

117TH CONGRESS
1ST SESSION

S. 2662

To establish the Industrial Finance Corporation of the United States, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2021

Mr. COONS (for himself, Ms. KLOBUCHAR, Mr. VAN HOLLEN, Mr. WARNOCK,
Mr. PETERS, Mr. BENNET, and Mr. WARNER) introduced the following
bill; which was read twice and referred to the Committee on Banking,
Housing, and Urban Affairs

A BILL

To establish the Industrial Finance Corporation of the
United States, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Industrial Finance Corporation Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—ESTABLISHMENT

- Sec. 101. Findings.
- Sec. 102. Establishment of Corporation.
- Sec. 103. Structure and organization.
- 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.

TITLE III—ADMINISTRATIVE AND GENERAL PROVISIONS

- Sec. 301. Operations.
- Sec. 302. Corporate powers.
- Sec. 303. Maximum contingent liability.
- Sec. 304. Corporate funds.

TITLE IV—MONITORING, EVALUATION, AND REPORTING

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

TITLE V—CONDITIONS, RESTRICTIONS, AND PROHIBITIONS

- Sec. 501. Limitations and preferences.
- Sec. 502. Additionality and avoidance of market distortion.
- Sec. 503. Prevailing wages.

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 Banking, Housing,
 7 and Urban Affairs of the Senate; and

8 (B) the Committee on Financial Services
 9 of the House of Representatives.

10 (2) **BOARD.**—The term “Board” means the
 11 Board of Directors of the Corporation.

1 (3) CORPORATION.—The term “Corporation”
2 means the Industrial Finance Corporation of the
3 United States established under section 102(a).

4 (4) PROJECT.—The term “project” means a
5 project or activity supported by the Corporation
6 under title II.

7 **TITLE I—ESTABLISHMENT**

8 **SEC. 101. FINDINGS.**

9 Congress finds the following:

10 (1) The COVID–19 pandemic exposed long-ex-
11 isting vulnerabilities and harmful concentration in
12 supply chains, as demonstrated by the semicon-
13 ductor shortage and the reverberating effects of that
14 shortage on the production capabilities of industries
15 within the United States.

16 (2) Vulnerable or concentrated supply chains
17 have harmful implications for the national security
18 of the United States, including by—

19 (A) creating bottlenecks and delays for
20 goods and innovations necessary to military
21 preparedness;

22 (B) increasing economic and political lever-
23 age for adversarial nations in international ne-
24 gotiations; and

1 (C) providing leverage for adversarial na-
2 tions to use their supply chain dominance to
3 exert economic pressure or destabilize the de-
4 fense capabilities of the United States.

5 (3) To promote the national defense and na-
6 tional security of the United States, the Federal
7 Government must provide investment to ensure that
8 certain goods and innovations are produced in the
9 United States.

10 (4) Vulnerable supply chains also have harmful
11 economic repercussions for the United States, in-
12 cluding by—

13 (A) weakening the ability of the United
14 States to lead commercial development of the
15 technological frontier;

16 (B) limiting the availability of financing
17 and investment for businesses in the United
18 States; and

19 (C) causing higher prices for consumers
20 and businesses in the United States.

21 (5) In order for the United States to remain
22 the economic leader of the world, it is critical for the
23 Federal Government to ensure that the United
24 States leads the development, furtherance, and com-
25 mercialization of the technological frontier through

1 investments in manufacturing and fields and tech-
2 nologies with and without military applications, in-
3 cluding—

4 (A) nanotechnology;

5 (B) biotechnology;

6 (C) advanced manufacturing;

7 (D) quantum computing;

8 (E) advanced communications;

9 (F) advanced energy;

10 (G) semiconductors;

11 (H) advanced computing;

12 (I) cybersecurity;

13 (J) artificial intelligence;

14 (K) green manufacturing; and

15 (L) other fields with high potential to con-
16 tribute to the economic and national security of
17 the United States that may lack sufficient pri-
18 vate sector investment.

19 (6) Historically, the Federal Government has
20 used public funds to fill gaps in private sector in-
21 vestment, often without sharing in the potential ben-
22 efits. When the Federal Government invests in high-
23 risk, high-reward industries, the taxpayers of the
24 United States should share in the potential benefits
25 and not just the risks of the investment.

1 (7) It is in the economic interest of the United
2 States to ensure that resilient supply chains remain
3 economically competitive. Accordingly, it is crucial—

4 (A) for the Federal Government to invest
5 in building and retaining a vibrant manufac-
6 turing sector;

7 (B) for the Federal Government to invest
8 in manufacturing and production that leads to
9 good jobs for workers in the United States; and

10 (C) that investments in manufacturers in
11 the United States lead to good jobs for workers
12 in the United States.

13 (8) All too often, excessive short-termism pre-
14 cludes companies in the United States from access-
15 ing investment capital. It is in the interest of the
16 Federal Government to ensure that patient capital
17 (or capital with an investment horizon of not less
18 than 7 years) is available to boost supply chains and
19 manufacturing in the United States. Innovative in-
20 dustries, including industries described in, or that
21 produce the products described in, paragraph (5),
22 suffer from limited access to patient capital.

1 **SEC. 102. ESTABLISHMENT OF CORPORATION.**

2 (a) IN GENERAL.—There is established within the ex-
3 ecutive branch of the Federal Government the Industrial
4 Finance Corporation of the United States.

5 (b) WHOLLY OWNED GOVERNMENT CORPORA-
6 TION.—Section 9101(3) of title 31, United States Code,
7 is amended by adding at the end the following:

8 “(Q) the Industrial Finance Corporation of
9 the United States.”.

10 (c) STATEMENT OF POLICY.—It shall be the policy
11 of the Corporation to—

12 (1) provide support to ensure resilient supply
13 chains in industries that are critical to—

14 (A) the national security of the United
15 States;

16 (B) the economic competitiveness of the
17 United States; and

18 (C) the maintenance of a strong manufac-
19 turing base in the United States;

20 (2) provide support to manufacturing in the
21 United States, which is crucial to—

22 (A) growing the economy of the United
23 States;

24 (B) providing good jobs and manufac-
25 turing skills training to workers in the United
26 States; and

1 (C) ensuring the economic and national se-
2 curity of the United States;

3 (3) provide support to industries that are crit-
4 ical to ensuring that companies in the United States
5 commercialize products on the technological frontier
6 of production across a wide array of goods and in-
7 dustries, including by helping vital technologies (and
8 products that use those technologies) make the tran-
9 sition from universities and labs to commercial suc-
10 cess, including—

11 (A) technologies and products with civilian
12 and military applications, including applications
13 described in section 101(5); and

14 (B) other technologies that enhance the in-
15 fluence of the United States through expor-
16 tation to other countries;

17 (4) restore the entrepreneurial dynamism of the
18 economy of the United States by supporting the
19 growth of small- and medium-sized businesses with
20 not more than 500 employees—

21 (A) that support, or are capable of sup-
22 porting, the growth of the industries and prod-
23 ucts described in paragraph (3) as contractors
24 or customers, especially in sectors such as man-

1 manufacturing that compete in an international
2 marketplace;

3 (B) with innovative potential to increase
4 the productivity and economic development of
5 the United States; and

6 (C) that are—

7 (i) located in regions of the United
8 States that have historically suffered from
9 low access to capital; or

10 (ii) owned by an individual who is a
11 member of a demographic group that has
12 historically suffered from low access to
13 capital; and

14 (5) provide support to critical industries that
15 are vulnerable to systematic patterns of underinvest-
16 ment, import competition, and targeted industrial
17 policies from foreign nations, in order to—

18 (A) ensure that those industries preserve
19 and ideally expand production capacity for con-
20 sumers of those industries; and

21 (B) invest in strategies to promote the de-
22 ployment of more advanced technologies.

23 (d) SUPPORT.—In providing support under title II,
24 the Corporation shall ensure that the support furthers not
25 less than 1 policy described in subsection (c).

1 **SEC. 103. STRUCTURE AND ORGANIZATION.**

2 (a) STRUCTURE OF CORPORATION.—There shall be
3 within the Corporation—

4 (1) a Board of Directors;

5 (2) a Chief Executive Officer, as described in
6 subsection (d);

7 (3) a Deputy Chief Executive Officer, as de-
8 scribed in subsection (e);

9 (4) a Chief Risk Officer, as described in sub-
10 section (f);

11 (5) a Chief Development Officer, as described
12 in subsection (g);

13 (6) a Chief Technology and Data Officer, as de-
14 scribed in subsection (h); and

15 (7) such other officers as the Board may deter-
16 mine.

17 (b) BOARD OF DIRECTORS.—

18 (1) POWERS AND DUTIES.—

19 (A) IN GENERAL.—Every power of the
20 Corporation shall vest in and be exercised by or
21 under the authority of the Board.

22 (B) DUTIES.—The Board—

23 (i) shall perform the functions re-
24 quired to be carried out by the Board
25 under this Act;

1 (ii) may prescribe, amend, and repeal
2 bylaws, rules, regulations, policies, and
3 procedures governing the manner in which
4 the business of the Corporation may be
5 conducted and in which the powers granted
6 to the Corporation by law may be exer-
7 cised; and

8 (iii) shall develop, in consultation with
9 stakeholders and other interested parties, a
10 publicly available policy with respect to
11 consultations, hearings, and other forms of
12 engagement of the Board in order to pro-
13 vide for meaningful public participation in
14 the activities of the Board.

15 (2) MEMBERSHIP OF BOARD.—

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

18 (i) the Chief Executive Officer of the
19 Corporation;

20 (ii) the officers described in subpara-
21 graph (B); and

22 (iii) 4 other individuals, who shall be
23 appointed by the President, by and with
24 the advice and consent of the Senate.

25 (B) OFFICERS DESCRIBED.—

1 (i) IN GENERAL.—The officers de-
2 scribed in this subparagraph are the fol-
3 lowing:

4 (I) The Secretary of the Treas-
5 ury or a designee of the Secretary.

6 (II) The Administrator of the
7 Small Business Administration or a
8 designee of the Administrator.

9 (III) The Secretary of Commerce
10 or a designee of the Secretary.

11 (IV) The Secretary of Defense or
12 a designee of the Secretary.

13 (V) The Chair of the Board of
14 Governors of the Federal Reserve Sys-
15 tem or a designee of the Chair.

16 (ii) REQUIREMENTS FOR DES-
17 IGNEES.—A designee under clause (i)
18 shall—

19 (I) be selected from among offi-
20 cers—

21 (aa) appointed by the Presi-
22 dent, by and with the advice and
23 consent of the Senate; and

1 (bb) with duties relating to
2 the programs of the Corporation;
3 and

4 (II) serve on the Board at the
5 pleasure of the President.

6 (C) NONGOVERNMENT MEMBERS.—A
7 member of the Board described in subpara-
8 graph (A)(iii)—

9 (i) may not be an officer or employee
10 of the Federal Government;

11 (ii) shall have relevant experience to
12 carry out the purpose of the Corporation,
13 which may include experience relating to
14 the private sector, the environment, labor
15 organizations, or economic development;

16 (iii) shall be appointed for a term of
17 8 years and may be reappointed for 1 ad-
18 ditional term;

19 (iv) shall serve until the successor of
20 the member is appointed and confirmed;

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

1 (vi) may be paid per diem in lieu of
2 subsistence at the applicable rate under
3 the Federal Travel Regulation under sub-
4 title F of title 41, Code of Federal Regula-
5 tions, or any successor regulations, from
6 time to time, while away from the home or
7 usual place of business of the member.

8 (D) STAGGERED TERMS.—Notwithstanding
9 subparagraph (C)(iii), in appointing the initial
10 members of the Board described in subpara-
11 graph (C), the President shall stagger the
12 terms of the members so that, during any 2-
13 year period, the term of not more than 1 mem-
14 ber ends.

15 (3) CHAIRPERSON.—The Secretary of the
16 Treasury, or the designee of the Secretary under
17 paragraph (2)(B)(i)(I), shall serve as the Chair-
18 person of the Board.

19 (4) VICE CHAIRPERSON.—The Administrator of
20 the Small Business Administration, or the designee
21 of the Administrator under paragraph (2)(B)(i)(II),
22 shall serve as the Vice Chairperson of the Board.

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

1 (6) AFFIRMATION OF MISSION.—The members
2 of the Board shall affirm support for the mission
3 and objectives of the Corporation.

4 (c) PUBLIC HEARINGS.—The Board shall hold not
5 less than 2 public hearings annually in order to afford an
6 opportunity for any person to present views with respect
7 to whether—

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

10 (2) any support provided by the Corporation
11 under title II should be suspended, expanded, or ex-
12 tended.

13 (d) CHIEF EXECUTIVE OFFICER.—

14 (1) APPOINTMENT.—There shall be within the
15 Corporation a Chief Executive Officer, who shall—

16 (A) be appointed by the President, by and
17 with the advice and consent of the Senate; and

18 (B) serve at the pleasure of the President.

19 (2) AUTHORITIES AND DUTIES.—The Chief Ex-
20 ecutive Officer shall—

21 (A) be responsible for the management of
22 the Corporation; and

23 (B) exercise the powers and discharge the
24 duties of the Corporation subject to the bylaws,

1 rules, regulations, and procedures established
2 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, Industrial Finance
10 Corporation of the United States.”.

11 (e) DEPUTY CHIEF EXECUTIVE OFFICER.—There
12 shall be within the Corporation a Deputy Chief Executive
13 Officer, who shall—

14 (1) be appointed by the President, by and with
15 the advice and consent of the Senate; and

16 (2) serve at the pleasure of the President.

17 (f) CHIEF RISK OFFICER.—

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

23 (A) report directly to the Board; and

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

1 (2) DUTIES.—The Chief Risk Officer, in coordi-
2 nation with the audit committee of the Board estab-
3 lished under section 401(a), shall develop, imple-
4 ment, and manage a comprehensive process for iden-
5 tifying, assessing, monitoring, and limiting risks to
6 the Corporation, including the overall portfolio diver-
7 sification 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, who shall—

12 (A) report directly to the Board; and

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

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

17 (A) in coordination with the Chief Tech-
18 nology and Data Officer, develop, track, and re-
19 port metrics to assess the impact of the activi-
20 ties of the Corporation with respect to the poli-
21 cies described in section 102(c);

22 (B) convene potential investment partners
23 who can provide additional private investments
24 into projects and companies supported by the
25 Corporation;

1 (C) coordinate the development policies
2 and implementation efforts of the Corporation
3 with—

4 (i) the Export-Import Bank of the
5 United States;

6 (ii) the United States International
7 Domestic Finance Corporation;

8 (iii) the Department of Commerce;

9 (iv) the Small Business Administra-
10 tion;

11 (v) the Manufacturing USA Institutes
12 described in section 34(d) of the National
13 Institute of Standards and Technology Act
14 (15 U.S.C. 278s(d));

15 (vi) the manufacturing extension cen-
16 ters established under section 25(b) of the
17 National Institute of Standards and Tech-
18 nology Act (15 U.S.C. 278k(b));

19 (vii) the Office of Science and Tech-
20 nology Policy; and

21 (viii) other relevant Federal agencies;

22 (D) authorize and coordinate transfers of
23 funds or other resources to and from the Fed-
24 eral agencies described in subparagraph (C) or
25 Federal missions upon the concurrence of those

1 agencies or missions in support of the projects
2 of the Corporation; and

3 (E) serve as an ex officio member of the
4 Advisory Council established under subsection
5 (j) and participate in, or send a representative
6 to, each meeting of that Council.

7 (h) CHIEF TECHNOLOGY AND DATA OFFICER.—

8 (1) APPOINTMENT.—Subject to the approval of
9 the Board, the Chief Executive Officer shall appoint
10 a Chief Technology and Data Officer, who shall—

11 (A) report directly to the Board; and

12 (B) be removable only by a majority vote
13 of the Board.

14 (2) DUTIES.—The Chief Technology and Data
15 Officer shall ensure that the Corporation—

16 (A) collects proper data from each project;
17 and

18 (B) develops and implements proper data
19 analytics within the Corporation to ensure that
20 the Corporation can analyze the data collected
21 under subparagraph (A) to—

22 (i) in coordination with the Chief De-
23 velopment Officer, measure the impact of
24 the activities of the Corporation on the
25 policies described in section 102(c);

1 (ii) inform future activities of the Cor-
2 poration; and

3 (iii) provide publicly available report-
4 ing on the activities of the Corporation, in-
5 cluding the impacts described in clause (i).

6 (i) OFFICERS AND EMPLOYEES.—

7 (1) IN GENERAL.—Except as otherwise pro-
8 vided in this section, each officer, employee, and
9 agent of the Corporation shall be—

10 (A) selected and appointed by the Corpora-
11 tion; and

12 (B) vested with such powers and duties as
13 the Corporation may determine.

14 (2) ADMINISTRATIVELY DETERMINED EMPLOY-
15 EES.—

16 (A) APPOINTMENT; COMPENSATION; RE-
17 MOVAL.—Of the officers, employees, and agents
18 appointed by the Corporation under paragraph
19 (1), not more than 250 may be appointed, com-
20 pensated, or removed without regard to the pro-
21 visions of title 5, United States Code.

22 (B) REINSTATEMENT.—Under such regu-
23 lations as the President may prescribe, an offi-
24 cer, employee, or agent appointed to a position
25 under subparagraph (A) may be entitled, upon

1 removal from such position (unless the removal
2 was for cause), to—

3 (i) if the officer, employee, or agent
4 occupied a position in the Federal Govern-
5 ment on the day before the date on which
6 the officer, employee, or agent was ap-
7 pointed to the Corporation under subpara-
8 graph (A), reinstatement to that position;
9 or

10 (ii) appointment to a position of com-
11 parable grade and salary.

12 (C) ADDITIONAL POSITIONS.—The officers,
13 employees, and agents described in subpara-
14 graph (A) shall be in addition to officers, em-
15 ployees, and agents otherwise authorized by
16 law, including in positions authorized under sec-
17 tion 5108 of title 5, United States Code.

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

1 positions and General Schedule pay rates, re-
2 spectively.

3 (3) LIABILITY OF EMPLOYEES.—

4 (A) IN GENERAL.—An individual who is a
5 member of the Board or an officer or employee
6 of the Corporation may not be liable under this
7 Act with respect to any claim arising out of or
8 resulting from any act or omission by the indi-
9 vidual within the scope of the employment of
10 the individual in connection with any trans-
11 action by the Corporation.

12 (B) RULE OF CONSTRUCTION.—Subpara-
13 graph (A) shall not be construed to limit the
14 personal liability of an individual for—

- 15 (i) criminal acts or omissions;
16 (ii) willful or malicious misconduct;
17 (iii) acts or omissions for the private
18 gain of the individual or family members of
19 the individual; or
20 (iv) any other acts or omissions out-
21 side the scope of the employment of the in-
22 dividual.

23 (C) CONFLICTS OF INTEREST.—The Cor-
24 poration shall establish and publish procedures
25 for avoiding conflicts of interest on the part of

1 officers and employees of the Corporation and
2 members of the Advisory Council established
3 under subsection (j).

4 (D) SAVINGS PROVISION.—Nothing in this
5 paragraph shall be construed—

6 (i) to affect—

7 (I) any other immunities and
8 protections that may be available to
9 an individual described in subpara-
10 graph (A) under applicable law with
11 respect to a transaction described in
12 that subparagraph; or

13 (II) any other right or remedy
14 against the Corporation, against the
15 United States under applicable law, or
16 against any person other than an indi-
17 vidual described in subparagraph (A)
18 participating in such a transaction; or

19 (ii) to limit or alter in any way the
20 immunities that are available under appli-
21 cable law for Federal officers and employ-
22 ees not described in this paragraph.

23 (j) ADVISORY COUNCIL.—

24 (1) IN GENERAL.—There is established within
25 the Corporation an Advisory Council to advise the

1 Board on development objectives of the Corporation
2 referred to in this subsection as the “Advisory Coun-
3 cil”.

4 (2) MEMBERSHIP.—The Advisory Council shall
5 consist of not more than 9 members appointed by
6 the Board, on the recommendation of the Chief Ex-
7 ecutive Officer and the Chief Development Officer of
8 the Corporation, from among individuals who are
9 broadly representative of—

10 (A) nongovernmental organizations;

11 (B) think tanks;

12 (C) advocacy organizations;

13 (D) foundations; and

14 (E) other institutions engaged in manufac-
15 turing and workforce development.

16 (3) FUNCTIONS.—The Board shall call upon
17 members of the Advisory Council, either collectively
18 or individually, to advise the Board with respect
19 to—

20 (A) the extent to which the Corporation is
21 meeting the mandate of the Corporation; and

22 (B) any suggestions for improvements with
23 respect to meeting that mandate, including
24 project development and implementation chal-
25 lenges and opportunities.

1 (4) PERMANENCE.—Section 14 of the Federal
2 Advisory Committee Act (5 U.S.C. App.) shall not
3 apply to the Advisory Council.

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

5 (a) IN GENERAL.—Section 8G(a)(2) of the Inspector
6 General Act of 1978 (5 U.S.C. App.) is amended by insert-
7 ing “the Industrial Finance Corporation of the United
8 States,” after “the United States International Develop-
9 ment Finance Corporation,”.

10 (b) OVERSIGHT INDEPENDENCE.—Section 8G(a)(4)
11 of the Inspector General Act of 1978 (5 U.S.C. App.) is
12 amended—

13 (1) in subparagraph (I), by striking “and” at
14 the end;

15 (2) in subparagraph (J), by adding “and” at
16 the end; and

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

18 “(K) with respect to the Industrial Fi-
19 nance Corporation of the United States, such
20 term means the Board of Directors of the In-
21 dustrial Finance Corporation of the United
22 States;”.

TITLE II—AUTHORITIES**SEC. 201. AUTHORITIES RELATING TO PROVISION OF SUP-
PORT.**

(a) IN GENERAL.—In carrying out this title, the Corporation shall—

(1) exercise the authorities of the Corporation only to the extent that such an exercise of authority—

(A) carries out a policy of the Corporation, as described in section 102(c);

(B) mitigates risks to the taxpayers of the United States by sharing risks with private sector entities through co-financing and structuring of tools; and

(C) ensures that support provided under this title is in addition to private sector resources by mobilizing private capital that would otherwise not be deployed without such support; and

(2) determine—

(A) the character and necessity of the obligations and expenditures of the Corporation; and

1 (B) the manner in which the obligations
2 and expenditures described in subparagraph (A)
3 shall be incurred, allowed, and paid.

4 (b) LENDING AND GUARANTIES.—

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

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

13 (c) PROGRAMS AND FACILITIES.—The Corporation
14 may create programs, facilities, or other entities deter-
15 mined necessary by the Corporation, for the purpose of
16 providing liquidity in markets and sectors integral to the
17 mission of the Corporation, by—

18 (1) purchasing obligations or other interests di-
19 rectly from the issuers of those obligations or other
20 interests;

21 (2) purchasing obligations or other interests in
22 secondary markets or otherwise; or

23 (3) making loans, including loans or other ad-
24 vances secured by collateral.

25 (d) EQUITY INVESTMENTS.—

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

11 (2) GUIDELINES AND CRITERIA.—The Corpora-
12 tion shall develop guidelines and criteria to require
13 that the use of the authority under paragraph (1)
14 with respect to a project has a clearly defined devel-
15 opmental purpose, taking into account the following
16 objectives:

17 (A) The support for the project would be
18 more likely than not to substantially reduce or
19 overcome the effect of an identified market im-
20 perfection.

21 (B) The project would not have proceeded,
22 or would have been substantially delayed, with-
23 out the support.

1 (C) The support will contribute positively
2 to the long-term commercial sustainability of
3 the target industry in the United States.

4 (D) The support furthers a policy of the
5 Corporation described in section 102(c).

6 (3) LIMITATIONS ON EQUITY INVESTMENTS.—

7 (A) PER PROJECT LIMIT.—The aggregate
8 amount of support provided under this sub-
9 section with respect to any project shall not ex-
10 ceed 30 percent of the aggregate amount of all
11 equity investment made to the project at the
12 time that the Corporation approves support of
13 the project, except that such percentage may be
14 raised with the unanimous consent of the
15 Board.

16 (B) TOTAL LIMIT.—Support provided
17 under this subsection shall be limited to not
18 more than 35 percent of the aggregate exposure
19 of the Corporation on the date on which that
20 support is provided, except that such percent-
21 age may be raised with the unanimous consent
22 of the Board.

23 (4) SALES AND LIQUIDATION OF POSITION.—

24 The Corporation shall seek to sell and liquidate any
25 support for a project provided under this subsection

1 as soon as commercially feasible, taking into consid-
2 eration—

3 (A) the actions of other similar investors in
4 the project;

5 (B) how the interests of the taxpayers of
6 the United States will be served through equity
7 investments; and

8 (C) the national security interests of the
9 United States.

10 (5) TIMETABLE.—The Corporation shall create
11 a project-specific timetable for support provided
12 under this subsection.

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

15 (1) IN GENERAL.—In order to carry out the
16 policies described in section 102(c), the Corporation
17 may initiate and support, through financial partici-
18 pation, incentive grants, or otherwise, and under
19 such terms and conditions as the Corporation may
20 determine, feasibility studies for the planning, devel-
21 opment, and management of, and procurement for,
22 potential bilateral and multilateral projects eligible
23 for support under this title, including training activi-
24 ties undertaken in connection with those projects,
25 for the purpose of promoting investment in those

1 projects and the identification, assessment, sur-
2 veying, and promotion of private investment oppor-
3 tunities, utilizing wherever feasible and effective, the
4 facilities of private investors.

5 (2) CONTRIBUTIONS TO COSTS.—The Corpora-
6 tion shall, to the maximum extent practicable, re-
7 quire any person receiving funds under this sub-
8 section to—

9 (A) share the costs of feasibility studies
10 and other project planning services for which
11 support is provided under this subsection; and

12 (B) if the person succeeds in project imple-
13 mentation, reimburse the Corporation for the
14 amount of support provided by the Corporation
15 to the person under this subsection.

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

1 (g) ASSET ACQUISITION.—With respect to asset ac-
2 quisition, the Corporation may—

3 (1) acquire tangible and intangible assets at
4 fair market value; and

5 (2) engage in purchase order guarantees.

6 (h) ENTERPRISE FUNDS.—

7 (1) IN GENERAL.—The Corporation may, fol-
8 lowing consultation with the Secretary of the Treas-
9 ury and the heads of other relevant Federal depart-
10 ments or agencies, establish and operate enterprise
11 funds in accordance with this subsection.

12 (2) PRIVATE CHARACTER OF FUNDS.—Nothing
13 in this subsection may be construed to make—

14 (A) an enterprise fund established or oper-
15 ated by the Corporation an agency or establish-
16 ment of the United States Government; or

17 (B) any officer, employee, or member of
18 the board of directors of an enterprise fund de-
19 scribed in subparagraph (A) an officer or em-
20 ployee of the United States.

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

1 (A) To promote the development of domes-
2 tic manufacturing, the commercialization of ad-
3 vanced technologies, and the building of resil-
4 ient supply chains.

5 (B) To facilitate access to credit or capital
6 for small- and medium-sized enterprises—

7 (i) in industry sectors or geographic
8 areas with limited means of accessing cred-
9 it on market terms; or

10 (ii) with owners who are members of
11 demographic groups that have historically
12 had limited access to private capital.

13 (C) To complement the work of the Small
14 Business Administration and the Economic De-
15 velopment Administration of the Department of
16 Commerce to improve the overall business-ena-
17 bling environment by financing the expansion of
18 the private business sector.

19 (D) To make financially sustainable invest-
20 ments designed to generate measurable social
21 benefits and build technical capacity in addition
22 to financial returns.

23 (4) OPERATION OF FUNDS.—

24 (A) EXPENDITURES.—Funds made avail-
25 able to an enterprise fund established or oper-

1 ated under this subsection shall be expended at
2 the minimum rate necessary to make timely
3 payments for projects and activities carried out
4 under this subsection.

5 (B) ADMINISTRATIVE EXPENSES.—Not
6 more than 3 percent per annum of the funds
7 made available to an enterprise fund established
8 or operated under this subsection may be obli-
9 gated or expended for the administrative ex-
10 penses of the enterprise fund.

11 (5) BOARD OF DIRECTORS.—Each enterprise
12 fund established or operated under this subsection
13 shall be governed by a board of directors comprised
14 of private citizens of the United States—

15 (A) who—

16 (i) shall be appointed by the President
17 after consultation with the chairmen and
18 ranking members of the appropriate con-
19 gressional committees;

20 (ii) have pursued careers in innovative
21 technologies or manufacturing; and

22 (iii) have demonstrated expertise in
23 investment activities; and

24 (B) a majority of whom shall—

1 (i) be citizens of the United States;

2 and

3 (ii) have relevant experience relating

4 to the purposes described in paragraph (3).

5 (6) REPORTS.—Not later than 1 year after the
6 date on which an enterprise fund is established
7 under this subsection, and annually thereafter until
8 the enterprise fund terminates in accordance with
9 paragraph (9), the board of directors of the enter-
10 prise fund shall—

11 (A) submit to the appropriate congres-
12 sional committees a report—

13 (i) detailing the administrative ex-
14 penses of the enterprise fund during the
15 year covered by the report;

16 (ii) describing the operations, activi-
17 ties, engagement with civil society and rel-
18 evant local private sector entities, develop-
19 ment objectives and outcomes, financial
20 condition, and accomplishments of the en-
21 terprise fund during the year covered by
22 the report;

23 (iii) describing the results of any
24 audit conducted under paragraph (7) dur-
25 ing the year covered by the report; and

1 (iv) describing how audits conducted
2 under paragraph (7) during the year cov-
3 ered by the report are informing the oper-
4 ations and activities of the enterprise fund
5 for the year in which the report is sub-
6 mitted; and

7 (B) publish, on a publicly available inter-
8 net website of the enterprise fund, each report
9 required under subparagraph (A).

10 (7) OVERSIGHT.—

11 (A) INSPECTOR GENERAL PERFORMANCE
12 AUDITS.—

13 (i) IN GENERAL.—The Inspector Gen-
14 eral of the Corporation shall conduct peri-
15 odic audits of the activities of each enter-
16 prise fund established under this sub-
17 section.

18 (ii) CONSIDERATION.—In conducting
19 an audit under clause (i), the Inspector
20 General shall assess whether the activities
21 of the enterprise fund—

22 (I) support the purposes de-
23 scribed in paragraph (3);

24 (II) result in profitable private
25 sector investing; and

1 (III) generate measurable eco-
2 nomic and social benefits.

3 (B) RECORDKEEPING REQUIREMENTS.—

4 The Corporation shall ensure that each enter-
5 prise fund receiving support under this sub-
6 section—

7 (i) keeps separate accounts with re-
8 spect to that support; and

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

12 (8) RETURN OF FUNDS TO THE CORPORATE
13 CAPITAL ACCOUNT.—Any funds resulting from any
14 liquidation, dissolution, or winding up of an enter-
15 prise fund, in whole or in part, shall be returned to
16 the Corporate Capital Account established under
17 section 304(b).

18 (9) TERMINATION.—The authority of an enter-
19 prise fund to provide support under this subsection
20 shall terminate on the earlier of—

21 (A) the date that is 10 years after the date
22 on which amounts from the enterprise fund are
23 first expended; or

24 (B) the date on which the enterprise fund
25 is liquidated.

1 (i) STRUCTURED FINANCE.—With respect to struc-
2 tured finance, the Corporation may—

3 (1) securitize an investment described in any of
4 subsections (a) through (h); and

5 (2) design and provide seed funding for new fi-
6 nancing vehicles that aggregate invested funds from
7 businesses with not more than 500 employees in
8 order to attract larger private capital providers, such
9 as pension funds.

10 (j) SMALL BUSINESS DEVELOPMENT.—

11 (1) IN GENERAL.—The Corporation, in coopera-
12 tion with appropriate departments, agencies, and in-
13 strumentalities of the United States, as well as pri-
14 vate entities and others, shall undertake activities to
15 broaden the participation of United States small
16 businesses and cooperatives, and other small United
17 States investors, in the development of small private
18 enterprise.

19 (2) OUTREACH TO MINORITY-OWNED AND
20 WOMEN-OWNED BUSINESSES.—

21 (A) IN GENERAL.—The Corporation shall
22 collect data on the involvement of minority- and
23 women-owned businesses in projects, includ-
24 ing—

1 (i) the amount of insurance and fi-
2 nancing provided by the Corporation to
3 those businesses in connection with
4 projects supported by the Corporation; and

5 (ii) to the extent such information is
6 available, the involvement of those busi-
7 nesses in procurement activities conducted
8 or supported by the Corporation.

9 (B) INCLUSION IN ANNUAL REPORT.—The
10 Corporation shall include, in each annual report
11 submitted under section 403, the aggregate
12 data collected under this paragraph, in such
13 form as to quantify the effectiveness of the out-
14 reach activities of the Corporation with respect
15 to minority- and women-owned businesses.

16 (k) PRIVATE INVESTMENT VEHICLES.—In addition
17 to the other authorities under this section, the Corporation
18 may, as the Chief Executive Officer of the Corporation
19 determines necessary, create or participate in any other
20 investment vehicle used by investors in the private sector,
21 as determined by the Chief Executive Officer.

22 **SEC. 202. TERMS AND CONDITIONS.**

23 (a) IN GENERAL.—Except as provided in subsection
24 (b), support provided by the Corporation under this title

1 shall be on such terms and conditions as the Corporation
2 may prescribe.

3 (b) REQUIREMENTS.—The following requirements
4 apply to support provided by the Corporation under this
5 title:

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

8 (A) to alleviate a credit or capital market
9 imperfection; or

10 (B) to achieve specified development objec-
11 tives of the Government by providing support in
12 the most efficient way to meet those objectives
13 on a case-by-case basis.

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

17 (A) 30 years; or

18 (B) the debt servicing capabilities of the
19 project to be financed by the loan, as deter-
20 mined by the Corporation.

21 (3) The Corporation shall, with respect to pro-
22 viding any loan guaranty to a project, require the
23 parties to the project to bear the risk of loss in an
24 amount equal to not less than 20 percent of the

1 guaranteed support by the Corporation in the
2 project.

3 (4) The Corporation may not make or guar-
4 antee a loan unless the Corporation determines that
5 the borrower or lender is responsible and that ade-
6 quate provision is made for servicing the loan on
7 reasonable terms and protecting the financial inter-
8 est of the United States.

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

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

24 (7)(A) The Corporation shall set fees or pre-
25 miums for support provided under this title at levels

1 that minimize the cost to the Government while sup-
2 porting achievement of the objectives of support.

3 (B) The Corporation shall review fees for loan
4 guaranties periodically to ensure that the fees as-
5 sessed on new loan guaranties are at a level suffi-
6 cient to cover the most recent estimates of the Cor-
7 poration of the costs of the Corporation.

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

10 (A) the guaranty has been properly ob-
11 tained;

12 (B) the loan qualified for the guaranty;
13 and

14 (C) but for fraud or material misrepresen-
15 tation by the holder of the guaranty, the guar-
16 anty is presumed to be valid, legal, and enforce-
17 able.

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

22 (10) The Corporation may not make loans or
23 loan guaranties except to the extent that budget au-
24 thority to cover the costs of the loans or guaranties
25 is provided in advance in an appropriations Act, as

1 required by section 504 of the Federal Credit Re-
2 form Act of 1990 (2 U.S.C. 661c).

3 (11) The Corporation shall rely upon specific
4 standards to assess the developmental and strategic
5 value of projects and should only provide the min-
6 imum level of support necessary in order to support
7 such projects.

8 (12) Any loan or loan guaranty made by the
9 Corporation should be provided on a senior basis or
10 pari passu with other senior debt unless there is a
11 substantive policy rationale to provide that support
12 otherwise.

13 **SEC. 203. PAYMENT OF LOSSES.**

14 (a) PAYMENTS FOR DEFAULTS ON GUARANTEED
15 LOANS.—

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

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

5 (3) RECOVERY EFFORTS.—The Corporation
6 shall pursue recovery from the borrower of the
7 amount of any payment made under paragraph (1)
8 with respect to the loan.

9 (b) LIMITATION ON PAYMENTS.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (2), compensation for insurance, reinsurance,
12 or a guaranty issued under this title shall not exceed
13 the dollar value of the tangible or intangible con-
14 tributions or commitments made in the project, plus
15 interest, earnings, or profits actually accrued on
16 those contributions or commitments, to the extent
17 provided by the insurance, reinsurance, or guaranty.

18 (2) EXCEPTION.—

19 (A) IN GENERAL.—The Corporation may
20 provide that—

21 (i) appropriate adjustments in the in-
22 sured dollar value be made to reflect the
23 replacement cost of project assets; and

24 (ii) compensation for a claim of loss
25 under insurance of an equity investment

1 under section 201(d) may be computed on
2 the basis of the net book value attributable
3 to the equity investment on the date of
4 loss.

5 (3) ADDITIONAL LIMITATION.—

6 (A) IN GENERAL.—Notwithstanding para-
7 graph (2)(A)(ii) and except as provided in sub-
8 paragraph (B), the Corporation shall limit the
9 amount of direct insurance and reinsurance
10 issued under section 201 with respect to a
11 project so as to require that the insured and af-
12 filiates of the insured bear the risk of loss for
13 not less than 10 percent of the amount of the
14 exposure of the Corporation to that insured and
15 affiliates of the insured in the project.

16 (B) EXCEPTION.—The limitation under
17 subparagraph (A) shall not apply to direct in-
18 surance or reinsurance of loans provided by
19 banks or other financial institutions to unre-
20 lated parties.

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

1 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion shall be construed to preclude any forbearance for the
3 benefit of a borrower that may be agreed upon by the par-
4 ties to a loan guaranteed by the Corporation if budget au-
5 thority for any resulting costs to the Government, as de-
6 fined in section 502 of the Federal Credit Reform Act of
7 1990 (2 U.S.C. 661a), is available.

8 **TITLE III—ADMINISTRATIVE**
9 **AND GENERAL PROVISIONS**

10 **SEC. 301. OPERATIONS.**

11 (a) IN GENERAL.—The Corporation may sue and be
12 sued in its corporate name.

13 (b) JUDICIAL REMEDY.—A court of competent juris-
14 diction may prescribe a judicial remedy to the prevailing
15 party in a lawsuit involving the Corporation.

16 (c) CLAIMS SETTLEMENT.—

17 (1) IN GENERAL.—The Corporation may, on
18 such terms and conditions as the Corporation may
19 determine—

20 (A) settle claims arising as a result of sup-
21 port provided under title II; and

22 (B) arbitrate disputes arising as a result of
23 support provided under title II with the consent
24 of the parties.

1 (2) SETTLEMENTS CONCLUSIVE.—Notwith-
2 standing any other provision of law, a payment
3 made under any settlement agreement entered into
4 under paragraph (1)(A), or as a result of an arbitra-
5 tion award awarded under paragraph (1)(B), shall
6 be final and conclusive.

7 (d) ELECTRONIC PAYMENTS AND DOCUMENTS.—The
8 Corporation shall implement policies to accept electronic
9 documents and electronic payments in every program of
10 the Corporation.

11 **SEC. 302. CORPORATE POWERS.**

12 (a) IN GENERAL.—The Corporation—

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

15 (2) notwithstanding division C of subtitle I of
16 title 41, United States Code, may make and perform
17 with any person contracts, including no-cost con-
18 tracts (as defined by the Corporation), grants, and
19 other agreements, that are necessary for carrying
20 out the functions of the Corporation;

21 (3) may lease, purchase, or otherwise acquire,
22 improve, and use real property that is necessary to
23 carry out the functions of the Corporation;

24 (4) may accept cash gifts or donations of serv-
25 ices or of property (real, personal, or mixed), tan-

1 gible or intangible, for the purpose of carrying out
2 the functions of the Corporation;

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

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

11 (7) may hire or obtain passenger motor vehi-
12 cles;

13 (8) may acquire, hold, or dispose of, upon such
14 terms and conditions as the Corporation may deter-
15 mine, any property, real, personal, or mixed, tan-
16 gible or intangible, or any interest in such property;

17 (9) may lease office space for the Corporation's
18 own use, with the obligation of amounts for such
19 lease limited to the current fiscal year for which pay-
20 ments are due until the expiration of the current
21 lease under predecessor authority, as of the day be-
22 fore the date of enactment of this Act;

23 (10) may indemnify directors, officers, employ-
24 ees, and agents of the Corporation for liabilities and

1 expenses incurred in connection with their activities
2 on behalf of the Corporation;

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

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

9 (13) may collect, notwithstanding section
10 3711(g)(1) of title 31, United States Code, or com-
11 promise any obligations assigned to or held by the
12 Corporation, including any legal or equitable rights
13 accruing to the Corporation;

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

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

20 (b) TREATMENT OF PROPERTY.—Notwithstanding
21 any other provision of law relating to the acquisition, han-
22 dling, or disposal of property by the United States, the
23 Corporation shall have the right in its discretion to com-
24 plete, recondition, reconstruct, renovate, repair, maintain,

1 operate, or sell any property acquired by the Corporation
2 pursuant to the provisions of this Act.

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

4 (a) IN GENERAL.—The maximum contingent liability
5 of the Corporation outstanding at any time shall not ex-
6 ceed in the aggregate the greater of—

7 (1) the amount specified in subsection (b); or

8 (2) an amount equal to 10 times the balance of
9 the Corporate Capital Account.

10 (b) AMOUNT SPECIFIED.—

11 (1) INITIAL 5-YEAR PERIOD.—The amount
12 specified in this subsection for the 5-year period be-
13 ginning on the date of enactment of this Act is
14 \$500,000,000,000.

15 (2) SUBSEQUENT 5-YEAR PERIODS.—Not later
16 than 5 years after the date of enactment of this Act,
17 and not less frequently than every 5 years there-
18 after, the amount specified in paragraph (1) shall be
19 adjusted to reflect the percentage of the increase (if
20 any) in the average of the Consumer Price Index for
21 All Urban Consumers published by the Bureau of
22 Labor Statistics of the Department of Labor during
23 the preceding 5-year period.

24 **SEC. 304. CORPORATE FUNDS.**

25 (a) DEFINITIONS.—In this section:

1 (1) ADMINISTRATIVE EXPENSES.—The term
2 “administrative expenses” does not include project-
3 specific transaction costs.

4 (2) COST.—The term “cost” has the meaning
5 given the term in section 502 of the Federal Credit
6 Reform Act of 1990 (2 U.S.C. 661a).

7 (3) INFORMATION TECHNOLOGY.—The term
8 “information technology” has the meaning given the
9 term in section 11101 of title 40, United States
10 Code.

11 (4) PROJECT-SPECIFIC TRANSACTION COSTS.—
12 The term “project-specific transaction costs”—

13 (A) means those costs incurred by the Cor-
14 poration for travel, legal expenses, and direct
15 and indirect costs incurred in claims settle-
16 ments associated with the provision of support
17 under title; and

18 (B) does not include information tech-
19 nology.

20 (b) CORPORATE CAPITAL ACCOUNT.—There is estab-
21 lished in the Treasury of the United States a fund to be
22 known as the “Corporate Capital Account” to carry out
23 the purposes of the Corporation.

24 (c) FUNDING.—The Corporate Capital Account shall
25 consist of—

1 (1) fees charged and collected pursuant to sub-
2 section (d);

3 (2) any amounts received pursuant to sub-
4 section (f);

5 (3) investments and returns on such invest-
6 ments pursuant to subsection (h);

7 (4) unexpended balances transferred to the Cor-
8 poration;

9 (5) payments received in connection with settle-
10 ments of all insurance and reinsurance claims of the
11 Corporation; and

12 (6) all other collections transferred to or earned
13 by the Corporation, excluding the cost of loans and
14 loan guaranties.

15 (d) FEE AUTHORITY.—Fees may be charged and col-
16 lected for providing services in amounts to be determined
17 by the Corporation.

18 (e) USES.—

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

21 (A) the cost of loans and loan guaranties;

22 (B) administrative expenses of the Cor-
23 poration;

1 (C) for the cost of providing support au-
2 thorized by subsections (c), (e), (f), and (g) of
3 section 201; and

4 (D) project-specific transaction costs.

5 (2) INCOME AND REVENUE.—In order to carry
6 out the purposes of the Corporation, all collections
7 transferred to or earned by the Corporation, exclud-
8 ing the cost of loans and loan guaranties, shall be
9 deposited into the Corporate Capital Account and
10 shall be available to carry out its purpose, including
11 without limitation—

12 (A) payment of all insurance and reinsur-
13 ance claims of the Corporation;

14 (B) repayments to the Treasury of
15 amounts borrowed under subsection (f); and

16 (C) dividend payments to the Treasury
17 under subsection (g).

18 (f) FULL FAITH AND CREDIT.—

19 (1) IN GENERAL.—All support provided pursu-
20 ant to predecessor authorities or title II shall con-
21 tinue to constitute obligations of the United States,
22 and the full faith and credit of the United States is
23 hereby pledged for the full payment and perform-
24 ance of such obligations.

1 (2) BONDS.—With the approval of the Sec-
2 retary of the Treasury, the Corporation is author-
3 ized to issue bonds, notes, debentures, and other
4 similar obligations, subject to the maximum contin-
5 gent liability established in Section 303. Such obli-
6 gations shall be in such forms and denominations,
7 shall have such maturities, shall bear such rates of
8 interest, shall be subject to such terms and condi-
9 tions, and shall be issued in such manner and sold
10 at such prices as may be prescribed by the Corpora-
11 tion with the approval of the Secretary of the Treas-
12 ury. Such obligations shall be fully and uncondition-
13 ally guaranteed both as to interest and principal by
14 the United States, and such guaranty shall be ex-
15 pressed on the face thereof, and such obligations
16 shall be lawful investments and may be accepted as
17 security for all fiduciary, trust, and public funds the
18 investment or deposit of which shall be under the
19 authority or control of the United States or any offi-
20 cer or officers thereof.

21 (3) AUTHORITY TO BORROW.—The Corporation
22 is authorized to borrow from the Treasury such
23 sums as may be necessary to fulfill such obligations
24 of the United States and any such borrowing shall
25 be at a rate determined by the Secretary of the

1 Treasury, taking into consideration the current aver-
2 age market yields on outstanding marketable obliga-
3 tions of the United States of comparable maturities,
4 for a period jointly determined by the Corporation
5 and the Secretary, and subject to such terms and
6 conditions as the Secretary may require.

7 (4) TREATMENT OF DEBT.—Any obligation of,
8 or fully guaranteed by, the Corporation shall be eli-
9 gible for purchase under section 14(b)(2) of the
10 Federal Reserve Act (12 U.S.C. 355(b)(2)).

11 (g) DIVIDENDS.—The Board, in consultation with
12 the Director of the Office of Management and Budget,
13 shall annually assess a dividend payment to the Treasury
14 if the Corporation's insurance portfolio is more than 100
15 percent reserved.

16 (h) INVESTMENT AUTHORITY.—

17 (1) IN GENERAL.—The Corporation may re-
18 quest the Secretary of the Treasury to invest such
19 portion of the Corporate Capital Account as is not,
20 in the Corporation's judgment, required to meet the
21 current needs of the Corporate Capital Account.

22 (2) FORM OF INVESTMENTS.—Such invest-
23 ments shall be made by the Secretary of the Treas-
24 ury in public debt obligations, with maturities suit-
25 able to the needs of the Corporate Capital Account,

1 as determined by the Corporation, and bearing inter-
2 est at rates determined by the Secretary, taking into
3 consideration current market yields on outstanding
4 marketable obligations of the United States of com-
5 parable maturities.

6 (i) COLLECTIONS.—Interest earnings made pursuant
7 to subsection (h), earnings collected related to equity in-
8 vestments, and amounts, excluding fees related to insur-
9 ance or reinsurance, collected pursuant to subsection (d),
10 shall not be collected for any fiscal year except to the ex-
11 tent provided in advance in appropriations Acts.

12 (j) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated \$50,000,000,000 to the
14 Corporate Capital Account.

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

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

19 (a) IN GENERAL.—Not later than 1 year after the
20 date of enactment of this Act, the Corporation shall estab-
21 lish—

- 22 (1) a risk committee; and
- 23 (2) an audit committee.

24 (b) PURPOSE.—The purpose of the committees estab-
25 lished under subsection (a) shall be to assist the Board

1 in fulfilling the duties and responsibilities of the Board
2 under section 201(a).

3 (c) DUTIES AND RESPONSIBILITIES OF RISK COM-
4 MITTEE.—Subject to the direction of the Board, the risk
5 committee established under subsection (a) shall be re-
6 sponsible for—

7 (1) formulating risk management policies of the
8 operations of the Corporation;

9 (2) reviewing and providing guidance on the op-
10 eration of the global risk management framework of
11 the Corporation;

12 (3) developing policies for enterprise risk man-
13 agement, risk monitoring, and the management of
14 strategic, reputational, regulatory, operational, devel-
15 opmental, environmental, social, and financial risks;
16 and

17 (4) developing the risk profile of the Corpora-
18 tion, including a risk management and compliance
19 framework and governance structure to support such
20 framework.

21 (d) DUTIES AND RESPONSIBILITIES OF AUDIT COM-
22 MITTEE.—Subject to the direction of the Board, the audit
23 committee established under subsection (a) be responsible
24 for—

25 (1) the integrity of—

1 (A) the financial reporting of the Corpora-
2 tion;

3 (B) systems of internal controls relating to
4 finance and accounting of the Corporation; and

5 (C) the financial statements of the Cor-
6 poration;

7 (2) the performance of the internal audit func-
8 tion of the Corporation; and

9 (3) the compliance of the Corporation with legal
10 and regulatory requirements relating to the finances
11 of the Corporation.

12 **SEC. 402. PERFORMANCE MEASURES, EVALUATION, AND**
13 **LEARNING.**

14 (a) IN GENERAL.—Not later than 1 year after the
15 date of enactment of this Act, the Corporation shall de-
16 velop a performance measurement system to—

17 (1) evaluate and monitor projects; and

18 (2) guide future projects.

19 (b) CONSIDERATIONS.—In developing the perform-
20 ance measurement system required under subsection (a),
21 the Corporation shall—

22 (1) develop an impact measurement system for
23 measuring the net effect of the activities of the Cor-
24 poration on the policies described in section 102(e);

1 (2) develop a mechanism for ensuring that sup-
2 port provided by the Corporation for a project is in
3 addition to private investment for the project;

4 (3) develop standards for, and a method for en-
5 suring, appropriate financial performance of the
6 portfolio of the Corporation; and

7 (4) develop standards for, and a method for en-
8 suring, appropriate performance of the portfolio of
9 the Corporation, including—

10 (A) measurement of the projected and ex
11 post impact of a project; and

12 (B) the information necessary to comply
13 with section 403.

14 (c) PUBLIC AVAILABILITY OF CERTAIN INFORMA-
15 TION.—On a regular basis, the Corporation shall make
16 available to the public information relating to—

17 (1) support provided by the Corporation under
18 title II; and

19 (2) performance metrics about that support.

20 (d) CONSULTATION.—In developing the performance
21 measurement system required under subsection (a), the
22 Corporation shall consult with—

23 (1) the Advisory Council established under sec-
24 tion 103(j); and

1 (2) other stakeholders and interested parties
2 engaged in the policy of the Corporation described in
3 section 102(c).

4 **SEC. 403. ANNUAL REPORT.**

5 (a) IN GENERAL.—Not later than October 1 of each
6 year, the Corporation shall submit to the appropriate con-
7 gressional committees a complete and detailed report of
8 the operations of the Corporation during the preceding fis-
9 cal year, including an assessment of—

10 (1) the impacts of projects on the policies de-
11 scribed in section 102(c);

12 (2) the extent to which the operations of the
13 Corporation complement or are compatible with the
14 domestic economic development programs of the
15 Federal Government;

16 (3) the institutional linkages of the Corporation
17 with other relevant Federal agencies and efforts to
18 strengthen those linkages; and

19 (4) the compliance of projects with Federal law
20 and policies that govern the support of the Corpora-
21 tion for projects promulgated or otherwise adminis-
22 tered by the Corporation.

23 (b) ELEMENTS.—Each report required under sub-
24 section (a) shall include analyses of the effects of projects,
25 including—

1 (1) reviews and analyses of—

2 (A) the desired outcomes for projects and
3 whether or not the Corporation is meeting the
4 associated metrics, goals, and development ob-
5 jectives, including, to the extent practicable,
6 during the years after conclusion of projects;

7 (B) the effect of the support of the Cor-
8 poration on access to capital;

9 (C) ways in which the Corporation ad-
10 dresses identifiable market gaps or inefficien-
11 cies; and

12 (D) what impact, if any, the support de-
13 scribed in subparagraph (B) has on access to
14 credit for a specific project or sector;

15 (2) projections of—

16 (A) outcomes of projects and whether sup-
17 port for those projects are meeting performance
18 measures associated with those projects—

19 (i) during the start-up phase of those
20 projects; and

21 (ii) throughout the duration of the
22 those projects; and

23 (B) the value of private sector assets
24 brought to bear relative to the amount of sup-

1 port provided by the Corporation and the value
2 of any other public sector support; and

3 (3) an assessment of the extent to which the
4 Corporation has applied lessons learned from moni-
5 toring and evaluating activities of the Corporation
6 and annual reports from previous years compiled by
7 the Corporation to projects.

8 **SEC. 404. QUARTERLY REPORT.**

9 (a) IN GENERAL.—Not later than 30 days after the
10 date of enactment of this Act, and quarterly thereafter,
11 the Corporation shall submit to the appropriate congres-
12 sional committees a detailed report that—

13 (1) with respect to the first report submitted
14 under this section, describes the progress of the Cor-
15 poration with respect to the appointment and, if ap-
16 plicable, the confirmation of—

17 (A) members of the Board;

18 (B) the Chief Executive Officer of the Cor-
19 poration;

20 (C) the Deputy Chief Executive Officer of
21 the Corporation; and

22 (D) other officers of the Corporation de-
23 scribed in section 103(a); and

24 (2) with respect to each report submitted there-
25 after, covers the period beginning on the date of the

1 most recent submission of a report under this sec-
2 tion and describes—

3 (A) new activities of the Corporation; and

4 (B) any activities of the Corporation that
5 have concluded.

6 (b) CONTENTS.—Each report submitted under sub-
7 section (a) shall include, with respect to support provided
8 by the Corporation—

9 (1) the name of the entity receiving the sup-
10 port;

11 (2) the location of the entity receiving the sup-
12 port;

13 (3) the amount of support provided;

14 (4) the nature of the support;

15 (5) if applicable, the term or duration during
16 which the Corporation will provide the support;

17 (6) if applicable, the term over which the sup-
18 port will be repaid to the Corporation; and

19 (7) any other relevant details determined im-
20 portant or necessary by the Chief Executive Officer
21 of the Corporation.

22 **SEC. 405. PUBLICLY AVAILABLE PROJECT INFORMATION.**

23 (a) IN GENERAL.—The Corporation shall maintain a
24 database with detailed project-level information, as appro-
25 priate.

1 (b) ATTRIBUTES.—The database maintained under
2 subsection (a) shall—

3 (1) be user-friendly;

4 (2) be publicly available; and

5 (3) to the extent practicable, include a descrip-
6 tion of the support provided for each project, which
7 should include, to the extent feasible, the informa-
8 tion included in the report to Congress under section
9 403(a) relating to the project.

10 **SEC. 406. ENGAGEMENT WITH INVESTORS.**

11 (a) IN GENERAL.—The Corporation, acting through
12 the Chief Development Officer, shall—

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

16 (2) engage the entities described in paragraph
17 (1);

18 (3) reduce business risks primarily through di-
19 rect transaction support and the facilitation of in-
20 vestment partnerships;

21 (4) develop and support tools, approaches, and
22 intermediaries that can mobilize private finance in
23 support of the policy described in section 101(c);
24 and

1 (5) pursue projects consistent with the policy
2 described in section 101(c).

3 (b) ASSISTANCE.—To carry out the duties of the Cor-
4 poration under subsection (a), the Corporation shall—

5 (1) develop risk mitigation tools;

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

8 (3) support intermediaries by linking capital
9 supply and demand;

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

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

15 (6) offer strategic planning and programming
16 assistance to catalyze investment into priority sec-
17 tors;

18 (7) provide transaction structuring support;

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

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

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

1 (c) TECHNICAL ASSISTANCE.—The Corporation shall
2 coordinate with the Small Business Administration, the
3 Department of Commerce, the Office of Science and Tech-
4 nology Policy, and other Federal agencies, as necessary,
5 on projects and programs supported by the Corporation
6 that include technical assistance.

7 **SEC. 407. NOTIFICATIONS BY THE CORPORATION.**

8 Not later than 15 days before the date on which the
9 Corporation makes a financial commitment associated
10 with the provision of support under title II in an amount
11 greater than \$10,000,000, the Chief Executive Officer of
12 the Corporation shall submit to the appropriate congres-
13 sional committees a report in writing that—

14 (1) contains the amount of the financial com-
15 mitment;

16 (2) identifies the recipient or beneficiary of the
17 commitment; and

18 (3) describes the project, activity, or asset and
19 the development goal or purpose to be achieved by
20 the commitment.

21 **TITLE V—CONDITIONS, RESTRIC-**
22 **TIONS, AND PROHIBITIONS**

23 **SEC. 501. LIMITATIONS AND PREFERENCES.**

24 (a) POLICIES.—Not later than 1 year after the date
25 of enactment of this Act, the Chief Executive Officer of

1 the Corporation, in consultation with the Secretary of the
2 Treasury, shall establish policies to ensure that, with re-
3 spect to support provided to an entity under the activities
4 of the Corporation under title II, the support—

5 (1) is contingent on the entity using the sup-
6 port to invest in manufacturing activity in the
7 United States;

8 (2) retains public benefits in the United States
9 after the date on which the support concludes ac-
10 cording to binding commitments that, as determined
11 by the Chief Executive Officer of the Corporation—

12 (A) are satisfactory; and

13 (B) remain in place for the longest feasible
14 period of time, consistent with sound economics
15 and the purposes of this Act; and

16 (3) contains safeguards to minimize the trans-
17 fer of intellectual property from companies in the
18 United States to foreign entities, especially to coun-
19 tries of concern, including the People's Republic of
20 China.

21 (b) LIMITATION ON SUPPORT FOR SINGLE ENTI-
22 TY.—An entity receiving support from the Corporation
23 under title II may not receive more than an amount that
24 is equal to 5 percent of the maximum contingent liability
25 of the Corporation authorized under section 303.

1 (c) PROMOTION.—The Corporation shall make efforts
2 to ensure that the activities of the Corporation promote—

3 (1) regional diversity, such that businesses lo-
4 cated in a diverse range of States receive investment
5 support under title II;

6 (2) competition, such that target industries and
7 sectors maintain a competitive environment and are
8 not controlled by single entities;

9 (3) sustainability, such that raw materials
10 sourcing and manufacturing practices minimize envi-
11 ronmental harm;

12 (4) equity, such that businesses from histori-
13 cally marginalized communities receive business de-
14 velopment support; and

15 (5) fair labor, such that businesses with union-
16 ized workforces are supported.

17 **SEC. 502. ADDITIONALITY AND AVOIDANCE OF ADVERSE**
18 **IMPACT.**

19 (a) IN GENERAL.—Before the Corporation provides
20 support for a project, the Corporation shall ensure that
21 private sector entities are afforded an opportunity to sup-
22 port the project.

23 (b) SAFEGUARDS, POLICIES, AND GUIDELINES.—The
24 Corporation shall develop appropriate safeguards, policies,

1 and guidelines to ensure that support provided by the Cor-
2 poration under title II—

3 (1) supplements, encourages, and does not com-
4 pete with private sector support; and

5 (2) does not have a significant adverse impact
6 on employment in the United States.

7 **SEC. 503. PREVAILING WAGES.**

8 Section 602 of the Public Works and Economic De-
9 velopment Act of 1965 (42 U.S.C. 3212) shall apply to
10 a construction project that receives financial assistance
11 from the Corporation. For purposes of applying such sec-
12 tion 602 to such a project, any reference in such section
13 602—

14 (1) to a project assisted by the Secretary of
15 Commerce under such Act shall be deemed to be ref-
16 erence to a project that receives financial assistance
17 from the Corporation; and

18 (2) to the Secretary of Commerce shall be
19 deemed to be a reference to the Corporation.

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