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115TH CONGRESS
2^D SESSION**H. R. 5105**

IN THE SENATE OF THE UNITED STATES

JULY 18, 2018

Received; read twice and placed on the calendar

AN ACT

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.
- Sec. 105. Independent accountability mechanism.

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 other development agencies.

TITLE IV—MONITORING, EVALUATION, AND REPORTING

- Sec. 401. Establishment of risk and audit committees.
- Sec. 402. Performance measures, evaluation, and learning.
- Sec. 403. Annual report.
- Sec. 404. Publicly available project information.
- Sec. 405. Engagement with investors.
- Sec. 406. Notification of support to be provided by the Corporation.

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.

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 Termination of Overseas Private Investment Corporation and other superceded authorities.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) that has a purpose

1 that is similar to the purpose of the Corpora-
2 tion as described in section 102(b); or

3 (B) any international financial institution
4 (as defined in section 1701(c) of the Inter-
5 national Financial Institutions Act (22 U.S.C.
6 262r(c))).

7 **TITLE I—ESTABLISHMENT**

8 **SEC. 101. STATEMENT OF POLICY.**

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

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

18 (2) to finance development that builds and
19 strengthens civic institutions, promotes competition,
20 and provides for public accountability and trans-
21 parency;

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

1 (4) to achieve clearly defined economic and so-
2 cial development outcomes;

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

7 (6) to provide countries a robust alternative to
8 state-directed investments by authoritarian govern-
9 ments and United States strategic competitors using
10 high standards of transparency and environmental
11 and social safeguards, and which take into account
12 the debt sustainability of partner countries;

13 (7) to leverage private sector capabilities and
14 innovative development tools to help countries tran-
15 sition from recipients of bilateral development assist-
16 ance toward increased self-reliance; and

17 (8) to complement and be guided by overall
18 United States foreign policy, development, and na-
19 tional security objectives, taking into account the
20 priorities and needs of countries receiving support.

21 **SEC. 102. UNITED STATES INTERNATIONAL DEVELOPMENT**

22 **FINANCE CORPORATION.**

23 (a) ESTABLISHMENT.—There is established in the
24 Executive branch the United States International Devel-
25 opment Finance Corporation (in this Act referred to as

1 the “Corporation”), which shall be a wholly owned Gov-
2 ernment corporation for purposes of chapter 91 of title
3 31, United States Code, under the foreign policy guidance
4 of the Secretary of State.

5 (b) PURPOSE.—The purpose of the Corporation shall
6 be to mobilize and facilitate the participation of private
7 sector capital and skills in the economic development of
8 less developed countries, as described in subsection (c),
9 and countries in transition from nonmarket to market
10 economies, in order to complement the development assist-
11 ance objectives, and advance the foreign policy interests,
12 of the United States. In carrying out its purpose, the Cor-
13 poration, utilizing broad criteria, shall take into account
14 in its financing operations the economic and financial
15 soundness and development objectives of projects for
16 which it provides support under title II.

17 (c) LESS DEVELOPED COUNTRY FOCUS.—

18 (1) IN GENERAL.—The Corporation shall
19 prioritize the provision of support under title II in
20 less developed countries with a low-income economy
21 or a lower-middle-income economy.

22 (2) SUPPORT IN UPPER-MIDDLE-INCOME COUN-
23 TRIES.—The Corporation shall restrict the provision
24 of support under title II in a less developed country
25 with an upper-middle-income economy unless—

1 (A) the President certifies to the appro-
2 priate congressional committees that such sup-
3 port furthers the national economic or foreign
4 policy interests of the United States; and

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

8 **SEC. 103. MANAGEMENT OF CORPORATION.**

9 (a) **STRUCTURE OF CORPORATION.**—There shall be
10 in the Corporation a Board of Directors (in this Act re-
11 ferred to as the “Board”), a Chief Executive Officer, a
12 Deputy Chief Executive Officer, a Chief Risk Officer, a
13 Chief Development Officer, and such other officers as the
14 Board may determine.

15 (b) **BOARD OF DIRECTORS.**—

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

19 (A) shall perform the functions specified to
20 be carried out by the Board in this Act;

21 (B) may prescribe, amend, and repeal by-
22 laws, rules, regulations, policies, and procedures
23 governing the manner in which the business of
24 the Corporation may be conducted and in which

1 the powers granted to the Corporation by law
2 may be exercised; and

3 (C) shall develop, in consultation with
4 stakeholders and other interested parties, a
5 publicly-available policy with respect to con-
6 sultations, hearings, and other forms of engage-
7 ment in order to provide for meaningful public
8 participation in the Board's activities.

9 (2) MEMBERSHIP OF BOARD.—

10 (A) IN GENERAL.—The Board shall consist
11 of—

12 (i) the Chief Executive Officer of the
13 Corporation;

14 (ii) the officers specified in subpara-
15 graph (B); and

16 (iii) four other individuals who shall
17 be appointed by the President, by and with
18 the advice and consent of the Senate, of
19 which—

20 (I) one individual should be ap-
21 pointed from among a list of at least
22 five individuals submitted by the ma-
23 jority leader of the Senate after con-
24 sultation with the chairman of the

1 Committee on Foreign Relations of
2 the Senate;

3 (II) one individual should be ap-
4 pointed from among a list of at least
5 five individuals submitted by the mi-
6 nority leader of the Senate after con-
7 sultation with the ranking member of
8 the Committee on Foreign Relations
9 of the Senate;

10 (III) one individual should be ap-
11 pointed from among a list of at least
12 five individuals submitted by the
13 Speaker of the House of Representa-
14 tives after consultation with the chair-
15 man of the Committee on Foreign Af-
16 fairs of the House of Representatives;
17 and

18 (IV) one individual should be ap-
19 pointed from among a list of at least
20 five individuals submitted by the mi-
21 nority leader of the House of Rep-
22 resentatives after consultation with
23 the ranking member of the Committee
24 on Foreign Affairs of the House of
25 Representatives.

1 (B) OFFICERS SPECIFIED.—

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

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

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

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

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

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

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

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

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

1 (C) REQUIREMENTS FOR NONGOVERN-
2 MENT MEMBERS.—A member of the Board de-
3 scribed in subparagraph (A)(iii)—

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

6 (ii) shall have relevant experience,
7 which may include experience relating to
8 the private sector, the environment, labor
9 organizations, or international develop-
10 ment, to carry out the purpose of the Cor-
11 poration;

12 (iii) shall be appointed for a term of
13 3 years and may be reappointed for one
14 additional term;

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

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

22 (vi) may be paid per diem in lieu of
23 subsistence at the applicable rate under
24 the Federal Travel Regulation under sub-
25 title F of title 41, Code of Federal Regula-

1 tions, from time to time, while away from
2 the home or usual place of business of the
3 member.

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

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

13 (5) QUORUM.—Five members of the Board
14 shall constitute a quorum for the transaction of
15 business by the Board.

16 (c) PUBLIC HEARINGS.—

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

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

23 (B) any support provided by the Corpora-
24 tion under title II in any country should be sus-
25 pended, expanded, or extended.

1 (2) ADDITIONAL PUBLIC HEARINGS.—In con-
2 junction with each meeting of the Board, the Cor-
3 poration shall hold a public hearing in order to af-
4 ford an opportunity for any person to present views
5 regarding the activities of the Corporation. Such
6 views shall be made part of the record.

7 (d) CHIEF EXECUTIVE OFFICER.—

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

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

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

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

1 “Chief Executive Officer, United States Inter-
2 national Development Finance Corporation.”.

3 (e) DEPUTY CHIEF EXECUTIVE OFFICER.—There
4 shall be in the Corporation a Deputy Chief Executive Offi-
5 cer, who shall be appointed by the President, by and with
6 the advice and consent of the Senate, and who shall serve
7 at the pleasure of the President.

8 (f) CHIEF RISK OFFICER.—

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

14 (A) shall report directly to the Board; and

15 (B) shall be removable only by a majority
16 vote of the Board.

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

24 (g) CHIEF DEVELOPMENT OFFICER.—

1 (1) APPOINTMENT.—Subject to the approval of
2 the Board, the Chief Executive Officer, in conjunc-
3 tion with the Administrator of the United States
4 Agency for International Development, shall appoint
5 a Chief Development Officer, from among individ-
6 uals with experience in development, who—

7 (A) shall report directly to the Board; and

8 (B) shall be removable only by a majority
9 vote of the Board.

10 (2) DUTIES.—The Chief Development Officer
11 shall—

12 (A) coordinate the Corporation’s develop-
13 ment policies and implementation efforts with
14 the United States Agency for International De-
15 velopment, the Millennium Challenge Corpora-
16 tion, and other relevant United States Govern-
17 ment departments and agencies, including di-
18 rectly liaising with missions of the United
19 States Agency for International Development,
20 to ensure that departments, agencies, and mis-
21 sions have training, awareness, and access to
22 the Corporation’s tools in relation to develop-
23 ment policy and projects in countries;

24 (B) under the guidance of the Chief Exec-
25 utive Officer, manage employees of the Cor-

1 poration that are dedicated to structuring, mon-
2 itoring and evaluating transactions and projects
3 co-designed with the United States Agency for
4 International Development and other relevant
5 United States Government departments and
6 agencies;

7 (C) authorize and coordinate transfers of
8 funds or other resources to and from such
9 agencies, departments, or missions upon the
10 concurrence of those institutions in support of
11 the Corporation's projects or activities; and

12 (D) coordinate and implement the activi-
13 ties of the Corporation under section 405.

14 (h) OFFICERS AND EMPLOYEES.—

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

20 (2) ADMINISTRATIVELY DETERMINED EMPLOY-
21 EES.—

22 (A) APPOINTMENT; COMPENSATION; RE-
23 MOVAL.—Of officers and employees employed
24 by the Corporation under paragraph (1), not
25 more than 50 may be appointed, compensated,

1 or removed without regard to title 5, United
2 States Code.

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

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

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

25 (3) LIABILITY OF EMPLOYEES.—

1 (A) IN GENERAL.—An individual who is a
2 member of the Board or an officer or employee
3 of the Corporation has no liability under this
4 Act with respect to any claim arising out of or
5 resulting from any act or omission by the indi-
6 vidual within the scope of the employment of
7 the individual in connection with any trans-
8 action by the Corporation.

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

16 (C) SAVINGS PROVISION.—This paragraph
17 shall not be construed—

18 (i) to affect—

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

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

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

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

15 **SEC. 105. INDEPENDENT ACCOUNTABILITY MECHANISM.**

16 (a) IN GENERAL.—The Board shall establish a trans-
17 parent and independent accountability mechanism.

18 (b) FUNCTIONS.—The independent accountability
19 mechanism established pursuant to subsection (a) shall—

20 (1) annually evaluate and report to the Board
21 and Congress regarding compliance with environ-
22 mental, social, labor, human rights, and trans-
23 parency standards, consistent with Corporation stat-
24 utory mandates;

1 (2) provide a forum for resolving concerns re-
2 garding the impacts of specific Corporation-sup-
3 ported projects with respect to such standards; and

4 (3) provide advice regarding Corporation
5 projects, policies, and practices.

6 **TITLE II—AUTHORITIES**

7 **SEC. 201. AUTHORITIES RELATING TO PROVISION OF SUP-** 8 **PORT.**

9 (a) IN GENERAL.—The authorities in this title should
10 only be exercised to—

11 (1) carry out of the policy of the United States
12 in section 101 and the purpose of the Corporation
13 in section 102;

14 (2) mitigate risks to United States taxpayers by
15 sharing risks with the private sector and qualifying
16 sovereign entities through co-financing and struc-
17 turing of tools; and

18 (3) ensure that support provided under this
19 title is additional to private sector resources by mo-
20 bilizing private capital that would otherwise not be
21 deployed without such support.

22 (b) LENDING AND GUARANTIES.—

23 (1) IN GENERAL.—The Corporation may make
24 loans or guaranties upon such terms and conditions
25 as the Corporation may determine.

1 (2) DENOMINATION.—Loans and guaranties
2 issued under paragraph (1) may be denominated and
3 repayable in United States dollars or foreign cur-
4 rencies. Foreign currency denominated loans and
5 guaranties should only be provided if the Board de-
6 termines there is a substantive policy rationale for
7 such loans and guaranties.

8 (3) APPLICABILITY OF FEDERAL CREDIT RE-
9 FORM ACT OF 1990.—Loans and guaranties issued
10 under paragraph (1) shall be subject to the require-
11 ments of the Federal Credit Reform Act of 1990 (2
12 U.S.C. 661 et seq.).

13 (c) EQUITY INVESTMENTS.—

14 (1) IN GENERAL.—The Corporation may, as a
15 minority investor, support projects with funds or use
16 other mechanisms for the purpose of purchasing,
17 and may make and fund commitments to purchase,
18 invest in, make pledges in respect of, or otherwise
19 acquire, equity or quasi-equity securities or shares or
20 financial interests of any entity, including as a lim-
21 ited partner or other investor in investment funds,
22 upon such terms and conditions as the Corporation
23 may determine.

24 (2) DENOMINATION.—Support provided under
25 paragraph (1) may be denominated and repayable in

1 United States dollars or foreign currency. Foreign
2 currency denominated support provided by para-
3 graph (1) should only be provided if the Board de-
4 termines there is a substantive policy rationale for
5 such support.

6 (3) GUIDELINES AND CRITERIA.—The Corpora-
7 tion shall develop guidelines and criteria to require
8 that the use of the authority provided by paragraph
9 (1) with respect to a project has a clearly defined
10 development and foreign policy purpose, taking into
11 account the following objectives:

12 (A) The support for the project would be
13 more likely than not to substantially reduce or
14 overcome the effect of an identified market fail-
15 ure in the country in which the project is car-
16 ried out.

17 (B) The project would not have proceeded
18 or would have been substantially delayed with-
19 out the support.

20 (C) The support would meaningfully con-
21 tribute to transforming local conditions to pro-
22 mote the development of markets.

23 (D) The support can be shown to be
24 aligned with commercial partner incentives.

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

4 (F) The support furthers the policy of the
5 United States described in section 101.

6 (4) LIMITATIONS ON EQUITY INVESTMENTS.—

7 (A) PER PROJECT LIMIT.—The aggregate
8 amount of support provided under this sub-
9 section with respect to any project shall not ex-
10 ceed 30 percent of the aggregate amount of all
11 equity investment made from any source to the
12 project at the time that the Corporation ap-
13 proves support of the project.

14 (B) TOTAL LIMIT.—Support provided pur-
15 suant to this subsection shall be limited to not
16 more than 35 percent of the Corporation's ag-
17 gregate exposure on the date that such support
18 is provided.

19 (5) SALES AND LIQUIDATION OF POSITION.—

20 The Corporation shall seek to sell and liquidate any
21 support for a project provided under this subsection
22 as soon as commercially feasible, commensurate with
23 other similar investors in the project and taking into
24 consideration the national security interests of the
25 United States.

1 (6) TIMETABLE.—The Corporation shall create
2 a project-specific timetable for support provided
3 under paragraph (1).

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

13 (e) PROMOTION OF AND SUPPORT FOR PRIVATE IN-
14 VESTMENT OPPORTUNITIES.—

15 (1) IN GENERAL.—In order to carry out the
16 purpose of the Corporation described in section
17 102(b), the Corporation may initiate and support,
18 through financial participation, incentive grant, or
19 otherwise, and on such terms and conditions as the
20 Corporation may determine, feasibility studies for
21 the planning, development, and management of, and
22 procurement for, potential bilateral and multilateral
23 development projects eligible for support under this
24 title, including training activities undertaken in con-
25 nection with such projects, for the purpose of pro-

1 moting investment in such projects and the identi-
2 fication, assessment, surveying, and promotion of
3 private investment opportunities, utilizing wherever
4 feasible and effective, the facilities of private inves-
5 tors.

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

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

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

16 (f) SPECIAL PROJECTS AND PROGRAMS.—The Cor-
17 poration may administer and manage special projects and
18 programs in support of specific transactions undertaken
19 by the Corporation, including programs of financial and
20 advisory support that provide private technical, profes-
21 sional, or managerial assistance in the development of
22 human resources, skills, technology, capital savings, or in-
23 termediate financial and investment institutions or co-
24 operatives and including the initiation of incentives,
25 grants, and studies for renewable energy, women's eco-

1 nomic empowerment, microenterprise households, or other
2 small business activities.

3 (g) ENTERPRISE FUNDS.—

4 (1) IN GENERAL.—The Corporation may, fol-
5 lowing consultation with the Secretary of State, the
6 Administrator of the United States Agency for
7 International Development, and the heads of other
8 relevant departments or agencies, establish and op-
9 erate enterprise funds in accordance with this sub-
10 section.

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

1 (3) PURPOSES FOR WHICH SUPPORT MAY BE
2 PROVIDED.—The Corporation, subject to the ap-
3 proval of the Board, may designate private, non-
4 profit organizations as eligible to receive support
5 under this title for the following purposes:

6 (A) To promote development of economic
7 freedom and private sectors, including small-
8 and medium-sized enterprises and joint ven-
9 tures with the United States and host country
10 participants.

11 (B) To facilitate access to credit to small-
12 and medium-sized enterprises with sound busi-
13 ness plans in countries where there is limited
14 means of accessing credit on market terms.

15 (C) To promote policies and practices con-
16 ducive to economic freedom and private sector
17 development.

18 (D) To attract foreign direct investment
19 capital to further promote private sector devel-
20 opment and economic freedom.

21 (E) To complement the work of the United
22 States Agency for International Development
23 and other donors to improve the overall busi-
24 ness-enabling environment, financing the cre-

1 ation and expansion of the private business sec-
2 tor.

3 (F) To make financially sustainable invest-
4 ments designed to generate measurable social
5 benefits and build technical capacity in addition
6 to financial returns.

7 (4) OPERATION OF FUNDS.—

8 (A) EXPENDITURES.—Funds made avail-
9 able to an enterprise fund shall be expended at
10 the minimum rate necessary to make timely
11 payments for projects and activities carried out
12 under this subsection.

13 (B) ADMINISTRATIVE EXPENSES.—Not
14 more than 3 percent per annum of the funds
15 made available to an enterprise fund may be ob-
16 ligated or expended for the administrative ex-
17 penses of the enterprise fund.

18 (5) BOARD OF DIRECTORS.—Each enterprise
19 fund established under this subsection should be
20 governed by a Board of Directors comprised of pri-
21 vate citizens of the United States or the host coun-
22 try, who—

23 (A) shall be appointed by the President
24 after consultation with the chairmen and rank-

1 ing members of the appropriate congressional
2 committees; and

3 (B) have pursued careers in international
4 business and have demonstrated expertise in
5 international and emerging market investment
6 activities.

7 (6) MAJORITY MEMBER REQUIREMENT.—The
8 majority of the members of the Board of Directors
9 shall be United States citizens who shall have rel-
10 evant experience relating to the purposes described
11 in paragraph (3).

12 (7) REPORTS.—Not later than 1 year after the
13 date of the establishment of an enterprise fund
14 under this subsection, and annually thereafter until
15 the enterprise fund terminates in accordance with
16 paragraph (10), the Board of Directors of the enter-
17 prise fund shall—

18 (A) submit to the appropriate congres-
19 sional committees a report—

20 (i) detailing the administrative ex-
21 penses of the enterprise fund during the
22 year preceding the submission of the re-
23 port;

24 (ii) describing the operations, activi-
25 ties, engagement with civil society and rel-

1 evant local private sector entities, develop-
 2 ment objectives and outcomes, financial
 3 condition, and accomplishments of the en-
 4 terprise fund during that year;

5 (iii) describing the results of any
 6 audit conducted under paragraph (8); and

7 (iv) describing how audits conducted
 8 under paragraph (8) are informing the op-
 9 erations and activities of the enterprise
 10 fund; and

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

14 (8) OVERSIGHT.—

15 (A) INSPECTOR GENERAL PERFORMANCE
 16 AUDITS.—

17 (i) IN GENERAL.—The Inspector Gen-
 18 eral of the Corporation shall conduct peri-
 19 odic audits of the activities of each enter-
 20 prise fund established under this sub-
 21 section.

22 (ii) CONSIDERATION.—In conducting
 23 an audit under clause (i), the Inspector
 24 General shall assess whether the activities
 25 of the enterprise fund—

1 (I) support the purposes de-
2 scribed in paragraph (3);

3 (II) result in profitable private
4 sector investing; and

5 (III) generate measurable social
6 benefits.

7 (B) RECORDKEEPING REQUIREMENTS.—
8 The Corporation shall ensure that each enter-
9 prise fund receiving support under this sub-
10 section—

11 (i) keeps separate accounts with re-
12 spect to such support; and

13 (ii) maintains such records as may be
14 reasonably necessary to facilitate effective
15 audits under this paragraph.

16 (9) RETURN OF FUNDS TO TREASURY.—Any
17 funds resulting from any liquidation, dissolution, or
18 winding up of an enterprise fund, in whole or in
19 part, shall be returned to the Treasury of the United
20 States.

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

1 (A) the date that is 7 years after the date
2 of the first expenditure of amounts from the en-
3 terprise fund; or

4 (B) the date on which the enterprise fund
5 is liquidated.

6 (h) SUPERVISION OF SUPPORT.—Support provided
7 under this title shall be subject to section 622(e) of the
8 Foreign Assistance Act of 1961 (22 U.S.C. 2382(e)).

9 **SEC. 202. TERMS AND CONDITIONS.**

10 (a) IN GENERAL.—Except as provided in subsection
11 (b), support provided by the Corporation under this title
12 shall be on such terms and conditions as the Corporation
13 may prescribe.

14 (b) REQUIREMENTS.—The following requirements
15 apply to support provided by the Corporation under this
16 title:

17 (1) The Corporation shall provide support using
18 authorities under this title only if it is necessary—

19 (A) to alleviate a credit market imperfec-
20 tion; or

21 (B) to achieve specified development or
22 foreign policy objectives of the United States
23 Government by providing support in the most
24 efficient way to meet those objectives on a case-
25 by-case basis.

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

4 (A) 25 years; or

5 (B) debt servicing capabilities of the
6 project to be financed by the loan (as deter-
7 mined by the Corporation).

8 (3) The Corporation shall, with respect to pro-
9 viding any loan guaranty to a project, require the
10 parties to the project to bear the risk of loss in an
11 amount equal to at least 20 percent of the guaran-
12 teed support by the Corporation in the project.

13 (4) The Corporation may not make or guar-
14 antee a loan unless the Corporation determines that
15 the borrower or lender is responsible and that ade-
16 quate provision is made for servicing the loan on
17 reasonable terms and protecting the financial inter-
18 est of the United States.

19 (5) The interest rate for direct loans and inter-
20 est supplements on guaranteed loans shall be set by
21 reference to a benchmark interest rate (yield) on
22 marketable Treasury securities or other widely rec-
23 ognized or appropriate benchmarks with a similar
24 maturity to the loans being made or guaranteed, as
25 determined in consultation with the Director of the

1 Office of Management and Budget and the Secretary
2 of the Treasury. The Corporation shall establish ap-
3 propriate minimum interest rates for loans, guaran-
4 ties, and other instruments as necessary.

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

9 (7)(A) The Corporation shall set fees or pre-
10 miums for support provided under this title at levels
11 that minimize the cost to the Government while sup-
12 porting achievement of the objectives of support.

13 (B) The Corporation shall review fees for loan
14 guaranties periodically to ensure that the fees as-
15 sessed on new loan guaranties 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 shall prescribe explicit
4 standards for use in periodically assessing the credit
5 risk of new and existing direct loans or guaranteed
6 loans.

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

13 (11) The Corporation shall rely upon specific
14 standards to assess the developmental and strategic
15 value of projects for which it provides support and
16 should only provide the minimum level of support
17 necessary in order to support such projects.

18 (12) Any loan or loan guaranty made by the
19 Corporation should be provided on a senior basis or
20 pari passu with other senior debt unless there is a
21 substantive policy rationale to provide such support
22 otherwise.

23 **SEC. 203. PAYMENT OF LOSSES.**

24 (a) PAYMENTS FOR DEFAULTS ON GUARANTEED
25 LOANS.—

1 (1) IN GENERAL.—If the Corporation deter-
2 mines that the holder of a loan guaranteed by the
3 Corporation suffers a loss as a result of a default by
4 a borrower on the loan, the Corporation shall pay to
5 the holder the percent of the loss, as specified in the
6 guaranty contract after the holder of the loan has
7 made such further collection efforts and instituted
8 such enforcement proceedings as the Corporation
9 may require.

10 (2) SUBROGATION.—Upon making a payment
11 described in paragraph (1), the Corporation shall en-
12 sure the Corporation will be subrogated to all the
13 rights of the recipient of the payment.

14 (3) RECOVERY EFFORTS.—The Corporation
15 shall pursue recovery from the borrower of the
16 amount of any payment made under paragraph (1)
17 with respect to the loan.

18 (b) LIMITATION ON PAYMENTS.—

19 (1) IN GENERAL.—Except as provided by para-
20 graph (2), compensation for insurance, reinsurance,
21 or a guaranty issued under this title shall not exceed
22 the dollar value of the tangible or intangible con-
23 tributions or commitments made in the project, plus
24 interest, earnings, or profits actually accrued on
25 such contributions or commitments, to the extent

1 provided by such insurance, reinsurance, or guar-
2 anty.

3 (2) EXCEPTION.—

4 (A) IN GENERAL.—The Corporation may
5 provide that—

6 (i) appropriate adjustments in the in-
7 sured dollar value be made to reflect the
8 replacement cost of project assets; and

9 (ii) compensation for a claim of loss
10 under insurance of an equity investment
11 under section 201(d) may be computed on
12 the basis of the net book value attributable
13 to the equity investment on the date of
14 loss.

15 (3) ADDITIONAL LIMITATION.—

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

1 (B) EXCEPTION.—The limitation under
2 subparagraph (A) shall not apply to direct in-
3 surance or reinsurance of loans provided by
4 banks or other financial institutions to unre-
5 lated parties.

6 (c) ACTIONS BY ATTORNEY GENERAL.—The Attor-
7 ney General shall take such action as may be appropriate
8 to enforce any right accruing to the United States as a
9 result of the issuance of any loan or guaranty under this
10 title.

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

18 **SEC. 204. TERMINATION.**

19 (a) IN GENERAL.—The authorities provided under
20 this title terminate on the date that is 7 years after the
21 date of the enactment of this Act.

22 (b) TERMINATION OF CORPORATION.—The Corpora-
23 tion shall terminate on the date on which the portfolio of
24 the Corporation is liquidated.

1 **TITLE III—ADMINISTRATIVE**
2 **AND GENERAL PROVISIONS**

3 **SEC. 301. OPERATIONS.**

4 (a) BILATERAL AGREEMENTS.—The Corporation
5 may provide support under title II in connection with
6 projects in any country the government of which has en-
7 tered into an agreement with the United States author-
8 izing the Corporation to provide such support in that
9 country.

10 (b) CLAIMS SETTLEMENT.—

11 (1) IN GENERAL.—Claims arising as a result of
12 support provided under title II or under predecessor
13 authority may be settled, and disputes arising as a
14 result thereof may be arbitrated with the consent of
15 the parties, on such terms and conditions as the
16 Corporation may determine.

17 (2) SETTLEMENTS CONCLUSIVE.—Payment
18 made pursuant to any settlement pursuant to para-
19 graph (1), or as a result of an arbitration award,
20 shall be final and conclusive notwithstanding any
21 other provision of law.

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

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

4 **SEC. 302. CORPORATE POWERS.**

5 (a) IN GENERAL.—The Corporation—

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

8 (2) may make and perform such contracts, in-
9 cluding no-cost contracts (as defined by the Corpora-
10 tion), grants, and other agreements notwithstanding
11 division C of subtitle I of title 41, United States
12 Code, with any person or government however des-
13 igned and wherever situated, as may be necessary
14 for carrying out the functions of the Corporation;

15 (3) may lease, purchase, or otherwise acquire,
16 improve, and use such real property wherever situ-
17 ated, as may be necessary for carrying out the func-
18 tions of the Corporation and which, if done for the
19 Corporation's own occupancy, shall be made in con-
20 sultation with the Administrator of General Services;

21 (4) may accept cash gifts or donations of serv-
22 ices or of property (real, personal, or mixed), tan-
23 gible or intangible, for the purpose of carrying out
24 the functions of the Corporation;

1 (5) may use the United States mails in the
2 same manner and on the same conditions as the Ex-
3 ecutive departments (as defined in section 101 of
4 title 5, United States Code);

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

9 (7) may hire or obtain passenger motor vehi-
10 cles;

11 (8) may sue and be sued in its corporate name;

12 (9) may acquire, hold, or dispose of, upon such
13 terms and conditions as the Corporation may deter-
14 mine, any property, real, personal, or mixed, tan-
15 gible or intangible, or any interest in such property
16 and which, if done for the Corporation's own occu-
17 pancy, shall be made in consultation with the Ad-
18 ministrator of General Services;

19 (10) may lease office space for the Corpora-
20 tion's own use, with the obligation of amounts for
21 such lease limited to the current fiscal year for
22 which payments are due until the expiration of the
23 current lease under predecessor authority, as of the
24 day before the date of the enactment of this Act;

1 (11) may indemnify directors, officers, employ-
2 ees, and agents of the Corporation for liabilities and
3 expenses incurred in connection with their activities
4 on behalf of the Corporation;

5 (12) notwithstanding any other provision of
6 law, may represent itself or contract for representa-
7 tion in any legal or arbitral proceeding;

8 (13) may exercise any priority of the Govern-
9 ment of the United States in collecting debts from
10 bankrupt, insolvent, or decedents' estates;

11 (14) may collect, notwithstanding section
12 3711(g)(1) of title 31, United States Code, or com-
13 promise any obligations assigned to or held by the
14 Corporation, including any legal or equitable rights
15 accruing to the Corporation;

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

21 (16) may sell direct investments of the Corpora-
22 tion to private investors upon such terms and condi-
23 tions as the Corporation may determine; and

1 (17) 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 and which, if done
11 for the Corporation’s own occupancy, shall be made in
12 consultation with the Administrator of General Services.

13 **SEC. 303. MAXIMUM CONTINGENT LIABILITY.**

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

18 (b) AMOUNT SPECIFIED.—

19 (1) INITIAL 5-YEAR PERIOD.—The amount
20 specified in this subsection for the 5-year period be-
21 ginning on the date of the enactment of this Act, is
22 \$60,000,000,000.

23 (2) SUBSEQUENT 5-YEAR PERIODS.—Not later
24 than 5 years after the date of the enactment of this
25 Act, and not less frequently than every 5 years

1 thereafter, the amount specified in paragraph (1)
2 shall be adjusted to reflect the percentage of the in-
3 crease (if any) in the average of the Consumer Price
4 Index during the preceding 5-year period.

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

10 **SEC. 304. CORPORATE FUNDS.**

11 (a) CORPORATE CAPITAL ACCOUNT.—There is estab-
12 lished in the Treasury of the United States a fund to be
13 known as the “Corporate Capital Account” to carry out
14 the purposes of the Corporation.

15 (b) FUNDING.—The Corporate Capital Account shall
16 consist of—

17 (1) fees charged and collected pursuant to sub-
18 section (c);

19 (2) any amounts received pursuant to sub-
20 section (e);

21 (3) investments and returns on such invest-
22 ments pursuant to subsection (g);

23 (4) unexpended balances transferred to the Cor-
24 poration pursuant to subsection (i);

1 (5) payments received in connection with settle-
2 ments of all insurance and reinsurance claims of the
3 Corporation; and

4 (6) all other collections transferred to or earned
5 by the Corporation, excluding the cost, as defined in
6 section 502 of the Federal Credit Reform Act of
7 1990 (2 U.S.C. 661a), of loans and loan guaranties.

8 (c) FEE AUTHORITY.—Fees may be charged and col-
9 lected for providing services in amounts to be determined
10 by the Corporation.

11 (d) USES.—

12 (1) IN GENERAL.—Subject to Acts making ap-
13 propriations, the Corporation is authorized to pay—

14 (A) the cost, as defined in section 502 of
15 the Federal Credit Reform Act of 1990, of
16 loans and loan guaranties;

17 (B) administrative expenses of the Cor-
18 poration;

19 (C) for the cost of providing support au-
20 thorized by subsections (c), (e), (f), and (g) of
21 section 201; and

22 (D) project-specific transaction costs.

23 (2) INCOME AND REVENUE.—In order to carry
24 out the purposes of the Corporation, all collections
25 transferred to or earned by the Corporation, exclud-

1 ing the cost, as defined in section 502 of the Federal
2 Credit Reform Act of 1990, of loans and loan guar-
3 anties, shall be deposited into the Corporate Capital
4 Account and shall be available to carry out its pur-
5 pose, including without limitation—

6 (A) payment of all insurance and reinsur-
7 ance claims of the Corporation;

8 (B) repayments to the Treasury of
9 amounts borrowed under subsection (e); and

10 (C) dividend payments to the Treasury
11 under subsection (f).

12 (e) FULL FAITH AND CREDIT.—

13 (1) IN GENERAL.—All support provided pursu-
14 ant to predecessor authorities or title II shall con-
15 tinue to constitute obligations of the United States,
16 and the full faith and credit of the United States is
17 hereby pledged for the full payment and perform-
18 ance of such obligations.

19 (2) AUTHORITY TO BORROW.—The Corporation
20 is authorized to borrow from the Treasury such
21 sums as may be necessary to fulfill such obligations
22 of the United States and any such borrowing shall
23 be at a rate determined by the Secretary of the
24 Treasury, taking into consideration the current aver-
25 age market yields on outstanding marketable obliga-

1 tions of the United States of comparable maturities,
2 for a period jointly determined by the Corporation
3 and the Secretary, and subject to such terms and
4 conditions as the Secretary may require.

5 (f) DIVIDENDS.—The Board, in consultation with the
6 Director of the Office of Management and Budget, shall
7 annually assess a dividend payment to the Treasury if the
8 Corporation’s insurance portfolio is more than 100 per-
9 cent reserved.

10 (g) INVESTMENT AUTHORITY.—

11 (1) IN GENERAL.—The Corporation may re-
12 quest the Secretary of the Treasury to invest such
13 portion of the Corporate Capital Account as is not,
14 in the Corporation’s judgement, required to meet the
15 current needs of the Corporate Capital Account.

16 (2) FORM OF INVESTMENTS.—Such invest-
17 ments shall be made by the Secretary of the Treas-
18 ury in public debt obligations, with maturities suit-
19 able to the needs of the Corporate Capital Account,
20 as determined by the Corporation, and bearing inter-
21 est at rates determined by the Secretary, taking into
22 consideration current market yields on outstanding
23 marketable obligations of the United States of com-
24 parable maturities.

1 (h) COLLECTIONS.—Interest earnings made pursuant
2 to subsection (g), earnings collected related to equity in-
3 vestments, and amounts, excluding fees related to insur-
4 ance or reinsurance, collected pursuant to subsection (c),
5 shall not be collected for any fiscal year except to the ex-
6 tent provided in advance in appropriations Acts.

7 (i) TRANSFER FROM PREDECESSOR AGENCIES AND
8 PROGRAMS.—By the date end of the transition period de-
9 scribed in title VI, the unexpended balances, assets, and
10 responsibilities of any agency specified in the plan re-
11 quired by section 602 shall be transferred to the Corpora-
12 tion.

13 (j) TRANSFER OF FUNDS.—In order to carry out this
14 Act, funds authorized to be appropriated to carry out the
15 Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.)
16 may be transferred to the Corporation and funds author-
17 ized to be appropriated to the Corporation may be trans-
18 ferred to the Department of State and the United States
19 Agency for International Development.

20 (k) DEFINITION.—In this section, the term “project-
21 specific transaction costs”—

22 (1) means those costs incurred by the Corpora-
23 tion for travel, legal expenses, and direct and indi-
24 rect costs incurred in claims settlements associated
25 with the provision of support under title II and shall

1 not be considered administrative expenses for the
2 purposes of this section; and

3 (2) does not include information technology (as
4 such term is defined in section 11101 of title 40,
5 United States Code).

6 **SEC. 305. COORDINATION WITH OTHER DEVELOPMENT**
7 **AGENCIES.**

8 It is the sense of Congress that the Corporation
9 should use relevant data of the Department of State, the
10 Millennium Challenge Corporation, the United States
11 Agency for International Development, and other depart-
12 ments and agencies that have development functions to
13 better inform the decisions of the Corporation with respect
14 to providing support under title II.

15 **TITLE IV—MONITORING,**
16 **EVALUATION, AND REPORTING**

17 **SEC. 401. ESTABLISHMENT OF RISK AND AUDIT COMMIT-**
18 **TEES.**

19 (a) IN GENERAL.—To assist the Board to fulfill its
20 duties and responsibilities under section 201(a), the Cor-
21 poration shall establish a risk committee and an audit
22 committee.

23 (b) DUTIES AND RESPONSIBILITIES OF RISK COM-
24 MITTEE.—Subject to the direction of the Board, the risk

1 committee established under subsection (a) shall have
2 oversight responsibility of—

3 (1) formulating risk management policies of the
4 operations of the Corporation;

5 (2) reviewing and providing guidance on oper-
6 ation of the Corporation’s global risk management
7 framework;

8 (3) developing policies for enterprise risk man-
9 agement, monitoring, and management of strategic,
10 reputational, regulatory, operational, developmental,
11 environmental, social, and financial risks;

12 (4) developing the risk profile of the Corpora-
13 tion, including a risk management and compliance
14 framework and governance structure to support such
15 framework; and

16 (5) developing policies and procedures for as-
17 sessing, prior to providing, and for any period dur-
18 ing which the Corporation provides, support to any
19 foreign entities, whether such entities have in place
20 sufficient enhanced due diligence policies and prac-
21 tices to prevent money laundering and corruption to
22 ensure the Corporation does not provide support to
23 persons that are—

24 (A) knowingly engaging in acts of corrup-
25 tion;

1 (B) knowingly providing material or finan-
2 cial support for terrorism, drug trafficking, or
3 human trafficking; or

4 (C) responsible for ordering or otherwise
5 directing serious or gross violations of human
6 rights.

7 (c) DUTIES AND RESPONSIBILITIES OF AUDIT COM-
8 MITTEE.—Subject to the direction of the Board, the audit
9 committee established under subsection (a) shall have the
10 oversight responsibility of—

11 (1) the integrity of the Corporation’s financial
12 reporting and systems of internal controls regarding
13 finance and accounting;

14 (2) the integrity of the Corporation’s financial
15 statements;

16 (3) the performance of the Corporation’s inter-
17 nal audit function; and

18 (4) compliance with legal and regulatory re-
19 quirements related to the finances of the Corpora-
20 tion.

21 **SEC. 402. PERFORMANCE MEASURES, EVALUATION, AND**
22 **LEARNING.**

23 (a) IN GENERAL.—The Corporation shall develop a
24 performance measurement system to evaluate and monitor

1 projects supported by the Corporation under title II and
2 to guide future projects of the Corporation.

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

6 (1) develop a successor for the development im-
7 pact measurement system of the Overseas Private
8 Investment Corporation (as such system was in ef-
9 fect on the day before the date of enactment of this
10 Act);

11 (2) develop a mechanism for ensuring that sup-
12 port provided by the Corporation under title II is in
13 addition to private investment;

14 (3) develop standards for, and a method for en-
15 suring, appropriate financial performance of the
16 Corporation's portfolio; and

17 (4) develop standards for, and a method for en-
18 suring, appropriate development performance of the
19 Corporation's portfolio, including—

20 (A) measurement of the projected and ex
21 post development impact of a project; and

22 (B) the information necessary to comply
23 with section 403.

24 (c) PUBLIC AVAILABILITY OF CERTAIN INFORMA-
25 TION.—The Corporation shall make available to the public

1 on a regular basis information about support provided by
2 the Corporation under title II and performance metrics
3 about such support on a country-by-country basis.

4 (d) COLLABORATION.—In developing the perform-
5 ance measurement system required by subsection (a), the
6 Corporation shall consult with stakeholders and other in-
7 terested parties engaged in sustainable economic growth
8 and development.

9 **SEC. 403. ANNUAL REPORT.**

10 (a) IN GENERAL.—After the end of each fiscal year,
11 the Corporation shall submit to the appropriate congres-
12 sional committees a complete and detailed report of its op-
13 erations during that fiscal year, including an assessment
14 of—

15 (1) the economic and social development im-
16 pact, including with respect to matters described in
17 subsections (d) and (e) of section 501, of projects
18 supported by the Corporation under title II;

19 (2) the extent to which the operations of the
20 Corporation complement or are compatible with the
21 development assistance programs of the United
22 States and qualifying sovereign entities;

23 (3) the Corporation's institutional linkages with
24 other relevant United States Government depart-

1 ment and agencies, including efforts to strengthen
2 such linkages; and

3 (4) the compliance of projects supported by the
4 Corporation under title II with human rights, envi-
5 ronmental, labor, and social policies, or other such
6 related policies that govern the Corporation's sup-
7 port for projects, promulgated or otherwise adminis-
8 tered by the Corporation.

9 (b) ELEMENTS.—Each annual report required by
10 subsection (a) shall include analyses of the effects of
11 projects supported by the Corporation under title II, in-
12 cluding—

13 (1) reviews and analyses of—

14 (A) the desired development outcomes for
15 projects and whether or not the Corporation is
16 meeting the associated metrics, goals, and de-
17 velopment objectives, including, to the extent
18 practicable, in the years after conclusion of
19 projects; and

20 (B) the effect of the Corporation's support
21 on access to capital and ways in which the Cor-
22 poration is addressing identifiable market gaps
23 or inefficiencies and what impact, if any, such
24 support has on access to credit for a specific
25 project, country, or sector;

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

4 (3) projections of—

5 (A) development outcomes, and whether or
6 not support for projects are meeting the associ-
7 ated performance measures, both during the
8 start-up phase and over the duration of the
9 support, and to the extent practicable, measures
10 of such development outcomes should be on a
11 gender-disaggregated basis, such as changes in
12 employment, access to financial services, enter-
13 prise development and growth, and composition
14 of executive boards and senior leadership of en-
15 terprises receiving support under title II; and

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

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

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

2 The Corporation shall—

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

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

12 **SEC. 405. ENGAGEMENT WITH INVESTORS.**

13 (a) IN GENERAL.—The Corporation, acting through
14 the Chief Development Officer, shall, in cooperation with
15 the Administrator of the United States Agency for Inter-
16 national Development—

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

20 (2) engage such entities and reduce business
21 risks primarily through direct transaction support
22 and facilitating investment partnerships;

23 (3) develop and support tools, approaches, and
24 intermediaries that can mobilize private finance at
25 scale in the developing world;

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

6 (5) pursue projects consistent with the policy of
7 the United States described in section 101 and the
8 Joint Strategic Plan and the Mission Country Devel-
9 opment Cooperation Strategies of the United States
10 Agency for International Development.

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

13 (1) develop risk mitigation tools;

14 (2) provide transaction structuring support for
15 blended finance models;

16 (3) support intermediaries linking capital sup-
17 ply and demand;

18 (4) coordinate with other Federal agencies to
19 support or accelerate transactions;

20 (5) convene financial, donor, civil society, and
21 public sector partners around opportunities for pri-
22 vate finance within development priorities;

23 (6) offer strategic planning and programming
24 assistance to catalyze investment into priority sec-
25 tors;

- 1 (7) provide transaction structuring support;
- 2 (8) deliver training and knowledge management
- 3 tools for engaging private investors;
- 4 (9) partner with private sector entities that pro-
- 5 vide access to capital and expertise; and
- 6 (10) identify and screen new investment part-
- 7 ners.

8 (c) TECHNICAL ASSISTANCE.—The Corporation shall

9 coordinate with the United States Agency for Inter-

10 national Development and other agencies and depart-

11 ments, as necessary, on projects and programs supported

12 by the Corporation that include technical assistance.

13 **SEC. 406. NOTIFICATION OF SUPPORT TO BE PROVIDED BY**

14 **THE CORPORATION.**

15 (a) IN GENERAL.—Not later than 15 days prior to

16 the Corporation making a financial commitment associ-

17 ated with the provision of support under title II in an

18 amount in excess of \$10,000,000, the Chief Executive Of-

19 ficer of the Corporation shall submit to the Committee on

20 Foreign Affairs and the Committee on Appropriations of

21 the House of Representatives and the Committee on For-

22 eign Relations and the Committee on Appropriations of

23 the Senate a report in writing that contains the informa-

24 tion required by subsection (b).

1 (b) INFORMATION REQUIRED.—The information re-
2 quired by this subsection includes—

3 (1) the amount of each such financial commit-
4 ment;

5 (2) an identification of the recipient or bene-
6 ficiary; and

7 (3) a description of the project, activity, or
8 asset and the development goal or purpose to be
9 achieved by providing support by the Corporation.

10 **TITLE V—CONDITIONS, RESTRIC-** 11 **TIONS, AND PROHIBITIONS**

12 **SEC. 501. LIMITATIONS AND PREFERENCES.**

13 (a) LIMITATION ON SUPPORT FOR SINGLE ENTI-
14 TY.—No entity receiving support from the Corporation
15 under title II may receive more than an amount equal to
16 5 percent of the Corporation’s maximum contingent liabil-
17 ity authorized under section 303.

18 (b) PREFERENCE FOR SUPPORT FOR PROJECTS
19 SPONSORED BY UNITED STATES PERSONS.—

20 (1) IN GENERAL.—The Corporation should give
21 preferential consideration to projects sponsored by
22 or involving private sector entities that are United
23 States persons.

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

4 (A) a United States citizen; or

5 (B) an entity significantly beneficially
6 owned by individuals described in subparagraph

7 (A).

8 (c) PREFERENCE FOR SUPPORT IN COUNTRIES IN
9 COMPLIANCE WITH INTERNATIONAL TRADE OBLIGA-
10 TIONS.—

11 (1) CONSULTATIONS WITH UNITED STATES
12 TRADE REPRESENTATIVE.—Not less frequently than
13 annually, the Corporation shall consult with the
14 United States Trade Representative with respect to
15 the status of countries eligible to receive support
16 from the Corporation under title II and the compli-
17 ance of those countries with their international trade
18 obligations.

19 (2) PREFERENTIAL CONSIDERATION.—The Cor-
20 poration shall give preferential consideration to pro-
21 viding support under title II for projects in countries
22 in compliance with or making substantial progress
23 coming into compliance with their international
24 trade obligations.

25 (d) WORKER RIGHTS.—

1 (1) IN GENERAL.—The Corporation should sup-
2 port projects under title II in countries that are tak-
3 ing steps to adopt and implement laws that extend
4 internationally recognized worker rights (as defined
5 in section 507 of the Trade Act of 1974 (19 U.S.C.
6 2467)) to workers in that country, including any
7 designated zone in that country.

8 (2) REQUIRED CONTRACT LANGUAGE.—The
9 Corporation shall also include the following lan-
10 guage, in substantially the following form, in all con-
11 tracts which the Corporation enters into with eligible
12 investors to provide support under title II: “The per-
13 son receiving support agrees not to take actions to
14 prevent employees of the foreign enterprise from
15 lawfully exercising their right of association and
16 their right to organize and bargain collectively. The
17 person further agrees to observe applicable laws re-
18 lating to a minimum age for employment of children,
19 acceptable conditions of work with respect to min-
20 imum wages, hours of work, and occupational health
21 and safety, and not to use forced labor or the worst
22 forms of child labor (as defined in section 507 of the
23 Trade Act of 1974 (19 U.S.C. 2467(6))). The per-
24 son is not responsible under this paragraph for the
25 actions of a foreign government.”.

1 (e) ENVIRONMENTAL AND SOCIAL IMPACT.—The
2 Board shall not vote in favor of any project proposed to
3 be supported by the Corporation under title II that is like-
4 ly to have significant adverse environmental or social im-
5 pacts that are sensitive, diverse, or unprecedented, un-
6 less—

7 (1) at least 60 days before the date of the vote,
8 an environmental and social impact assessment or
9 initial environmental and social audit, analyzing the
10 environmental and social impacts of the proposed
11 project and of alternatives to the proposed project,
12 is completed; and

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

18 (f) WOMEN’S ECONOMIC EMPOWERMENT.—In uti-
19 lizing its authorities under title II, the Corporation should
20 consider the impacts of its support on women’s economic
21 opportunities and outcomes and make efforts to mitigate
22 gender gaps and maximize development impact by working
23 to improve women’s economic opportunities.

24 (g) PREFERENCE FOR PROVISION OF SUPPORT IN
25 COUNTRIES EMBRACING PRIVATE ENTERPRISE.—

1 (1) IN GENERAL.—The Corporation should give
2 preferential consideration to projects for which sup-
3 port under title II may potentially be provided in
4 countries the governments of which have dem-
5 onstrated consistent support for economic policies
6 that promote the development of private enterprise,
7 both domestic and foreign, and maintaining the con-
8 ditions that enable private enterprise to make its full
9 contribution to the development of such countries,
10 including—

- 11 (A) market-based economic policies;
- 12 (B) protecting private property rights;
- 13 (C) respect for the rule of law; and
- 14 (D) systems to combat corruption and
15 bribery.

16 (2) SOURCES OF INFORMATION.—The Corpora-
17 tion should rely on both third-party indicators and
18 United States Government information, such as the
19 Department of State’s Investment Climate State-
20 ments, the Department of Commerce’s Country
21 Commercial Guides, or the Millennium Challenge
22 Corporation’s Constraints Analysis, to assess wheth-
23 er countries meet the conditions described in para-
24 graph (1).

1 (h) CONSIDERATION OF FOREIGN BOYCOTT PARTICI-
2 PATION.—In providing support for projects under title II,
3 the Corporation shall consider, using information readily
4 available, whether the project is sponsored by or substan-
5 tially affiliated with any person taking or knowingly agree-
6 ing to take actions, or having taken or knowingly agreed
7 to take actions within the past 3 years, which demonstrate
8 or otherwise evidence intent to comply with, further, or
9 support any boycott fostered or imposed by any foreign
10 country, or request to impose any boycott by any foreign
11 country, against a country which is friendly to the United
12 States and which is not itself the object of any form of
13 boycott pursuant to United States law or regulation.

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.

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

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

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

6 (3) does not have a significant adverse impact
7 on United States employment.

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 directly benefits any entity sub-
4 ject to sanctions imposed by the United States.

5 (c) PROHIBITION ON SUPPORT OF ACTIVITIES SUB-
6 JECT TO SANCTIONS.—The Corporation shall require any
7 entity or party receiving support under title II to certify
8 it, any entity owned or controlled by the entity or party,
9 or any entity or party which owns or otherwise manages
10 the entity or party receiving support, does not conduct any
11 activities subject to sanctions imposed by the United
12 States.

13 **SEC. 504. PENALTIES FOR MISREPRESENTATION, FRAUD,**
14 **AND BRIBERY.**

15 Subsections (g), (l), and (n) of section 237 of the
16 Foreign Assistance Act of 1961 (22 U.S.C. 2197) shall
17 apply with respect to the Corporation to the same extent
18 and in the same manner as such subsections applied with
19 respect to the Overseas Private Investment Corporation
20 on the day before the date of the enactment of this Act.

21 **TITLE VI—TRANSITIONAL**
22 **PROVISIONS**

23 **SEC. 601. DEFINITIONS.**

24 In this title:

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

3 (2) TRANSITION PERIOD.—The term “transi-
4 tion period” means the period—

5 (A) beginning on the date of the enactment
6 of this Act; and

7 (B) ending on the effective date of the re-
8 organization plan required by section 602(e).

9 **SEC. 602. REORGANIZATION PLAN.**

10 (a) SUBMISSION OF PLAN.—

11 (1) IN GENERAL.—Not later than 120 days
12 after the date of the enactment of this Act, the
13 President shall transmit to the appropriate congress-
14 sional committees a reorganization plan regarding
15 the following:

16 (A) The transfer of agencies, personnel,
17 assets, and obligations to the Corporation pur-
18 suant to this title.

19 (B) Any consolidation, reorganization, or
20 streamlining of agencies transferred to the Cor-
21 poration pursuant to this title.

22 (C) Any efficiencies or cost savings
23 achieved as a result of the transfer of agencies,
24 personnel, assets, and obligations to the Cor-
25 poration pursuant to this title, including reduc-

1 tions in unnecessary or duplicative operations,
2 assets, and personnel.

3 (2) CONSULTATION.—Not later than 15 days
4 before the date on which the plan is transmitted
5 pursuant to this subsection, the President shall con-
6 sult with the appropriate congressional committees
7 on such plan.

8 (b) PLAN ELEMENTS.—The plan transmitted under
9 subsection (a) shall contain, consistent with this Act, such
10 elements as the President deems appropriate, including
11 the following:

12 (1) Identification of any functions of agencies
13 transferred to the Corporation pursuant to this title
14 that will not be transferred to the Corporation under
15 the plan.

16 (2) Specification of the steps to be taken to or-
17 ganize the Corporation, including the delegation or
18 assignment of functions transferred to the Corpora-
19 tion.

20 (3) Specification of the funds available to each
21 agency that will be transferred to the Corporation as
22 a result of transfers under the plan.

23 (4) Specification of the proposed allocations
24 within the Corporation of unexpended funds trans-
25 ferred in connection with transfers under the plan.

1 (5) Specification of any proposed disposition of
2 property, facilities, contracts, records, and other as-
3 sets and obligations of agencies transferred under
4 the plan.

5 (c) REPORT ON COORDINATION.—

6 (1) IN GENERAL.—The transfer of functions
7 authorized by this section may occur only after the
8 President and Chief Executive Officer of the Over-
9 seas Private Investment Corporation and the Admin-
10 istrator of the United States Agency for Inter-
11 national Development jointly submit to the Com-
12 mittee on Foreign Affairs and Committee on Appro-
13 priations of the House of Representatives and Com-
14 mittee on Foreign Relations and Committee on Ap-
15 propriations of the Senate a report in writing that
16 contains the information required by paragraph (2).

17 (2) INFORMATION REQUIRED.—The information
18 required by this paragraph includes a description in
19 detail of the procedures to be followed after the
20 transfer of functions authorized by this section have
21 occurred to coordinate between the Corporation and
22 the United States Agency for International Develop-
23 ment in carrying out the functions so transferred.

24 (d) MODIFICATION OF PLAN.—The President shall
25 consult with the appropriate congressional committees be-

1 fore making any material modification or revision to the
2 plan before the plan becomes effective in accordance with
3 subsection (e).

4 (e) EFFECTIVE DATE.—

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

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

20 **SEC. 603. TRANSFER OF FUNCTIONS.**

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

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

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

6 (A) The Development Credit Authority.

7 (B) The existing Legacy Credit portfolio
8 under the Urban Environment Program and
9 any other direct loan programs and non-Devel-
10 opment Credit Authority guaranty programs
11 authorized by the Foreign Assistance Act of
12 1961 (22 U.S.C. 2151 et seq.) or other prede-
13 cessor Acts, as in existence on the date of the
14 enactment of this Act, other than any sovereign
15 loan guaranties.

16 (b) ADDITIONAL TRANSFER AUTHORITY.—Effective
17 at the end of the transition period, there is authorized to
18 be transferred to the Corporation the functions, personnel,
19 assets, and liabilities of the following elements of the
20 United States Agency for International Development:

21 (1) The Office of Private Capital and Microen-
22 terprise.

23 (2) The enterprise funds.

24 (c) SOVEREIGN LOAN GUARANTY TRANSFER.—

1 (1) IN GENERAL.—Effective at the end of the
2 transition period, there is authorized to be trans-
3 ferred to the Corporation or any other appropriate
4 department or agency of the United States Govern-
5 ment the loan accounts and the legal rights and re-
6 sponsibilities for the sovereign loan guaranty port-
7 folio held by the United States Agency for Inter-
8 national Development as in existence on the day be-
9 fore the date of the enactment of this Act.

10 (2) INCLUSION IN REORGANIZATION PLAN.—
11 The President shall include in the reorganization
12 plan submitted under section 602 a description of
13 the transfer authorized under paragraph (1).

14 (d) BILATERAL AGREEMENTS.—Any bilateral agree-
15 ment of the United States in effect on the date of the
16 enactment of this Act that serves as the basis for pro-
17 grams of the Overseas Private Investment Corporation
18 and the Development Credit Authority shall be considered
19 as satisfying the requirements of section 301(a).

20 (e) TRANSITION.—During the transition period, the
21 agencies specified in subsection (a) shall—

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

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

4 **SEC. 604. TERMINATION OF OVERSEAS PRIVATE INVEST-**
5 **MENT CORPORATION AND OTHER**
6 **SUPERCEDED AUTHORITIES.**

7 Effective at the end of the transition period—

8 (1) the Overseas Private Investment Corpora-
9 tion is terminated; and

10 (2) title IV of chapter 2 of part I of the For-
11 eign Assistance Act of 1961 (22 U.S.C. 2191 et
12 seq.) (other than subsections (g), (l), and (n) of sec-
13 tion 237 of that Act) is repealed.

14 **SEC. 605. TRANSITIONAL AUTHORITIES.**

15 (a) **PROVISION OF ASSISTANCE BY OFFICIALS.—**

16 Until the transfer of an agency to the Corporation under
17 section 603, any official having authority over or functions
18 relating to the agency on the day before the date of the
19 enactment of this Act shall provide to the Corporation
20 such assistance, including the use of personnel and assets,
21 as the Corporation may request in preparing for the trans-
22 fer and integration of the agency into the Corporation.

23 (b) **SERVICES AND PERSONNEL.—**During the transi-
24 tion period, upon the request of the Corporation, the head
25 of any executive agency may, on a reimbursable or non-

1 reimbursable basis, provide services or detail personnel to
2 assist with the transition.

3 (c) ACTING OFFICIALS.—

4 (1) IN GENERAL.—During the transition pe-
5 riod, pending the advice and consent of the Senate
6 to the appointment of an officer required by this Act
7 to be appointed by and with such advice and con-
8 sent, the President may designate any officer whose
9 appointment was required to be made by and with
10 such advice and consent and who was such an officer
11 before the date of the enactment of this Act (and
12 who continues in office) or immediately before such
13 designation, to act in such office until the same is
14 filled as provided in this Act. While so acting, such
15 officers shall receive compensation at the higher of—

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

18 (B) the rates provided for the offices held
19 at the time of designation.

20 (2) RULE OF CONSTRUCTION.—Nothing in this
21 Act shall be construed to require the advice and con-
22 sent of the Senate to the appointment by the Presi-
23 dent to a position in the Corporation of any officer
24 whose agency is transferred to the Corporation pur-
25 suant to this title and whose duties following such

1 transfer are germane to those performed before such
2 transfer.

3 (d) **TRANSFER OF PERSONNEL, ASSETS, OBLIGA-**
4 **TIONS, AND FUNCTIONS.**—Upon the transfer of an agency
5 to the Corporation under section 603—

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

13 (2) the Corporation shall have all functions—

14 (A) relating to the agency that any other
15 official could by law exercise in relation to the
16 agency immediately before such transfer; and

17 (B) vested in the Corporation by this Act
18 or other law.

19 **SEC. 606. SAVINGS PROVISIONS.**

20 (a) **COMPLETED ADMINISTRATIVE ACTIONS.**—

21 (1) **IN GENERAL.**—Completed administrative
22 actions of an agency shall not be affected by the en-
23 actment of this Act or the transfer of such agency
24 to the Corporation under section 603, but shall con-
25 tinue in effect according to their terms until amend-

1 ed, modified, superseded, terminated, set aside, or
2 revoked in accordance with law by an officer of the
3 United States or a court of competent jurisdiction,
4 or by operation of law.

5 (2) COMPLETED ADMINISTRATIVE ACTION DE-
6 FINED.—In this subsection, the term “completed ad-
7 ministrative action” includes orders, determinations,
8 rules, regulations, personnel actions, permits, agree-
9 ments, grants, contracts, certificates, policies, li-
10 censes, registrations, and privileges.

11 (b) PENDING PROCEEDINGS.—

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

22 (2) ORDERS.—Orders issued in proceedings de-
23 scribed in paragraph (1), and appeals therefrom,
24 and payments made pursuant to such orders, shall
25 issue in the same manner and on the same terms as

1 if this Act had not been enacted or the agency had
2 not been transferred, and any such orders shall con-
3 tinue in effect until amended, modified, superseded,
4 terminated, set aside, or revoked by an officer of the
5 United States or a court of competent jurisdiction,
6 or by operation of law.

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

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

1 (e) EMPLOYMENT PROVISIONS.—

2 (1) REGULATIONS.—The Corporation may, in
3 regulations prescribed jointly with the Director of
4 the Office of Personnel Management, adopt the
5 rules, procedures, terms, and conditions, established
6 by statute, rule, or regulation before the date of the
7 enactment of this Act, relating to employment in any
8 agency transferred to the Corporation under section
9 603.

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

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

23 **SEC. 607. OTHER TERMINATIONS.**

24 Except as otherwise provided in this Act, whenever
25 all the functions vested by law in any agency have been

1 transferred pursuant to this title, each position and office
2 the incumbent of which was authorized to receive com-
3 pensation at the rates prescribed for an office or position
4 at level II, III, IV, or V of the Executive Schedule under
5 subchapter II of chapter 53 of title 5, United States Code,
6 shall terminate.

7 **SEC. 608. INCIDENTAL TRANSFERS.**

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

15 **SEC. 609. REFERENCE.**

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

1 **SEC. 610. CONFORMING AMENDMENTS.**

2 (a) EXEMPT PROGRAMS.—Section 255(g) of the Bal-
3 anced Budget and Emergency Deficit Control Act of 1985
4 (2 U.S.C. 905(g)) is amended by striking “Overseas Pri-
5 vate Investment Corporation, Noncredit Account (71–
6 4184–0–3–151).” and inserting “United States Inter-
7 national Development Finance Corporation.”.

8 (b) EXECUTIVE SCHEDULE.—Title 5, United States
9 Code, is amended—

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

12 (2) in section 5315, by striking “Executive Vice
13 President, Overseas Private Investment Corpora-
14 tion.”; and

15 (3) in section 5316, by striking “Vice Presi-
16 dents, Overseas Private Investment Corporation
17 (3).”.

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

21 (1) in subsection (b), in the matter preceding
22 paragraph (1), by striking “the President of the
23 Overseas Private Investment Corporation, Director”
24 and inserting “the Board of Directors of the United
25 States International Development Finance Corpora-
26 tion, the Director”; and

1 (2) by striking “Overseas Private Investment
2 Corporation” each place it appears and inserting
3 “United States International Development Finance
4 Corporation”.

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

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

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

24 (g) MISUSE OF NAMES OF FEDERAL AGENCIES.—
25 Section 709 of title 18, United States Code, is amended

1 by striking “‘Overseas Private Investment’, ‘Overseas Pri-
2 vate Investment Corporation’, or ‘OPIC’,” and inserting
3 “‘United States International Development Finance Cor-
4 poration’ or ‘DFC’”.

5 (h) ENGAGEMENT ON CURRENCY EXCHANGE RATE
6 AND ECONOMIC POLICIES.—Section 701(c)(1)(A) of the
7 Trade Facilitation and Trade Enforcement Act of 2015
8 (19 U.S.C. 4421(c)(1)(A)) is amended by striking “Over-
9 seas Private Investment Corporation” and inserting
10 “United States International Development Finance Cor-
11 poration”.

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

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

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

1 (2) in section 481(e)(4)(A) (22 U.S.C.
2 2291(e)(4)(A)), in the matter preceding clause (i),
3 by striking “(including programs under title IV of
4 chapter 2, relating to the Overseas Private Invest-
5 ment Corporation)” and inserting “(and any support
6 under title II of the Better Utilization of Invest-
7 ments Leading to Development Act of 2018, relating
8 to the United States International Development Fi-
9 nance Corporation)”.

10 (k) ELECTRIFY AFRICA ACT OF 2015.—Sections 5
11 and 7 of the Electrify Africa Act of 2015 (Public Law
12 114–121; 22 U.S.C. 2293 note) are amended by striking
13 “Overseas Private Investment Corporation” each place it
14 appears and inserting “United States International Devel-
15 opment Finance Corporation”.

16 (l) FOREIGN AID TRANSPARENCY AND ACCOUNT-
17 ABILITY ACT OF 2016.—Section 2(3) of the Foreign Aid
18 Transparency and Accountability Act of 2016 (Public Law
19 114–191; 22 U.S.C. 2394c note) is amended—

20 (1) in subparagraph (A), by striking “except
21 for” and all that follows through “chapter 3” and
22 insert “except for chapter 3”;

23 (2) in subparagraph (C), by striking “and” at
24 the end;

1 (3) in subparagraph (D), by striking the period
2 at the end and inserting “; and”; and

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

4 “(E) the Better Utilization of Investments
5 Leading to Development Act of 2018.”.

6 (m) SUPPORT FOR EAST EUROPEAN DEMOCRACY
7 (SEED) PROGRAM.—The Support for East European De-
8 mocracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.)
9 is amended—

10 (1) in section 2(c) (22 U.S.C. 5401(c)), by
11 striking paragraph (12) and inserting the following:

12 “(12) UNITED STATES INTERNATIONAL DEVEL-
13 OPMENT FINANCE CORPORATION.—Programs of the
14 United States International Development Finance
15 Corporation.”; and

16 (2) in section 201(e) (22 U.S.C. 5421(e)), by
17 striking “Agency for International Development”
18 and inserting “United States International Develop-
19 ment Finance Corporation”.

20 (n) CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY
21 (LIBERTAD) ACT OF 1996.—Section 202(b)(2)(B)(iv)
22 of the Cuban Liberty and Democratic Solidarity
23 (LIBERTAD) Act of 1996 (22 U.S.C. 6062(b)(2)(B)(iv))
24 is amended by striking “Overseas Private Investment Cor-

1 poration” and inserting “United States International De-
2 velopment Finance Corporation”.

3 (o) INTERNATIONAL RELIGIOUS FREEDOM ACT OF
4 1998.—Section 405(a)(10) of the International Religious
5 Freedom Act of 1998 (22 U.S.C. 6445(a)(10)) is amended
6 by striking “Overseas Private Investment Corporation”
7 and inserting “United States International Development
8 Finance Corporation”.

9 (p) TRAFFICKING VICTIMS PROTECTION ACT OF
10 2000.—Section 103(8)(A) of the Trafficking Victims Pro-
11 tection Act of 2000 (22 U.S.C. 7102(8)(A)) is amended
12 in clause (viii) to read as follows:

13 “(viii) any support under title II of
14 the Better Utilization of Investments
15 Leading to Development Act of 2018 relat-
16 ing to the United States International De-
17 velopment Finance Corporation; and”.

18 (q) TECHNOLOGY DEPLOYMENT IN DEVELOPING
19 COUNTRIES.—Section 732(b) of the Global Environmental
20 Protection Assistance Act of 1989 (22 U.S.C. 7902(b))
21 is amended by striking “Overseas Private Investment Cor-
22 poration” and inserting “United States International De-
23 velopment Finance Corporation”.

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

4 (1) in the paragraph heading, by striking
5 “OVERSEAS PRIVATE INVESTMENT CORPORATION”
6 and inserting “UNITED STATES INTERNATIONAL DE-
7 VELOPMENT FINANCE CORPORATION”;

8 (2) 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 (3) 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.

Passed the House of Representatives July 17, 2018.

Attest:

KAREN L. HAAS,

Clerk.

Calendar No. 522

115TH CONGRESS
2^D SESSION

H. R. 5105

AN ACT

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

JULY 18, 2018

Received; read twice and placed on the calendar