

115TH CONGRESS  
2D SESSION

# H. R. 5105

To establish the United States International Development Finance Corporation, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2018

Mr. YOHO (for himself and Mr. SMITH of Washington) introduced the following bill; which was referred to the Committee on Foreign Affairs

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## A BILL

To establish the United States International Development Finance Corporation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Better Utilization of Investments Leading to Develop-  
6 ment Act of 2018” or the “BUILD Act of 2018”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for  
8 this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Definitions.

TITLE I—ESTABLISHMENT

- Sec. 101. Statement of policy.
- Sec. 102. United States International Development Finance Corporation.
- Sec. 103. Management of Corporation.
- Sec. 104. Inspector General of the Corporation.

#### TITLE II—AUTHORITIES

- Sec. 201. Authorities relating to provision of support.
- Sec. 202. Terms and conditions.
- Sec. 203. Payment of losses.
- Sec. 204. Termination.

#### TITLE III—ADMINISTRATIVE AND GENERAL PROVISIONS

- Sec. 301. Operations.
- Sec. 302. Corporate powers.
- Sec. 303. Maximum contingent liability.
- Sec. 304. Corporate funds.
- Sec. 305. Coordination with Millennium Challenge Corporation on constraints analysis.

#### TITLE IV—MONITORING, EVALUATION, AND REPORTING

- Sec. 401. Establishment of risk and audit committees.
- Sec. 402. Performance measures.
- Sec. 403. Annual report.
- Sec. 404. Publicly available project information.
- Sec. 405. Audits and financial statements of the Corporation.
- Sec. 406. Engagement with investors.

#### TITLE V—CONDITIONS, RESTRICTIONS, AND PROHIBITIONS

- Sec. 501. Limitations and preferences.
- Sec. 502. Additionality and avoidance of market distortion.
- Sec. 503. Prohibition on support in sanctioned countries and with sanctioned persons.
- Sec. 504. Penalties for misrepresentation, fraud, and bribery.
- Sec. 505. Market displacement by state-owned enterprises and monopolies.

#### TITLE VI—TRANSITIONAL PROVISIONS

- Sec. 601. Definitions.
- Sec. 602. Reorganization plan.
- Sec. 603. Transfer of functions.
- Sec. 604. Termination of Overseas Private Investment Corporation and other superceded authorities.
- Sec. 605. Transitional authorities.
- Sec. 606. Savings provisions.
- Sec. 607. Other terminations.
- Sec. 608. Incidental transfers.
- Sec. 609. Reference.
- Sec. 610. Conforming amendments.

### 1 **SEC. 2. DEFINITIONS.**

2 In this Act:

1           (1) APPROPRIATE CONGRESSIONAL COMMIT-  
2           TEES.—The term “appropriate congressional com-  
3           mittees” means—

4                   (A) the Committee on Foreign Relations  
5                   and the Committee on Appropriations of the  
6                   Senate; and

7                   (B) the Committee on Foreign Affairs and  
8                   the Committee on Appropriations of the House  
9                   of Representatives.

10           (2) LESS DEVELOPED COUNTRY.—The term  
11           “less developed country” means a country with a  
12           low-income economy, lower-middle-income economy,  
13           or upper-middle-income economy, as defined by the  
14           International Bank for Reconstruction and Develop-  
15           ment and the International Development Association  
16           (collectively referred to as the “World Bank”).

17           (3) PREDECESSOR AUTHORITY.—The term  
18           “predecessor authority” means authorities repealed  
19           by title VI.

20           (4) QUALIFYING SOVEREIGN ENTITY.—The  
21           term “qualifying sovereign entity” means—

22                   (A) any agency or instrumentality of a for-  
23                   eign state (as defined in section 1603 of title  
24                   28, United States Code); and

1 (B) any international financial institution  
2 (as defined in section 1701(c) of the Inter-  
3 national Financial Institutions Act (22 U.S.C.  
4 262r(c))).

## 5 **TITLE I—ESTABLISHMENT**

### 6 **SEC. 101. STATEMENT OF POLICY.**

7 It is the policy of the United States to facilitate mar-  
8 ket-based private sector development and economic growth  
9 in less developed countries through the provision of credit,  
10 capital, and other financial support—

11 (1) to mobilize private capital in support of sus-  
12 tainable, broad-based economic growth, poverty re-  
13 duction, and development through demand-driven  
14 partnerships with the private sector that further the  
15 foreign policy interests of the United States;

16 (2) to finance development in a way that builds  
17 and strengthens civic institutions, promotes competi-  
18 tion, provides for public accountability and trans-  
19 parency;

20 (3) to help private sector actors overcome iden-  
21 tifiable market gaps and inefficiencies without dis-  
22 torting markets;

23 (4) to achieve clearly defined economic and so-  
24 cial development outcomes;

1           (5) to coordinate with institutions with pur-  
2           poses similar to the purposes of the Corporation to  
3           leverage resources of those institutions to produce  
4           the greatest impact;

5           (6) to help countries currently receiving United  
6           States assistance to graduate from their status as  
7           recipients of assistance;

8           (7) to leverage the private sector and innovative  
9           development tools as a means to lessen the reliance  
10          of the United States on traditional forms of foreign  
11          assistance over time; and

12          (8) to complement and be guided by overall  
13          United States foreign policy and development objec-  
14          tives, taking into account the policies of countries re-  
15          ceiving support.

16 **SEC. 102. UNITED STATES INTERNATIONAL DEVELOPMENT**  
17 **FINANCE CORPORATION.**

18          (a) **ESTABLISHMENT.**—There is established in the  
19          Executive branch the United States International Devel-  
20          opment Finance Corporation (in this Act referred to as  
21          the “Corporation”), which shall be a wholly owned Gov-  
22          ernment corporation (as defined in section 9101 of title  
23          31, United States Code).

24          (b) **PURPOSE.**—The purpose of the Corporation shall  
25          be to mobilize and facilitate the participation of private

1 sector capital and skills in the economic development of  
2 less developed countries, as described in subsection (c),  
3 and countries in transition from nonmarket to market  
4 economies, in order to complement the development assist-  
5 ance objectives, and advance the foreign policy interests,  
6 of the United States. In carrying out its purpose, the Cor-  
7 poration, utilizing broad criteria, shall take into account  
8 in its financing operations the economic and financial  
9 soundness of projects for which it provides support under  
10 title II.

11 (c) LESS DEVELOPED ECONOMY FOCUS.—

12 (1) IN GENERAL.—The Corporation shall  
13 prioritize the provision of support under title II in  
14 countries with low-income economies or lower-mid-  
15 dle-income economies, as defined by the World  
16 Bank.

17 (2) SUPPORT IN COUNTRIES WITH UPPER-MID-  
18 DLE-INCOME ECONOMIES.—The Corporation shall  
19 restrict the provision of support under title II in a  
20 country with an upper-middle-income economy, as  
21 defined by the World Bank, unless—

22 (A) the President determines such support  
23 furthers the national economic or foreign policy  
24 interests of the United States; and

1 (B) such support is likely to be highly de-  
2 velopmental or provide developmental benefits  
3 to the poorest population of that country.

4 (d) **AUTHORIZATION TO MAKE EXPENDITURES AND**  
5 **COMMITMENTS.**—The Corporation may make, without re-  
6 gard to fiscal year limitation, such expenditures and com-  
7 mitments as may be necessary using amounts appro-  
8 priated to the Corporation pursuant to section 9104 of  
9 title 31, United States Code, and otherwise in accordance  
10 with law.

11 (e) **PROJECT-SPECIFIC TRANSACTION COSTS NOT**  
12 **ADMINISTRATIVE EXPENSES.**—Project-specific trans-  
13 action costs, including direct and indirect costs incurred  
14 in claims settlements, and other direct costs associated  
15 with the provision of support to private sector entities and  
16 qualifying sovereign entities under title II shall not be con-  
17 sidered administrative expenses for the purposes of this  
18 section.

19 **SEC. 103. MANAGEMENT OF CORPORATION.**

20 (a) **STRUCTURE OF CORPORATION.**—There shall be  
21 in the Corporation a Board of Directors (in this Act re-  
22 ferred to as the “Board”), a Chief Executive Officer, a  
23 Deputy Chief Executive Officer, a Chief Risk Officer, and  
24 such other officers as the Board may determine.

25 (b) **BOARD OF DIRECTORS.**—

1           (1) DUTIES.—All powers of the Corporation  
2 shall vest in and be exercised by or under the au-  
3 thority of the Board. The Board—

4                   (A) shall perform the functions specified to  
5 be carried out by the Board in this Act; and

6                   (B) may prescribe, amend, and repeal by-  
7 laws, rules, regulations, and procedures gov-  
8 erning the manner in which the business of the  
9 Corporation may be conducted and in which the  
10 powers granted to the Corporation by law may  
11 be exercised.

12           (2) MEMBERSHIP OF BOARD.—

13                   (A) IN GENERAL.—The Board shall consist  
14 of—

15                           (i) the Chief Executive Officer of the  
16 Corporation;

17                           (ii) the officers specified in subpara-  
18 graph (B); and

19                           (iii) four other individuals who shall  
20 be appointed by the President, by and with  
21 the advice and consent of the Senate, of  
22 which—

23                                   (I) one individual should be ap-  
24 pointed from among a list of individ-  
25 uals submitted by the majority leader



1 of the Senate after consultation with  
2 the chairman of the Committee on  
3 Foreign Relations of the Senate;

4 (II) one individual should be ap-  
5 pointed from among a list of individ-  
6 uals submitted by the minority leader  
7 of the Senate after consultation with  
8 the ranking member of the Committee  
9 on Foreign Relations of the Senate;

10 (III) one individual should be ap-  
11 pointed from among a list of individ-  
12 uals submitted by the Speaker of the  
13 House of Representatives after con-  
14 sultation with the chairman of the  
15 Committee on Foreign Affairs of the  
16 House of Representatives; and

17 (IV) one individual should be ap-  
18 pointed from among a list of individ-  
19 uals submitted by the minority leader  
20 of the House of Representatives after  
21 consultation with the ranking member  
22 of the Committee on Foreign Affairs  
23 of the House of Representatives.

24 (B) OFFICERS SPECIFIED.—

1 (i) IN GENERAL.—The officers speci-  
2 fied in this subparagraph are the following:

3 (I) The Secretary of State or a  
4 designee of the Secretary.

5 (II) The Administrator of the  
6 United States Agency for Inter-  
7 national Development or a designee of  
8 the Administrator.

9 (III) The Secretary of the Treas-  
10 ury or a designee of the Secretary.

11 (IV) The Secretary of Commerce  
12 or a designee of the Secretary.

13 (ii) REQUIREMENTS FOR DES-  
14 IGNEES.—A designee under clause (i) shall  
15 be selected from among officers—

16 (I) appointed by the President,  
17 by and with the advice and consent of  
18 the Senate;

19 (II) whose duties relate to the  
20 programs of the Corporation; and

21 (III) who is designated by and  
22 serving at the pleasure of the Presi-  
23 dent.

1 (C) REQUIREMENTS FOR PRIVATE SECTOR  
2 MEMBERS.—A member of the Board described  
3 in subparagraph (A)(iii)—

4 (i) may not be an officer or employee  
5 of the United States Government;

6 (ii) shall have relevant private sector  
7 experience to carry out the purposes of the  
8 Corporation;

9 (iii) shall be appointed for a term of  
10 3 years and may be reappointed for one  
11 additional term;

12 (iv) shall serve until the member's  
13 successor is appointed and confirmed;

14 (v) shall be compensated at a rate  
15 equivalent to that of level IV of the Execu-  
16 tive Schedule under section 5315 of title 5,  
17 United States Code, when engaged in the  
18 business of the Corporation; and

19 (vi) may be paid per diem in lieu of  
20 subsistence at the applicable rate under  
21 the Federal Travel Regulation under sub-  
22 title F of title 41, Code of Federal Regula-  
23 tions, from time to time, while away from  
24 the home or usual place of business of the  
25 member.

1           (3) CHAIRPERSON.—There shall be a Chair-  
2           person of the Board designated by the President  
3           from among the individuals described in paragraph  
4           (2)(A).

5           (4) VICE CHAIRPERSON.—The Administrator of  
6           the United States Agency for International Develop-  
7           ment, or the designee of the Administrator under  
8           paragraph (2)(B)(i)(II), shall serve as the Vice  
9           Chairperson of the Board.

10          (5) QUORUM.—Six members of the Board shall  
11          constitute a quorum for the transaction of business  
12          by the Board.

13          (c) PUBLIC HEARINGS.—

14           (1) PUBLIC HEARINGS BY THE BOARD.—The  
15           Board shall hold at least one public hearing each  
16           year in order to afford an opportunity for any per-  
17           son to present views with respect to whether—

18                   (A) the Corporation is carrying out its ac-  
19                   tivities in accordance with this Act; and

20                   (B) any support provided by the Corpora-  
21                   tion under title II in any country should have  
22                   been or should be extended.

23           (2) ADDITIONAL PUBLIC HEARINGS.—In con-  
24           junction with each meeting of the Board, the Cor-  
25           poration shall hold a public hearing in order to af-

1       ford an opportunity for any person to present views  
2       regarding the activities of the Corporation. Such  
3       views shall be made part of the record.

4       (d) CHIEF EXECUTIVE OFFICER.—

5           (1) APPOINTMENT.—There shall be in the Cor-  
6       poration a Chief Executive Officer, who shall be ap-  
7       pointed by the President, by and with the advice and  
8       consent of the Senate, and who shall serve at the  
9       pleasure of the President.

10          (2) AUTHORITIES AND DUTIES.—The Chief Ex-  
11       ecutive Officer shall be responsible for the manage-  
12       ment of the Corporation and shall exercise the pow-  
13       ers and discharge the duties of the Corporation sub-  
14       ject to the bylaws, rules, regulations, and procedures  
15       established by the Board.

16          (3) RELATIONSHIP TO BOARD.—The Chief Ex-  
17       ecutive Officer shall report to and be under the di-  
18       rect authority of the Board.

19          (4) COMPENSATION.—Section 5313 of title 5,  
20       United States Code, is amended by adding at the  
21       end the following:

22           “Chief Executive Officer, United States Inter-  
23       national Development Finance Corporation.”.

24       (e) DEPUTY CHIEF EXECUTIVE OFFICER.—There  
25       shall be in the Corporation a Deputy Chief Executive Offi-

1 cer, who shall be appointed by the President, by and with  
2 the advice and consent of the Senate, and who shall serve  
3 at the pleasure of the President.

4 (f) CHIEF RISK OFFICER.—

5 (1) APPOINTMENT.—Subject to the approval of  
6 the Board, the Chief Executive Officer of the Cor-  
7 poration shall appoint a Chief Risk Officer, from  
8 among individuals with experience at a senior level  
9 in financial risk management, who—

10 (A) shall have as the officer's sole function  
11 to serve as Chief Risk Officer of the Corpora-  
12 tion;

13 (B) shall report directly to the Board; and

14 (C) shall be removable only by a majority  
15 vote of the Board.

16 (2) DUTIES.—The Chief Risk Officer shall, in  
17 coordination with the audit committee of the Board  
18 established under 401, develop, implement, and  
19 manage a comprehensive process for identifying, as-  
20 sessing, monitoring, and limiting risks to the Cor-  
21 poration, including the overall portfolio of the Cor-  
22 poration.

23 (g) COORDINATION.—The Chief Executive Officer  
24 shall consult with the Administrator of the United States  
25 Agency for International Development and Chief Execu-

1 tive Officer of the Millennium Challenge Corporation to  
2 coordinate the activities of the Corporation with the activi-  
3 ties of the United States Agency for International Devel-  
4 opment and the Millennium Challenge Corporation, such  
5 as by establishing in the Corporation a Chief Development  
6 Officer who shall have responsibility for coordinating de-  
7 velopment finance policy and implementation efforts of the  
8 Corporation with the United States Agency for Inter-  
9 national Development and the Millennium Challenge Cor-  
10 poration and their respective development missions.

11 (h) OFFICERS AND EMPLOYEES.—

12 (1) IN GENERAL.—Except as otherwise pro-  
13 vided in this section, officers, employees, and agents  
14 shall be selected and appointed by the Corporation,  
15 and shall be vested with such powers and duties as  
16 the Corporation may determine.

17 (2) ADMINISTRATIVELY DETERMINED EMPLOY-  
18 EES.—

19 (A) APPOINTMENT; COMPENSATION; RE-  
20 MOVAL.—Of officers and employees employed  
21 by the Corporation under paragraph (1), not to  
22 exceed 50 may be appointed, compensated, or  
23 removed without regard to title 5, United  
24 States Code.

1 (B) REINSTATEMENT.—Under such regu-  
2 lations as the President may prescribe, officers  
3 and employees appointed to a position under  
4 subparagraph (A) may be entitled, upon re-  
5 moval from such position (unless the removal  
6 was for cause), to reinstatement to the position  
7 occupied at the time of appointment or to a po-  
8 sition of comparable grade and salary.

9 (C) ADDITIONAL POSITIONS.—Positions  
10 authorized by subparagraph (A) shall be in ad-  
11 dition to those otherwise authorized by law, in-  
12 cluding positions authorized under section 5108  
13 of title 5, United States Code.

14 (D) RATES OF PAY FOR OFFICERS AND  
15 EMPLOYEES.—The Corporation may set and  
16 adjust rates of basic pay for officers and em-  
17 ployees appointed under subparagraph (A)  
18 without regard to the provisions of chapter 51  
19 or subchapter III of chapter 53 of title 5,  
20 United States Code, relating to classification of  
21 positions and General Schedule pay rates, re-  
22 spectively.

23 (3) LIABILITY OF EMPLOYEES.—

24 (A) IN GENERAL.—An individual who is a  
25 member of the Board or an officer or employee



1 of the Corporation has no liability under this  
2 Act with respect to any claim arising out of or  
3 resulting from any act or omission by the indi-  
4 vidual within the scope of the employment of  
5 the individual in connection with any trans-  
6 action by the Corporation.

7 (B) RULE OF CONSTRUCTION.—Subpara-  
8 graph (A) shall not be construed to limit per-  
9 sonal liability of an individual for criminal acts  
10 or omissions, willful or malicious misconduct,  
11 acts or omissions for private gain, or any other  
12 acts or omissions outside the scope of the indi-  
13 vidual’s employment.

14 (C) SAVINGS PROVISION.—This paragraph  
15 shall not be construed—

16 (i) to affect—

17 (I) any other immunities and  
18 protections that may be available to  
19 an individual described in subpara-  
20 graph (A) under applicable law with  
21 respect to a transaction described in  
22 that subparagraph; or

23 (II) any other right or remedy  
24 against the Corporation, against the  
25 United States under applicable law, or

1                   against any person other than an indi-  
2                   vidual described in subparagraph (A)  
3                   participating in such a transaction; or  
4                   (ii) to limit or alter in any way the  
5                   immunities that are available under appli-  
6                   cable law for Federal officers and employ-  
7                   ees not described in this paragraph.

8 **SEC. 104. INSPECTOR GENERAL OF THE CORPORATION.**

9           The President shall appoint and maintain an Inspec-  
10 tor General in the Corporation, in accordance with the In-  
11 spector General Act of 1978 (5 U.S.C. App.).

12                   **TITLE II—AUTHORITIES**

13 **SEC. 201. AUTHORITIES RELATING TO PROVISION OF SUP-**  
14                   **PORT.**

15           (a) LENDING AND GUARANTIES.—

16                   (1) IN GENERAL.—The Corporation may make  
17                   loans or guarantee loans upon such terms and condi-  
18                   tions as the Corporation may determine.

19                   (2) DENOMINATION.—Loans and guaranties  
20                   issued under paragraph (1) may be denominated and  
21                   repayable in United States dollars or foreign cur-  
22                   rencies.

23                   (3) APPLICABILITY OF FEDERAL CREDIT RE-  
24                   FORM ACT OF 1990.—Loans and guaranties issued  
25                   under paragraph (1) shall be subject to the require-

1       ments of the Federal Credit Reform Act of 1990 (2  
2       U.S.C. 661 et seq.).

3       (b) EQUITY INVESTMENTS.—

4             (1) IN GENERAL.—The Corporation may, as a  
5       minority investor, support projects with funds or use  
6       other mechanisms for the purpose of purchasing,  
7       and may make and fund commitments to purchase,  
8       invest in, make pledges in respect of, or otherwise  
9       acquire, equity or quasi-equity securities or shares or  
10      financial interests of any entity, including as a lim-  
11      ited partner or other investor in investment funds,  
12      upon such terms and conditions as the Corporation  
13      may determine.

14            (2) DENOMINATION.—Support provided under  
15      paragraph (1) may be denominated and repayable in  
16      United States dollars or foreign currency.

17            (3) GUIDELINES AND CRITERIA.—The Corpora-  
18      tion shall develop guidelines and criteria to require  
19      that the use of the authority provided by paragraph  
20      (1) with respect to a project has a clearly defined  
21      development rationale, taking into account the fol-  
22      lowing factors:

23                    (A) The support for the project would be  
24                    more likely than not to substantially reduce or  
25                    overcome the effect of an identified market fail-

1           ure in the country in which the project is car-  
2           ried out.

3           (B) The project would not have proceeded  
4           or would have been substantially delayed with-  
5           out the support.

6           (C) The support will meaningfully con-  
7           tribute to transforming local conditions to pro-  
8           mote the development of markets.

9           (D) The support can be shown to be  
10          aligned with commercial partner incentives.

11          (E) The support can be shown to have sig-  
12          nificant developmental impact and will con-  
13          tribute to long-term commercial sustainability.

14          (4) LIMITATIONS ON EQUITY INVESTMENTS.—

15           (A) PER PROJECT LIMIT.—The aggregate  
16           amount of support provided under this sub-  
17           section with respect to any project shall not ex-  
18           ceed 20 percent of the aggregate amount of all  
19           equity investment made from any source to the  
20           project at the time that the Corporation ap-  
21           proves support of the project.

22           (B) TOTAL LIMIT.—Support provided pur-  
23           suant to this subsection shall be limited to not  
24           more than 35 percent of the Corporation's ag-

1 aggregate exposure on the date that such support  
2 is provided.

3 (5) SALES AND LIQUIDATION OF POSITION.—

4 The Corporation shall seek to sell and liquidate any  
5 support for a project provided under this subsection  
6 as soon as commercially feasible, commensurate with  
7 other similar investors in the project.

8 (c) INSURANCE AND REINSURANCE.—The Corpora-  
9 tion may issue insurance or reinsurance, upon such terms  
10 and conditions as the Corporation may determine, to pri-  
11 vate sector entities and qualifying sovereign entities assur-  
12 ing protection of their investments in whole or in part  
13 against any or all political risks such as currency incon-  
14 vertibility and transfer restrictions, expropriation, war,  
15 terrorism, and civil disturbance, breach of contract, or  
16 non-honoring of financial obligations.

17 (d) PROMOTION OF AND SUPPORT FOR PRIVATE IN-  
18 VESTMENT OPPORTUNITIES.—

19 (1) IN GENERAL.—The Corporation may ini-  
20 tiate and support, through financial participation,  
21 incentive grant, or otherwise, and on such terms and  
22 conditions as the Corporation may determine, feasi-  
23 bility studies for the planning, development, and  
24 management of, and procurement for, bilateral and  
25 multilateral development projects, including training

1 activities undertaken in connection with such  
2 projects, for the purpose of promoting investment in  
3 such projects and the identification, assessment, sur-  
4 veying, and promotion of private investment oppor-  
5 tunities, utilizing wherever feasible and effective, the  
6 facilities of private investors.

7 (2) CONTRIBUTIONS TO COSTS.—The Corpora-  
8 tion shall, to the maximum extent practicable, re-  
9 quire any person receiving funds under the authori-  
10 ties of this subsection to—

11 (A) share the costs of feasibility studies  
12 and other project planning services funded  
13 under this subsection; and

14 (B) reimburse the Corporation those funds  
15 provided under this section, if the person suc-  
16 ceeds in project implementation.

17 (e) SPECIAL PROJECTS AND PROGRAMS.—The Cor-  
18 poration may administer and manage special projects and  
19 programs, including programs of financial and advisory  
20 support that provide private technical, professional, or  
21 managerial assistance in the development of human re-  
22 sources, skills, technology, capital savings, and inter-  
23 mediate financial and investment institutions and coopera-  
24 tives and including the initiation of incentives, grants, and

1 studies for renewable energy, microenterprise households,  
2 and other small business activities.

3 (f) ENTERPRISE FUNDS.—

4 (1) IN GENERAL.—The Corporation may estab-  
5 lish and operate enterprise funds in accordance with  
6 this subsection.

7 (2) PROCEDURES AND REQUIREMENTS.—The  
8 provisions of section 201 of the Support for East  
9 European Democracy (SEED) Act of 1989 (22  
10 U.S.C. 5421) (other than the provisions of sub-  
11 sections (a), (b), (c), (d)(1), (d)(3), (e), (f), and (j)  
12 of that section), shall be deemed to apply with re-  
13 spect to any enterprise fund established by the Cor-  
14 poration under this subsection and to funds made  
15 available to any such enterprise fund in the same  
16 manner and to the same extent as such provisions  
17 apply with respect to enterprise funds established  
18 pursuant to such section 201 or to funds made avail-  
19 able to enterprise funds established under that sec-  
20 tion.

21 (3) PURPOSES FOR WHICH SUPPORT MAY BE  
22 PROVIDED.—The Corporation, subject to the ap-  
23 proval of the Board, may designate private, non-  
24 profit organizations as eligible to receive support  
25 under this subsection for the following purposes:

1           (A) To promote development of economic  
2 freedom and private sectors, including small-  
3 and medium-sized businesses and joint ventures  
4 with the United States and host country par-  
5 ticipants.

6           (B) To facilitate access to the credit to  
7 small- and medium-sized businesses with sound  
8 business plans in countries where there is lim-  
9 ited means of accessing credit on market terms.

10          (C) To promote policies and practices con-  
11 ducive to economic freedom and private sector  
12 development.

13          (D) To attract foreign direct investment  
14 capital to further promote private sector devel-  
15 opment and economic freedom.

16          (E) To complement the work of the United  
17 States Agency for International Development  
18 and other donors to improve the overall busi-  
19 ness-enabling environment, financing the cre-  
20 ation and expansion of the private business sec-  
21 tor.

22          (F) To make financially sustainable invest-  
23 ments designed to generate measurable social  
24 benefits and build technical capacity in addition  
25 to financial returns.



1 (4) OPERATION OF FUNDS.—

2 (A) EXPENDITURES.—Funds made avail-  
3 able to an enterprise fund shall be expended at  
4 the minimum rate necessary to make timely  
5 payments for projects and activities carried out  
6 under this subsection.

7 (B) ADMINISTRATIVE EXPENSES.—Not  
8 more than 3 percent of the funds made avail-  
9 able to an enterprise fund may be obligated or  
10 expended for the administrative expenses of the  
11 enterprise fund.

12 (5) BOARD OF DIRECTORS.—Each enterprise  
13 fund established under this subsection shall be gov-  
14 erned by a Board of Directors comprised of private  
15 citizens of the United States or the host country,  
16 who—

17 (A) shall be appointed by the President  
18 after consultation with the chairmen and rank-  
19 ing members of the appropriate congressional  
20 committees; and

21 (B) have pursued careers in international  
22 business and have demonstrated expertise in  
23 international and emerging market investment  
24 activities.

1           (6) MAJORITY MEMBER REQUIREMENT.—The  
2 majority of the members of the Board of Directors  
3 shall be United States citizens.

4           (7) REPORTS.—Not later than one year after  
5 the date of the establishment of an enterprise fund  
6 under this subsection, and annually thereafter until  
7 the enterprise fund terminates in accordance with  
8 paragraph (10), the Board of Directors of the enter-  
9 prise fund shall—

10                   (A) submit to the appropriate congres-  
11 sional committees a report—

12                           (i) detailing the administrative ex-  
13 penses of the enterprise fund during the  
14 year preceding the submission of the re-  
15 port;

16                           (ii) describing the operations, activi-  
17 ties, financial condition, and accomplish-  
18 ments of the enterprise fund during that  
19 year; and

20                           (iii) describing the results of the audit  
21 conducted under paragraph (8) during that  
22 year; and

23           (B) publish, on a publicly available inter-  
24 net website of the enterprise fund, each report  
25 required by subparagraph (A).

1 (8) OVERSIGHT.—

2 (A) INSPECTOR GENERAL PERFORMANCE  
3 AUDITS.—

4 (i) IN GENERAL.—The Inspector Gen-  
5 eral of the Corporation shall conduct peri-  
6 odic audits of the activities of each enter-  
7 prise fund established under this sub-  
8 section.

9 (ii) CONSIDERATION.—In conducting  
10 an audit under clause (i), the Inspector  
11 General shall assess whether the activities  
12 of the enterprise fund—

13 (I) support the purposes de-  
14 scribed in paragraph (3);

15 (II) result in profitable private  
16 sector investing; and

17 (III) generate measurable social  
18 benefits.

19 (B) RECORDKEEPING REQUIREMENTS.—  
20 The Corporation shall ensure that each enter-  
21 prise fund receiving support under this sub-  
22 section—

23 (i) keeps separate accounts with re-  
24 spect to such support; and

1                   (ii) maintains such records as may be  
2                   reasonably necessary to facilitate effective  
3                   audits under this paragraph.

4                   (9) RETURN OF FUNDS TO TREASURY.—Any  
5                   funds resulting from any liquidation, dissolution, or  
6                   winding up of an enterprise fund, in whole or in  
7                   part, shall be returned to the Treasury of the United  
8                   States.

9                   (10) TERMINATION.—The authority of an en-  
10                  terprise fund to provide support under this sub-  
11                  section shall terminate on the earlier of—

12                   (A) the date that is 7 years after the date  
13                   of the first expenditure of amounts from the en-  
14                   terprise fund; or

15                   (B) the date on which the enterprise fund  
16                   is liquidated.

17                  (g) OTHER AUTHORITIES.—The Corporation shall  
18                  have, in addition to other authorities provided under this  
19                  section, such authorities as are provided for under the  
20                  State Department Basic Authorities Act of 1956 (22  
21                  U.S.C. 2651a et seq.) and the Foreign Assistance Act of  
22                  1961 (22 U.S.C. 2151 et seq.) and delegated by the Presi-  
23                  dent to the Overseas Private Investment Corporation or  
24                  an element of the United States Agency for International

1 Development specified in section 603(a)(2) as of the day  
2 before the date of the enactment of this Act.

3 **SEC. 202. TERMS AND CONDITIONS.**

4 (a) IN GENERAL.—Except as provided in subsection  
5 (b), support provided by the Corporation under this title  
6 shall be on such terms and conditions as the Corporation  
7 may prescribe.

8 (b) REQUIREMENTS.—The following requirements  
9 apply to support provided by the Corporation under this  
10 title:

11 (1) The Corporation shall make a loan or guar-  
12 anty only if it is necessary—

13 (A) to alleviate a credit market imperfec-  
14 tion; or

15 (B) to achieve specified objectives of the  
16 United States Government by providing support  
17 in the most efficient way to meet those objec-  
18 tives on a borrower-by-borrower basis.

19 (2) The final maturity of a loan made or guar-  
20 anteed by the Corporation shall not exceed the lesser  
21 of—

22 (A) 25 years; or

23 (B) the useful life of any physical asset to  
24 be financed by the loan (as determined by the  
25 Corporation).

1           (3) The Corporation shall, with respect to pro-  
2           viding any loan guaranty to a project, require the  
3           parties to the loan guaranteed by the Corporation to  
4           bear the risk of loss for at least 20 percent of the  
5           guaranteed support by the Corporation in the  
6           project.

7           (4) The Corporation may not guarantee a loan  
8           unless the Corporation determines that the lender is  
9           responsible and that adequate provision is made for  
10          servicing the loan on reasonable terms and pro-  
11          tecting the financial interest of the United States.

12          (5) The interest rate for direct loans and inter-  
13          est supplements on guaranteed loans shall be set by  
14          reference to a benchmark interest rate (yield) on  
15          marketable Treasury securities or other widely rec-  
16          ognized benchmarks with a similar maturity to the  
17          loans being made or guaranteed. The Corporation  
18          shall establish appropriate minimum interest rates  
19          for loans, guarantees, insurance, and other instru-  
20          ments as necessary.

21          (6) The minimum interest rate for new loans as  
22          established by the Corporation shall be adjusted pe-  
23          riodically to take account of changes in the interest  
24          rate of the benchmark financial instrument.

1           (7)(A) The Corporation shall set fees or pre-  
2           miums for loan guarantee or insurance coverage at  
3           levels that minimize the cost to the Government (as  
4           defined in section 502 of the Federal Credit Reform  
5           Act of 1990 (2 U.S.C. 661a)) of such coverage,  
6           while supporting achievement of the objectives of the  
7           loan.

8           (B) The Corporation shall set the minimum  
9           guarantee fee or insurance premium at a level suffi-  
10          cient to cover the Corporation's costs for paying all  
11          of the estimated costs to the Government of the ex-  
12          pected default claims and other obligations.

13          (C) The Corporation shall review fees for loan  
14          guaranties periodically to ensure that the fees as-  
15          sessed on new loan guarantees are at a level suffi-  
16          cient to cover the Corporation's most recent esti-  
17          mates of its costs.

18          (8) Any loan guaranty provided by the Corpora-  
19          tion shall be conclusive evidence that—

20                 (A) the guaranty has been properly ob-  
21                 tained;

22                 (B) the loan qualified for the guaranty;  
23                 and

24                 (C) but for fraud or material misrepresen-  
25                 tation by the holder of the guaranty, the guar-

1           anty is presumed to be valid, legal, and enforce-  
2           able.

3           (9) The Corporation may not make a loan or  
4           loan guaranty unless the Corporation determines  
5           that there is a reasonable assurance of repayment on  
6           the loan.

7           (10) The Corporation shall prescribe explicit  
8           standards for use in periodically assessing the credit  
9           risk of new and existing direct loans or guaranteed  
10          loans.

11          (11) The Corporation may not make loans or  
12          loan guaranties except to the extent that budget au-  
13          thority to cover the costs of the loans or guaranties  
14          is provided in advance in an appropriations Act, as  
15          required by section 504 of the Federal Credit Re-  
16          form Act of 1990 (2 U.S.C. 661c).

17 **SEC. 203. PAYMENT OF LOSSES.**

18          (a) PAYMENTS FOR DEFAULTS ON GUARANTEED  
19          LOANS.—

20               (1) IN GENERAL.—If the Corporation deter-  
21               mines that the holder of a loan guaranteed by the  
22               Corporation suffers a loss as a result of a default by  
23               a borrower on the loan, the Corporation shall pay to  
24               the holder the percent of the loss, as specified in the  
25               guaranty contract after the holder of the loan has



1 made such further collection efforts and instituted  
2 such enforcement proceedings as the Corporation  
3 may require.

4 (2) SUBROGATION.—Upon making a payment  
5 described in paragraph (1), the Corporation shall en-  
6 sure the Corporation will be subrogated to all the  
7 rights of the recipient of the payment.

8 (3) RECOVERY EFFORTS.—The Corporation  
9 shall pursue recovery from the borrower of the  
10 amount of any payment made under paragraph (1)  
11 with respect to the loan.

12 (b) LIMITATION ON PAYMENTS.—

13 (1) IN GENERAL.—Except as provided by para-  
14 graph (2), compensation for insurance, reinsurance,  
15 or a guaranty issued under this title shall not exceed  
16 the dollar value of the insurance, reinsurance, or  
17 guaranty, as of the date of its issuance, made in the  
18 project with the approval of the Corporation, plus  
19 interest, earnings, or profits actually accrued on the  
20 insurance, reinsurance, or guaranty, to the extent  
21 provided by such insurance, reinsurance, or guar-  
22 anty.

23 (2) EXCEPTION.—

24 (A) IN GENERAL.—The Corporation may  
25 provide that—

1 (i) appropriate adjustments in the in-  
2 sured dollar value be made to reflect the  
3 replacement cost of project assets; and

4 (ii) compensation for a claim of loss  
5 under insurance of an equity investment  
6 under section 201(b) may be computed on  
7 the basis of the net book value attributable  
8 to the equity investment on the date of  
9 loss.

10 (3) ADDITIONAL LIMITATION.—

11 (A) IN GENERAL.—Notwithstanding para-  
12 graph (2)(A)(ii) and except as provided in sub-  
13 paragraph (B), the Corporation shall limit the  
14 amount of direct insurance and reinsurance  
15 issued under section 201 with respect to a  
16 project so as to require that the insured and its  
17 affiliates bear the risk of loss for at least 10  
18 percent of the amount of the Corporation's ex-  
19 posure to that insured and its affiliates in the  
20 project.

21 (B) EXCEPTION.—The limitation under  
22 subparagraph (A) shall not apply to direct in-  
23 surance or reinsurance of loans provided by  
24 banks or other financial institutions to unre-  
25 lated parties.

1 (c) ACTIONS BY ATTORNEY GENERAL.—The Attor-  
2 ney General shall take such action as may be appropriate  
3 to enforce any right accruing to the United States as a  
4 result of the issuance of any loan or guarantee under this  
5 title.

6 (d) RULE OF CONSTRUCTION.—Nothing in this sec-  
7 tion shall be construed to preclude any forbearance for the  
8 benefit of a borrower that may be agreed upon by the par-  
9 ties to a loan guaranteed by the Corporation if budget au-  
10 thority for any resulting costs to the United States Gov-  
11 ernment (as defined in section 502 of the Federal Credit  
12 Reform Act of 1990 (2 U.S.C. 661a)) is available.

13 **SEC. 204. TERMINATION.**

14 The authorities provided under this title terminate on  
15 the date that is 7 years after the date of the enactment  
16 of this Act.

17 **TITLE III—ADMINISTRATIVE**  
18 **AND GENERAL PROVISIONS**

19 **SEC. 301. OPERATIONS.**

20 (a) BILATERAL AGREEMENTS.—The Corporation  
21 may provide support under title II in connection with  
22 projects in any country the government of which has en-  
23 tered into an agreement with the United States author-  
24 izing the Corporation to provide such support in that  
25 country.

1 (b) CLAIMS SETTLEMENT.—

2 (1) IN GENERAL.—Claims arising as a result of  
3 support provided under title II or under predecessor  
4 authority may be settled, and disputes arising as a  
5 result thereof may be arbitrated with the consent of  
6 the parties, on such terms and conditions as the  
7 Corporation may determine.

8 (2) SETTLEMENTS CONCLUSIVE.—Payment  
9 made pursuant to any settlement pursuant to para-  
10 graph (1), or as a result of an arbitration award,  
11 shall be final and conclusive notwithstanding any  
12 other provision of law.

13 (c) PRESUMPTION OF COMPLIANCE.—Each contract  
14 executed by such officer or officers as may be designated  
15 by the Board shall be conclusively presumed to be issued  
16 in compliance with the requirements of this Act.

17 (d) ELECTRONIC PAYMENTS AND DOCUMENTS.—The  
18 Corporation shall implement policies to accept electronic  
19 documents and electronic payments in all of its programs.

20 **SEC. 302. CORPORATE POWERS.**

21 (a) IN GENERAL.—The Corporation—

22 (1) may adopt, alter, and use a seal, to include  
23 an identifiable symbol of the United States;

24 (2) may make and perform such contracts, in-  
25 cluding no-cost contracts (as defined by the Corpora-

1       tion), grants, and other agreements notwithstanding  
2       division C of subtitle I of title 41, United States  
3       Code, with any person or government however des-  
4       ignated and wherever situated, as may be necessary  
5       for carrying out the functions of the Corporation;

6               (3) may determine and prescribe the manner in  
7       which its obligations shall be incurred and its ex-  
8       penses allowed and paid, including expenses for rep-  
9       resentation;

10              (4) may lease, purchase, or otherwise acquire,  
11       improve, and use such real property wherever situ-  
12       ated, as may be necessary for carrying out the func-  
13       tions of the Corporation;

14              (5) may accept cash gifts or donations of serv-  
15       ices or of property (real, personal, or mixed), tan-  
16       gible or intangible, for the purpose of carrying out  
17       the functions of the Corporation;

18              (6) may use the United States mails in the  
19       same manner and on the same conditions as the Ex-  
20       ecutive departments (as defined in section 101 of  
21       title 5, United States Code);

22              (7) may contract with individuals for personal  
23       services, who shall not be considered Federal em-  
24       ployees for any provision of law administered by the  
25       Director of the Office of Personnel Management;

1           (8) may hire or obtain passenger motor vehi-  
2           cles;

3           (9) may sue and be sued in its corporate name;

4           (10) may acquire, hold, or dispose of, upon  
5           such terms and conditions as the Corporation may  
6           determine, any property, real, personal, or mixed,  
7           tangible or intangible, or any interest in such prop-  
8           erty, and with respect to lease of office space for the  
9           Corporation's own use, the obligation of amounts for  
10          such lease is limited to the current fiscal year for  
11          which payments are due without regard to section  
12          1341(a)(1)(B) of title 31, United States Code;

13          (11) may indemnify directors, officers, employ-  
14          ees, and agents of the Corporation for liabilities and  
15          expenses incurred in connection with their activities  
16          on behalf of the Corporation;

17          (12) notwithstanding any other provision of  
18          law, may represent itself or contract for representa-  
19          tion in all legal and arbitral proceedings;

20          (13) may purchase, discount, rediscount, sell,  
21          and negotiate, with or without its endorsement or  
22          guaranty, and guarantee notes, participation certifi-  
23          cates, and other evidence of indebtedness;

1           (14) may exercise any priority of the Govern-  
2           ment of the United States in collecting debts from  
3           bankrupt, insolvent, or decedents' estates;

4           (15) may collect, notwithstanding section  
5           3711(g)(1) of title 31, United States Code, or com-  
6           promise any obligations assigned to or held by the  
7           Corporation, including any legal or equitable rights  
8           accruing to the Corporation;

9           (16) may manage assets described in section  
10          3(9) of Public Law 110–343 (12 U.S.C. 5202(9)) in  
11          a manner designed to minimize cost to the Corpora-  
12          tion, including establishing vehicles that are author-  
13          ized to purchase, hold, and sell assets and issue obli-  
14          gations;

15          (17) may make arrangements with foreign gov-  
16          ernments (including agencies, instrumentalities, or  
17          political subdivisions of such governments) or with  
18          multilateral organizations or institutions for sharing  
19          liabilities;

20          (18) may revolve funds of the Corporation  
21          through selling direct investments of the Corporation  
22          to private investors upon such terms and conditions  
23          as the Corporation may determine; and

1           (19) shall have such other powers as may be  
2           necessary and incident to carrying out the functions  
3           of the Corporation.

4           (b) TREATMENT OF PROPERTY.—Notwithstanding  
5           any other provision of law relating to the acquisition, han-  
6           dling, or disposal of property by the United States, the  
7           Corporation shall have the right in its discretion to com-  
8           plete, recondition, reconstruct, renovate, repair, maintain,  
9           operate, or sell any property acquired by the Corporation  
10          pursuant to the provisions of this Act.

11 **SEC. 303. MAXIMUM CONTINGENT LIABILITY.**

12          (a) IN GENERAL.—The maximum contingent liability  
13          of the Corporation outstanding at any one time shall not  
14          exceed in the aggregate the amount specified in subsection  
15          (b).

16          (b) AMOUNT SPECIFIED.—

17                (1) INITIAL 5-YEAR PERIOD.—The amount  
18                specified in this subsection for the 5-year period be-  
19                ginning on the date of the enactment of this Act, is  
20                \$60,000,000,000.

21                (2) SUBSEQUENT 5-YEAR PERIODS.—Not later  
22                than 5 years after the date of the enactment of this  
23                Act, and every 5 years thereafter, the amount speci-  
24                fied in paragraph (1) shall be adjusted to reflect the  
25                percentage of the increase (if any) in the average of



1 the Consumer Price Index during the preceding 5-  
2 year period.

3 (3) CONSUMER PRICE INDEX DEFINED.—In  
4 this subsection, the term “Consumer Price Index”  
5 means the most recent Consumer Price Index for All  
6 Urban Consumers published by the Bureau of Labor  
7 Statistics of the Department of Labor.

8 **SEC. 304. CORPORATE FUNDS.**

9 (a) CORPORATE CAPITAL ACCOUNT.—

10 (1) ESTABLISHMENT.—There is established in  
11 the Treasury of the United States a revolving fund  
12 to be known as the “Corporate Capital Account”,  
13 consisting of such funds as—

14 (A) are available to discharge liabilities  
15 under predecessor authorities; and

16 (B) are made available to the Corporation  
17 pursuant to subsections (d), (e), and (f), or oth-  
18 erwise available pursuant to this section.

19 (2) USE OF FUNDS.—Amounts in the Corporate  
20 Capital Account shall be available for discharge of li-  
21 abilities of the Corporation, until such time as all  
22 such liabilities have been discharged or have expired  
23 or until all of the amounts in the Account have been  
24 expended in accordance with the provisions of this  
25 section.

1 (b) TRANSFER OF PREVIOUS FEES AND REVENUE.—

2 There is hereby authorized to be transferred to the Cor-  
3 poration at its call, for the purposes specified in subsection  
4 (g), all fees and other revenues collected by the Overseas  
5 Private Investment Corporation pursuant to the reorga-  
6 nization plan submitted by the President under section  
7 602.

8 (c) FULL FAITH AND CREDIT.—All support provided  
9 pursuant to predecessor authorities or title II shall con-  
10 tinue to constitute obligations of the United States, and  
11 the full faith and credit of the United States is hereby  
12 pledged for the full payment and performance of such obli-  
13 gations.

14 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
15 are authorized to be appropriated to the Corporation, to  
16 remain available until expended, such amounts as may be  
17 necessary from time to time to replenish or increase the  
18 Corporate Capital Account.

19 (e) ISSUANCE OF OBLIGATIONS.—

20 (1) IN GENERAL.—In order to discharge liabil-  
21 ities of the Corporation, the Corporation may issue  
22 from time to time for purchase by the Secretary of  
23 the Treasury notes, debentures, bonds, or other obli-  
24 gations of the Corporation.

1           (2) LIMITATION.—The aggregate amount of ob-  
2           ligations outstanding under paragraph (1) at any  
3           one time shall not exceed \$1,000,000,000.

4           (3) REPAYMENT.—Any obligation issued under  
5           paragraph (1) shall be repaid to the Treasury of the  
6           United States within one year after the date of issue  
7           of the obligation.

8           (4) INTEREST RATE.—Any obligation issued  
9           under paragraph (1) shall bear interest at a rate de-  
10          termined by the Secretary, taking into consideration  
11          the current average market yield on outstanding  
12          marketable obligations of the United States of com-  
13          parable maturities during the month preceding the  
14          issuance of any obligation authorized by this sub-  
15          section.

16          (5) PURCHASE.—The Secretary shall purchase  
17          any obligation of the Corporation issued under para-  
18          graph (1), and for such purchase the Secretary may  
19          use as a public debt transaction the proceeds of the  
20          sale of any securities issued under chapter 31 of title  
21          31, United States Code. The purpose for which secu-  
22          rities may be issued under such chapter shall include  
23          any such purchase.

24          (6) FUNDING.—There are hereby authorized to  
25          be appropriated to the Secretary for fiscal year 2018

1 and each fiscal year thereafter such sums as may be  
2 necessary to carry out this subsection.

3 (f) FEES.—

4 (1) IN GENERAL.—Fees may be charged for  
5 providing services and for transaction costs incurred  
6 by the Corporation in amounts to be determined by  
7 the Corporation.

8 (2) USE OF FEES.—All fees under paragraph  
9 (1) paid for transaction costs and other costs associ-  
10 ated with services provided shall be available for ob-  
11 ligation for the purposes for which such fees were  
12 collected.

13 (g) INCOME AND REVENUE IN GENERAL.—In order  
14 to carry out the purposes of the Corporation, all funds,  
15 fees, revenues, and income transferred to or earned by the  
16 Corporation, from whatever source derived, shall be held  
17 by the Corporation and shall be available to carry out the  
18 purposes of the Corporation, including—

19 (1) payment of all expenses of the Corporation;

20 (2) transfers and additions to the Corporate  
21 Capital Account and such other funds or reserves as  
22 the Corporation may establish, at such time and in  
23 such amounts as the Board may determine;

24 (3) payment of dividends on capital stock,  
25 which shall consist of and be paid from net earnings

1 of the Corporation after payments, transfers, and  
2 additions under paragraphs (1) and (2); and

3 (4) transfer of such sums as may be necessary  
4 from the Corporate Capital Account for costs (as de-  
5 fined in section 502 of the Federal Credit Reform  
6 Act of 1990 (2 U.S.C. 661a)) of providing support  
7 under title II, including the costs of modifying such  
8 support.

9 (h) TRANSACTION COSTS.—Transaction costs in-  
10 curred by the Corporation, including such costs relating  
11 to loan obligations or loan guarantee commitments covered  
12 by the provisions of the Federal Credit Reform Act of  
13 1990 (2 U.S.C. 661 et seq.), shall be held in and paid  
14 out of the Corporate Capital Account.

15 **SEC. 305. COORDINATION WITH MILLENNIUM CHALLENGE**

16 **CORPORATION ON CONSTRAINTS ANALYSIS.**

17 It is the sense of Congress that the Corporation  
18 should use the constraints analysis and other relevant data  
19 of the Millennium Challenge Corporation to better inform  
20 the decisions of the Corporation with respect to providing  
21 support under title II.

1                   **TITLE IV—MONITORING,**  
2                   **EVALUATION, AND REPORTING**

3   **SEC. 401. ESTABLISHMENT OF RISK AND AUDIT COMMIT-**  
4                   **TEES.**

5           (a) **IN GENERAL.**—To manage risks such as key stra-  
6    tegie, reputational, regulatory, operational, and financial  
7    risks the Corporation shall establish a risk committee and  
8    an audit committee.

9           (b) **DUTIES AND RESPONSIBILITIES.**—Subject to the  
10   direction of the Board, the risk committee established  
11   under subsection (a) shall have the responsibility of—

12           (1) carrying out independent oversight of the  
13    Corporation;

14           (2) reviewing and providing guidance on the  
15    risk governance structure of the Corporation; and

16           (3) developing policies for enterprise risk man-  
17    agement, monitoring, and management of strategic,  
18    reputational, regulatory, operational, and financial  
19    risks.

20   **SEC. 402. PERFORMANCE MEASURES.**

21           (a) **IN GENERAL.**—The Corporation shall develop a  
22    performance measurement system to evaluate and monitor  
23    projects supported by the Corporation under title II and  
24    to guide future projects of the Corporation.

1 (b) CONSIDERATIONS.—In developing the perform-  
2 ance measurement system required by subsection (a), the  
3 Corporation shall—

4 (1) develop a successor for the development im-  
5 pact measurement system used by the Overseas Pri-  
6 vate Investment Corporation before the date of the  
7 enactment of this Act;

8 (2) develop a mechanism for ensuring that sup-  
9 port provided by the Corporation under title II is in  
10 addition to private investment; and

11 (3) develop standards for, and a method for en-  
12 suring, appropriate financial performance of the  
13 Corporation’s portfolio.

14 (c) PUBLIC AVAILABILITY OF CERTAIN INFORMA-  
15 TION.—The Corporation shall regularly make available to  
16 the public information about support provided by the Cor-  
17 poration under title II and performance metrics about  
18 such support on a country-by-country basis.

19 (d) CONSULTATIONS.—In developing the perform-  
20 ance measurement system required by subsection (a), the  
21 Corporation shall consult with stakeholders engaged in  
22 sustainable economic growth and development outside the  
23 United States, including private sector entities and non-  
24 governmental and civil society organizations.

1 **SEC. 403. ANNUAL REPORT.**

2 (a) IN GENERAL.—After the end of each fiscal year,  
3 the Corporation shall submit to the appropriate congress-  
4 sional committees a complete and detailed report of its op-  
5 erations during that fiscal year, including an assessment  
6 of—

7 (1) the economic and social development impact  
8 and benefits of projects supported by the Corpora-  
9 tion under title II; and

10 (2) the extent to which the operations of the  
11 Corporation complement or are compatible with the  
12 development assistance programs of the United  
13 States and qualifying sovereign entities.

14 (b) ELEMENTS.—Each annual report required by  
15 subsection (a) shall include projections of the effects of  
16 each project supported by the Corporation under title II,  
17 including—

18 (1) reviews and analysis of—

19 (A) the desired development outcomes for  
20 each project and whether or not the project is  
21 meeting the associated metrics, goals, and de-  
22 velopment objectives in the years following the  
23 conclusion of the project; and

24 (B) the effect of the Corporation's support  
25 for the project on access to capital, specifically  
26 whether the project is addressing identifiable



1 market gaps or inefficiencies and what impact,  
2 if any, such support will have on access to cred-  
3 it for private sector entities in the country in  
4 which the project is carried out;

5 (2) an explanation of any partnership arrange-  
6 ment or cooperation with a qualifying sovereign enti-  
7 ty in support of each project;

8 (3) projections of—

9 (A) each project's development outcome,  
10 and whether or not support for the project is  
11 meeting the associated performance measures,  
12 both during the start-up phase and over the du-  
13 ration of the project; and

14 (B) the amount of private sector assets  
15 brought to bear relative to the amount of sup-  
16 port provided by the Corporation and any other  
17 public sector support associated with the  
18 project; and

19 (4) an assessment of the extent to which lessons  
20 learned from the monitoring and evaluation activities  
21 of the Corporation, and from annual reports from  
22 previous years compiled by the Corporation, have  
23 been applied to projects.

24 **SEC. 404. PUBLICLY AVAILABLE PROJECT INFORMATION.**

25 The Corporation shall—

1           (1) maintain a user-friendly, publicly available,  
2           machine-readable database with detailed country-  
3           level information, including a description of the sup-  
4           port provided by the Corporation under title II; and

5           (2) include a clear link to information about  
6           each project supported by the Corporation under  
7           title II on the internet website of the Department of  
8           State, “ForeignAssistance.gov”, or a successor  
9           website or other online publication.

10 **SEC. 405. AUDITS AND FINANCIAL STATEMENTS OF THE**  
11 **CORPORATION.**

12           (a) AUDITS.—Subject to subsection (f), an inde-  
13           pendent certified public accountant shall perform a finan-  
14           cial and compliance audit of the financial statements of  
15           the Corporation annually, in accordance with generally ac-  
16           cepted government auditing standards for a financial and  
17           compliance audit, as issued by the Comptroller General  
18           of the United States.

19           (b) REPORTS ON AUDITS.—The independent certified  
20           public accountant who conducts an audit under subsection  
21           (a) shall report the results of the audit to the Executive  
22           Director of the Corporation and the appropriate congres-  
23           sional committees.

24           (c) PRESENTATION.—The financial statements of the  
25           Corporation and the report required by subsection (b)

1 shall be presented in accordance with generally accepted  
2 accounting principles.

3 (d) REPORTS TO CONGRESS.—Not later than 195  
4 days after the end of the last fiscal year covered by an  
5 audit conducted under subsection (a), the Corporation  
6 shall submit to the appropriate congressional committees  
7 a report that includes—

8 (1) the report required by subsection (b) with  
9 respect to the audit; and

10 (2) the financial statements of the Corporation.

11 (e) REVIEW AND REPORT BY THE GOVERNMENT AC-  
12 COUNTABILITY OFFICE.—The Comptroller General may  
13 review an audit conducted under subsection (a) and the  
14 report to the appropriate congressional committees re-  
15 quired by subsection (d) in the manner and at such times  
16 as the Comptroller General considers necessary.

17 (f) ALTERNATIVE AUDITS BY GOVERNMENT AC-  
18 COUNTABILITY OFFICE.—Instead of an audit conducted  
19 under subsection (a) by a certified public accountant, the  
20 Comptroller General shall, if the Comptroller General con-  
21 siders it necessary or upon the request of Congress, audit  
22 the financial statements of the Corporation in the manner  
23 provided under subsection (a).

24 (g) AVAILABILITY OF INFORMATION.—All books, ac-  
25 counts, financial records, reports, files, workpapers, and

1 property belonging to or in use by the Corporation or the  
2 accountant who conducts an audit under subsection (a)  
3 that are necessary for purposes of conducting the audit,  
4 shall be made available to the Comptroller General and  
5 such employees as the Comptroller General considers ap-  
6 propriate.

7 **SEC. 406. ENGAGEMENT WITH INVESTORS.**

8 (a) IN GENERAL.—The Corporation shall, in coopera-  
9 tion with the Administrator of the United States Agency  
10 for International Development—

11 (1) develop a strategic relationship with private  
12 sector entities focused at the nexus of business op-  
13 portunities and development priorities;

14 (2) engage such entities and reduce business  
15 risks primarily through direct transaction support  
16 and facilitating investment partnerships;

17 (3) develop and support tools, approaches, and  
18 intermediaries that can mobilize private finance at  
19 scale in the developing world;

20 (4) pursue projects of all sizes, especially those  
21 that are small but designed for work in the most un-  
22 derdeveloped areas, including countries with chronic  
23 suffering as a result of extreme poverty, fragile insti-  
24 tutions, or a history of violence; and

1           (5) pursue projects consistent with the stated  
2 goals of the Department of State and the Strategic  
3 Plan and the Mission Country Development Co-  
4 operation Strategies of the United States Agency for  
5 International Development.

6           (b) ASSISTANCE.—To achieve the goals described in  
7 subsection (a), the Corporation shall—

8           (1) develop risk mitigation tools;

9           (2) provide transaction structuring support for  
10 blended finance models;

11           (3) support intermediaries linking capital sup-  
12 ply and demand;

13           (4) coordinate with other Federal agencies to  
14 support or accelerate transactions;

15           (5) convene financial, donor, and public sector  
16 partners around opportunities for private finance  
17 within development priorities;

18           (6) offer strategic planning and programming  
19 assistance to catalyze investment into priority sec-  
20 tors;

21           (7) provide transaction structuring support;

22           (8) deliver training and knowledge management  
23 tools for engaging private investors;

24           (9) partner with private sector entities that pro-  
25 vide access to capital and expertise; and

1           (10) identify and screen new investment part-  
2           ners.

3       **TITLE V—CONDITIONS, RESTRIC-**  
4       **TIONS, AND PROHIBITIONS**

5       **SEC. 501. LIMITATIONS AND PREFERENCES.**

6           (a) LIMITATION ON SUPPORT FOR SINGLE ENTI-  
7       TY.—No entity receiving support from the Corporation  
8       under title II may receive more than an amount equal to  
9       5 percent of the Corporation’s maximum contingent liabil-  
10      ity authorized under section 303.

11          (b) PREFERENCE FOR SUPPORT OF INVESTMENT BY  
12      UNITED STATES INVESTORS.—

13           (1) IN GENERAL.—The Corporation shall give  
14      preferential consideration to projects sponsored by  
15      or involving private sector entities that are United  
16      States persons.

17           (2) UNITED STATES PERSON DEFINED.—In this  
18      subsection, the term “United States person”  
19      means—

20           (A) a United States citizen; or

21           (B) an entity significantly beneficially  
22      owned by individuals described in subparagraph  
23      (A).

1 (c) PREFERENCE FOR PROVISION OF SUPPORT IN  
2 COUNTRIES IN COMPLIANCE WITH INTERNATIONAL  
3 TRADE OBLIGATIONS.—

4 (1) CONSULTATIONS WITH UNITED STATES  
5 TRADE REPRESENTATIVE.—Not less frequently than  
6 annually, the Corporation shall consult with the  
7 United States Trade Representative with respect to  
8 the status of countries eligible to receive support  
9 from the Corporation under title II and the compli-  
10 ance of those countries with their international trade  
11 obligations.

12 (2) PREFERENTIAL CONSIDERATION.—The Cor-  
13 poration shall give preferential consideration to pro-  
14 viding support under title II for projects in countries  
15 in compliance with or making substantial progress  
16 coming into compliance with their international  
17 trade obligations.

18 (d) WORKER RIGHTS.—The Corporation should sup-  
19 port projects under title II in countries that are taking  
20 steps to adopt and implement laws that extend inter-  
21 nationally recognized worker rights (as defined in section  
22 507 of the Trade Act of 1974 (19 U.S.C. 2467)) to work-  
23 ers in that country.

24 (e) ENVIRONMENTAL IMPACT.—The Board shall not  
25 vote in favor of any project proposed to be supported by

1 the Corporation under title II that is likely to have signifi-  
2 cant adverse environmental impacts that are sensitive, di-  
3 verse, or unprecedented, unless—

4 (1) before the date of the vote, an environ-  
5 mental impact assessment or initial environmental  
6 audit, analyzing the environmental impacts of the  
7 proposed project and of alternatives to the proposed  
8 project, is completed; and

9 (2) such assessment or audit has been made  
10 available to the public of the United States, locally  
11 affected groups in the country in which the project  
12 will be carried out, and nongovernmental organiza-  
13 tions in that country.

14 **SEC. 502. ADDITIONALITY AND AVOIDANCE OF MARKET**  
15 **DISTORTION.**

16 (a) **IN GENERAL.**—Before the Corporation provides  
17 support for a project under title II, the Corporation shall  
18 ensure that private sector entities are afforded an oppor-  
19 tunity to support the project instead of the project receiv-  
20 ing support from the Corporation.

21 (b) **SAFEGUARDS, POLICIES, AND GUIDELINES.**—The  
22 Corporation shall develop appropriate safeguards, policies,  
23 and guidelines to ensure that support provided by the Cor-  
24 poration under title II—



1           (1) supplements and encourages, but does not  
2 compete with, private sector support; and

3           (2) operates according to internationally recog-  
4 nized best practices and standards with respect to  
5 ensuring the avoidance of market distorting govern-  
6 ment subsidies and the crowding out of private sec-  
7 tor lending.

8 **SEC. 503. PROHIBITION ON SUPPORT IN SANCTIONED**  
9                           **COUNTRIES AND WITH SANCTIONED PER-**  
10                           **SONS.**

11       (a) IN GENERAL.—The Corporation is prohibited  
12 from providing support under title II in a country the gov-  
13 ernment of which the Secretary of State has determined  
14 has repeatedly provided support for acts of international  
15 terrorism for purposes of—

16           (1) section 6(j)(1)(A) of the Export Administra-  
17 tion Act of 1979 (50 U.S.C. 4605(j)(1)(A)) (as con-  
18 tinued in effect pursuant to the International Emer-  
19 gency Economic Powers Act (50 U.S.C. 1701 et  
20 seq.));

21           (2) section 620A(a) of the Foreign Assistance  
22 Act of 1961 (22 U.S.C. 2371(a));

23           (3) section 40(d) of the Arms Export Control  
24 Act (22 U.S.C. 2780(d)); or

25           (4) any other provision of law.

1 (b) PROHIBITION ON SUPPORT OF SANCTIONED PER-  
2 SONS.—The Corporation is prohibited from supporting a  
3 project under title II that benefits any entity subject to  
4 sanctions imposed by the United States.

5 **SEC. 504. PENALTIES FOR MISREPRESENTATION, FRAUD,**  
6 **AND BRIBERY.**

7 Subsections (g), (l), and (n) of section 237 of the  
8 Foreign Assistance Act of 1961 (22 U.S.C. 2197) shall  
9 apply with respect to the Corporation to the same extent  
10 and in the same manner as such subsections applied with  
11 respect to the Overseas Private Investment Corporation  
12 on the day before the date of the enactment of this Act.

13 **SEC. 505. MARKET DISPLACEMENT BY STATE-OWNED EN-**  
14 **TERPRISES AND MONOPOLIES.**

15 (a) POLICIES WITH RESPECT TO STATE-OWNED EN-  
16 TERPRISES.—The Corporation shall develop appropriate  
17 policies and guidelines to ensure that support provided  
18 under title II to a state-owned enterprise, sovereign wealth  
19 fund, or a parastatal entity engaged in commercial activi-  
20 ties or to a project in which such an entity or fund is  
21 participating is provided under appropriate principles of  
22 competitive neutrality.

23 (b) PROHIBITION ON SUPPORT TO MONOPOLIES.—  
24 The Corporation may not provide support under title II

1 to private sector entities engaged in monopolistic prac-  
2 tices.

3 (c) STATE-OWNED ENTERPRISE DEFINED.—

4 (1) IN GENERAL.—In this section, the term  
5 “state-owned enterprise” means any enterprise es-  
6 tablished for a commercial or business purpose that  
7 is directly owned or controlled by one or more gov-  
8 ernments, including any agency, instrumentality,  
9 subdivision, or other unit of government at any level  
10 of jurisdiction.

11 (2) CONTROL; OWNED.—For purposes of para-  
12 graph (1):

13 (A) CONTROL.—The term “control”, with  
14 respect to an enterprise, means the power by  
15 any means to control the enterprise regardless  
16 of—

17 (i) the level of ownership; and

18 (ii) whether or not the power is exer-  
19 cised.

20 (B) OWNED.—The term “owned”, with re-  
21 spect to an enterprise, means a majority or con-  
22 trolling interest, whether by value or voting in-  
23 terest, of the shares of that enterprise, includ-  
24 ing through fiduciaries, agents, or other means.

1           **TITLE VI—TRANSITIONAL**  
2                           **PROVISIONS**

3 **SEC. 601. DEFINITIONS.**

4           In this title:

5                   (1) **AGENCY.**—The term “agency” includes any  
6           entity, organizational unit, program, or function.

7                   (2) **TRANSITION PERIOD.**—The term “transi-  
8           tion period” means the period—

9                           (A) beginning on the date of the enactment  
10                   of this Act; and

11                           (B) ending on the effective date of the re-  
12                   organization plan required by section 602(d).

13 **SEC. 602. REORGANIZATION PLAN.**

14           (a) **SUBMISSION OF PLAN.**—Not later than 60 days  
15           after the date of the enactment of this Act, the President  
16           shall transmit to the appropriate congressional committees  
17           a reorganization plan regarding the following:

18                   (1) The transfer of agencies, personnel, assets,  
19                   and obligations to the Corporation pursuant to this  
20                   title.

21                   (2) Any consolidation, reorganization, or  
22                   streamlining of agencies transferred to the Corpora-  
23                   tion pursuant to this title.

24           (b) **PLAN ELEMENTS.**—The plan transmitted under  
25           subsection (a) shall contain, consistent with this Act, such

1 elements as the President deems appropriate, including  
2 the following:

3           (1) Identification of any functions of agencies  
4 transferred to the Corporation pursuant to this title  
5 that will not be transferred to the Corporation under  
6 the plan.

7           (2) Specification of the steps to be taken to or-  
8 ganize the Corporation, including the delegation or  
9 assignment of functions transferred to the Corpora-  
10 tion among officers of the Corporation in order to  
11 permit the Corporation to carry out the functions  
12 transferred under the plan.

13           (3) Specification of the funds available to each  
14 agency that will be transferred to the Corporation as  
15 a result of transfers under the plan.

16           (4) Specification of the proposed allocations  
17 within the Corporation of unexpended funds trans-  
18 ferred in connection with transfers under the plan.

19           (5) Specification of any proposed disposition of  
20 property, facilities, contracts, records, and other as-  
21 sets and obligations of agencies transferred under  
22 the plan.

23           (c) MODIFICATION OF PLAN.—The President may,  
24 on the basis of consultations with the appropriate congres-  
25 sional committees, modify or revise any part of the plan

1 until that part of the plan becomes effective in accordance  
2 with subsection (d).

3 (d) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The reorganization plan de-  
5 scribed in this section, including any modifications  
6 or revisions of the plan under subsection (c), shall  
7 become effective for an agency on the date specified  
8 in the plan (or the plan as modified pursuant to sub-  
9 section (c)), except that such date may not be earlier  
10 than 90 days after the date the President has trans-  
11 mitted the reorganization plan to the appropriate  
12 congressional committees pursuant to subsection (a).

13 (2) STATUTORY CONSTRUCTION.—Nothing in  
14 this subsection may be construed to require the  
15 transfer of functions, personnel, records, balances of  
16 appropriations, or other assets of an agency on a  
17 single date.

18 **SEC. 603. TRANSFER OF FUNCTIONS.**

19 (a) IN GENERAL.—Effective at the end of the transi-  
20 tion period, there shall be transferred to the Corporation  
21 the functions, personnel, assets, and liabilities of—

22 (1) the Overseas Private Investment Corpora-  
23 tion, as in existence on the day before the date of  
24 the enactment of this Act; and

1           (2) the following elements of the United States  
2 Agency for International Development:

3           (A) The Development Credit Authority.

4           (B) The enterprise funds.

5           (C) The Office of Private Capital and Mi-  
6 croenterprise.

7           (b) BILATERAL AGREEMENTS.—Any bilateral agree-  
8 ment of the United States in effect on the date of the  
9 enactment of this Act that serves as the basis for pro-  
10 grams of the Overseas Private Investment Corporation  
11 shall be considered as satisfying the requirements of sec-  
12 tion 301(a).

13           (c) TRANSITION.—During the transition period, the  
14 agencies specified in subsection (a) shall—

15           (1) continue to administer the assets and obli-  
16 gations of those agencies; and

17           (2) carry out such programs and activities au-  
18 thorized under this Act as may be determined by the  
19 President.

20 **SEC. 604. TERMINATION OF OVERSEAS PRIVATE INVEST-**  
21 **MENT CORPORATION AND OTHER**  
22 **SUPERCEDED AUTHORITIES.**

23 Effective at the end of the transition period—

24           (1) the Overseas Private Investment Corpora-  
25 tion is terminated; and

1 (2) the following provisions are repealed:

2 (A) Title IV of chapter 2 of part I of the  
3 Foreign Assistance Act of 1961 (22 U.S.C.  
4 2191 et seq.) (other than subsections (g), (l),  
5 and (n) of section 237 of that Act).

6 (B) Subtitle B of title VI of that chapter  
7 (22 U.S.C. 2212).

8 **SEC. 605. TRANSITIONAL AUTHORITIES.**

9 (a) PROVISION OF ASSISTANCE BY OFFICIALS.—  
10 Until the transfer of an agency to the Corporation under  
11 section 603, any official having authority over or functions  
12 relating to the agency immediately before the date of the  
13 enactment of this Act shall provide to the Corporation  
14 such assistance, including the use of personnel and assets,  
15 as the Corporation may request in preparing for the trans-  
16 fer and integration of the agency into the Corporation.

17 (b) SERVICES AND PERSONNEL.—During the transi-  
18 tion period, upon the request of the Corporation, the head  
19 of any executive agency may, on a reimbursable basis, pro-  
20 vide services or detail personnel to assist with the transi-  
21 tion.

22 (c) ACTING OFFICIALS.—

23 (1) IN GENERAL.—During the transition pe-  
24 riod, pending the advice and consent of the Senate  
25 to the appointment of an officer required by this Act



1 to be appointed by and with such advice and con-  
2 sent, the President may designate any officer whose  
3 appointment was required to be made by and with  
4 such advice and consent and who was such an officer  
5 immediately before the date of the enactment of this  
6 Act (and who continues in office) or immediately be-  
7 fore such designation, to act in such office until the  
8 same is filled as provided in this Act. While so act-  
9 ing, such officers shall receive compensation at the  
10 higher of—

11 (A) the rates provided by this Act for the  
12 respective offices in which they act; or

13 (B) the rates provided for the offices held  
14 at the time of designation.

15 (2) RULE OF CONSTRUCTION.—Nothing in this  
16 Act shall be construed to require the advice and con-  
17 sent of the Senate to the appointment by the Presi-  
18 dent to a position in the Corporation of any officer  
19 whose agency is transferred to the Corporation pur-  
20 suant to this title and whose duties following such  
21 transfer are germane to those performed before such  
22 transfer.

23 (d) TRANSFER OF PERSONNEL, ASSETS, OBLIGA-  
24 TIONS, AND FUNCTIONS.—Upon the transfer of an agency  
25 to the Corporation under section 603—

1           (1) the personnel, assets, and obligations held  
2           by or available in connection with the agency shall  
3           be transferred to the Corporation for appropriate al-  
4           location, subject to the approval of the Director of  
5           the Office of Management and Budget and in ac-  
6           cordance with section 1531(a)(2) of title 31, United  
7           States Code; and

8           (2) the Corporation shall have all functions—

9                   (A) relating to the agency that any other  
10                  official could by law exercise in relation to the  
11                  agency immediately before such transfer; and

12                   (B) vested in the Corporation by this Act  
13                  or other law.

14 **SEC. 606. SAVINGS PROVISIONS.**

15           (a) COMPLETED ADMINISTRATIVE ACTIONS.—

16                   (1) IN GENERAL.—Completed administrative  
17                  actions of an agency shall not be affected by the en-  
18                  actment of this Act or the transfer of such agency  
19                  to the Corporation under section 603, but shall con-  
20                  tinue in effect according to their terms until amend-  
21                  ed, modified, superseded, terminated, set aside, or  
22                  revoked in accordance with law by an officer of the  
23                  United States or a court of competent jurisdiction,  
24                  or by operation of law.

1           (2) COMPLETED ADMINISTRATIVE ACTION DE-  
2           FINED.—In this subsection, the term “completed ad-  
3           ministrative action” includes orders, determinations,  
4           rules, regulations, personnel actions, permits, agree-  
5           ments, grants, contracts, certificates, licenses, reg-  
6           istrations, and privileges.

7           (b) PENDING PROCEEDINGS.—

8           (1) IN GENERAL.—Pending proceedings in an  
9           agency, including notices of proposed rulemaking,  
10          and applications for licenses, permits, certificates,  
11          grants, and financial assistance, shall continue not-  
12          withstanding the enactment of this Act or the trans-  
13          fer of the agency to the Corporation, unless discon-  
14          tinued or modified under the same terms and condi-  
15          tions and to the same extent that such discontinu-  
16          ance could have occurred if such enactment or trans-  
17          fer had not occurred.

18          (2) ORDERS.—Orders issued in proceedings de-  
19          scribed in paragraph (1), and appeals therefrom,  
20          and payments made pursuant to such orders, shall  
21          issue in the same manner and on the same terms as  
22          if this Act had not been enacted or the agency had  
23          not been transferred, and any such orders shall con-  
24          tinue in effect until amended, modified, superseded,  
25          terminated, set aside, or revoked by an officer of the

1 United States or a court of competent jurisdiction,  
2 or by operation of law.

3 (c) PENDING CIVIL ACTIONS.—Pending civil actions  
4 shall continue notwithstanding the enactment of this Act  
5 or the transfer of an agency to the Corporation, and in  
6 such civil actions, proceedings shall be had, appeals taken,  
7 and judgments rendered and enforced in the same manner  
8 and with the same effect as if such enactment or transfer  
9 had not occurred.

10 (d) REFERENCES.—References relating to an agency  
11 that is transferred to the Corporation under section 603  
12 in statutes, Executive orders, rules, regulations, directives,  
13 or delegations of authority that precede such transfer or  
14 the date of the enactment of this Act shall be deemed to  
15 refer, as appropriate, to the Corporation, to its officers,  
16 employees, or agents, or to its corresponding organiza-  
17 tional units or functions. Statutory reporting requirements  
18 that applied in relation to such an agency immediately be-  
19 fore the effective date of this Act shall continue to apply  
20 following such transfer if they refer to the agency by  
21 name.

22 (e) EMPLOYMENT PROVISIONS.—

23 (1) REGULATIONS.—The Corporation may, in  
24 regulations prescribed jointly with the Director of  
25 the Office of Personnel Management, adopt the

1 rules, procedures, terms, and conditions, established  
2 by statute, rule, or regulation before the date of the  
3 enactment of this Act, relating to employment in any  
4 agency transferred to the Corporation under section  
5 603.

6 (2) EFFECT OF TRANSFER ON CONDITIONS OF  
7 EMPLOYMENT.—Except as otherwise provided in this  
8 Act, or under authority granted by this Act, the  
9 transfer pursuant to this title of personnel shall not  
10 alter the terms and conditions of employment, in-  
11 cluding compensation, of any employee so trans-  
12 ferred.

13 (f) STATUTORY REPORTING REQUIREMENTS.—Any  
14 statutory reporting requirement that applied to an agency  
15 transferred to the Corporation under this title immediately  
16 before the date of the enactment of this Act shall continue  
17 to apply following that transfer if the statutory require-  
18 ment refers to the agency by name.

19 **SEC. 607. OTHER TERMINATIONS.**

20 Except as otherwise provided in this Act, whenever  
21 all the functions vested by law in any agency have been  
22 transferred pursuant to this title, each position and office  
23 the incumbent of which was authorized to receive com-  
24 pensation at the rates prescribed for an office or position  
25 at level II, III, IV, or V of the Executive Schedule under

1 subchapter II of chapter 53 of title 5, United States Code,  
2 shall terminate.

3 **SEC. 608. INCIDENTAL TRANSFERS.**

4       The Director of the Office of Management and Budg-  
5 et, in consultation with the Corporation, is authorized and  
6 directed to make such additional incidental dispositions of  
7 personnel, assets, and liabilities held, used, arising from,  
8 available, or to be made available, in connection with the  
9 functions transferred by this title, as the Director may de-  
10 termine necessary to accomplish the purposes of this Act.

11 **SEC. 609. REFERENCE.**

12       With respect to any function transferred under this  
13 title (including under a reorganization plan under section  
14 602) and exercised on or after the date of the enactment  
15 of this Act, reference in any other Federal law to any de-  
16 partment, commission, or agency or any officer or office  
17 the functions of which are so transferred shall be deemed  
18 to refer to the Corporation or official or component of the  
19 Corporation to which that function is so transferred.

20 **SEC. 610. CONFORMING AMENDMENTS.**

21       (a) EXEMPT PROGRAMS.—Section 255(g) of the Bal-  
22 anced Budget and Emergency Deficit Control Act of 1985  
23 (2 U.S.C. 905(g)) is amended by striking “Overseas Pri-  
24 vate Investment Corporation, Noncredit Account (71–

1 4184-0-3-151).” and inserting “United States Inter-  
2 national Development Finance Corporation.”.

3 (b) EXECUTIVE SCHEDULE.—Title 5, United States  
4 Code, is amended—

5 (1) in section 5314, by striking “President,  
6 Overseas Private Investment Corporation.”;

7 (2) in section 5315, by striking “Executive Vice  
8 President, Overseas Private Investment Corpora-  
9 tion.”; and

10 (3) in section 5316, by striking “Vice Presi-  
11 dents, Overseas Private Investment Corporation  
12 (3).”.

13 (c) OFFICE OF INTERNATIONAL TRADE OF THE  
14 SMALL BUSINESS ADMINISTRATION.—Section 22 of the  
15 Small Business Act (15 U.S.C. 649) is amended—

16 (1) in subsection (b), in the matter preceding  
17 paragraph (1), by striking “the President of the  
18 Overseas Private Investment Corporation, Director”  
19 and inserting “the Board of Directors of the United  
20 States International Development Finance Corpora-  
21 tion, the Director”; and

22 (2) by striking “Overseas Private Investment  
23 Corporation” each place it appears and inserting  
24 “United States International Development Finance  
25 Corporation”.

1 (d) UNITED STATES AND FOREIGN COMMERCIAL  
2 SERVICE.—Section 2301 of the Export Enhancement Act  
3 of 1988 (15 U.S.C. 4721) is amended by striking “Over-  
4 seas Private Investment Corporation” each place it ap-  
5 pears and inserting “United States International Develop-  
6 ment Finance Corporation”.

7 (e) TRADE PROMOTION COORDINATING COM-  
8 MITTEE.—Section 2312(d)(1)(K) of the Export Enhance-  
9 ment Act of 1988 (15 U.S.C. 4727(d)(1)(K)) is amended  
10 by striking “Overseas Private Investment Corporation”  
11 and inserting “United States International Development  
12 Finance Corporation”.

13 (f) INTERAGENCY TRADE DATA ADVISORY COM-  
14 MITTEE.—Section 5402(b) of the Omnibus Trade and  
15 Competitiveness Act of 1988 (15 U.S.C. 4902(b)) is  
16 amended by striking “the President of the Overseas Pri-  
17 vate Investment Corporation” and inserting “the Chief  
18 Executive Officer of the United States International De-  
19 velopment Finance Corporation”.

20 (g) MISUSE OF NAMES OF FEDERAL AGENCIES.—  
21 Section 709 of title 18, United States Code, is amended  
22 by striking “‘Overseas Private Investment’, ‘Overseas Pri-  
23 vate Investment Corporation’, or ‘OPIC’,” and inserting  
24 “‘United States International Development Finance Cor-  
25 poration’ or ‘DFC’”.



1 (h) ENGAGEMENT ON CURRENCY EXCHANGE RATE  
2 AND ECONOMIC POLICIES.—Section 701(c)(1)(A) of the  
3 Trade Facilitation and Trade Enforcement Act of 2015  
4 (19 U.S.C. 4421(c)(1)(A)) is amended by striking “Over-  
5 seas Private Investment Corporation” and inserting  
6 “United States International Development Finance Cor-  
7 poration”.

8 (i) INTERNSHIPS WITH INSTITUTE FOR INTER-  
9 NATIONAL PUBLIC POLICY.—Section 625 of the Higher  
10 Education Act of 1965 (20 U.S.C. 1131c(a)) is amended  
11 by striking “Overseas Private Investment Corporation”  
12 and inserting “United States International Development  
13 Finance Corporation”.

14 (j) FOREIGN ASSISTANCE ACT OF 1961.—The For-  
15 eign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is  
16 amended—

17 (1) in section 449B(b)(2) (22 U.S.C.  
18 2296b(b)(2)), by striking “Overseas Private Invest-  
19 ment Corporation” and inserting “United States  
20 International Development Finance Corporation”;  
21 and

22 (2) in section 481(e)(4)(A) (22 U.S.C.  
23 2291(e)(4)(A)), in the matter preceding clause (i),  
24 by striking “(including programs under title IV of  
25 chapter 2, relating to the Overseas Private Invest-

1       ment Corporation)” and inserting “(and any support  
2       under title II of the Better Utilization of Invest-  
3       ments Leading to Development Act of 2018, relating  
4       to the United States International Development Fi-  
5       nance Corporation)”.

6       (k) ELECTRIFY AFRICA ACT OF 2015.—Sections 5  
7       and 7 of the Electrify Africa Act of 2015 (Public Law  
8       114–121; 22 U.S.C. 2293 note) are amended by striking  
9       “Overseas Private Investment Corporation” each place it  
10      appears and inserting “United States International Devel-  
11      opment Finance Corporation”.

12      (l) FOREIGN AID TRANSPARENCY AND ACCOUNT-  
13      ABILITY ACT OF 2016.—Section 2(3) of the Foreign Aid  
14      Transparency and Accountability Act of 2016 (Public Law  
15      114–191; 22 U.S.C. 2394e note) is amended by striking  
16      subparagraph (A) and inserting the following:

17                       “(A) title II of the Better Utilization of In-  
18                       vestments Leading to Development Act of  
19                       2018;”.

20      (m) SUPPORT FOR EAST EUROPEAN DEMOCRACY  
21      (SEED) PROGRAM.—Section 2(c) of the Support for East  
22      European Democracy (SEED) Act of 1989 (22 U.S.C.  
23      5401(c)) is amended by striking paragraph (12) and in-  
24      serting the following:

1           “(12) UNITED STATES INTERNATIONAL DEVEL-  
2           OPMENT FINANCE CORPORATION.—Programs of the  
3           United States International Development Finance  
4           Corporation.”.

5           (n) CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY  
6           (LIBERTAD) ACT OF 1996.—Section 202(b)(2)(B)(iv)  
7           of the Cuban Liberty and Democratic Solidarity  
8           (LIBERTAD) Act of 1996 (22 U.S.C. 6062(b)(2)(B)(iv))  
9           is amended by striking “Overseas Private Investment Cor-  
10          poration” and inserting “United States International De-  
11          velopment Finance Corporation”.

12          (o) INTERNATIONAL RELIGIOUS FREEDOM ACT OF  
13          1998.—Section 405(a)(10) of the International Religious  
14          Freedom Act of 1998 (22 U.S.C. 6445(a)(10)) is amended  
15          by striking “Overseas Private Investment Corporation”  
16          and inserting “United States International Development  
17          Finance Corporation”.

18          (p) TRAFFICKING VICTIMS PROTECTION ACT OF  
19          2000.—Section 103(8) of the Trafficking Victims Protec-  
20          tion Act of 2000 (22 U.S.C. 7102(8)) is amended—

21                 (1) in clause (vii), by striking the semicolon and  
22                 inserting “; and”; and

23                 (2) by striking clause (viii).

24          (q) TECHNOLOGY DEPLOYMENT IN DEVELOPING  
25          COUNTRIES.—Section 732(b) of the Global Environmental

1 Protection Assistance Act of 1989 (22 U.S.C. 7902(b))  
2 is amended by striking “Overseas Private Investment Cor-  
3 poration” and inserting “United States International De-  
4 velopment Finance Corporation”.

5 (r) EXPANDED NONMILITARY ASSISTANCE FOR  
6 UKRAINE.—Section 7(c)(3) of the Ukraine Freedom Sup-  
7 port Act of 2014 (22 U.S.C. 8926(c)(3)) is amended—

8 (1) in the matter preceding subparagraph (A),  
9 by striking “Overseas Private Investment Corpora-  
10 tion” and inserting “United States International De-  
11 velopment Finance Corporation”; and

12 (2) in subparagraph (B), by striking “by eligi-  
13 ble investors (as defined in section 238 of the For-  
14 eign Assistance Act of 1961 (22 U.S.C. 2198))”.

15 (s) GLOBAL FOOD SECURITY ACT OF 2016.—Section  
16 4(7) of the Global Food Security Act of 2016 (22 U.S.C.  
17 9303(7)) is amended by striking “Overseas Private Invest-  
18 ment Corporation” and inserting “United States Inter-  
19 national Development Finance Corporation”.

20 (t) SENSE OF CONGRESS ON EUROPEAN AND EUR-  
21 ASIAN ENERGY SECURITY.—Section 257(c)(2)(B) of the  
22 Countering Russian Influence in Europe and Eurasia Act  
23 of 2017 (22 U.S.C. 9546(c)(2)(B)) is amended by striking  
24 “Overseas Private Investment Corporation” and inserting

1 “United States International Development Finance Cor-  
2 poration”.

3 (u) WHOLLY OWNED GOVERNMENT CORPORA-  
4 TION.—Section 9101(3) of title 31, United States Code,  
5 is amended by striking “Overseas Private Investment Cor-  
6 poration” and inserting “United States International De-  
7 velopment Finance Corporation”.

8 (v) ENERGY INDEPENDENCE AND SECURITY ACT OF  
9 2007.—Title IX of the Energy Independence and Security  
10 Act of 2007 (42 U.S.C. 17321 et seq.) is amended—

11 (1) in section 914 (42 U.S.C. 17334)—

12 (A) in the section heading, by striking  
13 **“OVERSEAS PRIVATE INVESTMENT COR-**  
14 **PORATION”** and inserting **“UNITED STATES**  
15 **INTERNATIONAL DEVELOPMENT FINANCE**  
16 **CORPORATION”**;

17 (B) in subsection (a), in the matter pre-  
18 ceding paragraph (1), by striking “Overseas  
19 Private Investment Corporation” and inserting  
20 “United States International Development Fi-  
21 nance Corporation”; and

22 (C) in subsection (b), in the matter pre-  
23 ceding paragraph (1), by striking “Overseas  
24 Private Investment Corporation shall include in  
25 its annual report required under section 240A

1 of the Foreign Assistance Act of 1961 (22  
2 U.S.C. 2200a)” and inserting “United States  
3 International Development Finance Corporation  
4 shall include in its annual report required under  
5 section 403 of the Better Utilization of Invest-  
6 ments Leading to Development Act of 2018”;  
7 and

8 (2) in section 916(a)(2)(I) (42 U.S.C.  
9 17336(a)(2)(I)), by striking “Overseas Private In-  
10 vestment Corporation:” and inserting “United  
11 States International Development Finance Corpora-  
12 tion;”.

13 (w) EFFECTIVE DATE.—The amendments made by  
14 this section shall take effect at the end of the transition  
15 period.

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