

110TH CONGRESS  
1ST SESSION

# H. R. 2798

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## AN ACT

To reauthorize the programs of the Overseas Private  
Investment 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,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Overseas Private In-  
3 vestment Corporation Reauthorization Act of 2007”.

4 **SEC. 2. FINDINGS.**

5       The Congress finds the following:

6           (1) Since its founding in 1971, the Overseas  
7 Private Investment Corporation (in this section re-  
8 ferred to as “OPIC”) has helped to mobilize and fa-  
9 cilitate private capital by United States investors in  
10 developing and emerging market countries in sup-  
11 port of United States foreign policy and development  
12 goals.

13           (2) OPIC assistance should not, in any way,  
14 support projects in countries that reject their obliga-  
15 tions to support international peace, security, and  
16 basic human rights.

17           (3) OPIC assistance should not be provided to  
18 those who support enemies of the United States.

19           (4) OPIC assistance is a privilege and should be  
20 granted to persons that, along with their affiliated  
21 companies, demonstrate responsible and sustainable  
22 business practices, particularly with regard to the  
23 environment, international worker rights, and efforts  
24 against genocide and nuclear proliferation. Denial of  
25 OPIC assistance is not a penalty or sanction.

1           (5) Over OPIC's 35-year history, OPIC has  
2 supported \$177,000,000,000 in operating invest-  
3 ments in more than 150 developing countries, help-  
4 ing to create more than 800,000 jobs and some  
5 \$13,000,000,000 in host-government revenues.

6           (6) OPIC projects have generated  
7 \$71,000,000,000 in United States exports and sup-  
8 ported more than 271,000 United States jobs.

9           (7) Projects assisted by OPIC in fiscal year  
10 2006 are projected to generate \$1,000,000,000 in  
11 United States exports, support more than 2,700  
12 United States jobs, and have a positive impact on  
13 the United States balance of payments.

14           (8) In fiscal year 2006, 87 percent of all OPIC-  
15 supported projects supported small-and-medium-  
16 sized businesses in the United States.

17           (9) In an era of limited Federal budgetary re-  
18 sources, OPIC has consistently demonstrated an  
19 ability to operate on a self-sustaining basis to sup-  
20 port United States companies, all at a net cost of  
21 zero to the United States taxpayer.

22           (10) OPIC has reserves totaling approximately  
23 \$5,300,000,000 and will make an estimated net  
24 budget contribution to the international affairs ac-  
25 count of \$159,000,000 in fiscal year 2008.

1 **SEC. 3. REAUTHORIZATION OF OPIC PROGRAMS.**

2 Section 235(a)(2) of the Foreign Assistance Act of  
3 1961 (22 U.S.C. 2195(a)(2)) is amended by striking  
4 “September 30, 2007” and inserting “September 30,  
5 2011”.

6 **SEC. 4. PREFERENTIAL CONSIDERATION OF CERTAIN IN-**  
7 **VESTMENT PROJECTS.**

8 Section 231(f) of the Foreign Assistance Act of 1961  
9 (22 U.S.C. 2191(f)) is amended to read as follows:

10 “(f) to give preferential consideration to invest-  
11 ment projects in less developed countries the govern-  
12 ments of which are receptive to private enterprise,  
13 domestic and foreign, and to projects in countries  
14 the governments of which are willing and able to  
15 maintain conditions that enable private enterprise to  
16 make its full contribution to the development proc-  
17 ess;”.

18 **SEC. 5. REQUIREMENTS REGARDING INTERNATIONAL**  
19 **WORKER RIGHTS.**

20 (a) COUNTRY REQUIREMENTS.—Subsection (a) of  
21 section 231A of the Foreign Assistance Act of 1961 (22  
22 U.S.C. 2191a(a)) is amended—

23 (1) by amending the subsection heading to read  
24 as follows: “INTERNATIONAL WORKER RIGHTS”;

1           (2) in paragraph (4), by striking “(4) In” and  
2           inserting “(5) ADDITIONAL DETERMINATION.—In” ;  
3           and

4           (3) by striking paragraphs (1) through (3) and  
5           inserting the following:

6           “(1) LIMITATION ON OPIC ACTIVITIES.—(A)  
7           The Corporation may insure, reinsure, guarantee, or  
8           finance a project only if the country in which the  
9           project is to be undertaken has made or is making  
10          significant progress towards the recognition, adop-  
11          tion, and implementation of laws that substantially  
12          provide international worker rights, including in any  
13          designated zone, or special administrative region or  
14          area, in that country.

15          “(B) The Corporation shall also include the fol-  
16          lowing language, in substantially the following form,  
17          in all contracts which the Corporation enters into  
18          with eligible investors to provide financial support  
19          under this title:

20          ““The investor agrees not to take any actions  
21          to obstruct or prevent employees of the foreign en-  
22          terprise from exercising their international worker  
23          rights (as defined in section 238(h) of the Foreign  
24          Assistance Act of 1961), and agrees to adhere to the

1 obligations regarding those international worker  
2 rights.’

3 “(2) PREFERENCE TO CERTAIN COUNTRIES.—

4 To the degree possible and consistent with its devel-  
5 opment objectives, the Corporation shall give pref-  
6 erential consideration to projects in countries that  
7 have adopted, maintain, and enforce laws that sub-  
8 stantially provide international worker rights.

9 “(3) USE OF ANNUAL REPORTS ON INTER-  
10 NATIONAL WORKER RIGHTS.—The Corporation shall,  
11 in carrying out paragraph (1)(A), use, among other  
12 sources, the reports submitted to the Congress pur-  
13 suant to section 504 of the Trade Act of 1974. Such  
14 other sources include the observations, reports, and  
15 recommendations of the International Labor Organi-  
16 zation, and other relevant organizations.

17 “(4) INAPPLICABILITY TO HUMANITARIAN AC-  
18 TIVITIES.—Paragraph (1) shall not prohibit the Cor-  
19 poration from providing any insurance, reinsurance,  
20 guaranty, financing, or other assistance for the pro-  
21 vision of humanitarian assistance in a country.”.

22 (b) BOARD OF DIRECTORS.—Section 233(b) of the  
23 Foreign Assistance Act of 1961 (22 U.S.C. 2193(b)) is  
24 amended by adding at the end the following: “The selec-  
25 tion of the small business, organized labor, and coopera-

1 tive directors should be made, respectively, in consultation  
2 with relevant representative organizations.”.

3 (c) DEFINITIONS.—Section 238 of the Foreign As-  
4 sistance Act of 1961 (22 U.S.C. 2198) is amended—

5 (1) in subsection (f), by striking “and” after  
6 the semicolon;

7 (2) in subsection (g), by striking the period at  
8 the end and inserting “; and”; and

9 (3) by adding at the end the following:

10 “(h) the term ‘international worker rights’  
11 means—

12 “(1) internationally recognized worker  
13 rights, as defined in section 507(4) of the  
14 Trade Act of 1974 (19 U.S.C. 2467(4)); and

15 “(2) the elimination of discrimination with  
16 respect to employment and occupation.”.

17 (d) GENERAL PROVISIONS AND POWERS.—Section  
18 239 of the Foreign Assistance Act of 1961 (22 U.S.C.  
19 2199) is amended—

20 (1) in subsection (h), by adding at the end the  
21 following: “In addition, the Corporation should con-  
22 sult with relevant stakeholders in developing such  
23 criteria.”; and

1           (2) in subsection (i), in the first sentence, by  
2       inserting “, including international worker rights,”  
3       after “fundamental freedoms”.

4   **SEC. 6. ENVIRONMENTAL ASSESSMENTS.**

5       Section 231A(b) of the Foreign Assistance Act of  
6   1961 (22 U.S.C. 2191a(b)) is amended to read as follows:

7       “(b) ENVIRONMENTAL IMPACT.—The Board of Di-  
8   rectors of the Corporation shall not vote in favor of any  
9   action proposed to be taken by the Corporation that is  
10   likely to have significant adverse environmental impacts,  
11   unless for at least 60 days before the date of the vote—

12           “(1) an environmental impact assessment, or  
13       initial environmental audit, analyzing the environ-  
14       mental impacts of the proposed action and of alter-  
15       natives to the proposed action has been completed by  
16       the project applicant and made available to the  
17       Board of Directors; and

18           “(2) such assessment or audit has been made  
19       available to the public of the United States, locally  
20       affected groups in the host country, and host coun-  
21       try nongovernmental organizations.”.

22   **SEC. 7. COMMUNITY SUPPORT.**

23       Section 237 of the Foreign Assistance Act of 1961  
24   (22 U.S.C. 2197) is amended by adding at the end the  
25   following:



1       “(p) COMMUNITY SUPPORT.—To the maximum ex-  
 2 tent practicable, the Corporation shall require the appli-  
 3 cant for a project that is subject to section 231A(b) to  
 4 obtain broad community support for the project.”.

5 **SEC. 8. CLIMATE CHANGE MITIGATION ACTION PLAN.**

6       Title IV of chapter 2 of part I of the Foreign Assist-  
 7 ance Act of 1961 (22 U.S.C. 2291 et seq.) is amended  
 8 by inserting after section 234A the following new section:

9 **“SEC. 234B. CLIMATE CHANGE MITIGATION.**

10       “(a) MITIGATION ACTION PLAN.—The Corporation  
 11 shall, not later than 180 days after the date of the enact-  
 12 ment of the Overseas Private Investment Corporation Re-  
 13 authorization Act of 2007, institute a climate change miti-  
 14 gation action plan that includes the following:

15               “(1) CLEAN AND EFFICIENT ENERGY TECH-  
 16 NOLOGY.—

17               “(A) INCREASING ASSISTANCE.—The Cor-  
 18 poration shall establish a goal of substantially  
 19 increasing its support of projects that use, de-  
 20 velop, or otherwise promote the use of clean en-  
 21 ergy technologies over the 4-year period begin-  
 22 ning on the date of the enactment of the Over-  
 23 seas Private Investment Corporation Reauthor-  
 24 ization Act of 2007.

1           “(B) PREFERENTIAL TREATMENT TO  
2 PROJECTS.—The Corporation shall give pref-  
3 erential treatment to the evaluation and award-  
4 ing of assistance for and provide greater flexi-  
5 bility in supporting projects that use, develop,  
6 or otherwise promote the use of clean and effi-  
7 cient energy technologies.

8           “(2) ENVIRONMENTAL IMPACT ASSESS-  
9 MENTS.—

10           “(A) GREENHOUSE GAS EMISSIONS.—The  
11 Corporation shall, in making an environmental  
12 impact assessment for a project under section  
13 231A(b), take into account the degree to which  
14 the project contributes to the emission of green-  
15 house gases.

16           “(B) OTHER DUTIES NOT AFFECTED.—  
17 The requirement under subparagraph (A) is in  
18 addition to any other requirement, obligation,  
19 or duty that the Corporation has.

20           “(3) REPORT TO CONGRESSIONAL COMMIT-  
21 TEES.—The Corporation shall, within 180 days after  
22 the date of the enactment of the Overseas Private  
23 Investment Corporation Reauthorization Act of  
24 2007, submit to the Committee on Foreign Affairs  
25 of the House of Representatives and the Committee

1 on Foreign Relations of the Senate a report on the  
2 plan developed to carry out paragraph (1)(A).  
3 Thereafter, the Corporation shall include in its an-  
4 nual report under section 240A a discussion of such  
5 plan and its implementation.

6 “(b) EXTRACTION INVESTMENTS.—

7 “(1) PRIOR NOTIFICATION TO CONGRESSIONAL  
8 COMMITTEES.—The Corporation may not approve  
9 any contract of insurance or reinsurance, or any  
10 guaranty, or enter into any agreement to provide fi-  
11 nancing for any project which significantly involves  
12 an extractive industry and in which assistance by the  
13 Corporation would be valued at \$10,000,000 or  
14 more (including contingent liability), until at least  
15 30 days after the Corporation notifies the Com-  
16 mittee on Foreign Affairs of the House of Rep-  
17 resentatives and the Committee on Foreign Rela-  
18 tions of the Senate of such contract or agreement.

19 “(2) COMMITMENT TO EITI PRINCIPLES.—The  
20 Corporation may approve a contract of insurance or  
21 reinsurance, or any guaranty, or enter into an agree-  
22 ment to provide financing to an eligible investor for  
23 a project that significantly involves an extractive in-  
24 dustry only if—

1           “(A) the eligible investor has agreed to im-  
2           plement the Extractive Industries Transparency  
3           Initiative principles and criteria, or substan-  
4           tially similar principles and criteria; or

5           “(B) the host country where the project is  
6           to be carried out has committed to the Extrac-  
7           tive Industries Transparency Initiative prin-  
8           ciples and criteria, or substantially similar prin-  
9           ciples and criteria.

10          “(3) PREFERENCE FOR CERTAIN PROJECTS.—  
11          With respect to all projects that significantly involve  
12          an extractive industry, the Corporation, to the de-  
13          gree possible and consistent with its development ob-  
14          jectives, shall give preference to a project in which  
15          both the eligible investor has agreed to implement  
16          the Extractive Industries Transparency Initiative  
17          principles and criteria, or substantially similar prin-  
18          ciples and criteria, and the host country where the  
19          project is to be carried out has committed to the Ex-  
20          tractive Industries Transparency Initiative principles  
21          and criteria, or substantially similar principles and  
22          criteria.

23          “(4) DEFINITIONS.—In this subsection:

24                 “(A) EXTRACTIVE INDUSTRY.—The term  
25                 ‘extractive industry’ refers to an enterprise en-

gaged in the exploration, development, or extraction of oil and gas reserves, metal ores, gemstones, industrial minerals, or coal.

“(B) EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE PRINCIPLES AND CRITERIA.—The term ‘Extractive Industries Transparency Initiative principles and criteria’ means the principles and criteria of the Extractive Industries Transparency Initiative, as set forth in Annex A to the Anti-Corruption Policies and Strategies Handbook of the Corporation, as published in September 2006.

“(5) REPORTING REQUIREMENT.—The Corporation shall include in its annual report required under section 240A a description of its activities to carry out this subsection.

“(c) DEFINITIONS.—In this section:

“(1) CLEAN AND EFFICIENT ENERGY TECHNOLOGY.—The term ‘clean and efficient energy technology’ means an energy supply or end-use technology—

“(A) such as—

“(i) solar technology;

“(ii) wind technology;

“(iii) geothermal technology;

1 “(iv) hydroelectric technology; and

2 “(v) carbon capture technology; and

3 “(B) that, over its life cycle and compared  
4 to a similar technology already in commercial  
5 use—

6 “(i) is reliable, affordable, economi-  
7 cally viable, socially acceptable, and com-  
8 patible with the needs and norms of the  
9 country involved;

10 “(ii) results in—

11 “(I) reduced emissions of green-  
12 house gases; or

13 “(II) increased geological seques-  
14 tration; and

15 “(iii) may—

16 “(I) substantially lower emissions  
17 of air pollutants; or

18 “(II) generate substantially  
19 smaller and less hazardous quantities  
20 of solid or liquid waste.

21 “(2) GREENHOUSE GAS.—The term ‘greenhouse  
22 gas’ means—

23 “(A) carbon dioxide;

24 “(B) methane;

25 “(C) nitrous oxide;

1 “(D) hydrofluorocarbons;

2 “(E) perfluorocarbons; or

3 “(F) sulfur hexafluoride.”.

4 **SEC. 9. PROHIBITION ON ASSISTANCE TO DEVELOP OR**  
5 **PROMOTE CERTAIN RAILWAY CONNECTIONS**  
6 **AND RAILWAY-RELATED CONNECTIONS.**

7 Section 237 of the of the Foreign Assistance Act of  
8 1961 (22 U.S.C. 2197) is further amended by adding at  
9 the end the following:

10 “(q) PROHIBITION ON ASSISTANCE FOR CERTAIN  
11 RAILWAY PROJECTS.—The Corporation may not provide  
12 insurance, reinsurance, a guaranty, financing, or other as-  
13 sistance to support the development or promotion of any  
14 railway connection or railway-related connection that does  
15 not traverse or connect with Armenia and does connect  
16 Azerbaijan and Turkey.”.

17 **SEC. 10. INELIGIBILITY OF PERSONS DOING CERTAIN BUSI-**  
18 **NESS WITH STATE SPONSORS OF TERRORISM.**

19 (a) IN GENERAL.—Section 237 of the Foreign Assist-  
20 ance Act of 1961 (22 U.S.C. 2197) is further amended  
21 by adding at the end the following:

22 “(r) INELIGIBLE PROJECTS.—

23 “(1) IN GENERAL.—A project will not be eligi-  
24 ble to receive support provided by the Corporation  
25 under this title if either of the following applies:

1           “(A)(i) An applicant for insurance, rein-  
2           surance, financing, or other support for a  
3           project provided to the government of a state  
4           sponsor of terrorism a loan, or an extension of  
5           credit, that remains outstanding.

6           “(ii) For purposes of this subparagraph,  
7           the sale of goods, other than food or medicine,  
8           on any terms other than a cash basis shall be  
9           considered to be an extension of credit.

10          “(B) An applicant for insurance, reinsur-  
11          ance, financing, or other support for a project  
12          has an investment commitment valued at  
13          \$20,000,000 or more for the energy sector in a  
14          country that is a state sponsor of terrorism.

15          “(2) DEFINITIONS.—In this subsection:

16          “(A) CASH BASIS.—The term ‘cash basis’  
17          refers to a sale in which the purchaser of goods  
18          or services is required to make payment in full  
19          within 45 days after receiving the goods or  
20          services.

21          “(B) ENERGY SECTOR.—The term ‘energy  
22          sector’ refers to activities to develop or trans-  
23          port petroleum or natural gas resources.

24          “(C) INVESTMENT COMMITMENT.—The  
25          term ‘investment commitment’ means any of



1 the following activities if such activity is under-  
2 taken pursuant to a commitment, or pursuant  
3 to the exercise of rights under a commitment,  
4 that was entered into with the government of a  
5 state sponsor of terrorism or a nongovern-  
6 mental entity in a country that is a state spon-  
7 sor of terrorism:

8 “(i) The entry into a contract that in-  
9 cludes responsibility for the development of  
10 petroleum resources located in a country  
11 that is a state sponsor of terrorism, or the  
12 entry into a contract providing for the gen-  
13 eral supervision and guarantee of another  
14 person’s performance of such a contract.

15 “(ii) The purchase of a share of own-  
16 ership, including an equity interest, in that  
17 development.

18 “(iii) The entry into a contract pro-  
19 viding for the participation in royalties,  
20 earnings, or profits in that development,  
21 without regard to the form of the partici-  
22 pation.

23 “(D) STATE SPONSOR OF TERRORISM.—  
24 The term ‘state sponsor of terrorism’ means a  
25 country the government of which the Secretary

1 of State has determined, for purposes of section  
2 6(j) of the Export Administration Act of 1979,  
3 section 620A of the Foreign Assistance Act of  
4 1961, section 40 of the Arms Export Control  
5 Act, or any other provision of law, to be a gov-  
6 ernment that has repeatedly provided support  
7 for acts of international terrorism.

8 “(3) CERTIFICATION.—

9 “(A) BY APPLICANTS.—A person or entity  
10 applying for insurance, reinsurance, a guaranty,  
11 financing, or other assistance under this title  
12 may not receive such support unless its chief  
13 executive officer certifies to the Corporation,  
14 under penalty of perjury, that the person or en-  
15 tity and its majority-owned subsidiaries are not  
16 engaged in any activity described in subpara-  
17 graph (A) or (B) of paragraph (1).

18 “(B) BY ULTIMATE PARENT ENTITIES.—

19 In the case of an applicant that is a majority-  
20 owned entity of another entity, in addition to  
21 the certification under subparagraph (A), the  
22 chief executive officer of the ultimate parent en-  
23 tity of the applicant must certify, under penalty  
24 of perjury, that it and its majority-owned sub-  
25 sidiaries are not engaged in any activity de-

scribed in subparagraph (A) or (B) of paragraph (1).

“(C) APPLICATION TO STRAW MAN TRANSACTIONS.—In any case in which—

“(i) an applicant for insurance, reinsurance, financing, or other assistance under this title is providing goods and services to a project,

“(ii) more than 50 percent of such goods and services are acquired from an unaffiliated entity, and

“(iii) the unaffiliated entity is receiving \$20,000,000 or more, or sums greater than 50 percent of the amount of the assistance provided by the Corporation for the project (including contingent liability), for such goods or services,

then the chief executive officer of the unaffiliated entity must make a certification under subparagraph (A), and any ultimate parent entity must make a certification required by subparagraph (B).

“(D) DILIGENT INQUIRY.—A certification required by subparagraph (A), (B), or (C) may be made to the best knowledge and belief of the

1 certifying officer if that officer states that he or  
2 she has made diligent inquiry into the matter  
3 certified.

4 “(E) EXCEPTION.—(i) A chief executive  
5 officer of an applicant or other entity may pro-  
6 vide a certification required by subparagraph  
7 (A), (B), or (C) with respect to the activity of  
8 a majority-owned subsidiary or entity notwith-  
9 standing activity by such majority-owned sub-  
10 sidiary or entity that would cause a project to  
11 be ineligible for support under subparagraph  
12 (A) or (B) of paragraph (1) if such activity is  
13 carried out under a contract or other obligation  
14 of such majority-owned subsidiary or entity that  
15 was entered into or incurred before the acquisi-  
16 tion of such majority-owned subsidiary or entity  
17 by the applicant or ultimate parent entity.

18 “(ii) Clause (i) shall not apply if the terms  
19 of such contract or other obligation are ex-  
20 panded or extended after such acquisition.

21 “(F) DEFINITION.—For purposes of this  
22 paragraph, a person is an ultimate parent of an  
23 entity if the person owns directly, or through  
24 majority ownership of other entities, greater  
25 than 50 percent of the equity of the entity.

1           “(4) EXCEPTION.—The prohibition in para-  
2 graph (1) shall not—

3           “(A) apply to a loan, extension of credit,  
4 or investment commitment by an applicant, or  
5 other entity covered by a certification under  
6 subparagraph (A), (B), or (C) of paragraph (3),  
7 in Southern Sudan, Southern Kordofan/Nuba  
8 Mountains State, Blue Nile State, or Abyei,  
9 Darfur, if the Corporation, with the concu-  
10 rence of the Secretary of State, determines that  
11 such loan, extension of credit, or investment  
12 commitment will provide emergency relief, pro-  
13 mote economic self-sufficiency, or implement a  
14 nonmilitary program in support of a viable  
15 peace agreement in Sudan, including the Com-  
16 prehensive Peace Agreement for Sudan and the  
17 Darfur Peace Agreement; or

18           “(B) prohibit the Corporation from pro-  
19 viding support for projects in Southern Sudan,  
20 Southern Kordofan/Nuba Mountains State,  
21 Blue Nile State, and Abyei, Darfur, if the Cor-  
22 poration, with the concurrence of the Secretary  
23 of State, determines that such projects will pro-  
24 vide emergency relief, promote economic self-  
25 sufficiency, or implement a nonmilitary pro-

1           gram in support of a viable peace agreement in  
2           Sudan, including the Comprehensive Peace  
3           Agreement for Sudan and the Darfur Peace  
4           Agreement.

5           “(5) PROSPECTIVE APPLICATION OF SUB-  
6           SECTION.—This subsection shall not be applied to  
7           limit support by the Corporation under this title be-  
8           cause an applicant, or other entity covered by a cer-  
9           tification under subparagraph (A), (B), or (C) of  
10          paragraph (3) engaged in commercial activity spe-  
11          cifically licensed by the Office of Foreign Assets  
12          Control of the Department of the Treasury.”.

13          (b) TERMINATION.—

14               (1) IN GENERAL.—The amendment made by  
15               this section shall cease to be effective with respect  
16               to a country that is a state sponsor of terrorism 30  
17               days after the President certifies to the appropriate  
18               congressional committees that—

19                       (A) the country has ceased providing sup-  
20                       port for acts of international terrorism and no  
21                       longer satisfies the requirements for designation  
22                       as a state sponsor of terrorism;

23                       (B) the country does not possess nuclear  
24                       weapons or a significant program to develop nu-  
25                       clear weapons; and

1 (C) the country is not committing genocide  
2 or conducting a program of ethnic cleansing  
3 against a civilian population that approaches  
4 genocide.

5 (2) DEFINITIONS.—In this subsection:

6 (A) APPROPRIATE CONGRESSIONAL COM-  
7 MITTEES.—The term “appropriate congres-  
8 sional committees” means the Committee on  
9 Foreign Affairs of the House of Representatives  
10 and the Committee on Foreign Relations of the  
11 Senate.

12 (B) STATE SPONSOR OF TERRORISM.—The  
13 term “state sponsor of terrorism” has the  
14 meaning given that term in section  
15 237(r)(2)(D) of the Foreign Assistance Act of  
16 1961, as added by subsection (a) of this sec-  
17 tion.

18 **SEC. 11. INCREASED TRANSPARENCY.**

19 (a) IN GENERAL.—Section 237 of the Foreign Assist-  
20 ance Act of 1961 (22 U.S.C. 2197) is further amended  
21 by adding at the end the following new subsections:

22 “(s) AVAILABILITY OF PROJECT INFORMATION.—Be-  
23 ginning 90 days after the date of the enactment of the  
24 Overseas Private Investment Corporation Reauthorization  
25 Act of 2007, the Corporation shall make public, and post

1 on its Internet website, summaries of all new projects sup-  
2 ported by the Corporation, and other relevant information,  
3 except that the Corporation shall not include any confiden-  
4 tial business information in the summaries and informa-  
5 tion made available under this subsection.

6 “(t) REVIEW OF METHODOLOGY.—Not later than  
7 180 days after the date of the enactment of the Overseas  
8 Private Investment Corporation Reauthorization Act of  
9 2007, the Corporation shall publish in the Federal Reg-  
10 ister and periodically revise, subject to a period of public  
11 comment, the detailed methodology, including relevant  
12 regulations, used to assess and monitor the impact of  
13 projects supported by the Corporation on the development  
14 and environment of, and international worker rights in,  
15 host countries, and on United States employment.

16 “(u) PUBLIC NOTICE PRIOR TO PROJECT AP-  
17 PROVAL.—

18 “(1) PUBLIC NOTICE.—The Board of Directors  
19 of the Corporation may not vote in favor of any ac-  
20 tion proposed to be taken by the Corporation on any  
21 Category A project until at least 60 days after the  
22 Corporation—

23 “(A) makes available for public comment a  
24 summary of the project and relevant informa-  
25 tion about the project; and



1           “(B) makes the summary and information  
2           described in paragraph (1) available to locally  
3           affected groups in the area of impact of the  
4           proposed project, and to host country non-  
5           governmental organizations.

6           The Corporation shall not include any business con-  
7           fidential information in the summary and informa-  
8           tion made available under subparagraphs (A) and  
9           (B).

10          “(2) PUBLISHED RESPONSE.—To the extent  
11          practicable, the Corporation shall publish responses  
12          to the comments received under paragraph (1) with  
13          respect to a Category A project and submit the re-  
14          sponses to the Board not later than 7 days before  
15          a vote is to be taken on any action proposed by the  
16          Corporation on the project.

17          “(3) DEFINITIONS.—In this subsection, the  
18          term ‘Category A project’ means any project or  
19          other activity for which the Corporation proposes to  
20          provide insurance, reinsurance, financing, or other  
21          support under this title and which is likely to have  
22          significant adverse environmental impacts.”.

23          (b) OFFICE OF ACCOUNTABILITY.—Section 237 of  
24          the Foreign Assistance Act of 1961 (22 U.S.C. 2197) is

1 further amended by adding at the end the following new  
 2 subsection:

3       “(v) OFFICE OF ACCOUNTABILITY.—The Corpora-  
 4 tion shall maintain an Office of Accountability to provide  
 5 problem-solving services for projects supported by the Cor-  
 6 poration and to review the Corporation’s compliance with  
 7 its environmental, social, worker rights, human rights, and  
 8 transparency policies and procedures, to the maximum ex-  
 9 tent practicable. The Office of Accountability shall operate  
 10 in a manner that is fair, objective and transparent.”.

11 **SEC. 12. FRAUD AND OTHER BREACHES OF CONTRACT.**

12       Section 237(n) of the Foreign Assistance Act of 1961  
 13 (22 U.S.C. 2197(n)) is amended—

14               (1) by striking “Whoever” and inserting:

15               “(1) IN GENERAL.—Whoever”; and

16               (2) by adding at the end the following:

17               “(2) DEFERRALS TO DEPARTMENT OF JUS-  
 18 TICE.—(A) The President of the Corporation shall  
 19 refer to the Department of Justice for appropriate  
 20 action information known to the Corporation con-  
 21 cerning any substantial evidence of—

22                       “(i) a violation of this title;

23                       “(ii) a material breach of contract entered  
 24 into with the Corporation by an eligible inves-  
 25 tor; or

1 “(iii) a material false representation made  
2 by an investor to the Corporation.

3 “(B) Subparagraph (A) does not apply if the  
4 President of the Corporation concludes that the mat-  
5 ter described in clause (i), (ii), or (iii), as the case  
6 may be, of subparagraph (A)—

7 “(i) is not evidence of a possible violation  
8 of criminal law; and

9 “(ii) is not evidence that the Federal Gov-  
10 ernment is entitled to civil remedy or to impose  
11 a civil penalty.”.

12 **SEC. 13. TRANSPARENCY AND ACCOUNTABILITY OF IN-**  
13 **VESTMENT FUNDS.**

14 (a) IN GENERAL.—Section 239 of the Foreign Assist-  
15 ance Act of 1961 (22 U.S.C. 2199) is amended by adding  
16 at the end the following:

17 “(1) TRANSPARENCY AND ACCOUNTABILITY OF IN-  
18 VESTMENT FUNDS.—

19 “(1) COMPETITIVE SELECTION OF INVESTMENT  
20 FUND MANAGEMENT.—With respect to any invest-  
21 ment fund that the Corporation creates on or after  
22 the date of the enactment of the Overseas Private  
23 Investment Corporation Reauthorization Act of  
24 2007, the Corporation may select persons to manage

1 the fund only by contract using full and open com-  
2 petitive procedures.

3 “(2) CRITERIA FOR SELECTION.—In assessing  
4 proposals for investment fund management pro-  
5 posals, the Corporation shall consider, in addition to  
6 other factors, the following:

7 “(A) The prospective fund management’s  
8 experience, depth, and cohesiveness.

9 “(B) The prospective fund management’s  
10 track record in investing risk capital in emerg-  
11 ing markets.

12 “(C) The prospective fund management’s  
13 experience, management record, and monitoring  
14 capabilities in its target countries, including de-  
15 tails of local presence (directly or through local  
16 alliances).

17 “(D) The prospective fund management’s  
18 experience as a fiduciary in managing institu-  
19 tional capital, meeting reporting requirements,  
20 and administration.

21 “(E) The prospective fund management’s  
22 record in avoiding investments in companies  
23 that would be disqualified under section 237(r).

24 “(3) ANNUAL REPORT.—The Corporation shall  
25 include in each annual report under section 240A an

1 analysis of the investment fund portfolio of the Cor-  
2 poration, including the following:

3 “(A) FUND PERFORMANCE.—An analysis  
4 of the aggregate financial performance of the  
5 investment fund portfolio grouped by region  
6 and maturity.

7 “(B) STATUS OF LOAN GUARANTIES.—The  
8 amount of guaranties committed by the Cor-  
9 poration to support investment funds, including  
10 the percentage of such amount that has been  
11 disbursed to the investment funds.

12 “(C) RISK RATINGS.—The definition of  
13 risk ratings, and the current aggregate risk rat-  
14 ings for the investment fund portfolio, including  
15 the number of investment funds in each of the  
16 Corporation’s rating categories.

17 “(D) COMPETITIVE SELECTION OF INVEST-  
18 MENT FUND MANAGEMENT.—The number of  
19 proposals received and evaluated for each newly  
20 established investment fund.”.

21 (b) GAO AUDIT.—Not later than 1 year after the  
22 submission of the first report to Congress under section  
23 240A of the Foreign Assistance Act of 1961 that includes  
24 the information required by section 239(l)(3) of that Act  
25 (as added by subsection (a) of this section), the Comp-

1 troller General of the United States shall prepare and sub-  
2 mit to the Committee on Foreign Affairs of the House  
3 of Representatives and the Committee on Foreign Rela-  
4 tions of the Senate an independent assessment of the in-  
5 vestment fund portfolio of the Overseas Private Invest-  
6 ment Corporation, covering the items required to be ad-  
7 dressed under such section 239(l)(3).

8 **SEC. 14. EXTENSION OF AUTHORITY TO OPERATE IN IRAQ.**

9 Section 239 of the Foreign Assistance Act of 1961  
10 (22 U.S.C. 2199) is amended by adding at the end the  
11 following:

12 “(m) OPERATIONS IN IRAQ.—Notwithstanding sub-  
13 sections (a) and (b) of section 237, the Corporation is au-  
14 thorized to undertake in Iraq any program authorized by  
15 this title.”.

16 **SEC. 15. CONSISTENCY WITH EXISTING LAW.**

17 Section 239 of the Foreign Assistance Act of 1961  
18 (22 U.S.C. 2199) is further amended by adding at the  
19 end the following:

20 “(n) CONSISTENCY WITH OTHER LAW.—Section  
21 620L of this Act shall apply to any insurance, reinsurance,  
22 guaranty, or other financing issued by the Corporation for  
23 projects in the West Bank and Gaza to the same extent  
24 as such section applies to other assistance under this Act.

1       “(o) LIMITATION ON ASSISTANCE TO GAZA AND THE  
2 WEST BANK.—The Corporation may not provide insur-  
3 ance, reinsurance, a guaranty, financing, or other assist-  
4 ance to support a project in any part of Gaza or the West  
5 Bank unless the Secretary of State determines that the  
6 location for the project is not under the effective control  
7 of Hamas or any other foreign terrorist organization des-  
8 ignated under section 219 of the Immigration and Nation-  
9 ality Act (8 U.S.C. 1189).”.

10 **SEC. 16. CONGRESSIONAL NOTIFICATION REGARDING MAX-**  
11 **IMUM CONTINGENT LIABILITY.**

12       Section 239 of the Foreign Assistance Act of 1961  
13 (22 U.S.C. 2199) is further amended by adding at the  
14 end the following:

15       “(p) CONGRESSIONAL NOTIFICATION OF INCREASE  
16 IN MAXIMUM CONTINGENT LIABILITY.—The Corporation  
17 shall notify the Committee on Foreign Affairs of the  
18 House of Representatives and the Committee on Foreign  
19 Relations of the Senate not later than 15 days after the  
20 date on which the Corporation’s maximum contingent li-  
21 ability outstanding at any one time pursuant to insurance  
22 issued under section 234(a), and the amount of financing  
23 issued under sections 234(b) and (c), exceeds the previous  
24 fiscal year’s maximum contingent liability by 25 percent.”.

1 **SEC. 17. ASSISTANCE FOR SMALL BUSINESSES AND ENTI-**  
2 **TIES.**

3 Section 240 of the Foreign Assistance Act of 1961  
4 (22 U.S.C. 2200) is amended by adding at the end the  
5 following:

6 “(c) RESOURCES DEDICATED TO SMALL BUSI-  
7 NESSES, COOPERATIVES, AND OTHER SMALL UNITED  
8 STATES INVESTORS.—The Corporation shall ensure that  
9 adequate personnel and resources, including senior offi-  
10 cers, are dedicated to assist United States small busi-  
11 nesses, cooperatives, and other small United States inves-  
12 tors in obtaining insurance, reinsurance, financing, and  
13 other support under this title. The Corporation shall in-  
14 clude, in each annual report under section 240A, the fol-  
15 lowing information with respect to the period covered by  
16 the report:

17 “(1) A description of such personnel and re-  
18 sources.

19 “(2) The number of small businesses, coopera-  
20 tives, and other small United States investors that  
21 received such insurance, reinsurance, financing, and  
22 other support, and the dollar value of such insur-  
23 ance, reinsurance, financing and other support.

24 “(3) A description of the projects for which  
25 such insurance, reinsurance, financing, and other  
26 support was provided.”.



1 **SEC. 18. TECHNICAL CORRECTIONS.**

2 (a) PILOT EQUITY FINANCE PROGRAM.—Section 234  
3 of the Foreign Assistance Act of 1961 (22 U.S.C. 2194)  
4 is amended—

5 (1) by striking subsection (g); and

6 (2) by redesignating subsection (h) as sub-  
7 section (g).

8 (b) TRANSFER AUTHORITY.—Section 235 of the For-  
9 eign Assistance Act of 1961 (22 U.S.C. 2195) is amend-  
10 ed—

11 (1) by striking subsection (e); and

12 (2) by redesignating subsection (f) as sub-  
13 section (e).

14 (c) GUARANTY CONTRACT.—Section 237(j) of the  
15 Foreign Assistance Act of 1961 (22 U.S.C. 2197(j)) is  
16 amended by inserting “insurance, reinsurance, and” after  
17 “Each”.

18 (d) TRANSFER OF PREDECESSOR PROGRAMS AND  
19 AUTHORITIES.—

20 (1) TRANSFER.—Section 239 of the Foreign  
21 Assistance Act of 1961 (22 U.S.C. 2199), as amend-  
22 ed by the preceding provisions of this Act, is amend-  
23 ed—

24 (A) by striking subsection (b); and

1 (B) by redesignating the subsections (c)  
2 through (p) as subsections (b) through (o), re-  
3 spectively.

4 (2) CONFORMING AMENDMENTS.—(A) Section  
5 237(m)(1) of the Foreign Assistance Act of 1961  
6 (22 U.S.C. 2197(m)(1)) is amended by striking  
7 “239(g)” and inserting “239(f)”.

8 (B) Section 240A(a) of the Foreign Assistance  
9 Act of 1961 (22 U.S.C. 2200A(a)) is amended—

10 (i) in paragraph (1), by striking “239(h)”  
11 and inserting “239(g)”; and

12 (ii) in paragraph (2)(A), by striking  
13 “239(i)” and inserting “239(h)”.

14 (C) Section 209(e)(16) of the Admiral James  
15 W. Nance and Meg Donovan Foreign Relations Au-  
16 thorization Act, Fiscal Years 2000 and 2001 (as en-  
17 acted into law by section 1000(a)(7) of Public Law  
18 106-113; 31 U.S.C. 1113 note) is amended by strik-  
19 ing “239(c)” and “2199(c)” and inserting “239(b)”  
20 and “2199(b)”, respectively.

21 (e) ADDITIONAL CLERICAL AMENDMENTS.—Section  
22 234(b) of the Foreign Assistance Act of 1961 (22 U.S.C.  
23 2194(b)) is amended by striking “235(a)(2)” and insert-  
24 ing “235(a)(1)”.

1 **SEC. 19. EFFECTIVE DATE.**

2 (a) NEW APPLICATIONS.—This Act and the amend-  
3 ments made by this Act shall apply with respect to any  
4 application for insurance, reinsurance, a guaranty, financ-  
5 ing, or other support under title IV of chapter 2 of part  
6 I of the Foreign Assistance Act of 1961 if the application  
7 is received by the Overseas Private Investment Corpora-  
8 tion on or after July 1, 2007, and the application is ap-  
9 proved by the Corporation on or after the date of the en-  
10 actment of this Act.

11 (b) EXTENSIONS AND RENEWALS.—

12 (1) IN GENERAL.—Subject to paragraph (2),  
13 this Act and the amendments made by this Act shall  
14 apply with respect to any extension or renewal of a  
15 contract or agreement for any such insurance, rein-  
16 surance, guaranty, financing, or support that was  
17 entered into by the Corporation before the date of  
18 the enactment of this Act if the extension or renewal  
19 is approved by the Corporation on or after such date  
20 of enactment.

21 (2) EXCEPTION.—This Act and the amend-  
22 ments made by this Act shall not apply to any exten-  
23 sion or renewal which is substantially identical to an  
24 extension or renewal formally requested in a detailed

1 writing filed with the Corporation before July 1,  
2 2007.

Passed the House of Representatives July 23, 2007.

Attest:

*Clerk.*



110TH CONGRESS  
1ST SESSION

# H. R. 2798

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## AN ACT

To reauthorize the programs of the Overseas Private Investment Corporation, and for other purposes.