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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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B-173240

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To the Board of Directors
Overseas Private Investment Corporation

We have examined the balance sheet of the Overseas Private Investment Corporation as of June 30, 1976, and the related statements of income, changes in capital and reserves, and changes in financial position for the year then ended. This examination was made pursuant to the Government Corporation Control Act (31 U.S.C. 841 et seq.) and in accordance with generally accepted auditing standards and included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. We previously examined and reported on the Corporation's financial statements for fiscal year 1975.

The Overseas Private Investment Corporation insures and guarantees U.S. investors against potential risks of loss of their overseas investments due to expropriation; inconvertibility of currency; and war, revolution, or insurrection. As of June 30, 1976, the Corporation's insurance reserve for such losses amounted to $204.7 million. However, as explained in note 7 to the financial statements, potential charges against this reserve for claims filed totaled $395.5 million, consisting of direct liabilities related to claim settlements ($39.1 million), claim settlement guarantees ($121.7 million), pending claims ($80.7 million), and unresolved disputed claims ($154.0 million).

Section 237(c) of the Foreign Assistance Act of 1961, as amended, (22 U.S.C. 2197(c) (Sup. V, 1975)), provides that the full faith and credit of the United States of America is pledged for the full payment and performance of obligations incurred by the Overseas Private Investment Corporation under its insurance and guaranty contracts. Thus, if claim settlements exceed available reserves, the Corporation will be required to either borrow funds from the U.S. Treasury or request supplementary funds from the Congress to pay the claims.

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The Corporation can augment its reserves with retained earnings, but it does not use its earnings solely for that purpose. During fiscal year 1976, it increased funds earmarked for making loans by transferring $10 million from retained earnings to the Direct Investment Fund (see note 4). Accordingly, that amount was no longer available for transfer to the insurance and guaranty reserves should augmentation be needed.

Due to the many uncertainties affecting the foregoing claims, as well as those affecting liabilities the Corporation has on other insurance and guaranty contracts (see notes 7 and 8 to the financial statements), we are not able to express an opinion on the adequacy of the amount reserved for losses the Corporation may suffer as a result of its insurance and guaranty contracts.

In our opinion, except for the adequacy of the amount reserved for losses, the accompanying financial statements present fairly the financial position of the Overseas Private Investment Corporation at June 30, 1976, and 1975, and the results of its operations, the changes in its capital and reserves, and the changes in its financial position for the years then ended, in conformity with generally accepted accounting principles applied on a consistent basis.

Elmer B. Staats
Comptroller General
of the United States

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BALANCE SHEET

	June 30, 1976	June 30, 1975
ASSETS		
Cash and Investments:		
Cash	$103,075,830	$105,347,456
U.S. obligations at cost plus accrued interest (which approximates market-Note 3)	254,278,749	202,858,955
Foreign currency (U.S. equivalent - Note 9)		13,213,859
	357,354,579	321,420,270
Direct Investment Fund loans outstanding (Note 4)	21,888,741	21,132,371
Accrued interest & fees	2,891,293	2,804,669
Accounts receivable	6,690,259	7,070,238
Prepaid reinsurance premiums	1,320,252	1,178,216
Furniture, fixtures and leasehold improvements (at cost less depreciation and amortization of $121,694 in 1976 and $164,323 in 1975)	164,206	91,678
Assets acquired in claims settlements (net of provision for unrealizable assets of $78,302,574 in 1976 and $86,113,529 in 1975-Note 5)	43,160,538	43,160,538
	$433,469,868	$396,857,980

	June 30, 1976	June 30, 1975
LIABILITIES, CAPITAL & RESERVES		
Liabilities:		
Accounts payable & accrued expenses	$ 1,372,824	$ 1,577,783
Claims payable	860,000	7,851,176
Direct liabilities related to claims settlements (Note 5)	43,160,539	43,160,538
Participations in DIF loans	2,921,461	4,127,665
Fees held pending claims determination	224,008	105,020
Unearned premiums	17,582,749	16,489,943
	66,121,600	73,312,125
Contingent liabilities (Notes 6, 7 & 8)		
Capital & Reserves:		
Capital held by U.S. Treasury (Note 4)	50,000,000	40,000,000
Insurance reserve (Notes 6 & 7)	204,061,986	176,492,165
Guaranty reserve (Notes 6 & 8)	81,346,147	81,690,838
Retained earnings	31,340,135	12,148,973
Foreign currency allocation from U.S. Treasury (Note 9)		13,213,859
	367,348,268	323,545,855
Total Liabilities, Capital & Reserves	$433,469,868	$396,857,980

STATEMENT OF INCOME

	For the Year Ended June 30, 1976	1975
REVENUES		
Political risk insurance premiums	$32,570,017	$30,280,937
Less-Premiums on shared risks	5,287,549	4,149,573
	27,282,468	26,131,364
Investment guaranty fees	2,668,494	2,787,188
Direct investment interest	1,419,522	1,248,756
Other fees	540,356	126,185
	31,910,840	30,293,493
Interest	21,851,944	17,948,471
Revenues	53,762,784	48,241,964
ADMINISTRATIVE EXPENSES		
Salaries & benefits	2,777,740	2,657,831
Contractual services	1,067,528	1,389,871
Rent, communications & utilities	392,722	325,869
Travel & representation	177,047	265,836
Printing, reproduction & supplies	136,754	171,830
Depreciation & amortization	19,831	24,035
Administrative Expenses	4,571,622	4,835,272
NET INCOME	$49,191,162	$43,406,692

STATEMENT OF CHANGES IN CAPITAL AND RESERVES

For the Two Years Ended June 30, 1976

	CAPITAL	INSURANCE RESERVE	GUARANTY RESERVE	RETAINED EARNINGS	FOREIGN CURRENCY ALLOCATION	TOTAL
Balance July 1, 1974	$40,000,000	$180,593,820	$80,533,667	$ 8,742,281		$309,869,768
Net income				43,406,692		43,406,692
Payments on claims settlements		(41,814,485)	(7,047,309)			(48,861,794)
Recoveries on prior years claims settlements		5,712,850	204,480			5,917,330
Transfers from retained earnings		32,000,000	8,000,000	(40,000,000)		
Foreign currency allocation from U.S. Treasury					$13,213,859	13,213,859
Balance July 1, 1975	40,000,000	176,492,185	81,690,838	12,148,973	13,213,859	323,545,855

Net income				49,191,162		49,191,162
Payments on claims settlements		(860,000)	(816,954)			(1,676,954)
Recoveries on prior years claims settlements		9,029,801	472,263			9,502,064
Transfers from retained earnings	10,000,000	20,000,000		(30,000,000)		
Foreign currency returned to U.S. Treasury					(13,213,859)	(13,213,859)
Balance June 30, 1976	$50,000,000	$204,661,986	$81,346,147	$31,340,135	-0-	$367,[illegible]

Statement of Changes in Financial Position

	For the Year Ended June 30, 1976	1975
Source of Funds:		
Net Income	$ 49,191,162	$ 43,406,692
Depreciation and amortization	19,831	24,035
Net recoveries (payments) on claims settlements	7,825,110	(42,944,464)
Increase (decrease) in:		
Unearned premiums	1,092,806	1,410,160
Fees held pending claim determination	118,986	(2,898,487)
Decrease (increase) in:		
Accounts receivable	379,979	(5,550,963)
	58,627,876	(6,553,027)
Application of Funds:		
Foreign currency allocation returned to (received from) U.S. Treasury	13,213,859	(13,213,859)
Additions to furniture & fixtures	92,359	14,167
Increase (decrease) in:		
DIF loans outstanding	756,370	(874,192)
Prepaid reinsurance	142,036	(71,044)
Accrued interest & fees	86,624	1,234,686
Decrease (increase) in:		
Accounts payable & accrued expenses	204,959	(335,951)
Claims payable	1,991,176	4,302,027
Participations in DIF loans	1,206,164	371,839
	22,693,567	(8,571,762)
Increase in Cash and Investments	$ 35,934,309	$ 2,018,735

NOTES TO THE FINANCIAL STATEMENTS

NOTE 1: BACKGROUND OF CORPORATION

Title IV of the Foreign Assistance Act of 1961, as amended by the Foreign Assistance Act of 1969 (Public Law 91-175) (hereinafter called the "FAA"), authorized the creation of the Overseas Private Investment Corporation (hereinafter called OPIC) as a wholly-owned U.S. Government corporation. The interim administration of the programs and activities of OPIC was delegated to the Agency for International Development from December 30, 1969 to January 19, 1971, at which time Executive Order 11579 transferred to OPIC all obligations, assets and related rights and responsibilities of predecessor programs and authorities.

The Overseas Private Investment Corporation Amendments Act of 1974 (Public Law 93-390), which was enacted on August 27, 1974, amends OPIC legislation in several respects. Among its provisions are an authorization for OPIC to borrow up to $100 million from the United States Treasury to discharge OPIC insurance or reinsurance liabilities and an expression of intent that entities other than OPIC participate in the direct underwriting of political risk insurance. Pursuant to this mandate, OPIC (1) participates with private insurers in the Overseas Investment Insurance Group, which functions as a first-loss pool covering expropriation and inconvertibility risks on new insurance and most of OPIC's existing insurance portfolio and (2) is organizing a separate unincorporated insurance association of insureds to underwrite certain war risk insurance.

NOTE 2: SUMMARY OF PRINCIPAL ACCOUNTING POLICIES

The significant policies are summarized below:

Income Recognition: Revenue from political risk insurance is recognized as income ratably over the contract year. All other revenue is recognized when earned in accordance with generally accepted accounting principles.

Depreciation and Amortization: Furniture and fixtures are depreciated on a straight-line basis over a 10-year life. Leasehold improvements are amortized over the life of the related lease.

Payments to Insureds on Claims Settlements: Payments to investors on claims settlements are charged directly to the applicable Insurance or Guaranty Reserve at the time a payment is made or the payment obligation is irrevocably established. All recoveries made in the course of liquidating assets acquired in the settlement of claims are credited to the Reserve against which the related claims were charged.

Assets and Direct Liabilities Related to Claims Settlements: OPIC may acquire assets, or an interest in assets, as a result of claims settlements. For assets ~~acquired~~ by reason of claims payments charged to the Insurance or Guaranty Reserve, full provision has been made for the possibility that value may not be realized. To the extent that OPIC has interests in assets derived by virtue of OPIC's undertakings to make claims payments in advance of receipt of the payments to which OPIC is subrogated, corresponding liabilities are reflected in the financial statements.

NOTE 3 : INVESTMENTS IN U.S. OBLIGATIONS

In conformance with Section 239(d) of the FAA, OPIC's investments in U.S. obligations are limited to funds derived from fees and other revenues. The funds available for investment were $249,503,000 at June 30, 1976 and $198,978,135 at June 30, 1977. Of these funds $248,625,315 and $197,434,099, respectively, represent the cost of investments included in the Balance Sheet.

NOTE 4 : DIRECT INVESTMENT FUND.

The FAA authorized the establishment of a Direct Investment Fund (DIF), that consisted initially of the $40,000,000 paid in as capital of the corporation, to be used to make loans repayable in United States dollars. This fund is charged with realized losses and credited with realized gains and such additional sums as determined by the Board of Directors. During 1976 OPIC increased the DIF by $10,000,000 in connection with the transfer of $10,000,000 from retained earnings to capital held by U.S. Treasury.

The status of DIF on June 30, 1976 and 1975 was as follows:

	1976	1975
	(Millions of Dollars)	
DIF Capital.....	50	40
Less uncommitted.....	19	15
Outstanding commitments.....	31	25
Less undisbursed portion.....	12	8
Net loans outstanding.....	19	17

Proceeds received by OPIC from the sale of participations were credited to the DIF for further lending in accordance with Sections 231(c), 235(b) and 239(d) of the FAA. The figures above are net of such participations, which amounted to $3 million in 1976 and

$4 million in 1975. Pursuant to provisions of Sections 239(d) and 234(c) of the FAA, OPIC has guaranteed full payment of the participated portion of DIF loans. This liability for outstanding participations is included in the amount of investment guaranty outstanding (Note 8).

NOTE 5 : ASSETS AND DIRECT LIABILITIES RELATED TO CLAIMS SETTLEMENTS

As a result of claims settlements, OPIC owns or has an interest in certain assets (primarily notes receivable) having a value, based upon the related claims payment, of $121,463,112. Of these assets, $78,302,574 were acquired by reason of claims payments charged to the Insurance and Guaranty Reserves and full provision has been made on OPIC's books for the possibility that their value may not be realized. OPIC has received partial recoveries on claims to which these assets relate, and management intends to exercise legal remedies necessary to collect on these assets.

The balance of OPIC's claims-related assets, valued at $43,160,538, represents an interest in future payments due under certain promissory notes guaranteed by OPIC under claims settlements and its guaranty authority. OPIC will have to make payments under these guaranties prior to receipt of payment from the obligors. OPIC's payment obligations are reflected in the liability section of the Balance Sheet and their due dates are shown in Notes 7 and 8. Approximately $36 million of this sum represents an interest in notes of Sociedad Minera El Teniente S.A. to be purchased by OPIC from the holder in 1978, and as to which the Republic of Chile is obligated to make payments in semi-annual installments through June 1986.

NOTE 6 : STATUTORY RESERVES AND FULL FAITH AND CREDIT

Section 235(c) of the FAA established separate funds known as the Insurance Reserve and the Guaranty Reserve for the respective discharge of liabilities under investment insurance and under guaranties issued under Section 234(b) of the FAA and similar predecessor guaranty authority. Both Reserves may be replenished or increased at any time by transfers from OPIC's retained earnings or by new Congressional appropriations. OPIC's retained earnings as of June 30, 1976, available for transfer to the Insurance or Guaranty Reserve, were $31,340,135.

Should OPIC's funds not be sufficient at any time to discharge OPIC's obligations arising under investment insurance or guaranties, as the case may be, Congress would have to appropriate funds to fulfill the pledge of full faith and credit to which such obligations are entitled. Standing authority for such appropriations is contained in Section 235(f) of the FAA.

All investment insurance given by OPIC, all guaranties given by OPIC in connection with the settlement of claims under investment insurance and all guaranties referred to in the first paragraph above constitute obligations of the United States of America. The full faith and credit of the United States of America is pledged for the full payment and performance of such obligations.

NOTE 7 : OBLIGATIONS BACKED BY INSURANCE RESERVE

The Insurance Reserve as of June 30, 1976 totaled $204,661,986 and OPIC has cash and U.S. obligations substantially in excess of this amount. Claims against the Insurance Reserve could arise from certain liabilities shown on OPIC's Balance Sheet and certain contingent liabilities.

Direct liabilities related to claims settlements and chargeable against the Insurance Reserve amount to $39,085,538 as of June 30, 1976. OPIC will be required to make payments to discharge these liabilities in the following fiscal years and in the following amounts:

Fiscal Year(s)	OPIC Liability
1976	$36,008,716
1980-1986	3,076,820
	$39,085,538

Contingent obligations of OPIC which could give rise to future additional claims on the Insurance Reserve include obligations under (A) guaranties issued in settlement of claims arising under investment insurance contracts, (B) pending claims under investment insurance contracts, (C) unresolved disputed claims and (D) outstanding investment insurance contracts. These four categories of contingent claims are discussed in more detail in the balance of this Note.

(A) Claims Settlement Guaranties

Pursuant to Sections 237(i) and 239(d) of the FAA, OPIC has in some instances settled claims arising under investment insurance contracts by issuing payment guaranties in substitution for the insurance obligations being discharged. These claims settlement guaranties represent contingent obligations of OPIC backed by the Insurance Reserve.

The contingent liability of OPIC as of June 30, 1976 under these guaranties, including liability as to interest, was $121,676,169. If the principal obligors default in full, and if OPIC does not exercise certain prepayment rights, OPIC would be liable during the following fiscal years for the following amounts:

Fiscal Year(s)	Amount of Liability
1977	$ 20 693,714
1978-1982	76,213,328
1983-1988	24,769,127
	$121,676,169

Of the total OPIC contingent liability under claims settlement guaranties, $104,571,471 represents guaranties of obligations either incurred by the Government of Chile in compensation agreements with OPIC insureds or recognized by the Government of Chile in respect of debt previously insured by OPIC.

(B) Pending Claims

OPIC follows a policy of recording investment insurance contract claims as financial liabilities only upon determinations that such claims are valid. In the case of most expropriation claims, the expropriatory action must continue for a period of one year before the claim matures. Formal applications for compensation are generally filed only with respect to mature claims and specify the particular events which have occurred and which, in the opinion of the investor, subject OPIC to liability. OPIC has six months, from the date the investor's application for compensation is complete, to process the claim and make its determination.

The total amount of compensation requested from OPIC in connection with claims so filed, but not yet determined, is $80.7 million, arising out of nine claims, eight of which were under expropriation coverage and the other under inconvertibility. OPIC has not made the necessary final determinations as to any of these claims.

In addition to requiring formal applications for claimed compensation, the OPIC contracts require investors to notify OPIC promptly of host government action which the investor has reason to believe is ~~or~~ may become an expropriatory action. Careful investor compliance with this notice provision will sometimes result in their filing notice of events that do not mature into expropriatory actions.

The highly speculative nature of these notices both as to the likelihood that the event referred to will constitute expropriatory action and the amount of compensation, if any, that may become due leads OPIC to follow a consistent policy of making no reference to such notices in its financial statement. Any claims that might arise from these situations are, of course, encompassed in management's estimate that maximum potential exposure, prior to reinsurance, under existing investment insurance contracts is $3,080 million (Note 7D).

In addition to the foregoing there is a suit pending against OPIC that is believed to be without merit. In the unlikely event of recovery thereunder no material adverse effect on OPIC's financial position would result.

(C) Unresolved disputed claims.

Two expropriation claims totalling $154 million submitted in 1972 by The Anaconda Company and a subsidiary remain unresolved and are in litigation. Because of apparent bias or undue influence in the arbitral proceedings, OPIC is seeking to set aside an arbitral decision finding OPIC liable (with the amount to be determined by further proceedings). OPIC, upon the advice of legal counsel, believes that it is reasonable to expect that the arbitration award heretofore entered will be vacated and that the question of OPIC's liability will be presented to a new arbitration panel. If OPIC is required to pay compensation, it would be entitled to a proportional share in the substantial payment in cash and notes received by Anaconda in a 1974 settlement with the Government of Chile.

(D) Political Risk Investment Insurance

OPIC issues investment insurance under limits fixed by the legislative authorization in the FAA and prior authorities. The utilization of these authorized amounts as of June 30, 1976 (excluding obligations under guaranties issued in settlement of claims) was as follows:

	Legislative Authorizations	Uncommitted	Outstanding
		(Millions of Dollars)	
Prior			
Authorities	3,012	-	3,012
FAA Section			
235	7,500	4,354	3,146
	10,512	4,354	6,158

Since OPIC may and often does insure the same investment against three different risks (inconvertibility of currency; expropriation; and war, revolution or insurrection) it is theoretically possible that an investor could make successive claims under more than one coverage with respect to the same investment. The outstanding amount reflects this theoretical possibility and in addition includes provisions for insurance as to which OPIC is not currently at risk but is contractually obligated to provide upon the investor's future request to cover increases in investment and retained earnings.

The outstanding amount pursuant to Legislative Authorizations is of little use in evaluating realistically OPIC's maximum exposure as of June 30, 1976 to insurance claims, because it includes insurance for which OPIC is not currently at risk and because it is improbable that multiple payments would be made for each investment. Management believes that a more accurate representation of OPIC's maximum potential exposure to future claims arising from existing investment insurance contracts can be obtained by assuming that only one claim would be brought under each contract and that the coverage under which the claim would be brought would be the coverage with the highest amount of current insurance in force. Based on this assumption, management believes OPIC's maximum potential liability to claims as of June 30, 1976 is $3,080 million. After giving effect to OPIC's risk sharing arrangements with the Overseas Investment Insurance Group (Note 1) and reinsurance with Lloyd's of London, this maximum exposure is further reduced to $3,019 million.

NOTE 8: OBLIGATIONS BACKED BY GUARANTY RESERVE

Section 235 of the FAA requires OPIC to have, at the time OPIC commits itself to issue any guaranty under Section 234(b) of the FAA a Guaranty Reserve equal to at least 25 percent of guaranties then issued and outstanding or committed under 234(b) and prior authorities. As of June 30, 1976, the $81,346,147 Guaranty Reserve (representing cash and marketable securities, except for miscellaneous items which in the aggregate were not material) exceed by $31,307,345 the required minimum reserve. (See Note 6 for description of the Guaranty Reserve and full faith and credit status of OPIC guaranties.) Guaranties under prior authorities and Section 234(b) of the FAA include guaranties of debt, equity, and participation in DIF loans. The outstanding commitments at June 30, 1976 were:

	Legislative Authorization	Uncommitted	Total Outstanding Commitments	Currently at Risk (Net of Repayments)
Prior Authorities	$ 40,537,865	---	$ 40,537,865	$ 40,537,865
FAA 234(b) and 235.....	750,000,000	$590,382,655	159,617,345	116,473,229
	$790,537,865	$590,382,655	$200,155,210	$157,011,094

In July 1976 OPIC acquired $5,000,000 principal amount of OPIC guaranteed promissory notes, together with accrued interest thereon, resulting in a charge against Guaranty Reserve. In August 1976 the OPIC Board of Directors voted to allocate $6,000,000 to the Guaranty Reserve from Retained Earnings.

The Balance Sheet and foregoing tabulations include a direct liability of $4,075,000 chargeable against the Guaranty Reserve. This liability is payable in ten semiannual principal installments of $407,500 beginning December 31, 1976. When OPIC makes payments, it will acquire notes which have been rescheduled pursuant to an agreement with the foreign enterprise.

NOTE 9: FOREIGN CURRENCY ALLOCATION

The allocation of 31,817,200 Pakistani rupees (U.S. equivalent $3,213,859) and 5,556,000 Egyptian pounds (U.S. equivalent $10,000,000) made available to OPIC in 1975 from excess currencies held by the U.S. Treasury were returned to the Treasury during fiscal 1976.

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RELEASED 10/6/76

REPORT OF THE COMPTROLLER GENERAL OF THE UNITED STATES

LM100632

Export-Import Bank's Financial Disclosure System For Employees And Its Procurement Practices

Standards of ethical conduct for Government officials are prescribed by Executive order of the President. In line with this, the Export-Import Bank established a financial disclosure system to monitor the financial interests of some employees. Although the system provides for full disclosure, the system could be improved.

GAO recommends followup action to monitor the effectiveness of the system and establishment of procedures for prompt collection of all required statements and for timely review and approval of statements submitted. GAO found that Eximbank's procurement practices were adequate to protect the interests of the Government.

ID-76-81

OCT. 4, 1976

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-135101

The Honorable John E. Moss
House of Representatives

Dear Mr. Moss:

In response to your request of October 9, 1975, we reviewed the disclosure system for financial interests and procurement practices of the Export-Import Bank of the United States (Eximbank), a wholly owned Government corporation.

We made our review at Eximbank's office in Washington, D.C., where we examined financial disclosure statements filed for fiscal year 1975 to determine whether persons required to file had done so, and financial interests of a selected sample of employees. We determined whether these employees had filed as required in previous years and reviewed their position descriptions. We also reviewed financial interests held in previous years for employees whose 1975 holdings appeared to conflict with their activities and the responsibilities of several employees not required to file financial disclosure statements to determine whether they should be filing statements. The confidentiality of the employees who filed statements was maintained at all times.

We did not review the financial disclosure statements of the five Presidentially appointed bank directors. Executive Order 11222 requires their statements to be filed directly with the Civil Service Commission. As part of other ongoing assignments, we are reviewing Civil Service Commission implementation of the Executive order, and the financial disclosure system for high ranking Federal officials, including the Eximbank directors, and will be reporting separately to the Congress on the results of those reviews.

Although Eximbank's regulations generally conform with Civil Service Commission financial disclosure guidelines, its system for reviewing the statements has not always prevented appearances of conflict of interest.

Our tests disclosed 29 instances in which 7 employees were involved in transactions which directly or indirectly benefited firms in which they held financial interests. Recent actions by Eximbank should strengthen the disclosure system; however, we believe Eximbank needs to monitor the effectiveness of the system by reviewing--on a test basis--the activities of employees who hold interests in firms with which Eximbank is directly or indirectly involved. The collection and review of financial disclosure statements also needs to be improved; 23 of 149 statements required to be filed in June 1975 were filed 6 to 7 months late, were inaccurately dated, or were not filed at all. In addition, Eximbank did not review the June 1975 statements until September 1975.

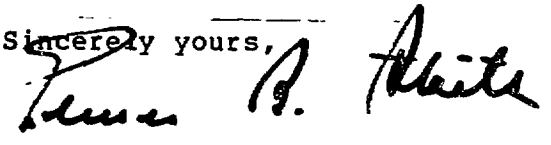
We examined procurement actions for fiscal years 1973-75 and discussed procurement with agency officials to determine the adequacy of procedures and practices. Procurement actions generally complied with informal agency requirements and with Federal Procurement Regulations.

Details of our review and our conclusions and recommendations for necessary corrective action are included in appendix I.

As requested by your staff, Eximbank was not given an opportunity to formally comment on this report; however, we discussed our findings with agency officials during the review and they agreed to act on the matters discussed in the report.

As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House and Senate Committees on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report. We will be in touch with your office in the near future to arrange for release of the report so that the requirements of section 236 can be set in motion.

Sincerely yours,



Comptroller General
of the United States

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EXIMBANK FINANCIAL DISCLOSURE SYSTEM FOR EMPLOYEES AND ITS PROCUREMENT PRACTICES

BACKGROUND

Eximbank was created in 1934, and was made a wholly owned U.S. Government corporation by the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq. (1970), as amended). Its principal activities have been to aid in financing and to facilitate exports from the United States to foreign countries.

Eximbank makes direct loans to foreign buyers, usually in conjunction with loans made by others, to finance the export of U.S. goods and services sold on credit terms. Under its discount loan program, Eximbank makes loans to domestic commercial banks that hold export debt obligations. It also guarantees the repayment of export loans made by others and insures amounts owed by foreign buyers to U.S. exporters. In addition, Eximbank arranges for financial institutions abroad, called cooperative financing facilities, to extend loans at their own risk for purchases of U.S. exports. Eximbank, in turn, lends the institution half the funds and, for cases where the institution borrows the other half, may guarantee repayment to the other lender.

At June 30, 1975, Eximbank had $9.4 billion in outstanding loans, $7.0 billion in undisbursed loans, outstanding guarantees of $5.3 billion, and insurance of $3.5 billion. During that fiscal year it processed about 6,000 loan, guarantee, and insurance transactions.

Eximbank receives no appropriated funds but is authorized to borrow directly from the U.S. Treasury and to have outstanding at any one time up to $6 billion of such borrowings. At June 30, 1975, Eximbank notes payable to the U.S. Treasury totaled $207.1 million.

Eximbank's activities lead to continuous direct and indirect involvement with many private firms; therefore, it is imperative that its employees maintain the highest level of standards of ethical conduct in performing their duties.

FINANCIAL DISCLOSURE REQUIREMENTS AND AGENCY PROHIBITIONS

Executive Order 11222, dated May 8, 1965, prescribed standards of ethical conduct for Government officers and employees and directed the Civil Service Commission (CSC) to

establish implementing regulations. In November 1965, CSC issued instructions requiring each agency to prepare employee conduct standards and to establish a review system for employee financial disclosure statements. Standards of conduct regulations established by each agency must be approved by CSC.

Eximbank originally published standards of conduct regulations in February 1966 and revised them in 1967. Eximbank's current regulations were approved by CSC on July 30, 1973, and became effective on August 9, 1973. These regulations include a financial disclosure system for employees and established an Ethics Committee consisting of the First Vice President as Chairman, the General Counsel, Deputy Counsel, and Vice President for Administration.

The Ethics Committee's responsibilities for financial disclosure include (1) assuring that no person is appointed whose direct or indirect financial interests conflict or appear to conflict substantially with that person's duties at Eximbank, (2) consulting with the Chairman of the Committee on review of financial interest statements, (3) consulting with officials on employee requests for exemptions from the requirement to disqualify themselves on matters involving companies in which they have an interest, and (4) reviewing requests for exemptions from the requirement to file a financial disclosure statement. The Committee also has related duties involving gifts and gratuities, outside employment, and response to inquiries on sensitive matters.

The Chairman of the Ethics Committee was designated as Counselor and the General Counsel as Deputy Counselor on Ethics. The Deputy Counselor is responsible for providing authoritative advice and guidance to employees on standards of conduct.

Statements of financial disclosure for positions requiring them must be filed within 30 days of appointment to the positions. Supplementary statements are required annually on June 30, regardless of whether changes have occurred since the last reporting. In addition, because of Eximbank's continuous dealings with the private sector, beginning in July 1975 all GS-11s and above must report any security transactions within 10 business days to the Deputy General Counsel who, in consultation with other Committee members, reviews them and informs the Counselor of any unresolved conflicts. This requirement was approved by the Civil Service Commission on June 11, 1975.

The Counselor reviews all financial disclosure statements in consultation with the members of the Ethics Committee as he deems appropriate. He is responsible for resolving conflicts or apparent conflicts of interest and, if he is unable to do so, for reporting the matter to the President of Eximbank. The President then takes appropriate remedial action to end the conflict or apparent conflict, including change of assigned duties, divestment by the employee of the conflicting interest, disqualification for a particular assignment, or disciplinary action.

Prohibitions affecting Eximbank employee financial holdings are included in the Export-Import Bank Act of 1945, as amended, and in Eximbank regulations. The Act as amended (12 U.S.C. 635a (e)) states:

> "No director, officer, attorney, agent, or employee of the bank shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his personal interests, or the interests of any corporation, partnership or association in which he is directly or indirectly personally interested."

Eximbank regulations (12 CFR 400.735) prohibit an employee from

--participating in any Bank matter in which, to his knowledge, he, his spouse, his minor child, his partner, or any organization in which he is employed or negotiating to be employed has a financial interest;

--having a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his duties or responsibilities at the Bank; or

--engaging, directly or indirectly, in financial transactions or furthering his personal interests, as a result of, or primarily relying upon, information obtained through his employment at Eximbank.

FINANCIAL INTERESTS OF SEVEN EMPLOYEES APPEAR TO CONFLICT WITH DUTIES PERFORMED

On June 30, 1975, 149 employees were required to file financial disclosure statements listing creditors, interests

in real property, and business entities in which they had interests. In accordance with CSC guidance, the amounts of the interest or indebtedness or the value of real property is not required to be listed.

We examined the statements of a sample of 63 employees, 28 of whom had holdings in 102 companies with which Eximbank is involved. The companies were primarily U.S. firms whose exports Eximbank facilitates. We reviewed 196 files of fiscal year 1975 transactions with firms reported on financial interest statements and made additional tests of 120 files of prior years' transactions with firms reported on statements for employees whose actions created the appearance of conflict of interest.

We found appearance of conflict of interest in 29 cases involving 7 employees. The cases involved 10 direct loans totaling $39 million, 19 cooperative financing facility loans totaling $5 million, and 10 guarantees related to the loans totaling $4.6 million. Employee actions which created the appearance of conflict of interest include the following.

--An international economist made the economic analysis of the importing country and signed a memorandum to the Board of Directors recommending approval of a direct loan of $15.7 million to a wholly owned subsidiary of a U.S. firm in which he had a financial interest. When we brought this matter to the attention of the General Counsel, he discussed it with the employee, who said it was an oversight which had occurred in 1974 and that he is aware of the need to disqualify himself on such cases.

--A Deputy Vice President concurred in the financial evaluation made of a borrower in connection with a loan request of $1.1 million to finance export sales of a U.S. supplier in which the employee held an interest. This employee is now retired.

--A high-level official signed letters informing four foreign borrowers of the Board of Director's approval of direct loans and requesting acceptance of terms. Three of these loans, totaling $10.2 million with $2.1 million in a related guarantee, facilitated exports of U.S. suppliers in which the employee had interests. The fourth loan for $7.3 million was made directly to a wholly owned subsidiary of a company owned 83 percent by the U.S. supplier in which the employee had an interest. The employee's interest in these cases consisted of holdings in an unsettled estate which the

employee expected to inherit. The Ethics Committee never questioned this matter and the estate has since been settled and the employee has disposed of the holdings.

--A Deputy Vice President signed eight export loan agreements which indirectly facilitated the financing of export sales of U.S. suppliers in which he had financial interests. These agreements provided loans to cooperative financing facilities for specific loans made in turn by the facilities to foreign buyers for purchases from a specified U.S. supplier. The loans totaled $2.4 million, and four of the agreements provided related guarantees totaling $968,000. In two of these cases, the U.S. supplier in which the employee had holdings owned 44 percent interest in the foreign buyer receiving the loan from the cooperative financing facility. The employee's holdings were questioned by the Ethics Committee as a result of a supervisor's inquiry in connection with a possible promotion. The employee disposed of the interest in these companies in late 1975.

--A Vice President signed as concurring in memos to the Board of Directors recommending approval of two loans which facilitated exports of a U.S. supplier in which the employee held a financial interest. These loans totaled $2.3 million, with one related guarantee of $1.1 million. This employee also signed two cooperative financing facility loan agreements totaling $1 million which also indirectly facilitated exports of this supplier. The Ethics Committee had not questioned this employee's holdings. The employee has resigned from Eximbank for personal reasons not related to any financial interests.

--A loan officer signed memos to the loan committee recommending preliminary or final approval on four cooperative financing facility loans and one related guarantee totaling $828,000. The loans facilitated exports of U.S. suppliers in which the employee had interests. This employee's holdings were questioned by the Ethics Committee as a result of a supervisor's inquiry in connection with a possible promotion. The employee disposed of these holdings in early 1976.

--A financial analyst signed a cooperative financing facility agreement for $56,000 which indirectly facilitated exports of a U.S. supplier in which he had an interest.

NEED TO STRENGTHEN FINANCIAL DISCLOSURE SYSTEM

Eximbank regulations generally conform to CSC's financial disclosure guidelines and the formal system implementing the regulations calls for complete and prompt disclosure of all financial interests. However, in view of the results of our review, which disclosed several appearances of conflict of interest, we believe that Eximbank needs to improve the effectiveness of its financial disclosure system. Our thoughts in this regard are discussed in the following sections.

Followup on review of financial disclosure statements

Because of the numerous firms with which Eximbank deals or whose exports it does or may aid, Eximbank officials have not prohibited employees from holding financial interests in such firms. The Ethics Committee reviews financial interests reported according to its general knowledge of bank dealings with various firms and duties of the individual employees.

As a result of statement review in 1975, the Committee talked with several individuals who had holdings in firms with which Eximbank is directly or indirectly involved to emphasize the need for disqualification. These discussions were generally not documented. To try to avoid assignment of cases to employees for whom conflict of interest might arise, beginning in 1975 members of the Committee meet with supervisors to advise them on specific individuals. Eximbank's President has issued two memos within the last year to all employees reminding them of the need to disqualify themselves when assigned to cases involving firms in which they have an interest. All employees are required annually to read standard of conduct regulations.

Ethics Committee members stated that they do not police the system but rely on the employees to disqualify themselves from work on cases involving firms in which they have an interest. We were informed that the Committee's review of holdings based on general knowledge of companies with which Eximbank deals identifies most persons having such holdings. As noted above, our review indicated that this system of control has not always prevented appearances of conflict of interest in the past. We believe an effort is needed to monitor on a test basis the system's effectiveness and to detect real or apparent conflicts of interest.

In the instances where we found appearances of conflicts of interest, the General Counsel agreed that, except for the cooperative financing facilities cases, the employees should have disqualified themselves from the cases. He stated that he did not believe the cooperative financing facilities cases present even the appearance of a conflict because the credit judgments in the financing facilities program are made by the Board of Directors or the Loan Committee when they approve a line of credit for the facilities. Thereafter, in the cases we noted, the staff performs ministerial acts to be satisfied that individual transactions meet the program's criteria and the employee is further removed from the decisionmaking process for cooperative financing facility loans than in the direct loan program.

We agree that there is less discretion on these individual transactions since Eximbank looks for repayment to the cooperative financing facility whose line of credit has previously been approved. However, requests for funds from the facility are reviewed and judgments made on whether the subloan to the foreign borrower meets program criteria, such as length and rate of loan, appropriateness of Eximbank support for the product, and experience with the borrower. Eximbank has concluded that to avoid any question, it will instruct employees to disqualify themselves from acting in any cooperative financing facility case in which they have any financial interest, such as stock ownership in the American supplier.

The General Counsel noted the usefulness of our tests and stated that, to monitor the financial disclosure system in the future, Eximbank will spot check individual's holdings against their case assignments to see if there is any possible conflict of interest.

Procedures for collecting financial disclosure statements

Eximbank regulations require the submission of financial disclosure statements from:

--Employees paid at the Executive Schedule except those required to submit their statements to CSC by Executive Order 11222.

--Employees at GS-13 and above whose duties require them to make decisions which have an economic impact on non-Federal enterprise or for whose positions Eximbank

has determined such statements must be filed to avoid possible conflicts of interest situations.

--Employees below GS-13, when justified in writing to CSC, whose duties meet the above criteria.

Eximbank officials told us that, in practice, prior to June 1976, all GS-13s and above and selected GS-11s and GS-12s were required to file financial disclosure statements. Beginning in June 1976, all GS-11s and GS-12s will be required to file statements. CSC approved this requirement on June 11, 1975. Employees below GS-11 level are not required to file statements due either to the nature of their work or the levels of review of their work.

On June 30, 1975, 149 employees were required to file statements. However, 10 employees filed from 184 to 226 days late; 11 employees did not file at all; and 2 statements filed as 1975 statements were dated June 1974, apparently a clerical error. Thus, 15 percent of those required to file statements on June 30 did not do so in a timely, accurate, and complete manner.

Despite regulations requiring filing within 30 days, persons hired or promoted into covered positions had not been required to file statements until yearend. Consequently, four of the five employees in our sample who entered on duty at Eximbank as GS-13s or above after June 30, 1973, had not filed within 30 days. Their statements were submitted as much as 279 days late and averaged 169 days late.

The lack of an effective procedure to insure timely submission of statements could result in employees holding conflicting interests without the knowledge of Eximbank officials. We were informed that missed and late annual statements were the result of oversights and that in the future this situation will be avoided by use of a checkoff list and timely followup action. Also, the personnel office will notify persons promoted to or entering on duty into covered positions of the requirement to file within 30 days and will provide information to the General Counsel's office for followup.

More timely review of disclosure statements

Eximbank's regulations do not specify when financial disclosure statements must be reviewed. CSC guidance suggests that all annual update reviews be completed by August 31 and questions resolved by September 30. Lack of timely review

could result in employees holding interests without the knowledge of Eximbank officials.

The review of statements submitted on time was not carried out promptly. Even though most statements required on June 30, 1975, were submitted by the end of July, we were informed that the reviews were not begun until September. An ethics memorandum, which resulted from the 1975 review and which reminded employees to disqualify themselves on cases in which they have interests, was not issued until November 7, 1975.

Statements of nine new employees, filed after August 1975 (principally in November and December), showed no evidence of review at the time of our examination in April 1976.

CSC guidance also suggests that approval of statements be shown affirmatively by initialing a symbol of approval and the date of approval. We found that 16 statements filed for 1975 had not been initialed by the reviewer and no statements evidenced date of review.

We were informed by the General Counsel that in the future, statements will be reviewed when submitted and that all statements will be initialed by the reviewer. The 1976 annual review was completed in August.

PROCUREMENT PRACTICES

Enabling legislation (12 U.S.C. 635(a)(1)(2)) provides that the Export-Import Bank, as a corporation, is authorized and empowered:

> "to do a general banking business;
>
> "to perform any act * * * authorized in participation with any other person, including any individual, partnership, corporation, or association;
>
> "to publish or arrange for the publication of any documents, reports, contracts, or other material necessary * * *."

The President of the Bank is required to transmit annually to the Congress a budget for program activities and for administrative expenses.

Because of its mission, Eximbank's procurement activities are limited to items of administrative support and services. During fiscal years 1973-75, these items totaled $1,532,495,

$1,488,701, and $1,762,586, respectively, and included rental of office space and equipment, printing and reproduction, office supplies, purchase of fixed assets, and personal services.

The Bank has no formalized procurement policies but uses the Federal Procurement Regulations as guidance in procurement actions. Its procurement procedures call for each division or office to designate a person responsible for requisitioning needed supplies. Requisitions for supplies of $50 or less are approved by the Chief of the Office Services Section. All other requisitions require the approval of the Vice President for Administration or his assistant. All procurements, to the extent possible, are made from the General Services Administration schedules. Informal comparative shopping is used for items not on these schedules and purchases must be approved by the assistant to the Vice President for Administration.

We reviewed selected procurement actions for fiscal years 1973-75 and found that they generally complied with required procedures.

CONCLUSIONS

Eximbank's primary function is to aid in financing and facilitating exports of U.S. goods and services. This function requires extensive contact with private industry. Therefore, Eximbank must insure through its financial disclosure system that its employees maintain the highest ethical standards. Eximbank's system of financial disclosure calls for the complete and prompt disclosure of all financial interests by those employees who could have conflicts of interest; however, certain improvements should be made to enhance the effectiveness of the system.

We found that the current system--Ethics Committee review of financial disclosure statements based on general knowledge of companies that Eximbank deals with and of the employee's duties, and reliance on employees to disqualify themselves from cases involving companies in which they have interests--has not prevented appearances of conflict of interest. Our tests identified seven persons who had been connected with cases involving companies in which they held financial interests. Eximbank, by not monitoring, on a test basis, employee involvement to determine whether employees are disqualifying themselves in cases when required, has not provided a mechanism by which to evaluate whether the system is preventing real or apparent conflicts of interest.

Eximbank officials have agreed to spot check employee holdings against case assignments in the future.

Required financial disclosure statements could be collected in a more timely and complete manner and should be reviewed more promptly. In 1975, 23, or 15, percent of 149 statements required to be filed on June 30 were filed 6 to 7 months late, were inaccurately dated, or were not filed at all. In addition, Eximbank officials did not review the June 30, 1975, financial disclosure statements until September. Eximbank's new requirement that all transactions be reported to the Deputy General Counsel within 10 days, if proper review procedures are followed, should reduce the possibility that employees could hold conflicting interests for extended periods. However, this requirement should not be a substitute for prompt review of the financial disclosure statements themselves at June 30 or when a person is appointed to a position requiring filing. Eximbank officials have planned actions to provide complete collection and timely review in the future.

For Eximbank procurement, we believe that use of Federal Procurement Regulations provides sufficient guidance to adequately protect Government interests. We found these guidelines generally followed in Eximbank procurement actions.

RECOMMENDATIONS

To improve the effectiveness of the Eximbank financial disclosure system, we recommend that the President of Eximbank act to:

--Strengthen review procedures by (1) identifying all employees who hold potentially conflicting interests, (2) continuing to periodically reemphasize the need for disqualification on cases involving those companies, and (3) monitoring, on a test basis, the activities of employees who hold potentially conflicting interests.

--Establish procedures for promptly collecting all required statements at June 30 and at entrance on duty into a position for which a statement is required.

--Provide for timely review and approval of financial disclosure statements submitted, evidenced by a reviewer's initials and the date of review.