

110TH CONGRESS
1ST SESSION

S. 2349

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

IN THE SENATE OF THE UNITED STATES

NOVEMBER 14, 2007

Mr. REID (for Mr. BIDEN (for himself and Mr. LUGAR)) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. REAUTHORIZATION OF OPIC PROGRAMS.**

7 Section 235(a)(2) of the Foreign Assistance Act of
8 1961 (22 U.S.C. 2195(a)(2)) is amended by striking
9 “September 30, 2007” and inserting “September 30,
10 2011”.

1 **SEC. 3. REQUIREMENTS REGARDING INTERNATIONAL**
 2 **WORKER RIGHTS.**

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

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

8 (2) in paragraph (4), by striking “(4) In” and
 9 inserting “(4) ADDITIONAL DETERMINATION.—In”;
 10 and

11 (3) by striking paragraphs (1) through (3) and
 12 inserting the following:

13 “(1) LIMITATION ON OPIC ACTIVITIES.—

14 “(A) IN GENERAL.—The Corporation may
 15 insure, reinsure, guarantee, or finance a project
 16 only if the country in which the project is to be
 17 undertaken is taking steps to adopt and imple-
 18 ment laws that extend international worker
 19 rights to workers in that country, including in
 20 any designated zone, or special administrative
 21 region or area, in that country.

22 “(B) CONTRACT LANGUAGE.—The Cor-
 23 poration shall also include the following lan-
 24 guage, in substantially the following form, in all
 25 contracts which the Corporation enters into
 26 with eligible investors to provide financial sup-

1 port under this title: ‘The investor agrees not to
2 take any actions to obstruct or prevent employ-
3 ees of the foreign enterprise from exercising
4 their international worker rights (as defined in
5 section 238(h) of the Foreign Assistance Act of
6 1961), and agrees to adhere to the obligations
7 regarding those international worker rights.
8 The investor agrees to the elimination of dis-
9 crimination with respect to employment and oc-
10 cupation.’.

11 “(2) PREFERENCE TO CERTAIN COUNTRIES.—
12 To the extent practicable and consistent with its de-
13 velopment objectives, the Corporation shall give pref-
14 erential consideration to projects in countries that
15 have adopted, maintained, and enforced laws that
16 substantially provide international worker rights, as
17 well as the elimination of discrimination with respect
18 to employment and occupation.

19 “(3) USE OF ANNUAL REPORTS ON INTER-
20 NATIONAL WORKER RIGHTS.—The Corporation shall,
21 in carrying out paragraph (1)(A), use, among other
22 sources, the reports submitted to the Congress pur-
23 suant to section 504 of the Trade Act of 1974 (19
24 U.S.C. 2464). The Corporation should also consider
25 other relevant sources, including the observations,

1 reports, and recommendations of the International
2 Labour Organization.”.

3 (b) 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

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

10 “(h) the term ‘international worker rights’ means
11 internationally recognized worker rights, as defined in sec-
12 tion 507(4) of the Trade Act of 1974 (19 U.S.C. 2467(4));
13 and

14 “(i) the terms ‘Category A project’ and ‘Category A
15 extractive industry project’ mean any project or other ac-
16 tivity for which the Corporation proposes to provide insur-
17 ance, reinsurance, financing, or other support under this
18 title and which is likely to have a significant adverse envi-
19 ronmental impact.”.

20 (c) GENERAL PROVISIONS AND POWERS.—Section
21 239 of the Foreign Assistance Act of 1961 (22 U.S.C.
22 2199) is amended—

23 (1) in subsection (h), by adding at the end the
24 following: “The Corporation shall also consult with

1 relevant stakeholders in developing such criteria.”;
 2 and

3 (2) in subsection (i), in the first sentence, by
 4 inserting “(including international worker rights and
 5 the elimination of discrimination with respect to em-
 6 ployment and occupation)” after “fundamental free-
 7 doms” each place it appears.

8 **SEC. 4. ENVIRONMENTAL ASSESSMENTS.**

9 Section 231A(b) of the Foreign Assistance Act of
 10 1961 (22 U.S.C. 2191a(b)) is amended to read as follows:

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

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

22 “(2) such assessment or audit has been made
 23 available to the public of the United States, locally
 24 affected groups in the host country, and nongovern-
 25 mental organizations in the host country.”.

1 **SEC. 5. COMMUNITY SUPPORT.**

2 Section 237 of the Foreign Assistance Act of 1961
3 (22 U.S.C. 2197) is amended by adding at the end the
4 following new subsection:

5 “(p) **COMMUNITY SUPPORT.**—To the maximum ex-
6 tent practicable, the Corporation shall require the appli-
7 cant for a project that is subject to the requirements of
8 section 231A(b) to obtain broad community support for
9 the project.”.

10 **SEC. 6. CLIMATE CHANGE MITIGATION ACTION PLAN.**

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

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

15 “(a) **MITIGATION ACTION PLAN.**—The Corporation
16 shall, not later than 180 days after the date of the enact-
17 ment of the Overseas Private Investment Corporation Re-
18 authorization Act of 2007, institute a climate change miti-
19 gation action plan that includes the following:

20 “(1) **CLEAN TECHNOLOGY.**—

21 “(A) **INCREASING ASSISTANCE.**—The Cor-
22 poration shall establish a goal of substantially
23 increasing its support of projects that use, de-
24 velop, or otherwise promote the use of clean en-
25 ergy technologies over the 10-year period begin-
26 ning on the date of the enactment of the Over-

1 seas Private Investment Corporation Reauthor-
2 ization Act of 2007.

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

10 “(2) ENVIRONMENTAL IMPACT ASSESS-
11 MENTS.—

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

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

22 “(3) GOALS FOR REDUCING GREENHOUSE GAS
23 EMISSIONS.—

24 “(A) IN GENERAL.—The Corporation shall
25 continue to maintain—

“(i) a goal for reducing direct greenhouse gas emissions associated with projects in the Corporation’s portfolio on the date of the enactment of the Overseas Private Investment Corporation Reauthorization Act of 2007 by 20 percent over a 10-year period; and

“(ii) a goal for limiting annual investments in projects that have significant greenhouse gas emissions after such date of enactment in a manner that reduces greenhouse gas emissions associated with projects in the Corporation’s total portfolio by 20 percent over a 10-year period.

“(B) SPECIAL RULES.—

“(i) BASELINE.—For purposes of determining the percentage that greenhouse gas emissions are reduced under subparagraph (A), the Corporation shall use the aggregate estimated greenhouse gas emissions for projects in the Corporation’s portfolio.

“(ii) SIGNIFICANT GREENHOUSE GAS EMISSIONS PROJECTS.—For purposes of this paragraph, projects that have signifi-

1 cant greenhouse gas emissions are projects
2 that result in the emission of more than
3 100,000 tons of CO₂ equivalent each year.

4 “(C) REPORTING REQUIREMENTS.—The
5 Corporation shall include, in each annual report
6 under section 240A, the following information
7 with respect to the period covered by the report:

8 “(i) The annual greenhouse gas emis-
9 sions attributable to each project in the
10 Corporation’s active portfolio that has sig-
11 nificant greenhouse gas emissions.

12 “(ii) The estimated greenhouse gas
13 emissions for each new project for which
14 the Corporation provided insurance financ-
15 ing, or reinsurance that has significant
16 greenhouse gas emissions since the last re-
17 port.

18 “(iii) The extent to which the Cor-
19 poration is meeting the goals described in
20 subparagraph (A) for reducing greenhouse
21 gas emissions.

22 “(iv) Each new project for which the
23 Corporation provided insurance, financing,
24 or reinsurance that involves renewable en-
25 ergy and environmentally beneficial prod-

1 ucts and services, including increased en-
2 ergy efficiency.

3 “(4) REPORT TO CONGRESSIONAL COMMIT-
4 TEES.—The Corporation shall, not later than 180
5 days after the date of the enactment of the Overseas
6 Private Investment Corporation Reauthorization Act
7 of 2007, submit to the Committees on Foreign Rela-
8 tions and Appropriations of the Senate and the
9 Committees on Foreign Affairs and Appropriations
10 of the House of Representatives a report on the plan
11 developed to carry out paragraph (1)(A). Thereafter,
12 the Corporation shall include in its annual report
13 under section 240A a discussion of such plan and its
14 implementation.

15 “(b) EXTRACTION INVESTMENTS.—

16 “(1) PRIOR NOTIFICATION TO CONGRESSIONAL
17 COMMITTEES.—The Corporation shall provide notice
18 of consideration to the Committees on Foreign Rela-
19 tions and Appropriations of the Senate and the
20 Committees on Foreign Affairs and Appropriations
21 of the House of Representatives at least 60 days be-
22 fore approval of a Category A extractive industry
23 project (as defined in section 238(i)) or any extrac-
24 tive industry project in which assistance by the Cor-
25 poration would be valued at \$10,000,000 or more

(including contingent liability). Nothing in this subsection shall affect the limitations and prohibitions with respect to direct investments described in section 234(c).

“(2) COMMITMENT TO EITI PRINCIPLES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Corporation may approve a contract of insurance or reinsurance, or any guaranty, or enter into an agreement to provide financing to an eligible investor for a project that significantly involves an extractive industry only if—

“(i) the eligible investor has agreed to implement the Extractive Industries Transparency Initiative principles and criteria, or substantially similar principles and criteria related to the specific project to be carried out; and

“(ii)(I) the host country where the project is to be carried out has committed to the Extractive Industries Transparency Initiative principles and criteria, or substantially similar principles and criteria; or

“(II) the host country where the project is to be carried out has in place or

1 is taking the necessary steps to establish
2 functioning systems for—

3 “(aa) accurately accounting for
4 revenues and expenditures in connec-
5 tion with the extraction and export of
6 the type of natural resource to be ex-
7 tracted or exported;

8 “(bb) the independent audit of
9 such revenues and expenditures and
10 the widespread public dissemination of
11 the audit; and

12 “(cc) verifying government re-
13 ceipts against company payments, in-
14 cluding widespread dissemination of
15 such payment information, and dis-
16 closing such documents as Host Gov-
17 ernment Agreements, Concession
18 Agreements, and bidding documents,
19 allowing in any such dissemination or
20 disclosure for the redaction of, or ex-
21 ceptions for, information that is com-
22 mercially proprietary or that would
23 create competitive disadvantage.

24 “(B) EXCEPTION.—If the host country
25 does not meet the requirements of subpara-

graph (A)(ii) (I) or (II), the Corporation may approve a contract of insurance or reinsurance, or any guaranty, or enter into an agreement to provide financing if the Corporation determines it is in the foreign policy interest of the United States for the Corporation to support the project in the host country and the host country does not prevent an eligible investor from complying with this paragraph.

“(3) PREFERENCE FOR CERTAIN PROJECTS.—

With respect to all projects that significantly involve an extractive industry, the Corporation, to the extent practicable and consistent with the Corporation’s development objectives, shall give preference to a project in which both the eligible investor has agreed to implement the Extractive Industries Transparency Initiative principles and criteria, or substantially similar principles and criteria, and the host country where the project is to be carried out has committed to the Extractive Industries Transparency Initiative principles and criteria, or substantially similar principles and criteria.

“(4) REPORTING REQUIREMENT.—The Cor-

poration shall include in its annual report required

1 under section 240A a description of its activities to
 2 carry out this subsection.

3 “(c) DEFINITIONS.—In this section:

4 “(1) CLEAN TECHNOLOGY.—The term ‘clean
 5 energy technology’ means an energy supply or end-
 6 use technology—

7 “(A) such as—

8 “(i) solar technology;

9 “(ii) wind technology;

10 “(iii) geothermal technology;

11 “(iv) hydroelectric technology;

12 “(v) biomass technology; and

13 “(vi) carbon capture and storage tech-
 14 nology; and

15 “(B) that, over its life cycle and compared
 16 to a similar technology already in commercial
 17 use—

18 “(i) results in—

19 “(I) reduced emissions of green-
 20 house gases;

21 “(II) increased geological seques-
 22 tration of greenhouse gases;

23 “(III) decreases energy intensity
 24 of operation; or

1 “(IV) reduces fossil fuel con-
 2 sumption; and

3 “(ii) may—

4 “(I) substantially lower emissions
 5 of air pollutants; or

6 “(II) generate substantially
 7 smaller and less hazardous quantities
 8 of solid or liquid waste.

9 “(2) GREENHOUSE GAS.—The term ‘greenhouse
 10 gas’ means—

11 “(A) carbon dioxide;

12 “(B) methane;

13 “(C) nitrous oxide;

14 “(D) hydrofluorocarbons;

15 “(E) perfluorocarbons; or

16 “(F) sulfur hexafluoride.

17 “(3) EXTRACTIVE INDUSTRY.—The term ‘ex-
 18 tractive industry’ refers to an enterprise engaged in
 19 the exploration, development, or extraction of oil and
 20 gas reserves, metal ores, gemstones, industrial min-
 21 erals (except rock used for construction purposes),
 22 or coal.”.

23 **SEC. 7. INCREASED TRANSPARENCY.**

24 (a) IN GENERAL.—Section 237 of the Foreign Assist-
 25 ance Act of 1961 (22 U.S.C. 2197), as amended by section

1 5, is amended by adding at the end the following new sub-
 2 sections:

3 “(q) AVAILABILITY OF PROJECT INFORMATION.—
 4 Beginning 90 days after the date of the enactment of the
 5 Overseas Private Investment Corporation Reauthorization
 6 Act of 2007, the Corporation shall make public, and post
 7 on its Internet website, summaries of all new projects sup-
 8 ported by the Corporation, and other relevant information,
 9 except that the Corporation shall not include any confiden-
 10 tial business information in the summaries and informa-
 11 tion made available under this subsection.

12 “(r) REVIEW OF METHODOLOGY.—Not later than
 13 180 days after the date of the enactment of the Overseas
 14 Private Investment Corporation Reauthorization Act of
 15 2007, the Corporation shall make available to the public
 16 the methodology, including relevant regulations, used to
 17 assess and monitor the impact of projects supported by
 18 the Corporation on—

- 19 “(1) the development of host countries;
- 20 “(2) the environment of host countries;
- 21 “(3) international worker rights (as well as the
 22 elimination of discrimination with respect to employ-
 23 ment and occupation) in host countries; and
- 24 “(4) United States employment.

1 “(s) PUBLIC NOTICE PRIOR TO PROJECT AP-
2 PROVAL.—

3 “(1) PUBLIC NOTICE.—The Board of Directors
4 of the Corporation may not vote in favor of any ac-
5 tion proposed to be taken by the Corporation on any
6 Category A project until at least 60 days after the
7 Corporation—

8 “(A) makes available for public comment a
9 summary of the project and relevant informa-
10 tion about the project; and

11 “(B) makes the summary and information
12 described in subparagraph (A) available to lo-
13 cally affected groups in the area of impact of
14 the proposed project, and to host country non-
15 governmental organizations.

16 “(2) LIMITATIONS ON DISCLOSURE.—The Cor-
17 poration shall not include any business confidential
18 information in the summary and information made
19 available under of paragraph (1).

20 “(3) PUBLISHED RESPONSE.—To the extent
21 practicable, the Corporation shall publish responses
22 to the comments received under paragraph (1) and
23 submit the responses to the Board not later than 7
24 days before a vote is to be taken on any action pro-
25 posed by the Corporation on the project.”.

1 (b) OFFICE OF ACCOUNTABILITY.—Section 237 of
 2 the Foreign Assistance Act of 1961 (22 U.S.C. 2197), as
 3 amended by subsection (a), is amended by adding at the
 4 end the following new subsection:

5 “(t) OFFICE OF ACCOUNTABILITY.—The Corporation
 6 shall maintain an Office to provide, upon request, prob-
 7 lem-solving services for projects supported by the Corpora-
 8 tion and, to the maximum extent practicable, review the
 9 Corporation’s compliance with policies relating to the envi-
 10 ronment, extractive industries, transparency, human
 11 rights, social standards, international worker rights, and
 12 the elimination of discrimination with respect to employ-
 13 ment and occupation. The Office shall operate in a manner
 14 that is fair, objective, and transparent.”.

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

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

19 “(l) OPERATIONS IN IRAQ.—Notwithstanding sub-
 20 sections (a) and (b) of section 237, the Corporation is au-
 21 thorized to undertake in Iraq any program authorized by
 22 this title.”.

23 **SEC. 9. LOW-INCOME HOUSING.**

24 Not later than 1 year after the date of the enactment
 25 of this Act, the Corporation shall submit a report to the

1 Committee on Foreign Relations of the Senate and the
 2 Committee on Foreign Affairs of the House of Representa-
 3 tives, in consultation with appropriate departments, agen-
 4 cies, and instrumentalities of the United States, as well
 5 as private entities, on the feasibility of broadening the as-
 6 sistance the Corporation provides to projects that provide
 7 assistance to low-income home buyers. If the Corporation
 8 finds such assistance is feasible, the Corporation shall
 9 identify and begin to implement steps to proceed to pro-
 10 vide such assistance.

11 **SEC. 10. ASSISTANCE FOR SMALL BUSINESSES AND ENTI-**
 12 **TIES.**

13 Section 240 of the Foreign Assistance Act of 1961
 14 (22 U.S.C. 2200) is amended by adding at the end the
 15 following:

16 “(c) RESOURCES DEDICATED TO SMALL BUSI-
 17 NESSES, COOPERATIVES, AND OTHER SMALL UNITED
 18 STATES INVESTORS.—The Corporation shall ensure that
 19 adequate personnel and resources, including senior offi-
 20 cers, are dedicated to assist United States small busi-
 21 nesses, cooperatives, and other small United States inves-
 22 tors in obtaining insurance, reinsurance, financing, and
 23 other support under this title. The Corporation shall in-
 24 clude, in each annual report under section 240A, the fol-

1 lowing information with respect to the period covered by
 2 the report:

3 “(1) A description of such personnel and re-
 4 sources.

5 “(2) The number of small businesses, coopera-
 6 tives, and other small United States investors that
 7 received such insurance, reinsurance, financing, and
 8 other support, and the dollar value of such insur-
 9 ance, reinsurance, financing, and other support.

10 “(3) A description of the projects for which
 11 such insurance, reinsurance, financing, and other
 12 support was provided.”.

13 **SEC. 11. TECHNICAL CORRECTIONS.**

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

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

18 (2) by redesignating subsection (h) as sub-
 19 section (g).

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

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

24 (2) by redesignating subsection (f) as sub-
 25 section (e).

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

5 (d) TRANSFER OF PREDECESSOR PROGRAMS AND
 6 AUTHORITIES.—

7 (1) TRANSFER.—Section 239 of the Foreign
 8 Assistance Act of 1961 (22 U.S.C. 2199), as amend-
 9 ed by section 3, is amended—

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

11 (B) by redesignating subsections (c)
 12 through (l) as subsections (b) through (k), re-
 13 spectively.

14 (2) CONFORMING AMENDMENTS.—

15 (A) Section 237(m)(1) of the Foreign As-
 16 sistance Act of 1961 (22 U.S.C. 2197(m)(1)) is
 17 amended by striking “239(g)” and inserting
 18 “239(f)”.

19 (B) Section 240A(a) of the Foreign Assist-
 20 ance Act of 1961 (22 U.S.C. 2200A(a)) is
 21 amended—

22 (i) in paragraph (1), by striking
 23 “239(h)” and inserting “239(g)”; and

24 (ii) in paragraph (2)(A), by striking
 25 “239(i)” and inserting “239(h)”.

1 (C) Section 209(e)(16) of the Admiral
2 James W. Nance and Meg Donovan Foreign
3 Relations Authorization Act, Fiscal Years 2000
4 and 2001 (as enacted into law by section
5 1000(a)(7) of Public Law 106–113; 31 U.S.C.
6 1113 note) is amended by striking “239(c)”
7 and “2199(c)” and inserting “239(b)” and
8 “2199(b)”, respectively.

9 (e) ADDITIONAL CLERICAL AMENDMENTS.—Section
10 234(b) of the Foreign Assistance Act of 1961 (22 U.S.C.
11 2194(b)) is amended by striking “235(a)(2)” and insert-
12 ing “235(a)(1)”.

○