

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 5105  
OFFERED BY MR. ROYCE OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

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

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

5 (b) TABLE OF CONTENTS.—The table of contents for  
6 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 other development agencies.

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. 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.

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 Termination of Overseas Private Investment Corporation and other superceded authorities.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:

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

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

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

12 (2) LESS DEVELOPED COUNTRY.—The term  
13 “less developed country” means a country with a

1 low-income economy, lower-middle-income economy,  
2 or upper-middle-income economy, as defined by the  
3 International Bank for Reconstruction and Develop-  
4 ment and the International Development Association  
5 (collectively referred to as the “World Bank”).

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7 “predecessor authority” means authorities repealed  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

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

11 (A) any agency or instrumentality of a for-  
12 eign state (as defined in section 1603 of title  
13 28, United States Code) that has a purpose  
14 that is similar to the purpose of the Corpora-  
15 tion as described in section 102(b); and

16 (B) any international financial institution  
17 (as defined in section 1701(c) of the Inter-  
18 national Financial Institutions Act (22 U.S.C.  
19 262r(c))).

## 20 **TITLE I—ESTABLISHMENT**

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

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

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

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

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

13          (4) to achieve clearly defined economic and so-  
14          cial development outcomes;

15          (5) to coordinate with institutions with pur-  
16          poses similar to the purposes of the Corporation to  
17          leverage resources of those institutions to produce  
18          the greatest impact;

19          (6) to provide countries a robust alternative to  
20          state-directed investments by authoritarian govern-  
21          ments and United States strategic competitors using  
22          high standards of transparency, environmental and  
23          social safeguards, and which take into account the  
24          debt sustainability of partner countries;

1           (7) to leverage private sector capabilities and  
2 innovative development tools to help countries cur-  
3 rently receiving United States assistance to transi-  
4 tion from their status as recipients of traditional  
5 forms of assistance in order to decrease their reli-  
6 ance on such assistance over time;

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

11 **SEC. 102. UNITED STATES INTERNATIONAL DEVELOPMENT**  
12 **FINANCE CORPORATION.**

13       (a) ESTABLISHMENT.—There is established in the  
14 Executive branch the United States International Devel-  
15 opment Finance Corporation (in this Act referred to as  
16 the “Corporation”), which shall be a wholly owned Gov-  
17 ernment corporation (as defined in section 9101 of title  
18 31, United States Code) under the foreign policy guidance  
19 of the Secretary of State.

20       (b) PURPOSE.—The purpose of the Corporation shall  
21 be to mobilize and facilitate the participation of private  
22 sector capital and skills in the economic development of  
23 less developed countries, as described in subsection (c),  
24 and countries in transition from nonmarket to market  
25 economies, in order to complement the development assist-

1   ance objectives, and advance the foreign policy interests,  
2   of the United States. In carrying out its purpose, the Cor-  
3   poration, utilizing broad criteria, shall take into account  
4   in its financing operations the economic and financial  
5   soundness of projects for which it provides support under  
6   title II.

7       (c) **LESS DEVELOPED COUNTRY FOCUS.**—

8           (1) **IN GENERAL.**—The Corporation shall  
9       prioritize the provision of support under title II in  
10      less developed countries with a low-income economy  
11      or a lower-middle-income economy.

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

16           (A) the President certifies to the appro-  
17      priate congressional committees that such sup-  
18      port furthers the national economic or foreign  
19      policy interests of the United States; and

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

23   **SEC. 103. MANAGEMENT OF CORPORATION.**

24          (a) **STRUCTURE OF CORPORATION.**—There shall be  
25      in the Corporation a Board of Directors (in this Act re-

1 ferred to as the “Board”), a Chief Executive Officer, a  
2 Deputy Chief Executive Officer, a Chief Risk Officer,  
3 Chief Development Officer, and such other officers as the  
4 Board may determine.

5 (b) BOARD OF DIRECTORS.—

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

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

11 (B) may prescribe, amend, and repeal by-  
12 laws, rules, regulations, policies, and procedures  
13 governing the manner in which the business of  
14 the Corporation may be conducted and in which  
15 the powers granted to the Corporation by law  
16 may be exercised; and

17 (C) shall develop, in consultation with  
18 stakeholders and other interested parties, a  
19 publicly-available policy with respect to con-  
20 sultations, hearings, and other forms of engage-  
21 ment in order to provide for meaningful public  
22 participation in the Board’s activities.

23 (2) MEMBERSHIP OF BOARD.—

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

1 (i) the Chief Executive Officer of the  
2 Corporation;

3 (ii) the officers specified in subpara-  
4 graph (B); and

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

9 (I) one individual should be ap-  
10 pointed from among a list of at least  
11 five individuals submitted by the ma-  
12 jority leader of the Senate after con-  
13 sultation with the chairman of the  
14 Committee on Foreign Relations of  
15 the Senate;

16 (II) one individual should be ap-  
17 pointed from among a list of at least  
18 five individuals submitted by the mi-  
19 nority leader of the Senate after con-  
20 sultation with the ranking member of  
21 the Committee on Foreign Relations  
22 of the Senate;

23 (III) one individual should be ap-  
24 pointed from among a list of at least  
25 five individuals submitted by the



1 Speaker of the House of Representa-  
2 tives after consultation with the chair-  
3 man of the Committee on Foreign Af-  
4 fairs of the House of Representatives;  
5 and

6 (IV) one individual should be ap-  
7 pointed from among a list of at least  
8 five individuals submitted by the mi-  
9 nority leader of the House of Rep-  
10 resentatives after consultation with  
11 the ranking member of the Committee  
12 on Foreign Affairs of the House of  
13 Representatives.

14 (B) OFFICERS SPECIFIED.—

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

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

19 (II) The Administrator of the  
20 United States Agency for Inter-  
21 national Development or a designee of  
22 the Administrator.

23 (III) The Secretary of the Treas-  
24 ury or a designee of the Secretary.

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

3 (ii) REQUIREMENTS FOR DES-  
4 IGNEES.—A designee under clause (i) shall  
5 be selected from among officers—

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

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

11 (III) who is designated by and  
12 serving at the pleasure of the Presi-  
13 dent.

14 (C) REQUIREMENTS FOR NON-GOVERN-  
15 MENT MEMBERS.—A member of the Board de-  
16 scribed in subparagraph (A)(iii)—

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

19 (ii) shall have relevant experience to  
20 carry out the purposes of the Corporation;

21 (iii) shall be appointed for a term of  
22 3 years and may be reappointed for one  
23 additional term;

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

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

6 (vi) may be paid per diem in lieu of  
7 subsistence at the applicable rate under  
8 the Federal Travel Regulation under sub-  
9 title F of title 41, Code of Federal Regula-  
10 tions, from time to time, while away from  
11 the home or usual place of business of the  
12 member.

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

17 (4) VICE CHAIRPERSON.—The Administrator of  
18 the United States Agency for International Develop-  
19 ment, or the designee of the Administrator under  
20 paragraph (2)(B)(i)(II), shall serve as the Vice  
21 Chairperson of the Board.

22 (5) QUORUM.—Five members of the Board  
23 shall constitute a quorum for the transaction of  
24 business by the Board.

25 (c) PUBLIC HEARINGS.—

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

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

7                   (B) any support provided by the Corpora-  
8 tion under title II in any country should have  
9 been or should be extended.

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

16 (d) CHIEF EXECUTIVE OFFICER.—

17           (1) APPOINTMENT.—There shall be in the Cor-  
18 poration a Chief Executive Officer, who shall be ap-  
19 pointed by the President, by and with the advice and  
20 consent of the Senate, and who shall serve at the  
21 pleasure of the President.

22           (2) AUTHORITIES AND DUTIES.—The Chief Ex-  
23 ecutive Officer shall be responsible for the manage-  
24 ment of the Corporation and shall exercise the pow-  
25 ers and discharge the duties of the Corporation sub-

1       ject to the bylaws, rules, regulations, and procedures  
2       established by the Board.

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

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

9           “Chief Executive Officer, United States Inter-  
10      national Development Finance Corporation.”.

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

16      (f) CHIEF RISK OFFICER.—

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

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

23           (B) shall be removable only by a majority  
24      vote of the Board.

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

8           (g) CHIEF DEVELOPMENT OFFICER.—

9           (1) APPOINTMENT.—Subject to the approval of  
10          the Board, the Chief Executive Officer shall appoint  
11          a Chief Development Officer, from among individ-  
12          uals with experience in development, who—

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

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

16          (2) DUTIES.—The Chief Development Officer  
17          shall—

18                 (A) coordinate the Corporation's develop-  
19          ment policies and implementation efforts with  
20          the United States Agency for International De-  
21          velopment, the Millennium Challenge Corpora-  
22          tion, and other relevant United State Govern-  
23          ment departments and agencies, including di-  
24          rectly liaising with missions of the United  
25          States Agency for International Development,

1 to ensure that departments, agencies, and mis-  
2 sions have training, awareness, and access to  
3 the Corporation's tools in relation to develop-  
4 ment policy and projects in countries;

5 (B) under the guidance of the Chief Exec-  
6 utive Officer, manage employees of the Cor-  
7 poration that are dedicated to structuring, mon-  
8 itoring and evaluating transactions and projects  
9 co-designed with the United States Agency for  
10 International Development and other relevant  
11 United State Government departments and  
12 agencies;

13 (C) authorize and coordinate transfers of  
14 funds or other resources to and from such  
15 agencies, departments, or missions upon the  
16 concurrence of those institutions in support of  
17 the Corporation's projects or activities; and

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

20 (h) OFFICERS AND EMPLOYEES.—

21 (1) IN GENERAL.—Except as otherwise pro-  
22 vided in this section, officers, employees, and agents  
23 shall be selected and appointed by the Corporation,  
24 and shall be vested with such powers and duties as  
25 the Corporation may determine.

1           (2) ADMINISTRATIVELY DETERMINED EMPLOY-  
2       EES.—

3           (A) APPOINTMENT; COMPENSATION; RE-  
4       MOVAL.—Of officers and employees employed  
5       by the Corporation under paragraph (1), not to  
6       exceed 50 may be appointed, compensated, or  
7       removed without regard to title 5, United  
8       States Code.

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

17          (C) ADDITIONAL POSITIONS.—Positions  
18      authorized by subparagraph (A) shall be in ad-  
19      dition to those otherwise authorized by law, in-  
20      cluding positions authorized under section 5108  
21      of title 5, United States Code.

22          (D) RATES OF PAY FOR OFFICERS AND  
23      EMPLOYEES.—The Corporation may set and  
24      adjust rates of basic pay for officers and em-  
25      ployees appointed under subparagraph (A)



1 without regard to the provisions of chapter 51  
2 or subchapter III of chapter 53 of title 5,  
3 United States Code, relating to classification of  
4 positions and General Schedule pay rates, re-  
5 spectively.

6 (3) LIABILITY OF EMPLOYEES.—

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

15 (B) RULE OF CONSTRUCTION.—Subpara-  
16 graph (A) shall not be construed to limit per-  
17 sonal liability of an individual for criminal acts  
18 or omissions, willful or malicious misconduct,  
19 acts or omissions for private gain, or any other  
20 acts or omissions outside the scope of the indi-  
21 vidual's employment.

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

24 (i) to affect—

1 (I) any other immunities and  
2 protections that may be available to  
3 an individual described in subpara-  
4 graph (A) under applicable law with  
5 respect to a transaction described in  
6 that subparagraph; or

7 (II) any other right or remedy  
8 against the Corporation, against the  
9 United States under applicable law, or  
10 against any person other than an indi-  
11 vidual described in subparagraph (A)  
12 participating in such a transaction; or

13 (ii) to limit or alter in any way the  
14 immunities that are available under appli-  
15 cable law for Federal officers and employ-  
16 ees not described in this paragraph.

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

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

21 **TITLE II—AUTHORITIES**

22 **SEC. 201. AUTHORITIES RELATING TO PROVISION OF SUP-**  
23 **PORT.**

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

1           (1) carry out of the policy of the United States  
2           in section 101 and the purpose of the Corporation  
3           in section 102;

4           (2) mitigate risks to United States taxpayers by  
5           sharing risks with the private sector and qualifying  
6           sovereign entities through co-financing and struc-  
7           turing of tools; and

8           (3) ensure that support provided under this  
9           title is additional to private sector resources by mo-  
10          bilizing private capital that would otherwise not be  
11          deployed without such support.

12          (b) LENDING AND GUARANTIES.—

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

16           (2) DENOMINATION.—Loans and guaranties  
17           issued under paragraph (1) may be denominated and  
18           repayable in United States dollars or foreign cur-  
19           rencies. Foreign currency denominated loans and  
20           guaranties should only be provided if the Board de-  
21           termines there is a substantive policy rationale for  
22           such loans and guaranties.

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

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

3       (c) EQUITY INVESTMENTS.—

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

14          (2) DENOMINATION.—Support provided under  
15      paragraph (1) may be denominated and repayable in  
16      United States dollars or foreign currency. Foreign  
17      currency denominated support provided by para-  
18      graph (1) should only be provided if the Board de-  
19      termines there is a substantive policy rationale for  
20      such support.

21          (3) GUIDELINES AND CRITERIA.—The Corpora-  
22      tion shall develop guidelines and criteria to require  
23      that the use of the authority provided by paragraph  
24      (1) with respect to a project has a clearly defined

1 development and foreign policy rationale, taking into  
2 account the following objectives:

3 (A) The support for the project would be  
4 more likely than not to substantially reduce or  
5 overcome the effect of an identified market fail-  
6 ure in the country in which the project is car-  
7 ried out.

8 (B) The project would not have proceeded  
9 or would have been substantially delayed with-  
10 out the support.

11 (C) The support will meaningfully con-  
12 tribute to transforming local conditions to pro-  
13 mote the development of markets.

14 (D) The support can be shown to be  
15 aligned with commercial partner incentives.

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

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

21 (4) LIMITATIONS ON EQUITY INVESTMENTS.—

22 (A) PER PROJECT LIMIT.—The aggregate  
23 amount of support provided under this sub-  
24 section with respect to any project shall not ex-  
25 ceed 30 percent of the aggregate amount of all

1 equity investment made from any source to the  
2 project at the time that the Corporation ap-  
3 proves support of the project.

4 (B) TOTAL LIMIT.—Support provided pur-  
5 suant to this subsection shall be limited to not  
6 more than 35 percent of the Corporation’s ag-  
7 gregate exposure on the date that such support  
8 is provided.

9 (5) SALES AND LIQUIDATION OF POSITION.—  
10 The Corporation shall seek to sell and liquidate any  
11 support for a project provided under this subsection  
12 as soon as commercially feasible, commensurate with  
13 other similar investors in the project and taking into  
14 consideration the national security interests of the  
15 United States.

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

19 (d) INSURANCE AND REINSURANCE.—The Corpora-  
20 tion may issue insurance or reinsurance, upon such terms  
21 and conditions as the Corporation may determine, to pri-  
22 vate sector entities and qualifying sovereign entities assur-  
23 ing protection of their investments in whole or in part  
24 against any or all political risks such as currency incon-  
25 vertibility and transfer restrictions, expropriation, war,

1 terrorism, and civil disturbance, breach of contract, or  
2 non-honoring of financial obligations.

3 (e) PROMOTION OF AND SUPPORT FOR PRIVATE IN-  
4 VESTMENT OPPORTUNITIES.—

5 (1) IN GENERAL.—In order to carry out the  
6 purposes of the Corporation described in section  
7 102(b), the Corporation may initiate and support,  
8 through financial participation, incentive grant, or  
9 otherwise, and on such terms and conditions as the  
10 Corporation may determine, feasibility studies for  
11 the planning, development, and management of, and  
12 procurement for, potential bilateral and multilateral  
13 development projects eligible for support under this  
14 title, including training activities undertaken in con-  
15 nection with such projects, for the purpose of pro-  
16 moting investment in such projects and the identi-  
17 fication, assessment, surveying, and promotion of  
18 private investment opportunities, utilizing wherever  
19 feasible and effective, the facilities of private inves-  
20 tors.

21 (2) CONTRIBUTIONS TO COSTS.—The Corpora-  
22 tion shall, to the maximum extent practicable, re-  
23 quire any person receiving funds under the authori-  
24 ties of this subsection to—

1 (A) share the costs of feasibility studies  
2 and other project planning services funded  
3 under this subsection; and

4 (B) reimburse the Corporation those funds  
5 provided under this section, if the person suc-  
6 ceeds in project implementation.

7 (f) SPECIAL PROJECTS AND PROGRAMS.—The Cor-  
8 poration may administer and manage special projects and  
9 programs in support of specific transactions undertaken  
10 by the Corporation, including programs of financial and  
11 advisory support that provide private technical, profes-  
12 sional, or managerial assistance in the development of  
13 human resources, skills, technology, capital savings, and  
14 intermediate financial and investment institutions and co-  
15 operatives and including the initiation of incentives,  
16 grants, and studies for renewable energy, microenterprise  
17 households, and other small business activities.

18 (g) ENTERPRISE FUNDS.—

19 (1) IN GENERAL.—The Corporation may estab-  
20 lish and operate enterprise funds in accordance with  
21 this subsection.

22 (2) PROCEDURES AND REQUIREMENTS.—The  
23 provisions of section 201 of the Support for East  
24 European Democracy (SEED) Act of 1989 (22  
25 U.S.C. 5421) (other than the provisions of sub-



1 sections (a), (b), (c), (d)(1), (d)(3), (e), (f), and (j)  
2 of that section), shall be deemed to apply with re-  
3 spect to any enterprise fund established by the Cor-  
4 poration under this subsection and to funds made  
5 available to any such enterprise fund in the same  
6 manner and to the same extent as such provisions  
7 apply with respect to enterprise funds established  
8 pursuant to such section 201 or to funds made avail-  
9 able to enterprise funds established under that sec-  
10 tion.

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

16 (A) To promote development of economic  
17 freedom and private sectors, including small-  
18 and medium-sized enterprises and joint ven-  
19 tures with the United States and host country  
20 participants.

21 (B) To facilitate access to the credit to  
22 small- and medium-sized enterprises with sound  
23 business plans in countries where there is lim-  
24 ited means of accessing credit on market terms.

1 (C) To promote policies and practices con-  
2 ducive to economic freedom and private sector  
3 development.

4 (D) To attract foreign direct investment  
5 capital to further promote private sector devel-  
6 opment and economic freedom.

7 (E) To complement the work of the United  
8 States Agency for International Development  
9 and other donors to improve the overall busi-  
10 ness-enabling environment, financing the cre-  
11 ation and expansion of the private business sec-  
12 tor.

13 (F) To make financially sustainable invest-  
14 ments designed to generate measurable social  
15 benefits and build technical capacity in addition  
16 to financial returns.

17 (4) OPERATION OF FUNDS.—

18 (A) EXPENDITURES.—Funds made avail-  
19 able to an enterprise fund shall be expended at  
20 the minimum rate necessary to make timely  
21 payments for projects and activities carried out  
22 under this subsection.

23 (B) ADMINISTRATIVE EXPENSES.—Not  
24 more than 3 percent of the funds made avail-  
25 able to an enterprise fund may be obligated or

1           expended for the administrative expenses of the  
2           enterprise fund.

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

8                   (A) shall be appointed by the President  
9                   after consultation with the chairmen and rank-  
10                  ing members of the appropriate congressional  
11                  committees; and

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

16           (6) MAJORITY MEMBER REQUIREMENT.—The  
17           majority of the members of the Board of Directors  
18           shall be United States citizens who shall have rel-  
19           evant experience relating to the purposes described  
20           in paragraph (3).

21           (7) REPORTS.—Not later than one year after  
22           the date of the establishment of an enterprise fund  
23           under this subsection, and annually thereafter until  
24           the enterprise fund terminates in accordance with

1 paragraph (10), the Board of Directors of the enter-  
2 prise fund shall—

3 (A) submit to the appropriate congress-  
4 sional committees a report—

5 (i) detailing the administrative ex-  
6 penses of the enterprise fund during the  
7 year preceding the submission of the re-  
8 port;

9 (ii) describing the operations, activi-  
10 ties, engagement with civil society and rel-  
11 evant local private sector entities, develop-  
12 ment objectives and outcomes, financial  
13 condition, and accomplishments of the en-  
14 terprise fund during that year;

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

18 (iv) describing how audits conducted  
19 under paragraph (8) are informing the op-  
20 erations and activities of the enterprise  
21 fund; and

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

25 (8) OVERSIGHT.—

1 (A) INSPECTOR GENERAL PERFORMANCE  
2 AUDITS.—

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

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

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

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

16 (III) generate measurable social  
17 benefits.

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

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

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

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

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

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

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

17 **SEC. 202. TERMS AND CONDITIONS.**

18 (a) IN GENERAL.—Except as provided in subsection  
19 (b), support provided by the Corporation under this title  
20 shall be on such terms and conditions as the Corporation  
21 may prescribe.

22 (b) REQUIREMENTS.—The following requirements  
23 apply to support provided by the Corporation under this  
24 title:

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

3                   (A) to alleviate a credit market imperfec-  
4           tion; or

5                   (B) to achieve specified development or  
6           foreign policy objectives of the United States  
7           Government by providing support in the most  
8           efficient way to meet those objectives on a case-  
9           by-case basis.

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

13                   (A) 25 years; or

14                   (B) debt servicing capabilities of the  
15          project to be financed by the loan (as deter-  
16          mined by the Corporation).

17          (3) The Corporation shall, with respect to pro-  
18          viding any loan guaranty to a project, require the  
19          parties to the loan guaranteed by the Corporation to  
20          bear the risk of loss for at least 20 percent of the  
21          guaranteed support by the Corporation in the  
22          project.

23          (4) The Corporation may not make or guar-  
24          antee a loan unless the Corporation determines that  
25          the borrower or lender is responsible and that ade-

1       quate provision is made for servicing the loan on  
2       reasonable terms and protecting the financial inter-  
3       est of the United States.

4           (5) The interest rate for direct loans and inter-  
5       est supplements on guaranteed loans shall be set by  
6       reference to a benchmark interest rate (yield) on  
7       marketable Treasury securities or other widely rec-  
8       ognized or appropriate benchmarks with a similar  
9       maturity to the loans being made or guaranteed, as  
10      determined in consultation with the Director of the  
11      Office of Management and Budget and the Secretary  
12      of the Treasury. The Corporation shall establish ap-  
13      propriate minimum interest rates for loans, guaran-  
14      tees, and other instruments as necessary.

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

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

23           (B) The Corporation shall review fees for loan  
24      guaranties periodically to ensure that the fees as-  
25      sessed on new loan guarantees are at a level suffi-



1       cient to cover the Corporation's most recent esti-  
2       mates of its costs.

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

5           (A) the guaranty has been properly ob-  
6       tained;

7           (B) the loan qualified for the guaranty;  
8       and

9           (C) but for fraud or material misrepresen-  
10       tation by the holder of the guaranty, the guar-  
11       anty is presumed to be valid, legal, and enforce-  
12       able.

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

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

23       (11) The Corporation shall rely upon specific  
24       standards to assess the developmental and strategic  
25       value of projects for which it provides support and

1       should only provide the minimum level of support  
2       necessary in order to support such projects.

3               (12) Any loan or loan guaranty made by the  
4       Corporation should be provided on a senior basis or  
5       pari passu with other senior debt unless there is a  
6       substantive policy rationale to provide such support  
7       otherwise.

8       **SEC. 203. PAYMENT OF LOSSES.**

9       (a) PAYMENTS FOR DEFAULTS ON GUARANTEED  
10      LOANS.—

11              (1) IN GENERAL.—If the Corporation deter-  
12      mines that the holder of a loan guaranteed by the  
13      Corporation suffers a loss as a result of a default by  
14      a borrower on the loan, the Corporation shall pay to  
15      the holder the percent of the loss, as specified in the  
16      guaranty contract after the holder of the loan has  
17      made such further collection efforts and instituted  
18      such enforcement proceedings as the Corporation  
19      may require.

20              (2) SUBROGATION.—Upon making a payment  
21      described in paragraph (1), the Corporation shall en-  
22      sure the Corporation will be subrogated to all the  
23      rights of the recipient of the payment.

24              (3) RECOVERY EFFORTS.—The Corporation  
25      shall pursue recovery from the borrower of the

1 amount of any payment made under paragraph (1)  
2 with respect to the loan.

3 (b) LIMITATION ON PAYMENTS.—

4 (1) IN GENERAL.—Except as provided by para-  
5 graph (2), compensation for insurance, reinsurance,  
6 or a guaranty issued under this title shall not exceed  
7 the dollar value of the tangible or intangible con-  
8 tributions or commitments made in the project, plus  
9 interest, earnings, or profits actually accrued on  
10 such contributions or commitments, to the extent  
11 provided by such insurance, reinsurance, or guar-  
12 anty.

13 (2) EXCEPTION.—

14 (A) IN GENERAL.—The Corporation may  
15 provide that—

16 (i) appropriate adjustments in the in-  
17 sured dollar value be made to reflect the  
18 replacement cost of project assets; and

19 (ii) compensation for a claim of loss  
20 under insurance of an equity investment  
21 under section 201(b) may be computed on  
22 the basis of the net book value attributable  
23 to the equity investment on the date of  
24 loss.

25 (3) ADDITIONAL LIMITATION.—

1           (A) IN GENERAL.—Notwithstanding para-  
2           graph (2)(A)(ii) and except as provided in sub-  
3           paragraph (B), the Corporation shall limit the  
4           amount of direct insurance and reinsurance  
5           issued under section 201 with respect to a  
6           project so as to require that the insured and its  
7           affiliates bear the risk of loss for at least 10  
8           percent of the amount of the Corporation’s ex-  
9           posure to that insured and its affiliates in the  
10          project.

11          (B) EXCEPTION.—The limitation under  
12          subparagraph (A) shall not apply to direct in-  
13          surance or reinsurance of loans provided by  
14          banks or other financial institutions to unre-  
15          lated parties.

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

21          (d) RULE OF CONSTRUCTION.—Nothing in this sec-  
22          tion shall be construed to preclude any forbearance for the  
23          benefit of a borrower that may be agreed upon by the par-  
24          ties to a loan guaranteed by the Corporation if budget au-  
25          thority for any resulting costs to the United States Gov-

1 ernment (as defined in section 502 of the Federal Credit  
2 Reform Act of 1990 (2 U.S.C. 661a)) is available.

3 **SEC. 204. TERMINATION.**

4 (a) **IN GENERAL.**—The authorities provided under  
5 this title terminate on the date that is 7 years after the  
6 date of the enactment of this Act.

7 (b) **TERMINATION OF CORPORATION.**—The Corpora-  
8 tion shall terminate on the date on which the portfolio of  
9 the Corporation is liquidated.

10 **TITLE III—ADMINISTRATIVE**  
11 **AND GENERAL PROVISIONS**

12 **SEC. 301. OPERATIONS.**

13 (a) **BILATERAL AGREEMENTS.**—The Corporation  
14 may provide support under title II in connection with  
15 projects in any country the government of which has en-  
16 tered into an agreement with the United States author-  
17 izing the Corporation to provide such support in that  
18 country.

19 (b) **CLAIMS SETTLEMENT.**—

20 (1) **IN GENERAL.**—Claims arising as a result of  
21 support provided under title II or under predecessor  
22 authority may be settled, and disputes arising as a  
23 result thereof may be arbitrated with the consent of  
24 the parties, on such terms and conditions as the  
25 Corporation may determine.

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

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

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

13          **SEC. 302. CORPORATE POWERS.**

14          (a) IN GENERAL.—The Corporation—

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

17               (2) may make and perform such contracts, in-  
18               cluding no-cost contracts (as defined by the Corpora-  
19               tion), grants, and other agreements notwithstanding  
20               division C of subtitle I of title 41, United States  
21               Code, with any person or government however des-  
22               ignated and wherever situated, as may be necessary  
23               for carrying out the functions of the Corporation;

24               (3) may lease, purchase, or otherwise acquire,  
25               improve, and use such real property wherever situ-

1       ated, as may be necessary for carrying out the func-  
2       tions of the Corporation;

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

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

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

15          (7) may hire or obtain passenger motor vehi-  
16      cles;

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

18          (9) may acquire, hold, or dispose of, upon such  
19      terms and conditions as the Corporation may deter-  
20      mine, any property, real, personal, or mixed, tan-  
21      gible or intangible, or any interest in such property;

22          (10) may lease office space for the Corpora-  
23      tion's own use, the obligation of amounts for such  
24      lease is limited to the current fiscal year for which  
25      payments are due until the expiration of the current

1 lease of the predecessor authority, as of the day be-  
2 fore the date of the enactment of this Act;

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

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

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

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

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

23 (16) may sell direct investments of the Corpora-  
24 tion to private investors upon such terms and condi-  
25 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.

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

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

16          (b) AMOUNT SPECIFIED.—

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

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

1       crease (if any) in the average of the Consumer Price  
2       Index during the preceding 5-year period.

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

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

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

13          (b) FUNDING.—The Corporate Capital Account shall  
14       consist of—

15           (1) fees charged and collected pursuant to sub-  
16       section (c);

17           (2) any amounts received pursuant to sub-  
18       section (e);

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

21           (4) unexpended balances transferred to the Cor-  
22       poration pursuant to subsection (h);

23           (5) payments received in connection with settle-  
24       ments of all insurance and reinsurance claims of the  
25       Corporation; and

1           (6) all other collections transferred to or earned  
2           by the Corporation, excluding the cost, as defined in  
3           section 502 of the Federal Credit Reform Act of  
4           1990, of loans and loan guarantees.

5           (c) COLLECTIONS.—Fees may be charged and col-  
6           lected for providing services in amounts to be determined  
7           by the Corporation as provided in advance in appropria-  
8           tions Acts.

9           (d) USES.—

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

12                   (A) the cost, as defined in section 502 of  
13                   the Federal Credit Reform Act of 1990, of  
14                   loans and loan guarantees;

15                   (B) administrative expenses of the Cor-  
16                   poration; and

17                   (C) for the cost of providing support au-  
18                   thorized by subsections (c), (e), (f), and (g) of  
19                   section 201.

20           (2) INCOME AND REVENUE.—In order to carry  
21           out the purposes of the Corporation, all collections  
22           transferred to or earned by the Corporation, exclud-  
23           ing the cost, as defined in section 502 of the Federal  
24           Credit Reform Act of 1990, of loans and loan guar-  
25           antees, shall be deposited into the Corporate Capital

1 Account and shall be available to carry out its pur-  
2 pose, including without limitation—

3 (A) payment of all insurance and reinsur-  
4 ance claims of the Corporation;

5 (B) repayments to the Treasury of  
6 amounts borrowed under subsection (e);

7 (C) dividend payments to the Treasury  
8 under subsection (f); and

9 (D) project-specific transaction costs.

10 (e) FULL FAITH AND CREDIT.—

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

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

1 and the Secretary, and subject to such terms and  
2 conditions as the Secretary may require.

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

8 (g) INVESTMENT AUTHORITY.—

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

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

23 (h) TRANSFER FROM PREDECESSOR AGENCIES AND  
24 PROGRAMS.—By the date end of the transition period de-  
25 scribed in title VI, the unexpended balances, assets, and

1 responsibilities of any agency specified in the plan re-  
2 quired by section 602 shall be transferred to the Corpora-  
3 tion.

4 (i) **TRANSFER OF FUNDS.**—In order to carry out this  
5 Act, funds authorized to be appropriated to carry out the  
6 Foreign Assistance Act of 1961 may be transferred to the  
7 Corporation and funds authorized appropriated to the  
8 Corporation may be transferred to the Department of  
9 State and the United States Agency for International De-  
10 velopment.

11 (j) **DEFINITION.**—In this section, the term “project-  
12 specific transaction costs”—

13 (1) means those costs incurred by the Corpora-  
14 tion for travel, legal expenses, and direct and indi-  
15 rect costs incurred in claims settlements associated  
16 with the provision of support under title II and shall  
17 not be considered administrative expenses for the  
18 purposes of this section; and

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

22 **SEC. 305. COORDINATION WITH OTHER DEVELOPMENT**  
23 **AGENCIES.**

24 It is the sense of Congress that the Corporation  
25 should use relevant data of the Department of State, Mil-

1 lennium Challenge Corporation, United States Agency for  
2 International Development, and other departments and  
3 agencies that have development functions to better inform  
4 the decisions of the Corporation with respect to providing  
5 support under title II.

6 **TITLE IV—MONITORING,**  
7 **EVALUATION, AND REPORTING**

8 **SEC. 401. ESTABLISHMENT OF RISK AND AUDIT COMMIT-**  
9 **TEES.**

10 (a) IN GENERAL.—To assist the Board to fulfill its  
11 duties and responsibilities under section 201(a), the Cor-  
12 poration shall establish a risk committee and an audit  
13 committee.

14 (b) DUTIES AND RESPONSIBILITIES OF RISK COM-  
15 MITTEE.—Subject to the direction of the Board, the risk  
16 committee established under subsection (a) shall have  
17 oversight responsibility of—

18 (1) formulating risk management policies of the  
19 operations of the Corporation;

20 (2) reviewing and providing guidance on oper-  
21 ation of the Corporation's global risk management  
22 framework;

23 (3) developing policies for enterprise risk man-  
24 agement, monitoring, and management of strategic,

1 reputational, regulatory, operational, and financial  
2 risks; and

3 (4) developing the risk profile of the Corpora-  
4 tion, including a risk management and compliance  
5 framework and governance structure to support such  
6 framework.

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.**

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



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

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

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

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

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

20 (d) COLLABORATION.—In developing the perform-  
21 ance measurement system required by subsection (a), the  
22 Corporation shall consult with stakeholders and other in-  
23 terested parties engaged in sustainable economic growth  
24 and development.

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

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

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

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

14 (3) the Corporation's institutional linkages with  
15 other relevant United States Government depart-  
16 ment and agencies, including efforts to strengthen  
17 such linkages.

18 (b) ELEMENTS.—Each annual report required by  
19 subsection (a) shall include projections of the effects of  
20 projects supported by the Corporation under title II, in-  
21 cluding—

22 (1) reviews and analysis of—

23 (A) the desired development and whether  
24 or not the Corporation is meeting the associated  
25 metrics, goals, and development objectives, in-

1 including, to the extent practicable, in the years  
2 after conclusion of projects; and

3 (B) the effect of the Corporation's support  
4 on access to capital and ways in which the Cor-  
5 poration is addressing identifiable market gaps  
6 or inefficiencies and what impact, if any, such  
7 support has on access to credit for a specific  
8 project, country, or sector;

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

12 (3) projections of—

13 (A) development outcomes, and whether or  
14 not support for projects are meeting the associ-  
15 ated performance measures, both during the  
16 start-up phase and over the duration of the  
17 support; and

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

22 (4) an assessment of the extent to which lessons  
23 learned from the monitoring and evaluation activities  
24 of the Corporation, and from annual reports from

1 previous years compiled by the Corporation, have  
2 been applied to projects.

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

4 The Corporation shall—

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

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

14 **SEC. 405. ENGAGEMENT WITH INVESTORS.**

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

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

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

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

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

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

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

16           (1) develop risk mitigation tools;

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

19           (3) support intermediaries linking capital sup-  
20 ply and demand;

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

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

1           (6) offer strategic planning and programming  
2 assistance to catalyze investment into priority sec-  
3 tors;

4           (7) provide transaction structuring support;

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

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

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

11       (c) **TECHNICAL ASSISTANCE.**—The Corporation shall  
12 coordinate with the United States Agency for Inter-  
13 national Development and other agencies and depart-  
14 ments, as necessary, on projects and programs supported  
15 by the Corporation that include technical assistance.

## 16 **TITLE V—CONDITIONS, RESTRIC-** 17 **TIONS, AND PROHIBITIONS**

### 18 **SEC. 501. LIMITATIONS AND PREFERENCES.**

19       (a) **LIMITATION ON SUPPORT FOR SINGLE ENTI-**  
20 **TY.**—No entity receiving support from the Corporation  
21 under title II may receive more than an amount equal to  
22 5 percent of the Corporation’s maximum contingent liabil-  
23 ity authorized under section 303.

24       (b) **PREFERENCE FOR SUPPORT FOR PROJECTS**  
25 **SPONSORED BY UNITED STATES PERSONS.**—

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

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

8                   (A) a United States citizen; or

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

12          (c) PREFERENCE FOR SUPPORT IN COUNTRIES IN  
13          COMPLIANCE WITH INTERNATIONAL TRADE OBLIGA-  
14          TIONS.—

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

23           (2) PREFERENTIAL CONSIDERATION.—The Cor-  
24           poration shall give preferential consideration to pro-  
25           viding support under title II for projects in countries

1 in compliance with or making substantial progress  
2 coming into compliance with their international  
3 trade obligations.

4 (d) WORKER RIGHTS.—

5 (1) IN GENERAL.—The Corporation should sup-  
6 port projects under title II in countries that are tak-  
7 ing steps to adopt and implement laws that extend  
8 internationally recognized worker rights (as defined  
9 in section 507 of the Trade Act of 1974 (19 U.S.C.  
10 2467)) to workers in that country, including any  
11 designated zone in that country.

12 (2) REQUIRED CONTRACT LANGUAGE.—The  
13 Corporation shall also include the following lan-  
14 guage, in substantially the following form, in all con-  
15 tracts which the Corporation enters into with eligible  
16 investors to provide support under title II: “The in-  
17 vestor agrees not to take actions to prevent employ-  
18 ees of the foreign enterprise from lawfully exercising  
19 their right of association and their right to organize  
20 and bargain collectively. The investor further agrees  
21 to observe applicable laws relating to a minimum age  
22 for employment of children, acceptable conditions of  
23 work with respect to minimum wages, hours of work,  
24 and occupational health and safety, and not to use  
25 forced labor or the worst forms of child labor (as de-



1        fined in section 507 of the Trade Act of 1974 (19  
2        U.S.C. 2467(6)). The investor is not responsible  
3        under this paragraph for the actions of a foreign  
4        government.”.

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

11            (1) before the date of the vote, an environ-  
12            mental and social impact assessment or initial envi-  
13            ronmental and social audit, analyzing the environ-  
14            mental and social impacts of the proposed project  
15            and of alternatives to the proposed project, is com-  
16            pleted; and

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

22        **SEC. 502. ADDITIONALITY AND AVOIDANCE OF MARKET**  
23            **DISTORTION.**

24            (a) IN GENERAL.—Before the Corporation provides  
25        support for a project under title II, the Corporation shall

1 ensure that private sector entities are afforded an oppor-  
2 tunity to support the project.

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

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

9 (2) operates according to internationally recog-  
10 nized best practices and standards with respect to  
11 ensuring the avoidance of market distorting govern-  
12 ment subsidies and the crowding out of private sec-  
13 tor lending; and

14 (3) does not have a significant adverse impact  
15 on United States employment.

16 **SEC. 503. PROHIBITION ON SUPPORT IN SANCTIONED**  
17 **COUNTRIES AND WITH SANCTIONED PER-**  
18 **SONS.**

19 (a) IN GENERAL.—The Corporation is prohibited  
20 from providing support under title II in a country the gov-  
21 ernment of which the Secretary of State has determined  
22 has repeatedly provided support for acts of international  
23 terrorism for purposes of—

24 (1) section 6(j)(1)(A) of the Export Administra-  
25 tion Act of 1979 (50 U.S.C. 4605(j)(1)(A)) (as con-

1       tinued in effect pursuant to the International Emer-  
2       gency Economic Powers Act (50 U.S.C. 1701 et  
3       seq.));

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

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

8               (4) any other provision of law.

9       (b) PROHIBITION ON SUPPORT OF SANCTIONED PER-  
10      SONS.—The Corporation is prohibited from supporting a  
11      project under title II that directly benefits any entity sub-  
12      ject to sanctions imposed by the United 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(d).

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 congres-  
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 among officers of the Corporation in order to  
20           permit the Corporation to carry out the functions  
21           transferred under the plan.

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

1           (4) Specification of the proposed allocations  
2           within the Corporation of unexpended funds trans-  
3           ferred in connection with transfers under the plan.

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

8           (c) MODIFICATION OF PLAN.—The President may,  
9           on the basis of consultations with the appropriate congres-  
10          sional committees, modify or revise any part of the plan  
11          until that part of the plan becomes effective in accordance  
12          with subsection (d).

13          (d) EFFECTIVE DATE.—

14               (1) IN GENERAL.—The reorganization plan de-  
15               scribed in this section, including any modifications  
16               or revisions of the plan under subsection (c), shall  
17               become effective for an agency on the date specified  
18               in the plan (or the plan as modified pursuant to sub-  
19               section (c)), except that such date may not be earlier  
20               than 90 days after the date the President has trans-  
21               mitted the reorganization plan to the appropriate  
22               congressional committees pursuant to subsection (a).

23               (2) STATUTORY CONSTRUCTION.—Nothing in  
24               this subsection may be construed to require the  
25               transfer of functions, personnel, records, balances of

1 appropriations, or other assets of an agency on a  
2 single date.

3 **SEC. 603. TRANSFER OF FUNCTIONS.**

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

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

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

12 (A) The Development Credit Authority.

13 (B) The existing Legacy Credit portfolio  
14 under the Urban Environment Program and  
15 any other direct loan programs and non-Devel-  
16 opment Credit Authority guarantee programs  
17 authorized by the Foreign Assistance Act of  
18 1961 (22 U.S.C. 2151 et seq.) or other prede-  
19 cessor Acts, as in existence on the date of the  
20 enactment of this Act, other than any sovereign  
21 loan guarantees.

22 (b) ADDITIONAL TRANSFER AUTHORITY.—Effective  
23 at the end of the transition period, there is authorized to  
24 be transferred to the Corporation the functions, personnel,

1 assets, and liabilities of the following elements of the  
2 United States Agency for International Development:

3 (1) The Office of Private Capital and Microen-  
4 terprise.

5 (2) The enterprise funds.

6 (c) SOVEREIGN LOAN GUARANTEE TRANSFER.—

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

16 (2) INCLUSION IN REORGANIZATION PLAN.—

17 The President include in reorganization plan sub-  
18 mitted under section 602 a description of the trans-  
19 fer authorized under paragraph (1).

20 (d) BILATERAL AGREEMENTS.—Any bilateral agree-  
21 ment of the United States in effect on the date of the  
22 enactment of this Act that serves as the basis for pro-  
23 grams of the Overseas Private Investment Corporation  
24 and the Development Credit Authority shall be considered  
25 as satisfying the requirements of section 301(a).



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

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

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

8 **SEC. 604. TERMINATION OF OVERSEAS PRIVATE INVEST-**  
9 **MENT CORPORATION AND OTHER**  
10 **SUPERCEDED AUTHORITIES.**

11 Effective at the end of the transition period—

12 (1) the Overseas Private Investment Corpora-  
13 tion is terminated; and

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

18 **SEC. 605. TRANSITIONAL AUTHORITIES.**

19 (a) PROVISION OF ASSISTANCE BY OFFICIALS.—  
20 Until the transfer of an agency to the Corporation under  
21 section 603, any official having authority over or functions  
22 relating to the agency immediately before the date of the  
23 enactment of this Act shall provide to the Corporation  
24 such assistance, including the use of personnel and assets,

1 as the Corporation may request in preparing for the trans-  
2 fer and integration of the agency into the Corporation.

3 (b) SERVICES AND PERSONNEL.—During the transi-  
4 tion period, upon the request of the Corporation, the head  
5 of any executive agency may, on a reimbursable or non-  
6 reimbursable basis, provide services or detail personnel to  
7 assist with the transition.

8 (c) ACTING OFFICIALS.—

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

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

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

1           (2) RULE OF CONSTRUCTION.—Nothing in this  
2 Act shall be construed to require the advice and con-  
3 sent of the Senate to the appointment by the Presi-  
4 dent to a position in the Corporation of any officer  
5 whose agency is transferred to the Corporation pur-  
6 suant to this title and whose duties following such  
7 transfer are germane to those performed before such  
8 transfer.

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

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

19           (2) the Corporation shall have all functions—

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

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

1 **SEC. 606. SAVINGS PROVISIONS.**

2 (a) COMPLETED ADMINISTRATIVE ACTIONS.—

3 (1) IN GENERAL.—Completed administrative  
4 actions of an agency shall not be affected by the en-  
5 actment of this Act or the transfer of such agency  
6 to the Corporation under section 603, but shall con-  
7 tinue in effect according to their terms until amend-  
8 ed, modified, superseded, terminated, set aside, or  
9 revoked in accordance with law by an officer of the  
10 United States or a court of competent jurisdiction,  
11 or by operation of law.

12 (2) COMPLETED ADMINISTRATIVE ACTION DE-  
13 FINED.—In this subsection, the term “completed ad-  
14 ministrative action” includes orders, determinations,  
15 rules, regulations, personnel actions, permits, agree-  
16 ments, grants, contracts, certificates, policies, li-  
17 censes, registrations, and privileges.

18 (b) PENDING PROCEEDINGS.—

19 (1) IN GENERAL.—Pending proceedings in an  
20 agency, including notices of proposed rulemaking,  
21 and applications for licenses, permits, certificates,  
22 grants, and financial assistance, shall continue not-  
23 withstanding the enactment of this Act or the trans-  
24 fer of the agency to the Corporation, unless discon-  
25 tinued or modified under the same terms and condi-  
26 tions and to the same extent that such discontinu-

1           ance could have occurred if such enactment or trans-  
2           fer had not occurred.

3           (2) ORDERS.—Orders issued in proceedings de-  
4           scribed in paragraph (1), and appeals therefrom,  
5           and payments made pursuant to such orders, shall  
6           issue in the same manner and on the same terms as  
7           if this Act had not been enacted or the agency had  
8           not been transferred, and any such orders shall con-  
9           tinue in effect until amended, modified, superseded,  
10          terminated, set aside, or revoked by an officer of the  
11          United States or a court of competent jurisdiction,  
12          or by operation of law.

13          (c) PENDING CIVIL ACTIONS.—Pending civil actions  
14          shall continue notwithstanding the enactment of this Act  
15          or the transfer of an agency to the Corporation, and in  
16          such civil actions, proceedings shall be had, appeals taken,  
17          and judgments rendered and enforced in the same manner  
18          and with the same effect as if such enactment or transfer  
19          had not occurred.

20          (d) REFERENCES.—References relating to an agency  
21          that is transferred to the Corporation under section 603  
22          in statutes, Executive orders, rules, regulations, directives,  
23          or delegations of authority that precede such transfer or  
24          the date of the enactment of this Act shall be deemed to  
25          refer, as appropriate, to the Corporation, to its officers,

1 employees, or agents, or to its corresponding organiza-  
2 tional units or functions. Statutory reporting requirements  
3 that applied in relation to such an agency immediately be-  
4 fore the effective date of this Act shall continue to apply  
5 following such transfer if they refer to the agency by  
6 name.

7 (e) EMPLOYMENT PROVISIONS.—

8 (1) REGULATIONS.—The Corporation may, in  
9 regulations prescribed jointly with the Director of  
10 the Office of Personnel Management, adopt the  
11 rules, procedures, terms, and conditions, established  
12 by statute, rule, or regulation before the date of the  
13 enactment of this Act, relating to employment in any  
14 agency transferred to the Corporation under section  
15 603.

16 (2) EFFECT OF TRANSFER ON CONDITIONS OF  
17 EMPLOYMENT.—Except as otherwise provided in this  
18 Act, or under authority granted by this Act, the  
19 transfer pursuant to this title of personnel shall not  
20 alter the terms and conditions of employment, in-  
21 cluding compensation, of any employee so trans-  
22 ferred.

23 (f) STATUTORY REPORTING REQUIREMENTS.—Any  
24 statutory reporting requirement that applied to an agency  
25 transferred to the Corporation under this title immediately

1 before the date of the enactment of this Act shall continue  
2 to apply following that transfer if the statutory require-  
3 ment refers to the agency by name.

4 **SEC. 607. OTHER TERMINATIONS.**

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

13 **SEC. 608. INCIDENTAL TRANSFERS.**

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

21 **SEC. 609. REFERENCE.**

22 With respect to any function transferred under this  
23 title (including under a reorganization plan under section  
24 602) and exercised on or after the date of the enactment  
25 of this Act, reference in any other Federal law to any de-

1 partment, commission, or agency or any officer or office  
2 the functions of which are so transferred shall be deemed  
3 to refer to the Corporation or official or component of the  
4 Corporation to which that function is so transferred.

5 **SEC. 610. CONFORMING AMENDMENTS.**

6 (a) EXEMPT PROGRAMS.—Section 255(g) of the Bal-  
7 anced Budget and Emergency Deficit Control Act of 1985  
8 (2 U.S.C. 905(g)) is amended by striking “Overseas Pri-  
9 vate Investment Corporation, Noncredit Account (71-  
10 4184-0-3-151).” and inserting “United States Inter-  
11 national Development Finance Corporation.”.

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

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

16 (2) in section 5315, by striking “Executive Vice  
17 President, Overseas Private Investment Corpora-  
18 tion.”; and

19 (3) in section 5316, by striking “Vice Presi-  
20 dents, Overseas Private Investment Corporation  
21 (3).”.

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



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

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

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

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

23       (f) INTERAGENCY TRADE DATA ADVISORY COM-  
24 MITTEE.—Section 5402(b) of the Omnibus Trade and  
25 Competitiveness Act of 1988 (15 U.S.C. 4902(b)) is

1 amended by striking “the President of the Overseas Pri-  
2 vate Investment Corporation” and inserting “the Chief  
3 Executive Officer of the United States International De-  
4 velopment Finance Corporation”.

5 (g) MISUSE OF NAMES OF FEDERAL AGENCIES.—  
6 Section 709 of title 18, United States Code, is amended  
7 by striking “‘Overseas Private Investment’, ‘Overseas Pri-  
8 vate Investment Corporation’, or ‘OPIC’,” and inserting  
9 “‘United States International Development Finance Cor-  
10 poration’ or ‘DFC’”.

11 (h) ENGAGEMENT ON CURRENCY EXCHANGE RATE  
12 AND ECONOMIC POLICIES.—Section 701(c)(1)(A) of the  
13 Trade Facilitation and Trade Enforcement Act of 2015  
14 (19 U.S.C. 4421(c)(1)(A)) is amended by striking “Over-  
15 seas Private Investment Corporation” and inserting  
16 “United States International Development Finance Cor-  
17 poration”.

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

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

4 (1) in section 449B(b)(2) (22 U.S.C.  
5 2296b(b)(2)), by striking “Overseas Private Invest-  
6 ment Corporation” and inserting “United States  
7 International Development Finance Corporation”;  
8 and

9 (2) in section 481(e)(4)(A) (22 U.S.C.  
10 2291(e)(4)(A)), in the matter preceding clause (i),  
11 by striking “(including programs under title IV of  
12 chapter 2, relating to the Overseas Private Invest-  
13 ment Corporation)” and inserting “(and any support  
14 under title II of the Better Utilization of Invest-  
15 ments Leading to Development Act of 2018, relating  
16 to the United States International Development Fi-  
17 nance Corporation)”.

18 (k) ELECTRIFY AFRICA ACT OF 2015.—Sections 5  
19 and 7 of the Electrify Africa Act of 2015 (Public Law  
20 114–121; 22 U.S.C. 2293 note) are amended by striking  
21 “Overseas Private Investment Corporation” each place it  
22 appears and inserting “United States International Devel-  
23 opment Finance Corporation”.

24 (l) FOREIGN AID TRANSPARENCY AND ACCOUNT-  
25 ABILITY ACT OF 2016.—Section 2(3) of the Foreign Aid

1 Transparency and Accountability Act of 2016 (Public Law  
2 114–191; 22 U.S.C. 2394c note) is amended by striking  
3 subparagraph (A) and inserting the following:

4 “(A) title II of the Better Utilization of In-  
5 vestments Leading to Development Act of  
6 2018;”.

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

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

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

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

21 (n) CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY  
22 (LIBERTAD) ACT OF 1996.—Section 202(b)(2)(B)(iv)  
23 of the Cuban Liberty and Democratic Solidarity  
24 (LIBERTAD) Act of 1996 (22 U.S.C. 6062(b)(2)(B)(iv))  
25 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 matter preceding subparagraph (A),  
5 by striking “Overseas Private Investment Corpora-  
6 tion” and inserting “United States International De-  
7 velopment Finance Corporation”; and

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

11 (s) GLOBAL FOOD SECURITY ACT OF 2016.—Section  
12 4(7) of the Global Food Security Act of 2016 (22 U.S.C.  
13 9303(7)) is amended by striking “Overseas Private Invest-  
14 ment Corporation” and inserting “United States Inter-  
15 national Development Finance Corporation”.

16 (t) SENSE OF CONGRESS ON EUROPEAN AND EUR-  
17 ASIAN ENERGY SECURITY.—Section 257(c)(2)(B) of the  
18 Countering Russian Influence in Europe and Eurasia Act  
19 of 2017 (22 U.S.C. 9546(c)(2)(B)) is amended by striking  
20 “Overseas Private Investment Corporation” and inserting  
21 “United States International Development Finance Cor-  
22 poration”.

23 (u) WHOLLY OWNED GOVERNMENT CORPORA-  
24 TION.—Section 9101(3) of title 31, United States Code,  
25 is amended by striking “Overseas Private Investment Cor-

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

3 (v) ENERGY INDEPENDENCE AND SECURITY ACT OF  
4 2007.—Title IX of the Energy Independence and Security  
5 Act of 2007 (42 U.S.C. 17321 et seq.) is amended—

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

7 (A) in the section heading, by striking  
8 “**OVERSEAS PRIVATE INVESTMENT COR-**  
9 **PORATION**” and inserting “**UNITED STATES**  
10 **INTERNATIONAL DEVELOPMENT FINANCE**  
11 **CORPORATION**”;

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

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

1           ments Leading to Development Act of 2018”;  
2           and  
3           (2) in section 916(a)(2)(I) (42 U.S.C.  
4           17336(a)(2)(I)), by striking “Overseas Private In-  
5           vestment Corporation:” and inserting “United  
6           States International Development Finance Corpora-  
7           tion;”.

8           (w) EFFECTIVE DATE.—The amendments made by  
9           this section shall take effect at the end of the transition  
10          period.

