

110TH CONGRESS
1ST SESSION

H. R. 2798

AN ACT

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

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

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 obligations regarding those international worker
2 rights.’

3 “(2) PREFERENCE TO CERTAIN COUNTRIES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 **SEC. 7. COMMUNITY SUPPORT.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 “(b) EXTRACTION INVESTMENTS.—

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

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

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

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

10 “(3) PREFERENCE FOR CERTAIN PROJECTS.—

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

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

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

1 gaged in the exploration, development, or ex-
2 traction of oil and gas reserves, metal ores,
3 gemstones, industrial minerals, or coal.

4 “(B) EXTRACTIVE INDUSTRIES TRANS-
5 PARENCY INITIATIVE PRINCIPLES AND CRI-
6 TERIA.—The term ‘Extractive Industries Trans-
7 parency Initiative principles and criteria’ means
8 the principles and criteria of the Extractive In-
9 dustries Transparency Initiative, as set forth in
10 Annex A to the Anti-Corruption Policies and
11 Strategies Handbook of the Corporation, as
12 published in September 2006.

13 “(5) REPORTING REQUIREMENT.—The Cor-
14 poration shall include in its annual report required
15 under section 240A a description of its activities to
16 carry out this subsection.

17 “(c) DEFINITIONS.—In this section:

18 “(1) CLEAN AND EFFICIENT ENERGY TECH-
19 NOLOGY.—The term ‘clean and efficient energy tech-
20 nology’ means an energy supply or end-use tech-
21 nology—

22 “(A) such as—

23 “(i) solar technology;

24 “(ii) wind technology;

25 “(iii) geothermal technology;

1 “(iv) hydroelectric technology; and

2 “(v) carbon capture technology; and

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

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

10 “(ii) results in—

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

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

15 “(iii) may—

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

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

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

23 “(A) carbon dioxide;

24 “(B) methane;

25 “(C) nitrous oxide;

1 “(D) hydrofluorocarbons;

2 “(E) perfluorocarbons; or

3 “(F) sulfur hexafluoride.”.

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

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

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

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

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

22 “(r) **INELIGIBLE PROJECTS.**—

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

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

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

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

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

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

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

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

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

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

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

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

23 “(D) STATE SPONSOR OF TERRORISM.—

24 The term ‘state sponsor of terrorism’ means a
25 country the government of which the Secretary

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

8 “(3) CERTIFICATION.—

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

18 “(B) BY ULTIMATE PARENT ENTITIES.—

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

1 scribed in subparagraph (A) or (B) of para-
2 graph (1).

3 “(C) APPLICATION TO STRAW MAN TRANS-
4 ACTIONS.—In any case in which—

5 “(i) an applicant for insurance, rein-
6 surance, financing, or other assistance
7 under this title is providing goods and
8 services to a project,

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

12 “(iii) the unaffiliated entity is receiv-
13 ing \$20,000,000 or more, or sums greater
14 than 50 percent of the amount of the as-
15 sistance provided by the Corporation for
16 the project (including contingent liability),
17 for such goods or services,

18 then the chief executive officer of the unaffili-
19 ated entity must make a certification under
20 subparagraph (A), and any ultimate parent en-
21 tity must make a certification required by sub-
22 paragraph (B).

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

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

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

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

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

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

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

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

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

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

13 (b) TERMINATION.—

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

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

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

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

5 (2) DEFINITIONS.—In this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 “(1) IN GENERAL.—Whoever”; and

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

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

22 “(i) a violation of this title;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (b) EXTENSIONS AND RENEWALS.—

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

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

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

Passed the House of Representatives July 23, 2007.

Attest:

Clerk.

110TH CONGRESS
1ST SESSION

H. R. 2798

AN ACT

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