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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2018

Mr. CORKER (for himself, Mr. COONS, Mr. ISAKSON, Mr. MURPHY, Mr. YOUNG, Mrs. SHAHEEN, Mr. PORTMAN, and Mr. KAINES) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Better Utilization of Investments Leading to Development Act of 2018” or the “BUILD Act of 2018”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
TITLE I—ESTABLISHMENT

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

TITLE II—AUTHORITIES

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

TITLE III—ADMINISTRATIVE AND GENERAL PROVISIONS

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

TITLE IV—MONITORING, EVALUATION, AND REPORTING

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

TITLE V—CONDITIONS, RESTRICTIONS, AND PROHIBITIONS

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

TITLE VI—TRANSITIONAL PROVISIONS

Sec. 601. Definitions.
Sec. 602. Reorganization plan.
Sec. 603. Transfer of functions.
Sec. 604. Termination of Overseas Private Investment Corporation and other superceded authorities.
Sec. 605. Transitional authorities.
Sec. 606. Savings provisions.
Sec. 607. Other terminations.
Sec. 608. Incidental transfers.
Sec. 609. Reference.
Sec. 610. Conforming amendments.
SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

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

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

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

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

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

(A) any agency or instrumentality of a foreign state (as defined in section 1603 of title 28, United States Code); and
(B) any international financial institution
(as defined in section 1701(c) of the Inter-
national Financial Institutions Act (22 U.S.C.
262r(c))).

TITLE I—ESTABLISHMENT

SEC. 101. STATEMENT OF POLICY.

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

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

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

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

(4) to achieve clearly defined economic and so-
cial development outcomes;
(5) to coordinate with institutions with purposes similar to the purposes of the Corporation to leverage resources of those institutions to produce the greatest impact;

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

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

(8) to complement and be guided by overall United States foreign policy and development objectives, taking into account the policies of countries receiving support.

SEC. 102. UNITED STATES INTERNATIONAL DEVELOPMENT FINANCE CORPORATION.

(a) Establishment.—There is established in the Executive branch the United States International Development Finance Corporation (in this Act referred to as the “Corporation”), which shall be a wholly owned Government corporation (as defined in section 9101 of title 31, United States Code).

(b) Purpose.—The purpose of the Corporation shall be to mobilize and facilitate the participation of private
sector capital and skills in the economic development of less developed countries, as described in subsection (c), and countries in transition from nonmarket to market economies, in order to complement the development assistance objectives, and advance the foreign policy interests, of the United States. In carrying out its purpose, the Corporation, utilizing broad criteria, shall take into account in its financing operations the economic and financial soundness of projects for which it provides support under title II.

(c) LESS DEVELOPED ECONOMY FOCUS.—

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

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

(A) the President determines such support furthers the national economic or foreign policy interests of the United States; and
(B) such support is likely to be highly developmental or provide developmental benefits to the poorest population of that country.

(d) Authorization To Make Expenditures and Commitments.—The Corporation may make, without regard to fiscal year limitation, such expenditures and commitments as may be necessary using amounts appropriated to the Corporation pursuant to section 9104 of title 31, United States Code, and otherwise in accordance with law.

(e) Project-Specific Transaction Costs Not Administrative Expenses.—Project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with the provision of support to private sector entities and qualifying sovereign entities under title II, shall not be considered administrative expenses for the purposes of this section.

SEC. 103. MANAGEMENT OF CORPORATION.

(a) Structure of Corporation.—There shall be in the Corporation a Board of Directors (in this Act referred to as the “Board”), a Chief Executive Officer, a Deputy Chief Executive Officer, a Chief Risk Officer, and such other officers as the Board may determine.

(b) Board of Directors.—
(1) DUTIES.—All powers of the Corporation shall vest in and be exercised by or under the authority of the Board. The Board—

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

(B) may prescribe, amend, and repeal by-laws, rules, regulations, and procedures governing the manner in which the business of the Corporation may be conducted and in which the powers granted to the Corporation by law may be exercised.

(2) MEMBERSHIP OF BOARD.—

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

(i) the Chief Executive Officer of the Corporation;

(ii) the officers specified in subparagraph (B); and

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

(I) one individual should be appointed from among a list of individuals submitted by the majority leader
of the Senate after consultation with
the chairman of the Committee on
Foreign Relations of the Senate;

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

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

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

(B) OFFICERS SPECIFIED.—
(i) **IN GENERAL.**—The officers specified in this subparagraph are the following:

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

(II) The Administrator of the United States Agency for International Development or a designee of the Administrator.

(III) The Secretary of the Treasury or a designee of the Secretary.

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

(ii) **REQUIREMENTS FOR DESIGNEES.**—A designee under clause (i) shall be selected from among officers—

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

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

(III) who is designated by and serving at the pleasure of the President.
(C) Requirements for private sector members.—A member of the Board described in subparagraph (A)(iii)—

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

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

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

(iv) shall serve until the member’s successor is appointed and confirmed;

(v) shall be compensated at a rate equivalent to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code, when engaged in the business of the Corporation; and

(vi) may be paid per diem in lieu of subsistence at the applicable rate under the Federal Travel Regulation under subtitle F of title 41, Code of Federal Regulations, from time to time, while away from the home or usual place of business of the member.
(3) **Chairperson.**—There shall be a Chairperson of the Board designated by the President from among the individuals described in paragraph (2)(A).

(4) **Vice Chairperson.**—The Administrator of the United States Agency for International Development, or the designee of the Administrator under paragraph (2)(B)(i)(II), shall serve as the Vice Chairperson of the Board.

(5) **Quorum.**—Six members of the Board shall constitute a quorum for the transaction of business by the Board.

(e) **Public Hearings.**—

(1) **Public Hearings by the Board.**—The Board shall hold at least one public hearing each year in order to afford an opportunity for any person to present views with respect to whether—

(A) the Corporation is carrying out its activities in accordance with this Act; and

(B) any support provided by the Corporation under title II in any country should have been or should be extended.

(2) **Additional Public Hearings.**—In conjunction with each meeting of the Board, the Corporation shall hold a public hearing in order to af-
ford an opportunity for any person to present views regarding the activities of the Corporation. Such views shall be made part of the record.

(d) CHIEF EXECUTIVE OFFICER.—

(1) APPOINTMENT.—There shall be in the Corporation a Chief Executive Officer, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall serve at the pleasure of the President.

(2) AUTHORITIES AND DUTIES.—The Chief Executive Officer shall be responsible for the management of the Corporation and shall exercise the powers and discharge the duties of the Corporation subject to the bylaws, rules, regulations, and procedures established by the Board.

(3) RELATIONSHIP TO BOARD.—The Chief Executive Officer shall report to and be under the direct authority of the Board.

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

“Chief Executive Officer, United States International Development Finance Corporation.”.

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

(f) CHIEF RISK OFFICER.—

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

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

(B) shall report directly to the Board; and

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

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

(g) COORDINATION.—The Chief Executive Officer
shall consult with the Administrator of the United States
Agency for International Development and Chief Execu-
tive Officer of the Millennium Challenge Corporation to coordinate the activities of the Corporation with the activities of the United States Agency for International Development and the Millennium Challenge Corporation, such as by establishing in the Corporation a Chief Development Officer who shall have responsibility for coordinating development finance policy and implementation efforts of the Corporation with the United States Agency for International Development and the Millennium Challenge Corporation and their respective development missions.

(h) Officers and Employees.—

(1) In general.—Except as otherwise provided in this section, officers, employees, and agents shall be selected and appointed by the Corporation, and shall be vested with such powers and duties as the Corporation may determine.

(2) Administratively determined employees.—

(A) Appointment; compensation; removal.—Of officers and employees employed by the Corporation under paragraph (1), not to exceed 50 may be appointed, compensated, or removed without regard to title 5, United States Code.
(B) Reinstatement.—Under such regulations as the President may prescribe, officers and employees appointed to a position under subparagraph (A) may be entitled, upon removal from such position (unless the removal was for cause), to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary.

(C) Additional Positions.—Positions authorized by subparagraph (A) shall be in addition to those otherwise authorized by law, including positions authorized under section 5108 of title 5, United States Code.

(D) Rates of Pay for Officers and Employees.—The Corporation may set and adjust rates of basic pay for officers and employees appointed under subparagraph (A) without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, respectively.

(3) Liability of Employees.—

(A) In General.—An individual who is a member of the Board or an officer or employee
of the Corporation has no liability under this Act with respect to any claim arising out of or resulting from any act or omission by the individual within the scope of the employment of the individual in connection with any transaction by the Corporation.

(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed to limit personal liability of an individual for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other acts or omissions outside the scope of the individual’s employment.

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

(i) to affect—

(I) any other immunities and protections that may be available to an individual described in subparagraph (A) under applicable law with respect to a transaction described in that subparagraph; or

(II) any other right or remedy against the Corporation, against the United States under applicable law, or
against any person other than an individual described in subparagraph (A) participating in such a transaction; or

(ii) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees not described in this paragraph.

SEC. 104. INSPECTOR GENERAL OF THE CORPORATION.

(a) In General.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting “the United States International Development Finance Corporation,” after “the Smithsonian Institution,”.

(b) Oversight Independence.—Section 8G(a)(4) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subparagraph (G), by striking “; and” and inserting a semicolon;

(2) in subparagraph (I), by striking the semicolon and inserting “; and”; and

(3) by adding at the end the following:

“(J) with respect to the United States International Development Finance Corporation, such term means the Board of Directors of the United States International Development Finance Corporation;”.

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TITLE II—AUTHORITIES

SEC. 201. AUTHORITIES RELATING TO PROVISION OF SUPPORT.

(a) LENDING AND GUARANTIES.—

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

(2) DENOMINATION.—Loans and guaranties issued under paragraph (1) may be denominated and repayable in United States dollars or foreign currencies.

(3) APPLICABILITY OF FEDERAL CREDIT REFORM ACT OF 1990.—Loans and guaranties issued under paragraph (1) shall be subject to the requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(b) EQUITY INVESTMENTS.—

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

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

(3) **GUIDELINES AND CRITERIA.**—The Corporation shall develop guidelines and criteria to require that the use of the authority provided by paragraph (1) with respect to a project has a clearly defined development rationale, taking into account the following factors:

(A) The support for the project would be more likely than not to substantially reduce or overcome the effect of an identified market failure in the country in which the project is carried out.

(B) The project would not have proceeded or would have been substantially delayed without the support.

(C) The support will meaningfully contribute to transforming local conditions to promote the development of markets.

(D) The support can be shown to be aligned with commercial partner incentives.
(E) The support can be shown to have significant developmental impact and will contribute to long-term commercial sustainability.

(4) LIMITATIONS ON EQUITY INVESTMENTS.—

(A) PER PROJECT LIMIT.—The aggregate amount of support provided under this subsection with respect to any project shall not exceed 20 percent of the aggregate amount of all equity investment made from any source to the project at the time that the Corporation approves support of the project.

(B) TOTAL LIMIT.—Support provided pursuant to this subsection shall be limited to not more than 35 percent of the Corporation’s aggregate exposure on the date that such support is provided.

(5) SALES AND LIQUIDATION OF POSITION.—The Corporation shall seek to sell and liquidate any support for a project provided under this subsection as soon as commercially feasible, commensurate with other similar investors in the project.

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

(d) Promotion of and Support for Private In-
vestment Opportunities.—

(1) In General.—The Corporation may ini-
tiate and support, through financial participation,
incentive grant, or otherwise, and on such terms and
conditions as the Corporation may determine, feasi-
ibility studies for the planning, development, and
management of, and procurement for, bilateral and
multilateral development projects, including training
activities undertaken in connection with such
projects, for the purpose of promoting investment in
such projects and the identification, assessment, sur-
veying, and promotion of private investment oppor-
tunities, utilizing wherever feasible and effective, the
facilities of private investors.

(2) Contributions to Costs.—The Corpora-
tion shall, to the maximum extent practicable, re-
quire any person receiving funds under the authori-
ties of this subsection to—
(A) share the costs of feasibility studies and other project planning services funded under this subsection; and

(B) reimburse the Corporation those funds provided under this section, if the person succeeds in project implementation.

(e) Special Projects and Programs.—The Corporation may administer and manage special projects and programs, including programs of financial and advisory support that provide private technical, professional, or managerial assistance in the development of human resources, skills, technology, capital savings, and intermediate financial and investment institutions and cooperatives and including the initiation of incentives, grants, and studies for renewable energy, microenterprise households, and other small business activities.

(f) Enterprise Funds.—

(1) In General.—The Corporation may establish and operate enterprise funds in accordance with this subsection.

(2) Procedures and Requirements.—The provisions of section 201 of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5421) (other than the provisions of subsections (a), (b), (c), (d)(1), (d)(3), (e), (f), and (j)
of that section), shall be deemed to apply with respect to any enterprise fund established by the Corporation under this subsection and to funds made available to any such enterprise fund in the same manner and to the same extent as such provisions apply with respect to enterprise funds established pursuant to such section 201 or to funds made available to enterprise funds established under that section.

(3) Purposes for which support may be provided.—The Corporation, subject to the approval of the Board, may designate private, non-profit organizations as eligible to receive support under this subsection for the following purposes:

(A) To promote development of economic freedom and private sectors, including small- and medium-sized businesses and joint ventures with the United States and host country participants.

(B) To facilitate access to the credit to small- and medium-sized businesses with sound business plans in countries where there is limited means of accessing credit on market terms.
(C) To promote policies and practices conducive to economic freedom and private sector development.

(D) To attract foreign direct investment capital to further promote private sector development and economic freedom.

(E) To complement the work of the United States Agency for International Development and other donors to improve the overall business-enabling environment, financing the creation and expansion of the private business sector.

(F) To make financially sustainable investments designed to generate measurable social benefits and build technical capacity in addition to financial returns.

(4) OPERATION OF FUNDS.—

(A) EXPENDITURES.—Funds made available to an enterprise fund shall be expended at the minimum rate necessary to make timely payments for projects and activities carried out under this subsection.

(B) ADMINISTRATIVE EXPENSES.—Not more than 3 percent of the funds made available to an enterprise fund may be obligated or
expended for the administrative expenses of the enterprise fund.

(5) BOARD OF DIRECTORS.—Each enterprise fund established under this subsection shall be governed by a Board of Directors comprised of private citizens of the United States or the host country, who—

(A) shall be appointed by the President after consultation with the chairmen and ranking members of the appropriate congressional committees; and

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

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

(7) REPORTS.—Not later than one year after the date of the establishment of an enterprise fund under this subsection, and annually thereafter until the enterprise fund terminates in accordance with paragraph (10), the Board of Directors of the enterprise fund shall—
(A) submit to the appropriate congressional committees a report—

(i) detailing the administrative expenses of the enterprise fund during the year preceding the submission of the report;

(ii) describing the operations, activities, financial condition, and accomplishments of the enterprise fund during that year; and

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

(B) publish, on a publicly available internet website of the enterprise fund, each report required by subparagraph (A).

(8) OVERSIGHT.—

(A) INSPECTOR GENERAL PERFORMANCE AUDITS.—

(i) IN GENERAL.—The Inspector General of the Corporation shall conduct periodic audits of the activities of each enterprise fund established under this subsection.
(ii) CONSIDERATION.—In conducting an audit under clause (i), the Inspector General shall assess whether the activities of the enterprise fund—

(I) support the purposes described in paragraph (3);

(II) result in profitable private sector investing; and

(III) generate measurable social benefits.

(B) RECORDKEEPING REQUIREMENTS.—The Corporation shall ensure that each enterprise fund receiving support under this subsection—

(i) keeps separate accounts with respect to such support; and

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

(9) RETURN OF FUNDS TO TREASURY.—Any funds resulting from any liquidation, dissolution, or winding up of an enterprise fund, in whole or in part, shall be returned to the Treasury of the United States.
(10) TERMINATION.—The authority of an enterprise fund to provide support under this subsection shall terminate on the earlier of—
   (A) the date that is 7 years after the date of the first expenditure of amounts from the enterprise fund; or
   (B) the date on which the enterprise fund is liquidated.

(g) SENSE OF CONGRESS.—The Corporation should consider ways to provide technical and other support to facilitate the development of diaspora bonds and other financing mechanisms that consolidate and leverage remittances for development outcomes.

(h) OTHER AUTHORITIES.—The Corporation shall have, in addition to other authorities provided under this section, such authorities as are provided for under the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) and the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) and delegated by the President to the Overseas Private Investment Corporation or an element of the United States Agency for International Development specified in section 603(a)(2) as of the day before the date of the enactment of this Act.
SEC. 202. TERMS AND CONDITIONS.

(a) In General.—Except as provided in subsection (b), support provided by the Corporation under this title shall be on such terms and conditions as the Corporation may prescribe.

(b) Requirements.—The following requirements apply to support provided by the Corporation under this title:

(1) The Corporation shall make a loan or guaranty only if it is necessary—

(A) to alleviate a credit market imperfection; or

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

(2) The final maturity of a loan made or guaranteed by the Corporation shall not exceed the lesser of—

(A) 25 years; or

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

(3) The Corporation shall, with respect to providing any loan guaranty to a project, require that the parties to the loan guaranteed by the Corpora-
tion bear the risk of loss for at least 20 percent of
the guaranteed support by the Corporation in the
project.

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

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

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

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

(B) The Corporation shall set the minimum guarantee fee or insurance premium at a level sufficient to cover the Corporation’s costs for paying all of the estimated costs to the Government of the expected default claims and other obligations.

(C) The Corporation shall review fees for loan guaranties periodically to ensure that the fees assessed on new loan guarantees are at a level sufficient to cover the Corporation’s most recent estimates of its costs.

(8) Any loan guaranty provided by the Corporation shall be conclusive evidence that—

(A) the guaranty has been properly obtained;

(B) the loan qualified for the guaranty; and

(C) but for fraud or material misrepresentation by the holder of the guaranty, the guaranty is presumed to be valid, legal, and enforceable.

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

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

(11) The Corporation may not make loans or
loan guaranties except to the extent that budget au-
thority to cover the costs of the loans or guaranties
is provided in advance in an appropriations Act, as
required by section 504 of the Federal Credit Re-

SEC. 203. PAYMENT OF LOSSES.

(a) PAYMENTS FOR DEFAULTS ON GUARANTEED
LOANS.—

(1) IN GENERAL.—If the Corporation deter-
mines that the holder of a loan guaranteed by the
Corporation suffers a loss as a result of a default by
a borrower on the loan, the Corporation shall pay to
the holder the percent of the loss, as specified in the
guaranty contract after the holder of the loan has
made such further collection efforts and instituted
such enforcement proceedings as the Corporation
may require.
(2) **Subrogation.**—Upon making a payment described in paragraph (1), the Corporation shall ensure the Corporation will be subrogated to all the rights of the recipient of the payment.

(3) **Recovery Efforts.**—The Corporation shall pursue recovery from the borrower of the amount of any payment made under paragraph (1) with respect to the loan.

(b) **Limitation on Payments.**—

(1) **In General.**—Except as provided by paragraph (2), compensation for insurance, reinsurance, or a guaranty issued under this title shall not exceed the dollar value of the insurance, reinsurance, or guaranty, as of the date of its issuance, made in the project with the approval of the Corporation, plus interest, earnings, or profits actually accrued on the insurance, reinsurance, or guaranty, to the extent provided by such insurance, reinsurance, or guaranty.

(2) **Exception.**—

(A) **In General.**—The Corporation may provide that—

(i) appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets; and
(ii) compensation for a claim of loss under insurance of an equity investment under section 201(b) may be computed on the basis of the net book value attributable to the equity investment on the date of loss.

(3) ADDITIONAL LIMITATION.—

(A) IN GENERAL.—Notwithstanding paragraph (2)(A)(ii) and except as provided in subparagraph (B), the Corporation shall limit the amount of direct insurance and reinsurance issued under section 201 with respect to a project so as to require that the insured and its affiliates bear the risk of loss for at least 10 percent of the amount of the Corporation's exposure to that insured and its affiliates in the project.

(B) EXCEPTION.—The limitation under subparagraph (A) shall not apply to direct insurance or reinsurance of loans provided by banks or other financial institutions to unrelated parties.

(e) ACTIONS BY ATTORNEY GENERAL.—The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States as a
result of the issuance of any loan or guarantee under this title.

(d) Rule of Construction.—Nothing in this section shall be construed to preclude any forbearance for the benefit of a borrower that may be agreed upon by the parties to a loan guaranteed by the Corporation if budget authority for any resulting costs to the United States Government (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) is available.

SEC. 204. TERMINATION.

The authorities provided under this title terminate on September 30, 2038.

TITLE III—ADMINISTRATIVE AND GENERAL PROVISIONS

SEC. 301. OPERATIONS.

(a) Bilateral Agreements.—The Corporation may provide support under title II in connection with projects in any country the government of which has entered into an agreement with the United States authorizing the Corporation to provide such support in that country.

(b) Claims Settlement.—

(1) In general.—Claims arising as a result of support provided under title II or under predecessor authority may be settled, and disputes arising as a
result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine.

(2) Settlemen ts conclusi ve.—Payment made pursuant to any settlement pursuant to paragraph (1), or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

(c) Presumption of Compliance.—Each contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this Act.

(d) Electronic Payments and Documents.—The Corporation shall implement policies to accept electronic documents and electronic payments in all of its programs.

SEC. 302. CORPORATE POWERS.

(a) In General.—The Corporation—

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

(2) may make and perform such contracts, including no-cost contracts (as defined by the Corporation), grants, and other agreements notwithstanding division C of subtitle I of title 41, United States Code, with any person or government however des-
designated and wherever situated, as may be necessary
for carrying out the functions of the Corporation;

(3) may determine and prescribe the manner in
which its obligations shall be incurred and its ex-

(4) may lease, purchase, or otherwise acquire,

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

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

(7) may contract with individuals for personal

(8) may hire or obtain passenger motor vehi-

(9) may sue and be sued in its corporate name;
(10) may acquire, hold, or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest in such property, and with respect to lease of office space for the Corporation’s own use, the obligation of amounts for such lease is limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31, United States Code;

(11) may indemnify directors, officers, employees, and agents of the Corporation for liabilities and expenses incurred in connection with their activities on behalf of the Corporation;

(12) notwithstanding any other provision of law, may represent itself or contract for representation in all legal and arbitral proceedings;

(13) may purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and guarantee notes, participation certificates, and other evidence of indebtedness;

(14) may exercise any priority of the Government of the United States in collecting debts from bankrupt, insolvent, or decedents’ estates;

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

(16) may manage assets described in section 3(9) of Public Law 110–343 (12 U.S.C. 5202(9)) in a manner designed to minimize cost to the Corporation, including establishing vehicles that are authorized to purchase, hold, and sell assets and issue obligations;

(17) may make arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions of such governments) or with multilateral organizations or institutions for sharing liabilities;

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

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

(b) Treatment of Property.—Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Corporation shall have the right in its discretion to com-
plete, recondition, reconstruct, renovate, repair, maintain, operate, or sell any property acquired by the Corporation pursuant to the provisions of this Act.

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

(a) In General.—The maximum contingent liability of the Corporation outstanding at any one time shall not exceed in the aggregate the amount specified in subsection (b).

(b) Amount Specified.—

(1) Initial 5-Year Period.—The amount specified in this subsection for the 5-year period beginning on the date of the enactment of this Act, is $60,000,000,000.

(2) Subsequent 5-Year Periods.—Not later than 5 years after the date of the enactment of this Act, and every 5 years thereafter, the amount specified in paragraph (1) shall be adjusted to reflect the percentage of the increase (if any) in the average of the Consumer Price Index during the preceding 5-year period.

(3) Consumer Price Index Defined.—In this subsection, the term “Consumer Price Index” means the most recent Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.
SEC. 304. CORPORATE FUNDS.

(a) Corporate Capital Account.—

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

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

(B) are made available to the Corporation pursuant to subsections (d), (e), and (f), or otherwise available pursuant to this section.

(2) Use of Funds.—Amounts in the Corporate Capital Account shall be available for discharge of liabilities of the Corporation, until such time as all such liabilities have been discharged or have expired or until all of the amounts in the Account have been expended in accordance with the provisions of this section.

(b) Transfer of Previous Fees and Revenue.— There is hereby authorized to be transferred to the Corporation at its call, for the purposes specified in subsection (g), all fees and other revenues collected by the Overseas Private Investment Corporation pursuant to the reorganization plan submitted by the President under section 602.
(c) Full Faith and Credit.—All support provided pursuant to predecessor authorities or title II shall con-
tinue to constitute obligations of the United States, and
the full faith and credit of the United States is hereby
pledged for the full payment and performance of such obli-
gations.

(d) Authorization of Appropriations.—There
are authorized to be appropriated to the Corporation, to
remain available until expended, such amounts as may be
necessary from time to time to replenish or increase the
Corporate Capital Account.

(e) Issuance of Obligations.—

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

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

(3) Repayment.—Any obligation issued under
paragraph (1) shall be repaid to the Treasury of the
United States within one year after the date of issue
of the obligation.
(4) **INTEREST RATE.**—Any obligation issued under paragraph (1) shall bear interest at a rate determined by the Secretary, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection.

(5) **PURCHASE.**—The Secretary shall purchase any obligation of the Corporation issued under paragraph (1), and for such purchase the Secretary may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code. The purpose for which securities may be issued under such chapter shall include any such purchase.

(6) **FUNDING.**—There are hereby authorized to be appropriated to the Secretary for fiscal year 2018 and each fiscal year thereafter such sums as may be necessary to carry out this subsection.

(f) **FEES.**—

(1) **IN GENERAL.**—Fees may be charged for providing services and for transaction costs incurred by the Corporation in amounts to be determined by the Corporation.
(2) USE OF FEES.—All fees under paragraph
(1) paid for transaction costs and other costs associ-
ated with services provided shall be available for ob-
ligation for the purposes for which such fees were
collected.

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

(1) payment of all expenses of the Corporation;

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

(3) payment of dividends on capital stock,
which shall consist of and be paid from net earnings
of the Corporation after payments, transfers, and
additions under paragraphs (1) and (2); and

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

(h) Transaction Costs.—Transaction costs incurred by the Corporation, including such costs relating to loan obligations or loan guarantee commitments covered by the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), shall be held in and paid out of the Corporate Capital Account.

SEC. 305. COORDINATION WITH MILLENNIUM CHALLENGE CORPORATION ON CONSTRAINTS ANALYSIS.

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

TITLE IV—MONITORING, EVALUATION, AND REPORTING

SEC. 401. ESTABLISHMENT OF RISK AND AUDIT COMMITTEES.

(a) In General.—To manage risks such as key strategic, reputational, regulatory, operational, and financial risks the Corporation shall establish a risk committee and an audit committee.
(b) DUTIES AND RESPONSIBILITIES.—Subject to the
direction of the Board, the risk committee established
under subsection (a) shall have the responsibility of—

(1) carrying out independent oversight of the
Corporation;

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

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

SEC. 402. PERFORMANCE MEASURES.

(a) In General.—The Corporation shall develop a
performance measurement system to evaluate and monitor
projects supported by the Corporation under title II and
to guide future projects of the Corporation.

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

(1) develop a successor for the development im-
 pact measurement system used by the Overseas Pri-
 vate Investment Corporation before the date of the
enactment of this Act;
(2) develop a mechanism for ensuring that support provided by the Corporation under title II is in addition to private investment; and

(3) develop standards for, and a method for ensuring, appropriate financial performance of the Corporation’s portfolio.

(e) Public Availability of Certain Information.—The Corporation shall regularly make available to the public information about support provided by the Corporation under title II and performance metrics about such support on a country-by-country basis.

(d) Consultations.—In developing the performance measurement system required by subsection (a), the Corporation shall consult with stakeholders engaged in sustainable economic growth and development outside the United States, including private sector entities and non-governmental and civil society organizations.

SEC. 403. ANNUAL REPORT.

(a) In General.—After the end of each fiscal year, the Corporation shall submit to the appropriate congressional committees a complete and detailed report of its operations during that fiscal year, including an assessment of—
(1) the economic and social development impact and benefits of projects supported by the Corporation under title II; and

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

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

(1) reviews and analysis of—

(A) the desired development outcomes for each project and whether or not the project is meeting the associated metrics, goals, and development objectives in the years following the conclusion of the project; and

(B) the effect of the Corporation’s support for the project on access to capital, specifically whether the project is addressing identifiable market gaps or inefficiencies and what impact, if any, such support will have on access to credit for private sector entities in the country in which the project is carried out;
(2) an explanation of any partnership arrange-
ment or cooperation with a qualifying sovereign enti-
ty in support of each project;

(3) projections of—

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

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

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

SEC. 404. PUBLICLY AVAILABLE PROJECT INFORMATION.

The Corporation shall—

(1) maintain a user-friendly, publicly available,
machine-readable database with detailed country-
level information, including a description of the sup-
port provided by the Corporation under title II; and
(2) include a clear link to information about each project supported by the Corporation under title II on the internet website of the Department of State, “ForeignAssistance.gov”, or a successor website or other online publication.

SEC. 405. AUDITS AND FINANCIAL STATEMENTS OF THE CORPORATION.

(a) Audits.—Subject to subsection (f), an independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Corporation annually, in accordance with generally accepted government auditing standards for a financial and compliance audit, as issued by the Comptroller General of the United States.

(b) Reports on Audits.—The independent certified public accountant who conducts an audit under subsection (a) shall report the results of the audit to the Executive Director of the Corporation and the appropriate congressional committees.

(c) Presentation.—The financial statements of the Corporation and the report required by subsection (b) shall be presented in accordance with generally accepted accounting principles.

(d) Reports to Congress.—Not later than 195 days after the end of the last fiscal year covered by an
audit conducted under subsection (a), the Corporation shall submit to the appropriate congressional committees a report that includes—

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

(2) the financial statements of the Corporation.

(e) Review and Report by the Government Accountability Office.—The Comptroller General may review an audit conducted under subsection (a) and the report to the appropriate congressional committees required by subsection (d) in the manner and at such times as the Comptroller General considers necessary.

(f) Alternative Audits by Government Accountability Office.—Instead of an audit conducted under subsection (a) by a certified public accountant, the Comptroller General shall, if the Comptroller General considers it necessary or upon the request of Congress, audit the financial statements of the Corporation in the manner provided under subsection (a).

(g) Availability of Information.—All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Corporation or the accountant who conducts an audit under subsection (a) that are necessary for purposes of conducting the audit, shall be made available to the Comptroller General and
such employees as the Comptroller General considers approp-
riate.

SEC. 406. ENGAGEMENT WITH INVESTORS.

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

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

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

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

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

(5) pursue projects consistent with the stated
goals of the Department of State and the Strategic
Plan and the Mission Country Development Co-
operation Strategies of the United States Agency for
International Development.
(b) ASSISTANCE.—To achieve the goals described in subsection (a), the Corporation shall—

(1) develop risk mitigation tools;

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

(3) support intermediaries linking capital supply and demand;

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

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

(6) offer strategic planning and programming assistance to catalyze investment into priority sectors;

(7) provide transaction structuring support;

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

(9) partner with private sector entities that provide access to capital and expertise; and

(10) identify and screen new investment partners.
TITLE V—CONDITIONS, RESTRICTIONS, AND PROHIBITIONS

SEC. 501. LIMITATIONS AND PREFERENCES.

(a) LIMITATION ON SUPPORT FOR SINGLE ENTITY.—No entity receiving support from the Corporation under title II may receive more than an amount equal to 5 percent of the Corporation’s maximum contingent liability authorized under section 303.

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

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

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

(A) a United States citizen; or

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

(e) PREFERENCE FOR PROVISION OF SUPPORT IN COUNTRIES IN COMPLIANCE WITH INTERNATIONAL TRADE OBLIGATIONS.—
(1) Consultations with United States Trade Representative.—Not less frequently than annually, the Corporation shall consult with the United States Trade Representative with respect to the status of countries eligible to receive support from the Corporation under title II and the compliance of those countries with their international trade obligations.

(2) Preferential Consideration.—The Corporation shall give preferential consideration to providing support under title II for projects in countries in compliance with or making substantial progress coming into compliance with their international trade obligations.

(d) Worker Rights.—The Corporation should support projects under title II in countries that are taking steps to adopt and implement laws that extend internationally recognized worker rights (as defined in section 507 of the Trade Act of 1974 (19 U.S.C. 2467)) to workers in that country.

(e) Environmental Impact.—The Board shall not vote in favor of any project proposed to be supported by the Corporation under title II that is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented, unless—
(1) before the date of the vote, an environmental impact assessment or initial environmental audit, analyzing the environmental impacts of the proposed project and of alternatives to the proposed project, is completed; and

(2) such assessment or audit has been made available to the public of the United States, locally affected groups in the country in which the project will be carried out, and nongovernmental organizations in that country.

SEC. 502. ADDITIONALITY AND AVOIDANCE OF MARKET DISTORTION.

(a) IN GENERAL.—Before the Corporation provides support for a project under title II, the Corporation shall ensure that private sector entities are afforded an opportunity to support the project instead of the project receiving support from the Corporation.

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

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

(2) operates according to internationally recognized best practices and standards with respect to
ensuring the avoidance of market distorting government subsidies and the crowding out of private sector lending.

SEC. 503. PROHIBITION ON SUPPORT IN SANCTIONED COUNTRIES AND WITH SANCTIONED PERSONS.

(a) In General.—The Corporation is prohibited from providing support under title II in a country the government of which the Secretary of State has determined has repeatedly provided support for acts of international terrorism for purposes of—


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

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

(4) any other provision of law.

(b) Prohibition on Support of Sanctioned Persons.—The Corporation is prohibited from supporting a project under title II that benefits any entity subject to sanctions imposed by the United States.
SEC. 504. PENALTIES FOR MISREPRESENTATION, FRAUD, AND BRIBERY.

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

SEC. 505. MARKET DISPLACEMENT BY STATE-OWNED ENTERPRISES AND MONOPOLIES.

(a) POLICIES WITH RESPECT TO STATE-OWNED ENTERPRISES.—The Corporation shall develop appropriate policies and guidelines to ensure that support provided under title II to a state-owned enterprise, sovereign wealth fund, or a parastatal entity engaged in commercial activities or to a project in which such an entity or fund is participating is provided under appropriate principles of competitive neutrality.

(b) PROHIBITION ON SUPPORT TO MONOPOLIES.—The Corporation may not provide support under title II to private sector entities engaged in monopolistic practices.

(c) STATE-OWNED ENTERPRISE DEFINED.—

(1) IN GENERAL.—In this section, the term “state-owned enterprise” means any enterprise established for a commercial or business purpose that
is directly owned or controlled by one or more governments, including any agency, instrumentality, subdivision, or other unit of government at any level of jurisdiction.

(2) CONTROL; OWNED.—For purposes of paragraph (1):

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

(i) the level of ownership; and

(ii) whether or not the power is exercised.

(B) OWNED.—The term “owned”, with respect to an enterprise, means a majority or controlling interest, whether by value or voting interest, of the shares of that enterprise, including through fiduciaries, agents, or other means.

TITLE VI—TRANSITIONAL PROVISIONS

SEC. 601. DEFINITIONS.

In this title:

(1) AGENCY.—The term “agency” includes any entity, organizational unit, program, or function.
(2) TRANSITION PERIOD.—The term “transition period” means the period—

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

(B) ending on the effective date of the reorganization plan required by section 602(d).

SEC. 602. REORGANIZATION PLAN.

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

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

(2) Any consolidation, reorganization, or streamlining of agencies transferred to the Corporation pursuant to this title.

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

(1) Identification of any functions of agencies transferred to the Corporation pursuant to this title that will not be transferred to the Corporation under the plan.
(2) Specification of the steps to be taken to organize the Corporation, including the delegation or assignment of functions transferred to the Corporation among officers of the Corporation in order to permit the Corporation to carry out the functions transferred under the plan.

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

(4) Specification of the proposed allocations within the Corporation of unexpended funds transferred in connection with transfers under the plan.

(5) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations of agencies transferred under the plan.

(c) Modification of Plan.—The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan until that part of the plan becomes effective in accordance with subsection (d).

(d) Effective Date.—

(1) In General.—The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (e), shall
become effective for an agency on the date specified in the plan (or the plan as modified pursuant to sub-section (c)), except that such date may not be earlier than 90 days after the date the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a).

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

SEC. 603. TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—Effective at the end of the transition period, there shall be transferred to the Corporation the functions, personnel, assets, and liabilities of—

(1) the Overseas Private Investment Corporation, as in existence on the day before the date of the enactment of this Act; and

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

(A) The Development Credit Authority.

(B) The enterprise funds.

(C) The Office of Private Capital and Microenterprise.
(b) **BILATERAL AGREEMENTS.**—Any bilateral agreement of the United States in effect on the date of the enactment of this Act that serves as the basis for programs of the Overseas Private Investment Corporation shall be considered as satisfying the requirements of section 301(a).

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

(1) continue to administer the assets and obligations of those agencies; and

(2) carry out such programs and activities authorized under this Act as may be determined by the President.

**SEC. 604. TERMINATION OF OVERSEAS PRIVATE INVESTMENT CORPORATION AND OTHER SUPERCEDED AUTHORITIES.**

Effective at the end of the transition period—

(1) the Overseas Private Investment Corporation is terminated; and

(2) the following provisions are repealed:

(A) Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.) (other than subsections (g), (l), and (n) of section 237 of that Act).
(B) Subtitle B of title VI of that chapter
(22 U.S.C. 2212).

SEC. 605. TRANSITIONAL AUTHORITIES.

(a) Provision of Assistance by Officials.—
Until the transfer of an agency to the Corporation under
section 603, any official having authority over or functions
relating to the agency immediately before the date of the
enactment of this Act shall provide to the Corporation
such assistance, including the use of personnel and assets,
as the Corporation may request in preparing for the trans-
fer and integration of the agency into the Corporation.

(b) Services and Personnel.—During the transi-
tion period, upon the request of the Corporation, the head
of any executive agency may, on a reimbursable basis, pro-
vide services or detail personnel to assist with the transi-
tion.

(c) Acting Officials.—

(1) In general.—During the transition pe-
period, pending the advice and consent of the Senate
to the appointment of an officer required by this Act
to be appointed by and with such advice and con-
sent, the President may designate any officer whose
appointment was required to be made by and with
such advice and consent and who was such an officer
immediately before the date of the enactment of this
Act (and who continues in office) or immediately before such designation, to act in such office until the same is filled as provided in this Act. While so acting, such officers shall receive compensation at the higher of—

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

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

(2) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to require the advice and consent of the Senate to the appointment by the President to a position in the Corporation of any officer whose agency is transferred to the Corporation pursuant to this title and whose duties following such transfer are germane to those performed before such transfer.

(d) TRANSFER OF PERSONNEL, ASSETS, OBLIGATIONS, AND FUNCTIONS.—Upon the transfer of an agency to the Corporation under section 603—

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

(2) the Corporation shall have all functions—

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

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

SEC. 606. SAVINGS PROVISIONS.

(a) COMPLETED ADMINISTRATIVE ACTIONS.—

(1) IN GENERAL.—Completed administrative actions of an agency shall not be affected by the enactment of this Act or the transfer of such agency to the Corporation under section 603, but shall continue in effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(2) COMPLETED ADMINISTRATIVE ACTION DEFINED.—In this subsection, the term “completed administrative action” includes orders, determinations, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges.
(b) Pending Proceedings.—

(1) In general.—Pending proceedings in an agency, including notices of proposed rulemaking, and applications for licenses, permits, certificates, grants, and financial assistance, shall continue notwithstanding the enactment of this Act or the transfer of the agency to the Corporation, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance could have occurred if such enactment or transfer had not occurred.

(2) Orders.—Orders issued in proceedings described in paragraph (1), and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner and on the same terms as if this Act had not been enacted or the agency had not been transferred, and any such orders shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(c) Pending Civil Actions.—Pending civil actions shall continue notwithstanding the enactment of this Act or the transfer of an agency to the Corporation, and in such civil actions, proceedings shall be had, appeals taken,
and judgments rendered and enforced in the same manner
and with the same effect as if such enactment or transfer
had not occurred.

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

(e) EMPLOYMENT PROVISIONS.—

(1) REGULATIONS.—The Corporation may, in
regulations prescribed jointly with the Director of
the Office of Personnel Management, adopt the
rules, procedures, terms, and conditions, established
by statute, rule, or regulation before the date of the
enactment of this Act, relating to employment in any
agency transferred to the Corporation under section
603.
(2) Effect of transfer on conditions of employment.—Except as otherwise provided in this Act, or under authority granted by this Act, the transfer pursuant to this title of personnel shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

(f) Statutory Reporting Requirements.—Any statutory reporting requirement that applied to an agency transferred to the Corporation under this title immediately before the date of the enactment of this Act shall continue to apply following that transfer if the statutory requirement refers to the agency by name.

SEC. 607. OTHER TERMINATIONS.

Except as otherwise provided in this Act, whenever all the functions vested by law in any agency have been transferred pursuant to this title, each position and office the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule under subchapter II of chapter 53 of title 5, United States Code, shall terminate.

SEC. 608. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, in consultation with the Corporation, is authorized and
directed to make such additional incidental dispositions of personnel, assets, and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this title, as the Director may determine necessary to accomplish the purposes of this Act.

SEC. 609. REFERENCE.

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

SEC. 610. CONFORMING AMENDMENTS.

(a) EXEMPT PROGRAMS.—Section 255(g) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)) is amended by striking “Overseas Private Investment Corporation, Noncredit Account (71–4184–0–3–151).” and inserting “United States International Development Finance Corporation.”.

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

(1) in section 5314, by striking “President, Overseas Private Investment Corporation.”;
(2) in section 5315, by striking “Executive Vice President, Overseas Private Investment Corporation.”; and

(3) in section 5316, by striking “Vice Presidents, Overseas Private Investment Corporation (3).”.

(e) Office of International Trade of the Small Business Administration.—Section 22 of the Small Business Act (15 U.S.C. 649) is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by striking “the President of the Overseas Private Investment Corporation, Director” and inserting “the Board of Directors of the United States International Development Finance Corporation, the Director”; and

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


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(f) **Interagency Trade Data Advisory Committee.**—Section 5402(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4902(b)) is amended by striking “the President of the Overseas Private Investment Corporation” and inserting “the Chief Executive Officer of the United States International Development Finance Corporation”.

(g) **Misuse of Names of Federal Agencies.**—Section 709 of title 18, United States Code, is amended by striking “‘Overseas Private Investment’, ‘Overseas Private Investment Corporation’, or ‘OPIC’,” and inserting “‘United States International Development Finance Corporation’ or ‘DFC’”.

(h) **Engagement on Currency Exchange Rate and Economic Policies.**—Section 701(c)(1)(A) of the Trade Facilitation and Trade Enforcement Act of 2015 (19 U.S.C. 4421(c)(1)(A)) is amended by striking “Overseas Private Investment Corporation” and inserting
“United States International Development Finance Corporation”.


(j) Foreign Assistance Act of 1961.—The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended—

(1) in section 449B(b)(2) (22 U.S.C. 2296b(b)(2)), by striking “Overseas Private Investment Corporation” and inserting “United States International Development Finance Corporation”; and

(2) in section 481(e)(4)(A) (22 U.S.C. 2291(e)(4)(A)), in the matter preceding clause (i), by striking “(including programs under title IV of chapter 2, relating to the Overseas Private Investment Corporation)” and inserting “(and any support under title II of the Better Utilization of Investments Leading to Development Act of 2018, relating to the United States International Development Finance Corporation)”.

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

(l) **FOREIGN AID TRANSPARENCY AND ACCOUNTABILITY ACT OF 2016.**—Section 2(3) of the Foreign Aid Transparency and Accountability Act of 2016 (Public Law 114–191; 22 U.S.C. 2394c note) is amended bystriking subparagraph (A) and inserting the following:

“(A) title II of the Better Utilization of Investments Leading to Development Act of 2018;”.

(m) **SUPPORT FOR EAST EUROPEAN DEMOCRACY (SEED) PROGRAM.**—Section 2(e) of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401(c)) is amended by striking paragraph (12) and inserting the following:

“(12) UNITED STATES INTERNATIONAL DEVELOPMENT FINANCE CORPORATION.—Programs of the United States International Development Finance Corporation.”.

(n) **CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY (LIBERTAD) ACT OF 1996.**—Section 202(b)(2)(B)(iv)
of the Cuban Liberty and Democratic Solidarity
is amended by striking "Overseas Private Investment Cor-
poration" and inserting "United States International De-
velopment Finance Corporation".

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

(p) TRAFFICKING VICTIMS PROTECTION ACT OF
2000.—Section 103(8) of the Trafficking Victims Protec-
tion Act of 2000 (22 U.S.C. 7102(8)) is amended—
(1) in clause (vii), by striking the semicolon and
inserting "; and"; and
(2) by striking clause (viii).

(q) TECHNOLOGY DEPLOYMENT IN DEVELOPING
COUNTRIES.—Section 732(b) of the Global Environmental
Protection Assistance Act of 1989 (22 U.S.C. 7902(b))
is amended by striking "Overseas Private Investment Cor-
poration" and inserting "United States International De-
velopment Finance Corporation".
(r) Expanded Nonmilitary Assistance for Ukraine.—Section 7(c)(3) of the Ukraine Freedom Support Act of 2014 (22 U.S.C. 8926(c)(3)) is amended—

(1) in the matter preceding subparagraph (A), by striking “Overseas Private Investment Corporation” and inserting “United States International Development Finance Corporation”; and

(2) in subparagraph (B), by striking “by eligible investors (as defined in section 238 of the Foreign Assistance Act of 1961 (22 U.S.C. 2198))”.


(u) Wholly Owned Government Corporation.—Section 9101(3) of title 31, United States Code, is amended by striking “Overseas Private Investment Cor-
poration” and inserting “United States International De-
velopment Finance Corporation”.

(v) Energy Independence and Security Act of
2007.—Title IX of the Energy Independence and Security
Act of 2007 (42 U.S.C. 17321 et seq.) is amended—

(1) in section 914 (42 U.S.C. 17334)—

(A) in the section heading, by striking

“OVERSEAS PRIVATE INVESTMENT COR-
PORATION” and inserting “UNITED STATES
INTERNATIONAL DEVELOPMENT FINANCE
CORPORATION”;

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

(C) in subsection (b), in the matter pre-
ceding paragraph (1), by striking “Overseas
Private Investment Corporation shall include in
its annual report required under section 240A
of the Foreign Assistance Act of 1961 (22
U.S.C. 2200a)” and inserting “United States
International Development Finance Corporation
shall include in its annual report required under
section 403 of the Better Utilization of Invest-
ments Leading to Development Act of 2018”;

and


(w) Effective Date.—The amendments made by this section shall take effect at the end of the transition period.