to complete their equity fundraising activity before project close and disbursement.

Portfolio Management

Credit & Risk	Legal	Policy	CRDD
<ul style="list-style-type: none"> • Conduct quarterly or annual loan reviews • Ensure compliance with all economic tests and financial ratios • Review insured risk • Manage disbursements and monitor repayment • Restructure of loan if necessary • Manage insurance modification and claims if necessary 	<ul style="list-style-type: none"> • Monitor compliance with project and financing agreement conditions • Manage any necessary loan restructuring or insurance modifications • Enforce any security or collateral agreements • Negotiate or support any claims or arbitration needs • Agree final dispensation of the financing or insurance contract 	<ul style="list-style-type: none"> • Review self monitoring questionnaire data • Monitor and enforce policy requirements • Conduct on site inspections for policy compliance and developmental impact • Update developmental returns • Provide problem solving or compliance review via Office of Accountability if necessary 	<ul style="list-style-type: none"> • Complete database and interagency checks any new significant project sponsors, limited partners or affiliated individuals • Monitor financial institution CRDD policies • Assess any new CRDD information on existing

Investment Funds: In addition to the steps above, all new sub-investments by OPIC-supported investment funds undergo full policy review prior to disbursement

