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Export-Import Bank: Frequently Asked Questions

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Committees of Congress

Summary

The Export-Import Bank of the United States (Ex-Im Bank or the Bank), a wholly owned federal government corporation, is the official export credit agency (ECA) of the U.S. government. Its mission is to assist in financing and facilitating U.S. exports of goods and services to support U.S. employment. Ex-Im Bank operates under a renewable general statutory charter (Export-Import Bank Act of 1945, as amended). In the 114th Congress, Ex-Im Bank's charter was extended through September 30, 2019, by the Export-Import Bank Reform and Reauthorization Act of 2015 (Division E of P.L. 114-94, a surface transportation authorization measure). Enacted on December 4, 2015, this act generally lowered Ex-Im Bank's statutory lending authority ("exposure cap" for outstanding portfolio) to $135 billion for each of FY2015-FY2019, and made reforms to, among other things, Ex-Im Bank's policies or operations in risk management, fraud controls, and ethics, as well as the U.S. approach to international negotiations on export credit financing. Ex-Im Bank's reauthorization, ultimately on a bipartisan basis in Congress, was preceded by active debate among Members about whether to renew Ex-Im Bank's authority and if so, for how long and under what terms.

Debate continues in Congress over Ex-Im Bank's rationales. Proponents contend that the Bank supports U.S. exports and jobs by filling gaps in private sector financing and helping U.S. exporters compete against foreign companies backed by their ECAs. Critics contend that Ex-Im Bank crowds out private sector activity, provides "corporate welfare," and poses a risk to taxpayers. Members also may consider other issues, particularly possible nominations of members to Ex-Im Bank's five-member Board of Directors. The Board, whose members are appointed by the President and with the Senate's advice and consent, is responsible for approving Ex-Im Bank transactions for financing and insurance. Due to current vacancies on the Board, the Board does not have a quorum and cannot approve financial commitments above $10 million. Congress also may conduct oversight of Ex-Im Bank's implementation of reforms required by the 2015 reauthorization act, as well as issues presented by the international context for ECA activity, among other issues.

Congressional consideration of Ex-Im Bank raises a range of questions. This report addresses a number of those questions that are frequently asked, including:

- What is the Export-Import Bank and what is the debate over its reauthorization?
- What is its leadership structure?
- What are its programs, policies, and activities?
- What is its international context?
- How does its budget work?
- How does it manage risk?
- What are the implications of a sunset in authority for the Bank's activities?
- What are historical and current approaches to Ex-Im Bank reauthorization?

Additional CRS resources on Ex-Im Bank include CRS Report R43581, *Export-Import Bank: Overview and Reauthorization Issues*, by Shayerah Ilias Akhtar, and CRS In Focus IF10017, *Export-Import Bank of the United States (Ex-Im Bank)*, by Shayerah Ilias Akhtar.

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This report addresses frequently asked questions about Ex-Im Bank, grouped in the following categories: (1) congressional interest; (2) organizational structure and management; (3) market context and programs; (4) statutory requirements and policies; (5) international context; (6) activity; (7) risk management, fraud control, and ethics; (8) budget and appropriations; (9) sunset in authority; and (10) historical and current approaches to reauthorization. See **Appendix A** for a summary of selected key CRS resources related to Ex-Im Bank.

Congressional Interest

What is the Export-Import Bank?

Ex-Im Bank, a wholly owned U.S. government corporation,[1] is the official export credit agency (ECA) of the United States. Its mission is to assist in financing and facilitating U.S. exports of goods and services and, in doing so, to contribute to U.S. employment.[2] On a demand-driven basis, it seeks to finance exports that the private sector is unwilling or unable to undertake alone at terms commercially viable for exporters; and/or to counter government-backed financing offered by foreign countries through their ECAs.[3] Ex-Im Bank's main financial products are direct loans, loan guarantees, working capital finance, and export credit insurance. Its activities are backed by the full faith and credit of the U.S. government.[4] Congress sets statutory requirements for Ex-Im Bank's activities. Ex-Im Bank also abides by international disciplines for government-backed ECA activity under the Organization for Economic Cooperation and Development (OECD) Arrangement on Officially Supported Export Credits (the "Arrangement").

What are Ex-Im Bank's origins and early history?[5]

Ex-Im Bank, established by the Export-Import Bank Act of 1945, as amended (P.L. 79-173; 12 U.S.C. Section 635 et seq.), has its origins in two predecessor banks, created as part of the Roosevelt Administration's New Deal response to the Great Depression. The first Export-Import Bank was established on February 2, 1934 (Executive Order No. 6581), to assist in financing U.S. trade with the Soviet Union. The Second Export-Import Bank was created on March 9, 1934

[1] 12 U.S.C. §635(a)(1). A U.S. government corporation is a government agency established by Congress to provide market-oriented public services and to produce revenues that meet or approximate expenditures. See CRS Report RL30365, *Federal Government Corporations: An Overview*, by Kevin R. Kosar.

[2] 12 U.S.C. §635(a)(1).

[3] Ex-Im Bank's website is accessible at http://www.exim.gov/.

[4] 12 U.S.C. §635k.

[5] Information in this section draws from previously developed language by James K. Jackson, Specialist in International Trade and Finance.

(Executive Order No. 6638), originally to assist in financing U.S. trade with Cuba. Its operations were subsequently expanded to include trade financing to all other countries except the Soviet Union. Both the first and second Bank had limited two-year charters. At the end of the two-year period, the Second Export-Import Bank's charter was allowed to lapse, with its functions transferred to the first Bank. The charter for the first Bank was extended and, in 1945, it was superseded by the present Ex-Im Bank.[6]

In the immediate post-war period, Ex-Im Bank participated in reconstruction efforts and was viewed as part of the growing U.S. aid efforts. In the 1950s, it responded to requests from U.S. exporters by shifting away from aid-related activities to offering export credit financing for exports of goods and by confronting the competition U.S. exporters faced in the form of officially financed, government-supported export credits. In the early 1960s, it further attempted to meet the needs of U.S. exporters by offering export credit guarantees to insure against political and exchange rate risk. In the 1970s, Ex-Im Bank funded large scale infrastructure projects in numerous developing countries. By the early 1980s, small projects and capital goods and services constituted an increasingly larger share of Ex-Im Bank's business.[7] Presently, Ex-Im Bank provides direct loans, loan guarantees, and export credit insurance as a part of U.S. export promotion efforts to contribute to U.S. employment, though its activities also may have foreign policy implications (see "Market Context and Ex-Im Bank Programs" section).

What is Congress's role in relation to the Bank?

Congress has a number of statutory responsibilities with respect to Ex-Im Bank. Congress provides authority for Ex-Im Bank's functions through its statutory charter, the Export-Import Bank Act of 1945, as amended (P.L. 79-173; 12 U.S.C. Section 635 et seq.), for a period of time that it chooses. While Congress does not approve individual Ex-Im Bank transactions, it sets general statutory parameters for the agency's activities. Congress also provides an annual appropriation for the Bank, and conducts oversight of its activities. In addition, the Senate approves nominations by the President of the United States to the positions of Ex-Im Bank's President, First Vice President, and Board of Directors.[8]

What are the committees of jurisdiction?

The committees to which legislation that would amend Ex-Im Bank's statutory charter has been referred previously are the House Committee on Financial Services and Senate Committee on Banking, Housing, and Urban Affairs. In general, the Bank has been funded each fiscal year through provisions in the State, Foreign Operations, and Related Programs Appropriations Act.

What is the policy debate over Ex-Im Bank and its recent reauthorization history?

Recent Reauthorization History

[6] National Archives, "Records of the Export-Import Bank of the United States," http://www.archives.gov/research/guide-fed-records/groups/275.html.

[7] Jordan Jay Hillman, *The Export-Import Bank at Work: Promotional Financing in the Public Sector* (Westport 1982); and Ex-Im Bank, "80th Anniversary" history webpages, http://archive.exim.gov/about/whoweare/anniversary/History/1930s.cfm.

[8] 12 U.S.C. §635a(b) and 12 U.S.C. §635a(c).

- ***Ex-Im Bank Reauthorization Act of 2012*** (P.L. 112-122, enacted May 30, 2012): renewal through September 30, 2014.
- ***FY2015 continuing appropriations resolution*** (P.L. 113-164, enacted September 9, 2014): renewal through June 30, 2015.
- ***Lapse in authority*** for about 5 months (July 1-December 3, 2015) because Congress did not renew Ex-Im Bank's charter.
- ***Ex-Im Bank Reform and Reauthorization Act of 2015*** (Division E of Fixing America's Surface Transportation Act, P.L. 114-94, enacted December 4, 2015): renewal through September 30, 2019.

Debate over Ex-Im Bank is rooted in underlying differences in views over the appropriate role of the U.S. government in export promotion. Those in favor of Ex-Im Bank assert that it supports U.S. exports and jobs by addressing shortfalls in private sector financing and helping U.S. exporters compete against foreign companies backed by their governments' ECAs. Critics assert that it crowds out private sector activity, picks winners and losers through its support, operates as a form of "corporate welfare," and poses a risk to taxpayers. While debate over Ex-Im Bank has been long-standing, Congress has renewed Ex-Im Bank's authority many times, including on a bipartisan basis and under both Republican and Democratic administrations (see **text box** for recent history and **Appendix C** for more detailed history). The reauthorization debates in the 114th Congress focused on the role of the U.S. government in supporting exports; the changing export finance landscape, including the growth of ECA activity by emerging market ECAs; and Ex-Im Bank's financial soundness and risk management, among other policy issues.

Organizational Structure and Management

Where is Ex-Im Bank located?

Ex-Im Bank is headquartered in Washington, DC.[9] It also maintains regional export finance centers in 12 U.S. cities, which conduct outreach and provide assistance focused exclusively on U.S. small businesses.[10]

What is its leadership structure?

Ex-Im Bank is led by a Board of Directors, which consists of the President of the Bank (who is also the chairman of the Board), First Vice President (who is also the Vice Chairman), and three additional directors. The Board authorizes the Bank's transactions either directly or through delegated authority.[11] All Board members are appointed by the President of the United States with the advice and consent of the Senate. Under Ex-Im Bank's charter, not more than three members of the five-person Board can be of any one political party.[12]

Ex-Im Bank also has an Advisory Committee, which is required by its charter to consist of 17 members appointed by the Board of Directors on the recommendation of the President of the Bank. Under its charter, the Advisory Committee's members are required to be "broadly

[9] Ex-Im Bank, "Ex-Im Bank Headquarters," http://www.exim.gov/contact/headquarters.

[10] Ex-Im Bank, "Regional Export Finance Centers," http://www.exim.gov/contact/regional-export-finance-centers; and *Export-Import Bank of the United States Annual Report 2013*, p. 14 and p. 85.

[11] For example, Ex-Im Bank has delegated authority for underwriting many short-term transactions directly to Ex-Im Bank-approved private sector lenders.

[12] 12 U.S.C. §635a(c). Ex-Im Bank, "Board of Directors," http://www.exim.gov/about/leadership/board-of-directors.

representative of environment, production, commerce, finance, agriculture, labor, services, State government, and the textile industry," subject to certain limits.[13]

In addition, Ex-Im Bank has a Sub-Saharan Africa Advisory Committee, which is directed to promote the expansion of the Bank's financial commitments in that region.[14] The Export-Import Bank Reform and Reauthorization Act of 2015 extended the Sub-Saharan Africa Advisory Committee's termination date to September 30, 2019 (Sec. 54001(c) of P.L. 114-94).[15]

Does Ex-Im Bank's Board of Directors have a quorum to transact business?

A quorum of the Board of Directors consists of at least three members.[16] With currently two members, the Board lacks a quorum (at least three members) to transact business. Without a quorum, it cannot approve transactions above $10 million. Nominations of members to the Board would be subject to Senate approval.

How many employees does Ex-Im Bank have?

In FY2015, Ex-Im Bank had 420 full-time equivalents (FTEs) for its programs and 25 FTEs for its Office of Inspector General (OIG).[17]

Market Context and Ex-Im Bank Programs

What role does export finance play in the market?

Export finance, which is used to cover the time between an export order being placed and payment being made, is a means of facilitating international trade. Financing can play a role, for instance, when exporters may need to protect against the higher risk of payment default by an unknown buyer situated in a foreign legal system; because export orders often require more working capital, relative to sales, than domestic orders and exporters may wait an average of three to five months between shipment and payment;[18] or buyers require funds from a financial institution to purchase goods and services.

According to the Bank of International Settlements (BIS), no comprehensive source exists for measuring the size and composition of trade finance markets.[19] The World Trade Organization (WTO), based on its assumption that the largest share of global trade transactions are not paid in

[13] 12 U.S.C. §635a(d). Ex-Im Bank, "Advisory Committee," http://www.exim.gov/about/leadership/advisory-committee.

[14] 12 U.S.C. §635(b)(9)(B). Ex-Im Bank, "Sub-Saharan Africa Advisory Committee," http://www.exim.gov/about/whoweare/leadership/sub-saharan-africa-advisory-committee.cfm.

[15] 12 U.S.C. §635(b)(9)(B)(iii).

[16] 12 U.S.C. §635a(c). Ex-Im Bank, "Board of Directors," http://www.exim.gov/about/leadership/board-of-directors.

[17] OMB, *Budget of the United States Government, Fiscal Year 2017*, Appendix, "Other Independent Agencies."

[18] Gary Clyde Hufbauer, Meera Fickling, and Woan Foong Wong, *Revitalizing the Export-Import Bank*, Peterson Institute for International Economics, May 2011, p. 1, http://www.iie.com/publications/pb/pb11-06.pdf.

[19] Bank of International Settlements (BIS), "Trade Finance: Development and Issues," Committee on the Global Financial System (CGFS) Papers No. 50, January 2014, http://www.bis.org/publ/cgfs50.pdf.

cash and involve some form of finance, estimates that the market for trade finance (in its broadest definition) exceeds $10 trillion annually.[20]

What are sources of export financing?

Export finance is available through both the public and private sector, including through:

- **Export credit agencies (ECAs)**, which are government-backed entities. Most developed countries and many developing countries have ECAs.
- **Commercial banks and insurance companies**, through which private insurers and lenders finance exports on a commercial basis.
- **Capital markets**, which provide financing through bond issuance, on a secured or unsecured basis.
- **Manufacturer self-financing**, through which companies, especially larger ones, may self-finance certain exports to foreign buyers.

Commercial banks have been estimated to account for 80% of the trade finance market.[21] Private lenders and insurers conduct the majority of short-term export financing, though ECAs may play a role in supporting certain sectors, such as taking on risks of financing small business exports. With respect to longer-term financing, the market can play an active role, but in certain cases, ECA support can help make transactions more commercially attractive by mitigating risks of financing or by providing an additional source of funding to diversify risks of financing, for example, for complex, multi-billion dollar sales such as aircraft and infrastructure projects.

What financial products does Ex-Im Bank presently offer?

Ex-Im Bank groups its financial products into the following four main categories:

- **direct loans** with fixed interest rates made by Ex-Im Bank to foreign buyers of U.S. goods and services;
- **medium- and long-term loan guarantees** of loans made by lenders (usually commercial banks) to foreign buyers of U.S. goods and services, with Ex-Im Bank promising to repay the lender, if the buyer defaults, the outstanding principal and accrued interest on the loan;
- **working capital finance**, through loans and guarantees by Ex-Im Bank, to facilitate finance for businesses, primarily small businesses, who have exporting potential but need working capital funds (e.g., to buy raw materials or supplies) to produce or market their goods and services for export; and
- **export credit insurance** by Ex-Im Bank to exporters and lenders to protect against losses of nonrepayment for commercial and political reasons.

Ex-Im Bank also provides specialized finance products, such as project and structured finance, which usually take the form of direct loans or loan guarantees. For examples of structures of selected Ex-Im Bank financial products, see **Appendix B**.

[20] World Trade Organization (WTO), *Improving the Availability of Trade Finance in Developing Countries: An Assessment of Remaining Gaps*, Note by the Secretariat, February 2, 2015.

[21] WTO, *Supply of Trade Finance*, http://www.wto.org/english/thewto_e/coher_e/whatis_situation_e.htm/.

How does Ex-Im Bank fit into U.S. export promotion efforts?

Ex-Im Bank is one of several federal government agencies involved in promoting U.S. exports of goods and services.[22] It focuses on financing U.S. exports of manufactured goods and services for companies of all sizes. Other U.S. government agencies also offer financing for exports, among other activities, including the U.S. Department of Agriculture (USDA), which finances U.S. agricultural exports, and the Small Business Administration (SBA), which provides export promotion-focused guarantee programs for small businesses.[23] While Ex-Im Bank focuses on supporting exports in support of U.S. commercial interests, the Overseas Private Investment Corporation (OPIC) uses similar tools, but to support U.S. investment in developing and emerging economies to support U.S. foreign policy objectives.[24] At the same time, Ex-Im's activities can have U.S. foreign policy implications (see "Do Ex-Im Bank's activities have a U.S. foreign policy focus?").

The existence of a range of federal government agencies that focus on export promotion has prompted debate about whether any overlap in services provided by federal government agencies constitutes duplication or the use of the same or similar tools to meet different goals.

Does Ex-Im Bank finance U.S. imports?

Ex-Im Bank's name includes the word "import" and its formal statutory mission provides for facilitating both exports and imports.[25] However, according to Ex-Im Bank, it does not provide support for imports.[26] Historically speaking, Ex-Im Bank's role in financing imports appears to have been negligible.[27]

How long are repayment terms for Ex-Im Bank financing?

Ex-Im Bank direct loans and loan guarantees can be:

- short-term (up to one year);

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[22] See CRS Report R41495, *U.S. Government Agencies Involved in Export Promotion: Overview and Issues for Congress*, coordinated by Shayerah Ilias Akhtar.

[23] See CRS Report R43155, *Small Business Administration Trade and Export Promotion Programs*, by Sean Lowry.

[24] See CRS Report 98-567, *The Overseas Private Investment Corporation: Background and Legislative Issues*, by Shayerah Ilias Akhtar.

[25] 12 U.S.C. §635(a).

[26] Ex-Im Bank, "Get Started," http://exim.gov/get-started#what.

[27] See excerpt from Jordan Jay Hillman, *The Export-Import Bank at Work*, Westport: Quorum Books, 1982, pp. 31-32:

> The era [1945 - 1953] cannot be brought to its conclusion without mention of imports—in name and formal statutory status constituting one-half of [Ex-Im Bank's] mission. Moreover, if trade-oriented exports were ever to be supported, this was the time. It was, after all, an era when a dominant goal of foreign lending programs was to increase the dollar earning capacity of recipient countries. Nevertheless, even in this period when imports were seen as a positive factor in reducing an excessive U.S. trade surplus, [Ex-Im Bank's] role in financing import trade, as such, was negligible. In general, the Bank considered commercial bank credits adequate for transactions at risk levels that the Bank itself was otherwise likely to undertake. Import trade, of course, involved the financing of U.S. domestic buyers. They presented neither the credit information nor security enforcement problems associated at the time with overseas credit. It thus remained the view of the Bank that efforts to aid and facilitate foreign sales in the United States were best directed to increasing the productive capabilities of foreign countries. Import trade transactions financed by [Ex-Im Bank] were, and were to remain, negligible.

- medium-term (more than one year and up to seven years, and less than $10 million); and
- long-term (more than seven years, and more than $10 million).[28]

Long-term financing includes structured finance transactions (repayment terms of 10 years, but some up to 12 years); project finance transactions (repayment terms up to 14 years); and renewable energy transactions (repayment terms up to 18 years).[29]

Ex-Im Bank insurance can be:

- short-term (generally up to 180 days, but can be up to 360 days in exceptional circumstances); and
- medium-term (generally up to five years, but can be up to seven years in exceptional circumstances, and more than $10 million).[30]

How does Ex-Im Bank finance its direct loans?

The main source of Ex-Im Bank's current outstanding debt is borrowings from the U.S. Treasury. Borrowings from the U.S. Treasury are used to finance medium-term and long-term loans, and carry a fixed interest rate. U.S. Treasury borrowings are repaid primarily with the repayments of medium-term and long-term loans. For further discussion, see "How does Ex-Im Bank fund its activities?" in the "Budget and Appropriations" section.

What fees does Ex-Im Bank charge, and how are those determined?

Ex-Im Bank's fees for medium- and long-term financing (which account for the bulk of its exposure) generally are guided by the OECD Arrangement. They include the following:

- Ex-Im Bank's direct loans carry fixed interest rates. They generally are made at terms that are the most attractive allowed under the OECD Arrangement, which specifies a minimum interest charge of 1 percentage point above the U.S. Treasury rate for a security of comparable length. The interest rate charged by Ex-Im Bank for direct loans is the interest fixed at the Commercial Interest Reference Rates (CIRR).[31] In contrast, its loan guarantees usually carry a floating interest rate that is negotiated between the lender (e.g., the commercial bank) and borrower, or set by the lender.
- Risk premia, also known as "exposure fees," are intended to cover the risk of nonpayment for a transaction. Ex-Im Bank states that it charges risk premia for sovereign and nonsovereign buyers in accordance with rules under the OECD Arrangement. In doing so, Ex-Im Bank seeks to ensure that the premia collected

[28] U.S. Government Accountability Office (GAO), *Export-Import Bank: Additional Analysis and Information Could Better Inform Congress on Exposure, Risk, and Resources*, GAO-13-620, May 2013, p. 5.

[29] Ibid.

[30] Ex-Im Bank, "Export Credit Insurance," http://www.exim.gov/what-we-do/export-credit-insurance.

[31] A CIRR is the official lending rates of ECAs. It is a market-related fixed rate calculated monthly using a government's borrowing cost plus a basis points spread (bps) that depends on the tenor of the transaction. A CIRR is set for each currency based on the borrowing cost of the government of the government that uses that currency, i.e., it is based on government bonds issued in the country's domestic market for its currency. For the U.S. dollar, the CIRR is based on the U.S. Treasury bond rate. CIRR rates are available at: http://www.exim.gov/tools-for-exporters/commercial-interest-reference-rates/prior-cirr-rates.

meet the U.S. government's minimum budgetary requirements. Thus, in certain cases (e.g., medium-term transactions), Ex-Im Bank says that it must charge fees higher than the minimum fees required under the OECD premia system.[32]

- Ex-Im Bank charges commitment fees, which do not appear to be guided by the OECD Arrangement.[33]

The OECD Arrangement does not cover fee structures for short-term financing products. The Bank uses a combination of factors to determine the pricing structure for these products.

What is the approval process for Ex-Im Bank transactions?

Ex-Im Bank processing of transactions is a multi-step process (see **Figure 1**). Applications can be submitted by U.S. exporters, foreign buyers, or commercial lenders depending on the situation and transaction. The approval time for an application can vary, depending on the nature of the transaction. Ex-Im Bank, based on statutory requirements, considers applications across multiple criteria. Transactions require the approval of the Board of Directors directly or through delegated authority.[34] Ex-Im Bank monitors the performance of all medium-term direct loans, loan guarantees, and insurance transactions and all long-term direct loans and loan guarantees above $1 million to help contain risk.[35] Monitoring can vary for short-term transactions.[36]

Figure 1. General Ex-Im Bank Approval Process

Source: CRS, based on Ex-Im Bank information.

Notes: This diagram is a highly simplified representation of the Ex-Im Bank approval for a proposed transaction. Specifics can vary by product type and transaction.

[32] Ex-Im Bank, *Report to the U.S. Congress on Global Export Credit Competition*, for the period January 1, 2014, through December 31, 2014), June 2015, p. 40 (hereinafter referred to as Ex-Im Bank, *2014 Competitiveness Report*, June 2015), http://www.exim.gov/sites/default/files/reports/EXIM%202014CompetReport_0611.pdf.

[33] GAO, *Export-Import Bank: Recent Growth Underscores Need for Continued Improvements in Risk Management*, GAO-13-303, March 2013, p. 27, http://www.gao.gov/assets/660/653373.pdf.

[34] *Export-Import Bank of the United States Annual Report 2014*, p. 54. As an example of delegated authority, Ex-Im Bank delegates the authority for underwriting most of short-term transactions directly to Ex-Im Bank-approved private sector lenders. See GAO, *Export-Import Bank: Recent Growth Underscores Need for Continued Improvements in Risk Management*, GAO-13-303, March 2013, pp. 7-8, http://www.gao.gov/products/GAO-13-303.

[35] GAO, *Export-Import Bank: Recent Growth Underscores Need for Continued Improvements in Risk Management*, GAO-13-303, March 2013, p. 40; and CRS meeting with Ex-Im Bank, April 7, 2014.

[36] Ibid.

How do Ex-Im Bank and private sector financing compare?

It is difficult to compare the rates, terms, and conditions of Ex-Im Bank financing and private sector financing for exports. The actual terms of an export contract are transaction-specific and commercial bank loans are private transactions often with business confidential terms. Demand for Ex-Im Bank financing relative to the private sector can be highly variable. At a macro level, it may vary depending on market forces and regulatory policies. In recent years, the role of ECAs may have become more prominent, in part due to tighter credit market conditions associated with the international financial crisis and the regulatory impact of Basel III[37] on commercial banks, which requires U.S. banks to hold more capital to back trade finance.[38] Changes in disciplines for ECA activity, such as in the OECD Arrangement, also can affect ECA demand. At a micro level, a commercial bank's willingness to participate in a transaction may vary depending, for instance, on available liquidity, perception of risk, international rates of return, and client relationships.

Statutory Requirements and Policies

What are Ex-Im Bank's general statutory requirements and policies?

Under its charter, Ex-Im Bank's financing must have a reasonable assurance of repayment; supplement, and not compete with, private capital; and be provided at terms competitive with foreign ECAs.[39] The Bank considers a proposed transaction's potential U.S. economic impact[40] and potential environmental impact,[41] among other policy issues. Based on its mandate to support U.S. employment, Ex-Im Bank currently requires a certain amount of U.S. content (85% for medium- and long-term transactions) for an export contract to receive full financing from the Bank.[42] It also requires products to be shipped on U.S. flag vessels, with certain exceptions.[43]

Congress directs Ex-Im Bank to support certain types of exports. For example, congressional requirements for Ex-Im Bank include to make available not less than 25% of its total authority to finance small business exports, promote the export of goods and services related to renewable energy sources, and promote financing to sub-Saharan Africa.[44] While the Bank seeks to support these export goals, it is demand-driven and its activity depends on alignment with commercial

[37] The Basel III international regulatory framework is part of a series of evolving agreements among central banks and bank supervisory authorities to standardize bank capital requirements, among other measures. See CRS Report R42744, *U.S. Implementation of the Basel Capital Regulatory Framework*, by Darryl E. Getter.

[38] Ex-Im Bank, *Report to the U.S. Congress on Export Credit Competition and the Export-Import Bank of the United States, For the Period January 1, 2013, through December 31, 2013*, June 2014, pp. 12-14 (hereinafter referred to as Ex-Im Bank, *2013 Competitiveness Report*, June 2014), http://www.exim.gov/about/library/reports/competitivenessreports/upload/Ex-Im-Bank-2013-Competitiveness-Report-to-Congress-Complete.pdf.

[39] 12 U.S.C. §635(b)(1)(B).

[40] 12 U.S.C. §635a-2; 12 U.S.C. §635(b)(1)(B); 12 U.S.C. §635(e).

[41] 12 U.S.C. §635i-5.

[42] Ex-Im Bank's content policy is based on its core jobs mandate, found in 12 U.S.C. §635(a)(1).

[43] Public Resolution 17 of the 73rd Congress; P.L. 109-304.

[44] Small business: 12 U.S.C. §635(b)(1)(E)(v); renewable energy: 12 U.S.C. §635(b)(1)(K); and Sub-Saharan Africa: 12 U.S.C. §635(b)(9)(A).

opportunities. Additionally, Congress prohibits Ex-Im Bank from supporting certain types of transactions subject to exceptions (detailed below).

Ex-Im Bank must submit proposed transactions of $100 million or more or transactions related to nuclear power and heavy water production facilities through a congressional notification process.[45]

Ex-Im Bank also is subject to various reporting requirements, including related to its operations; small business support, default rate monitoring, categorization of loans and long-term guarantee transactions by their stated purpose, and its competitiveness vis-à-vis foreign ECAs.[46] The charter also includes other statutory requirements.

What international disciplines guide Ex-Im Bank activities?

Ex-Im Bank abides by the Organization for Economic Cooperation and Development (OECD) Arrangement on Officially Supported Export Credits ("the Arrangement"), a "Gentlemen's Agreement" negotiated by OECD members. Initially entering into effect in April 1978, the Arrangement has been revised periodically.[47] Its purpose is to provide a framework for the orderly use of government-backed export financing, with the goal of encouraging competition among exporters based on quality and price of goods and services rather than on the most favorable government-backed financing terms and conditions. Among other things, it establishes:

- limitations on the terms and conditions on government-backed export financing (e.g., minimum interest rates, risk fees, and maximum repayment terms);
- rules governing ECA activity in specific sectors through "sector understandings" (ships, nuclear power plants, civil aircraft, renewable energy/climate change mitigation adaption/ water projects, rail infrastructure, and coal-fired electricity generation projects); and
- reporting requirements.[48]

Ex-Im Bank has many foreign counterparts. The countries of some of these foreign ECAs, such as those of European countries, are members of the OECD; others, such as China, Brazil, and India, are not. An increasing share of ECA activity globally falls outside of the scope of the OECD Arrangement. For more information, see the "International Context" section below.

In what countries can (or cannot) Ex-Im Bank provide support?

The Bank is open to support buyers of U.S. exports in almost 200 countries around the world.[49] The Bank generally is prohibited from extending credit and insurance to certain countries, including but not limited to those that are in armed conflict with the United States, those subject

[45] 12 U.S.C. §635(b)(3).

[46] 12 U.S.C. §635g and 12 U.S.C. §635g-1.

[47] See Organization for Economic Cooperation and Development (OECD), "The Arrangement on Export Credits," http://www.oecd.org/tad/xcred/arrangement.htm; and CRS Report RS21128, *The Organization for Economic Cooperation and Development*, by James K. Jackson.

[48] The current participants to the OECD Arrangement are Australia, Canada, the European Union, Japan, New Zealand, Norway, South Korea, Switzerland, and the United States. Brazil is a full participant to the Sector Understanding on Export Credits for Civil Aircraft.

[49] Ex-Im Bank, "Country Limitation Schedule," http://www.exim.gov/tools-for-exporters/country-limitation-schedule.

to U.S. sanctions, those with balance of payment problems, those under the charter's current Marxist-Leninist prohibition,[50] or those for which a presidential determination has been issued.[51]

What is Ex-Im Bank's economic impact policy?

Ex-Im Bank's economic impact analysis provisions were first incorporated in its charter in 1968, and have been modified multiple times since then.[52] Ex-Im Bank is required to have "regulations and procedures to insure that full consideration is given to the extent that any loan or guarantee is likely to have an adverse effect" on U.S. industries and U.S. employment.[53] These regulations and procedures are in support of the congressional policy that, "in authorizing any loan or guarantee the Board of Directors shall take into account any serious adverse effect of such loan or guarantee" on the competitive position of U.S. industry, the availability of materials in short supply, and employment in the United States.[54] Furthermore, the Bank is prohibited from extending any loan or guarantee that would establish or expand the production of any commodity for export by any other country if "the commodity is likely to be in surplus on world markets at the time the resulting commodity will first be sold" or "the resulting production capacity is expected to compete with [U.S.] production of the same, similar, or competing commodity" and will cause "substantial injury" to U.S. producers of a "same, similar, or competing commodity."[55] The same prohibition applies to loans or guarantees subject to U.S. trade remedy measures, such as countervailing duties or anti-dumping orders.[56] However, these prohibitions do not apply if the Board of Directors determines that the proposed transaction's "short- and long-term benefits to [U.S.] industry and employment ... are likely to outweigh the short- and long-term injury to [U.S.] producers and employment ... of the same, similar, or competing commodities."[57]

Stakeholders hold different views on Ex-Im Bank's economic impact policy. Supporters of the policy argue that it meets the Bank's statutory requirements while balancing the range of stakeholder interests. Some users consider the economic impact policy to have a negative effect on Ex-Im Bank's competitiveness relative to foreign ECAs because no other ECA has a comparable policy.[58] They argue that the policy may contribute to "data requirements, processing time, and complexity" and "increased uncertainty" for those that use Ex-Im Bank financing.[59] Import-sensitive industries periodically have raised concerns about the economic impact of Ex-Im Bank's activities, which have led to certain changes in its charter. For instance, the Export-Import

[50] For example, Ex-Im Bank is active in China, although Ex-Im Bank's charter, in 12 U.S.C. §635(b)(2)(B), identifies China as a "Marxist-Leninist" country. In 1980, President Carter determined that providing financial assistance to China would be in the national interest, sufficient to satisfy the requirements in Ex-Im Bank's charter. See Presidential Determination No. 80-15, April 2, 1980, http://history.state.gov/historicaldocuments/frus1977-80v13/d307.

[51] 12 U.S.C. §635(b)(2); 12 U.S.C. §635(b)(5); and 12 U.S.C. §635(b)(10).

[52] Ex-Im Bank, *2013 Competitiveness Report*, June 2014, p. 88.

[53] 12 U.S.C. §635a-2.

[54] 12 U.S.C. §635(b)(1)(B).

[55] 12 U.S.C. §635(e)(1). The Bank defines risk of substantial injury as the extension of a loan or guarantee that will enable a foreign buyer to establish or expand foreign production by an amount that is equal to or greater than 1% of U.S. production. See also, Ex-Im Bank, *Economic Impact Procedures and Methodological Guidelines*, April 2013, http://www.exim.gov/generalbankpolicies/economicimpact/.

[56] 12 U.S.C. §635(e)(2).

[57] 12 U.S.C. §635(e)(3).

[58] Ex-Im Bank, *2014 Competitiveness Report*, June 2015, p. 69.

[59] Ibid.

Bank Reauthorization Act of 2002 (P.L. 107-189) added the prohibition for Bank support related to countervailing duties and anti-dumping orders (see above).

Certain U.S. airline industry groups argue that Ex-Im Bank's financing for U.S. aircraft exports to foreign airlines adversely affects U.S. airlines and their employees, and that the Bank's economic impact analysis procedures are inconsistent with its charter, among other concerns.[60] The Bank's support for foreign airlines' purchases of wide-body aircraft has been a focal point.[61] According to Ex-Im Bank, its economic impact analysis adequately takes into account U.S. economic effects of transactions. Following its 2012 reauthorization and based on the above concerns, Ex-Im Bank stated that it revised its economic impact review of aircraft transactions to "assure a more cautious review" of them.[62] Aspects of this policy debate have been subject to litigation.[63]

What is Ex-Im Bank's environmental impact policy?

In 1992, Congress amended Ex-Im Bank's charter to mandate the establishment of environmental procedures taking into account the environmental impacts associated with Ex-Im Bank-supported projects (P.L. 102-429). Since then, Ex-Im Bank's environmental policy has evolved. Presently, the charter authorizes the Bank to grant or withhold financing support after taking into account the potential beneficial and adverse environmental effects of goods and services for which Ex-Im Bank direct lending and guarantee support is requested. The Bank must conduct an environmental review of all long-term transactions for which Ex-Im Bank support is requested at or above a certain threshold amount. Previously, the threshold was $10 million. The Export-Import Bank Reform and Reauthorization Act of 2015 (Sec. 54002(d) of P.L. 114-94) modified the amount to $25 million or, alternatively, if less than $25 million, then to a threshold established in accordance with international agreements, including under the OECD.[64]

Ex-Im Bank has sought to take environmental considerations into account through:

- Reducing the carbon dioxide emissions associated with Ex-Im Bank-supported projects[65] through the promotion of renewable energy exports;
- Environmental and Social Due Diligence Procedures and Guidelines, which provide a framework to screen, classify, and review transactions based on the likely environmental impact of the underlying project; and
- a Carbon Policy and Supplemental Guidelines for High-Carbon Projects, which includes a focus on transparency and reporting of carbon dioxide emissions and efforts.

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[60] Veronique de Rugy and Andrea Castillo, *The US Export-Import Bank: A Review of the Debate over Reauthorization*, Mercatus Center at George Mason University, July 16, 2014, pp. 12-14, http://mercatus.org/sites/default/files/deRugy-Ex-ImReview.pdf; and U.S. Congress, House Committee on Financial Services, *Testimony of Richard H. Anderson, Chief Executive Officer of Delta Air Lines*, Hearing entitled "Assessing Reauthorization at the Export-Import Bank: Corporate Necessity or Corporate Welfare?", 113th Cong., 2nd sess., June 26, 2014, p. 5, http://financialservices.house.gov/uploadedfiles/hhrg-113-ba00-wstate-randerson-20140625.pdf.

[61] For a general background, see GAO, *Export-Import Bank: Information on Export Credit Agency Financing Support for Wide-Body Jets*, GAO-14-642R, July 8, 2014, http://www.gao.gov/products/GAO-14-642R.

[62] Ex-Im Bank, *2013 Competitiveness Report*, June 2014, p. 41.

[63] See, e.g., Delta Air Lines, Inc. v. Export-Import Bank of the United States, 2015 U.S. Dist. LEXIS 40109 (D.D.C. 2015).

[64] 12 U.S.C. §635i-5.

[65] Ex-Im Bank, *2013 Competitiveness Report*, June 2014, pp. 54 and 146-147.

Supporters of Ex-Im Bank's environmental policy argue that the Bank must balance U.S. exporting interests with environmental policy considerations, per its mandate. However, some U.S. exporters are concerned that Ex-Im Bank's environmental impact policies may be overly burdensome and detract from its core mission to support U.S. exports and jobs.[66] (See next question.)

What are limitations on Ex-Im Bank financing for coal-fired power plant projects?

In recent years, Ex-Im Bank's environmental policies related to high-carbon projects (e.g., support for exports for coal-fired power plants) have been a focal point for congressional interest. After the announcement of President Obama's Climate Action Plan in June 2013,[67] Ex-Im Bank's Board of Directors approved revisions to the Bank's Supplemental Guidelines for High-Carbon Projects in December 2013. As revised, the Supplemental Guidelines state that "the Bank will not provide support for exports of high carbon intensity plants, except for high carbon intensity plants that (a) are located in the world's poorest countries, utilize the most efficient coal technology available and where no other economically feasible alternative exists; or (b) deploy carbon capture and sequestration, in each case, in accordance with the requirements set forth in these Supplemental Guidelines."

Subsequently, FY2014-FY2016 appropriations legislation prohibited, in those fiscal years, the use of Ex-Im Bank funds, under certain conditions, to enforce any rule, regulation, policy, or guideline implemented pursuant to the Supplemental Guidelines.[68] The prohibition varied based on countries' classification by the World Bank (see **text box**). According to Ex-Im Bank, the impact of the appropriations language on the enforcement of rules under its Supplemental Guidelines was as follows:

World Bank Country Classifications

International Development Association (IDA)-eligible countries, as classified by the World Bank, are those countries whose Gross National Income (GNI) per capita is below a certain threshold, established at $1,215 for FY2016.[69] Some countries are eligible only for IDA support, and are referred to as "IDA-only" countries. Others are eligible for IDA support based on their GNI per capita income, but also are creditworthy for borrowing through the International Bank for Reconstruction and Development (IBRD); they are referred to as "IDA-blend" countries. Currently, there are 59 countries classified by the World Bank as "IDA-

[66] For example, see Ex-Im Bank, *2014 Competitiveness Report*, June 2015, p. 61.

[67] The White House, "FACT SHEET: President Obama's Climate Action Plan," press release, June 25, 2013, http://www.whitehouse.gov/the-press-office/2013/06/25/fact-sheet-president-obama-s-climate-action-plan; and CRS Report R43120, *President Obama's Climate Action Plan*, coordinated by Jane A. Leggett. The plan called for the United States to "[lead] global sector public financing towards cleaner energy by calling for the end of U.S. government support for public financing of new coal-fired powers plants overseas, except for the most efficient coal technology available in the world's poorest countries, or facilities deploying carbon capture and sequestration technologies."

[68] For example, see the Consolidated Appropriations Act, 2016, §7080(3)(C) of P.L. 114-113.

[69] The World Bank's FY2015 is July 1, 2014, to June 30, 2015.

- For **IDA-only countries**, the requirement is *suspended* through September 30, 2015, for the transaction to involve the use of best appropriate technology available and the requirement for alternatives analysis demonstrating no economically feasible alternative exists.
- For **IDA-blend countries**, the requirement is *suspended* through September 30, 2015, for the transaction to include carbon capture and sequestration to reduce its carbon intensity to 500 grams of carbon dioxide/kilowatt hours or less.
- For **all other countries**, the requirement *remains* for the transaction to include carbon capture and sequestration to reduce its carbon intensity to 500 grams of carbon dioxide/kilowatt hours or less.
- For **all countries** (IDA-only, IDA-blend, other), all other Ex-Im Bank environmental reviews, guidelines, and requirements *remain* in place.

only," and 18 countries classified as "IDA-blend," the latter of which can borrow from both facilities. In addition, India graduated from IDA at the end of FY2014 but is receiving transitional support for FY2015-FY2017.

The Export-Import Bank Reform and Reauthorization Act of 2015 (Sec. 55001 of P.L. 114-94) prohibits Ex-Im Bank from discriminating solely on the basis of industry for energy-related projects (regardless of the energy source involved) in terms of denying applications or passing or applying policies; the act applies this prohibition only to financing by the Bank for projects "concerning the exploration, development, or export of energy sources and the generation or transmission of electrical power, or combined heat and power, regardless of the energy source."[70] Such changes present possible issues about Ex-Im Bank's ability to fulfill its overall mission to support U.S. exports and jobs and also its interest in addressing environmental concerns.

What is Ex-Im Bank's small business statutory mandate?

While Ex-Im Bank provides financing to companies of all sizes, its charter contains specific mandates related to U.S. small business exports. The Export-Import Bank Reform and Reauthorization Act of 2015 (Sec. 52001 of P.L. 114-94) directs the Bank to make available not less than 25% of its aggregate loan, guarantees, and insurance authority to directly finance exports by small businesses for FY2016 and each subsequent fiscal year.[71] Congress has increased the percentage associated with the small business target over time (see **text box**).

Ex-Im Bank Small Business Target

Ex-Im Bank Act Amendments of 1983 (Sec. 618 of P.L. 98-181): Directed Ex-Im Bank to encourage small business participation in international commerce including by making available a certain percentage of its aggregate loan, guarantees, and insurance authority to finance exports by small business concerns—not less

[70] 12 U.S.C. §635k.

[71] 12 U.S.C. §635(b)(1)(E)(v).

than **6%** for FY1984, not less than **8%** for FY1985, and not less than **10%** for FY1986 and thereafter.

Ex-Im Bank Reauthorization Act of 2002 (Sec. 7 of P.L. 107-189): Directed Ex-Im Bank to make available not less than **20%** of its aggregate authority to directly finance exports by small business concerns.

Ex-Im Bank Reform and Reauthorization Act of 2015 (Sec. 52001 of P.L. 114-94): Increased the small business target to **25%** for FY2016 and each subsequent fiscal year.

With respect to the quantitative target, the Export-Import Bank Reauthorization Act of 2006 (P.L. 109-438) directed Ex-Im Bank to have a goal to increase the amount made available to finance exports by "socially and economically disadvantaged small business concerns" and "small business concerns owned by women."[72] Ex-Im Bank generally refers to these as minority- and women-owned businesses.[73] The 2006 act also established a Small Business Division within the Bank, as well as an office in the new division that focuses on socially and economically disadvantaged small businesses and women-owned small businesses. In addition, the 2006 act directed the Bank to have small business specialists throughout the agency and established a Small Business Committee within its management structure.

What is Ex-Im Bank's "renewable energy" statutory mandate?

Ex-Im Bank has a statutory requirement to "promote the export of goods and services related to renewable energy resources," which was added to its charter by the Export-Import Bank Reauthorization Act of 2002 (P.L. 107-189).

Additionally, appropriations acts for certain years have included directives setting quantitative targets for Ex-Im Bank's renewable energy support. For instance, the FY1990 foreign operations appropriations act (P.L. 101-167) directed Ex-Im Bank to seek to provide not less than 5% of the financing it utilizes for supporting energy sector exports for renewable energy projects.[74] Appropriations acts for FY2008-FY2015 directed Ex-Im Bank to make available not less than 10% of its aggregate credit and insurance authority for financing "renewable energy" exports.[75] The FY2016 appropriations act does not include any such quantitative target for the Bank.

What is Ex-Im Bank's sub-Saharan Africa statutory mandate?

The Export-Import Bank Reauthorization Act of 1997 (P.L. 105-121) amended Ex-Im Bank's charter to include mandates related to sub-Saharan Africa. It required its Board of Directors to take "prompt measures, consistent with the credit standards otherwise required by law, to promote

[72] 12 U.S.C. §635(b)(1)(E)(v) states: "... the Bank shall make available, from the aggregate loan, guarantee, and insurance authority available to it, an amount to finance exports directly by small business concerns (as defined under section 632 of title 15) which shall be not less than 20 percent of such authority for each fiscal year. From the amount made available under the preceding sentence, it shall be a goal of the Bank to increase the amount made available to finance exports directly by small business concerns referred to in section 635a(i)(1) of this title." 12 U.S.C. §635a(i) refers to "socially and economically disadvantaged small business concerns" and "small business concerns owned by women."

[73] GAO, *Export-Import Bank: Performance Standards for Small Business Assistance Are in Place but Ex-Im Is in the Early Stages of Measuring Their Effectiveness*, GAO-08-915, July 2008, p. 10 (footnote), http://www.gao.gov/assets/280/278336.pdf.

[74] GAO, *Export-Import Bank: Reaching New Targets for Environmentally Beneficial Exports Presents Major Challenges for the Bank*, GAO-10,682, July 2010, http://www.gao.gov/assets/310/307160.pdf.

[75] The specific terms used for the directive have varied. The FY2015 appropriations act, for example, referred to "renewable energy technologies or energy efficiency technologies" for the quantitative target.

the expansion of the Bank's financial commitments in sub-Saharan Africa" under the Bank's loan, guarantee, and insurance programs.[76]

Among other things, the 1997 reauthorization act also is the basis for the Bank's Sub-Saharan Africa Advisory Committee. The act required the Board of Directors to establish an advisory committee to advise it on the development and implementation of policies and programs to support this expansion of the Bank's commitments in the region.[77] The act included a termination date for the advisory committee of four years after the enactment of the act. Subsequent reauthorization acts have extended the Sub-Saharan Africa Advisory Committee's termination date, most recently to September 30, 2019 (Sec. 54001(c) of P.L. 114-94).[78]

What is Ex-Im Bank's foreign content policy?

"Content" is the amount of domestic and foreign costs from labor, materials, overhead, and other inputs associated with the production of an export. Ex-Im Bank bases its content policy on its statutory mandate to support U.S. jobs. Under its content policy, for all medium- and long-term transactions, Ex-Im Bank limits its support to the *lesser* of (1) 85% of the value of all goods and services contained within a U.S. supply contract; or (2) 100% of the U.S. content of an export contract. In effect, it requires a minimum of 85% U.S. content and a maximum of 15% foreign content for an export contract to receive the full extent of financing that it offers. If the foreign content exceeds 15%, the Bank's support is lowered proportionally.[79] For short-term export contracts, the minimum U.S. content for full Ex-Im Bank financing is generally 50%.[80]

Content policies vary across ECAs globally, as the OECD Arrangement allows member countries to develop their content policies based on their own domestic interests. Unlike Ex-Im Bank, a number of other ECAs, such as those of Canada, France, Germany, Italy, Japan, and the United Kingdom, do not automatically reduce their cover if the foreign content exceeds 15%.[81] Further, some foreign ECAs reportedly have allowed anywhere from 50% to 80% foreign content without decreasing support.[82]

Stakeholder views on Ex-Im Bank's content policy vary. With the proliferation of global supply chains, the issue of content has become more actively debated. U.S. exporters and lenders reportedly consider Ex-Im Bank's overall content policy to be less competitive than foreign ECAs, considering its "lack of flexibility" as a constraint to seeking Ex-Im Bank support.[83] Some U.S. businesses have called for greater flexibility in Ex-Im Bank's content policy, such as lowering the minimum amount of domestic content required to receive full Ex-Im Bank financing or expanding the definition of domestic content to include, for instance, research and development in the United States. However, labor groups tend to be concerned about the impact that lowering domestic content requirements may have on employment in the home country. From their point of view, reducing these requirements may result in an outsourcing of labor to

[76] 12 U.S.C. §635(b)(9)(A).

[77] 12 U.S.C. §635(b)(9)(B)(i).

[78] 12 U.S.C. §635(b)(9)(B)(iii).

[79] Ex-Im Bank, *2014 Competitiveness Report*, June 2015, p. 71; and Ex-Im Bank, "Medium- and long-term content policy," http://www.exim.gov/policies/content/medium-and-long-term.

[80] Ex-Im Bank, "Short-term content policy," http://www.exim.gov/policies/content/short-term-content-policy.

[81] Ex-Im Bank, *2014 Competitiveness Report*, June 2015, p. 74.

[82] Ibid., p. 75.

[83] Ibid.

other countries. Others counter that the current requirements may induce firms to use other ECAs for alternative sources of financing, which may cause them to shift production overseas.

Does Ex-Im Bank support military or "dual-use" exports?

Ex-Im Bank is prohibited from financing defense articles and defense services with certain limited exceptions, such as a national interest determination by the President.[84] According to Ex-Im Bank, its European ECA counterparts do not have the same restrictions on military finance.[85]

Other exceptions for Ex-Im Bank include its authority to finance certain "dual-use" exports that have both civilian and military applications.[86] This authority, established in 1994 (Section 1(c) of P.L. 103-428), has been renewed periodically. The Export-Import Bank Reform and Reauthorization Act of 2015 extended this authority through September 30, 2019 (Sec. 54001(b) of P.L. 114-94).[87] According to GAO, as of May 30, 2015, Ex-Im Bank financed a total of $1.67 billion in exports under its dual-use authority.[88] Recent transactions include financing in FY2012, totaling $1.03 billion, for U.S. exports of satellites to a French company and to the government of Mexico, and of construction equipment to the government of Cameroon.[89] Ex-Im Bank maintains policies for monitoring the end-use of defense articles and defense services that it finances. GAO reports annually on the end-uses of dual-use exports financing by Ex-Im Bank. An August 2014 GAO report identified some weaknesses in Ex-Im Bank's documentation of required procedures for dual-use monitoring and provided a recommendation for improving documentation.[90] GAO reported that Ex-Im Bank has addressed these weaknesses by revising and implementing its guidance for monitoring dual-use items.[91]

What is Ex-Im Bank's U.S.-flag shipping requirement?

Under Ex-Im Bank's shipping policy, certain products supported by the Ex-Im Bank must be transported exclusively on U.S. vessels (e.g., generally direct loans of any amount, guarantees above $20 million, and products with repayment periods of more than seven years). Under limited conditions, a waiver of this requirement may be granted on a case-by-case basis by the U.S. Maritime Administration (MARAD). This policy is based on Public Resolution 17 (PR-17, approved March 26, 1934, by the 73rd Congress),[92] which is intended to "ensure a well-trained merchant marine able to maintain the flow of waterborne domestic and foreign commerce during wartime or national emergency."[93] Supporters of the U.S. flag shipping requirement may argue

[84] 12 U.S.C. §635(b)(6). For a brief historical treatment, see U.S. Congress, House Committee on Foreign Affairs, Subcommittee on Terrorism, Nonproliferation, and Trade, *Written Testimony of Fred P. Hochberg - President and Chairman, Export-Import Bank of the United States*, Hearing on "Trade Promotion Agencies and U.S. Foreign Policy", 114th Cong., 1st sess., May 19, 2015, p. 2.

[85] Ibid.

[86] 12 U.S.C. §635(b)(6)(I).

[87] 12 U.S.C. §635 note.

[88] GAO, *Export-Import Bank: Monitoring of Dual-Use Exports Should be Improved*, GAO-15-611, June 2015, p. 4, http://gao.gov/assets/680/671002.pdf.

[89] Ibid., p. 4.

[90] GAO, *Export-Import Bank: Status of Actions to Address GAO Recommendations since the Bank's 2012 Reauthorization*, GAO-15-557T, April 15, 2015, p. 11.

[91] GAO, *Export-Import Bank: Monitoring of Dual-Use Exports Should be Improved*, GAO-15-611, June 2015, p. 5.

[92] Codified as 46 U.S.C. 55304, by P.L. 109-304, October 6, 2006.

[93] Ex-Im Bank, "Ex-Im Bank Policies: Shipping Requirements (MARAD)," http://www.exim.gov/policies/us-flag-

that maintaining U.S. flag vessels is important to U.S. national security and note its role in contributing to jobs in the U.S. shipping industry. Critics may counter that, because of changes in U.S. strategic requirements and in the global shipping market, the requirement can make U.S. goods less competitive relative to foreign goods, noting higher rates and delays associated with shipping with U.S.-flagged vessels.[94] Unlike Ex-Im Bank, no other ECAs require use of the shipping vessels of their home countries.[95]

International Context

What is the global ECA marketplace?

According to Ex-Im Bank, the number of export credit agencies globally reached as many as 85 in 2014.[96] Some ECA activity is regulated by the Organization for Economic Cooperation and Development Arrangement on Officially Supported Export Credits (OECD Arrangement), but an increasingly larger amount appears to be unregulated. Ex-Im Bank states that over half of ECAs globally are operating programs that are not regulated by the OECD Arrangement.[97] It can be difficult to verify the full extent of unregulated activity, as it is not subject to the same transparency standards that OECD regulated finance is.

Ex-Im Bank provides information and data on selected ECAs' official medium- and long-term "trade-related support."[98] "Trade-related support" includes ECA activities beyond export credit activity directly tied to exports. Ex-Im Bank groups ECAs' activities into three categories:

- **Support by OECD members that is regulated by the OECD Arrangement**. "Traditional" ECA activity is activity directly tied to exports (e.g., direct loans, guarantees, and insurance products). It is regulated by the OECD Arrangement. According to Ex-Im Bank, all of its medium- and long-term activity falls within this sphere.[99] Historically, ECA activity regulated by the OECD has accounted for the majority of government-backed export financing. That share has decreased over time.
- **Support by OECD members that is outside of the OECD Arrangement's scope.** Certain OECD member countries provide financing through their ECAs that is ungoverned by the OECD Arrangement. One form of unregulated financing is "market windows," which are government-owned entities or programs that offer export credits on market terms. Market windows generally do not operate on purely commercial terms, as they tend to receive benefits from their government status that commercial lenders cannot access. For example, Canada's ECA—Export Development Canada (EDC)—operates market window

shipping-requirements; and Ex-Im Bank, *2014 Competitiveness Report*, June 2015, p. 81. For background, see CRS Report R44254, *Cargo Preferences for U.S.-Flag Shipping*, by John Frittelli.

[94] Ex-Im Bank, *2014 Competitiveness Report*, June 2015, p. 83.

[95] Ibid.

[96] Ibid., p. 2.

[97] Ibid., pp. 1-2.

[98] According to Ex-Im Bank, it generally does not include analysis of short-term transactions because of "wide disparities in countries' practices in that sphere which render comparison of limited usefulness." The OECD Arrangement provides guidelines for official ECA support that has repayment terms of two years or more.

[99] Ex-Im Bank, *2014 Competitiveness Report*, June 2015, pp. 15-17.

programs. Ex-Im Bank does not have a market window. A second form of unregulated financing is untied lending support, which is credit support extended by a government entity to a recipient for the purpose of providing credit for strategic interests of the donor country. Because the untied loan is not tied to exports, it is not subject to the OECD export credit guidelines. A third form of unregulated financing is investment support.[100]

- **Support by non-OECD members.** Emerging markets, such as China, Brazil, India, and Russia, which are not members of the OECD, are increasingly active providers of government-backed export financing.[101] This financing may not comply with the OECD Arrangement, for example, by including below-market terms, with which it is difficult for ECAs of OECD members to compete.

Table 1. Total Official Medium- and Long-Term Trade-Related Support, 2014

ECA	Amount ($ billion)	Share of Total Export Support (%)
OECD Members: Activity Within OECD Arrangement Scope	$97	35%
OECD Members: Outside of OECD Arrangement[a]	$71	25%
Non-OECD Members[b]	$112	40%
Total Export Support	**$280**	**100%**

Source: CRS, based on Ex-Im Bank, *2014 Competitiveness Report*, June 2015, pp. 15-17

Notes:

a. This consists of market window, untied, and investment support.

b. This includes both export and investment support.

How do export finance volumes of Ex-Im Bank and foreign ECAs compare?

ECA comparisons are available from Ex-Im Bank in the area of government-backed new medium- and long-term export financing (see **Figure 2**). Based on data reported by Ex-Im Bank, in 2014, the 34 members of the OECD (as a whole) provided an estimated $96.7 billion in such financing, comparable to their volume in 2013 ($97.8 billion), but less than their volume in 2012 ($126 billion).[102] U.S. support through Ex-Im Bank accounted for 12.5% ($12.1 billion) of the total volume by OECD countries in 2014.[103]

In contrast, also based on Ex-Im Bank data, in 2014, the combined new medium- and long-term support provided by China, Brazil, India, and Russia was estimated to be $63.9 billion, up from

[100] The United States provides certain investment support through a separate entity, the Overseas Private Investment Corporation (OPIC). Some other countries provide export and investment support through the same entity. CRS Report 98-567, *The Overseas Private Investment Corporation: Background and Legislative Issues*, by Shayerah Ilias Akhtar.

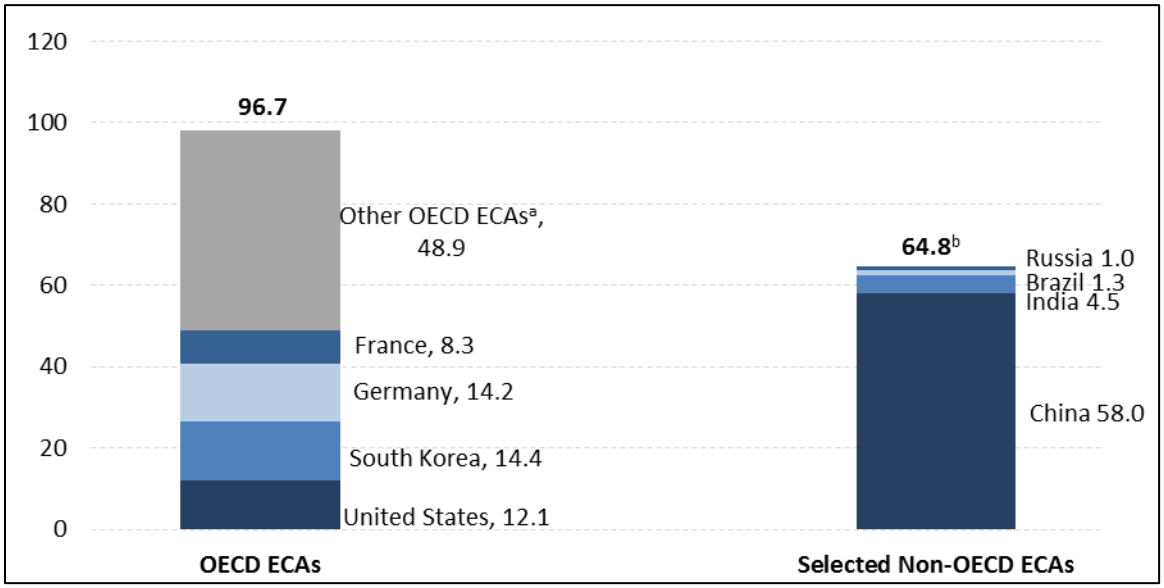
[101] These emerging markets, while not members of the OECD, may have observer status during some OECD meetings. The OECD has offered them "enhanced engagement" with a view towards possible accession. Brazil, furthermore, is a member of the OECD Aircraft Sector Understanding.

[102] Ex-Im Bank, *2014 Competitiveness Report*, June 2015, p. 18. ECA volumes for OECD countries reported by Ex-Im Bank reflect activity that is regulated by the OECD Arrangement.

[103] Ibid.

2013 ($50.5 billion) and 2012 ($43.4 billion).[104] Notably, China alone accounted for at least $58 billion of such financing in 2014—a total that exceeds that of the G-7 countries combined.[105] According to Ex-Im Bank, China was the single largest provider of export finance in 2014.[106]

Figure 2. New Medium- and Long-Term Export Financing Volumes for Selected ECAs, 2014



Source: CRS, based on data from Ex-Im Bank, *Report to the U.S. Congress on Global Export Credit Competition* (for the period January 1, 2014, through December 31, 2014, June 2015), pp. 18-19.

Notes: Data subject to analytic assumptions and limited by availability of information.

a. Ex-Im Bank specifically notes that the amount for "Other OECD ECAs" is estimated.

b. Ex-Im Bank reports the total amount for selected emerging markets as $63.9 billion. The amount provided here, $64.8 billion, results from summing the individual volumes for the emerging market ECAs.

How do Ex-Im Bank and foreign ECAs compare in their policies?

Ex-Im Bank and other ECAs vary in their mandates, organizational structure, policies, focus areas, and terms and conditions. This can complicate efforts to make comparisons across ECAs. Among stakeholders, one view is that Ex-Im Bank's policies—such as in its economic and environmental impact, domestic content requirement, and U.S. flag shipping requirements—tend to be more stringent than those of foreign ECAs. From a business perspective, some argue that such policies can make Ex-Im Bank less competitive than foreign ECAs in supporting exporters. Another view is that Ex-Im Bank, through its policies, must balance a range of stakeholder interests, including those of businesses that benefit directly from Ex-Im Bank, other businesses that may be affected by Ex-Im Bank support, labor concerns, and environmental concerns.

As required by Congress, Ex-Im Bank annually assesses how its policies, practices, and programs compare with those of major foreign ECAs in its *Annual Competitiveness Report to Congress*. To

[104] Ex-Im Bank, *2014 Competitiveness Report*, June 2015, p. 19. ECA volumes for non-OECD countries reported by Ex-Im Bank reflect what activity would be regulated by the OECD Arrangement.

[105] The Group of Seven (G-7) countries consist of the United States, Canada, France, Germany, Italy, Japan, and the United States.

[106] Ex-Im Bank, *2014 Competitiveness Report*, June 2015, p. 19.

access the current year's report, as well as prior years' reports dating to 2001, see http://www.exim.gov/news/reports/competitiveness-reports.

How effective is the OECD Arrangement?

Stakeholders have debated whether the OECD Arrangement is effective in "leveling the playing field" for exporters in the current trading environment. By some estimates, the OECD Arrangement reportedly has saved U.S. taxpayers about $800 million annually.[107] According to the Office of the U.S. Trade Representative, the minimum interest rate rules set by the OECD Arrangement limit subsidized export financing and reduce competition based on below-cost interest rates and long repayment terms by ECAs, and the minimum exposure fees for country risks also reduce costs.[108] The further leveling of the playing field created by the OECD tied aid disciplines is estimated by USTR to have boosted U.S. exports by $1 billion a year.[109]

At the same time, there are questions about the effectiveness of the OECD Arrangement, particularly in light of ECA activity by non-OECD members, who are not obligated to comply with the OECD limitations on the terms and conditions of export credit activity. To the extent that the ECAs of non-OECD countries provide financing for non-U.S. exporters on terms that are more advantageous than those allowed within the OECD Arrangement, U.S. exporters may find it difficult to compete with such export credit programs, including with Ex-Im Bank. Concerns about the effectiveness of the OECD Arrangement are further heightened due to financing by OECD members that is outside the Arrangement's scope. See earlier question in this section, "What is the global ECA marketplace?".

What is the status of international negotiations on ECA financing?

The United States historically has led efforts to impose international disciplines on government-backed export credit activity. Building on the OECD Arrangement on Officially Supported Export Credits, OECD members continue to negotiate further rules on ECA activity, for example, on sector-specific disciplines.

Based on 2012 Ex-Im Bank reauthorization act, and as modified by the 2015 reauthorization act, the President is directed to initiate and pursue negotiations with

- other major exporting countries, including OECD members and non-OECD members, to substantially reduce, with the possible goal of eliminating, government-backed ECA financing within ten years after December 4, 2015;
- non-OECD countries to bring those countries into a multilateral agreement establishing rules and limitations on ECA financing; and

[107] Office of the U.S. Trade Representative, *The Organization for Economic Cooperation and Development (OECD)*, http://www.ustr.gov/trade-agreements/wto-multilateral-affairs/oecd.

[108] Ibid.

[109] Ibid.

- all countries that finance air carrier aircraft through funds from a state-sponsored entity to reduce and eliminate aircraft export credit financing for all aircraft covered by the 2007 OECD Aircraft Sector Understanding (ASU).[110]

Separately, an International Working Group on Export Credits (IWG) was established in 2012, following a bilateral commitment between U.S. and Chinese leadership to work towards a new set of international export credit guidelines.[111] Discussions have evolved from comparing existing export credit systems to a "text-based" discussion on the ship-building and medical equipment sectors. This has set the stage for discussions on horizontal, broadly applicable guidelines to reportedly begin at the October 2015 meeting of the IWG.[112]

The Department of the Treasury states that it has engaged in efforts to bring China and other large emerging markets into a new rules-based international export credit framework, as well as worked to reform the ASU to minimize distortions in the aircraft export credit market. It also notes that it has engaged in efforts to improve the current OECD Arrangement to make it more market-oriented, such as for interest rates.[113] Some have criticized U.S. government efforts as insufficient in terms of the statutory requirements on international export credit negotiations. For example, a major U.S. airline contends that "there has been essentially no progress" with respect to the mandate to negotiate with countries to substantially reduce, with the ultimate goal of eliminating, aircraft export credit financing.[114] Others note that while exports play an important role in the U.S. economy, the economies of other countries are far more reliant on exports, constituting a larger share of their respective gross domestic product. Moreover, other OECD countries presumably would be reluctant to terminate their export credit programs while countries outside of the OECD, such as China, Brazil, and India, continue their financing programs.

Activity

What is Ex-Im Bank's exposure level?

Ex-Im Bank's exposure level is the aggregate amount of loans, guarantees, and insurance that Ex-Im Bank has outstanding at any one time ("overall portfolio"). Statutory limits on its exposure level are established in Ex-Im Bank's charter.[115] In FY2015, Ex-Im Bank reported that its

[110] 12 U.S.C. §635a-5(a). Aircraft finance historically has constituted a major part of Ex-Im Bank's portfolio. The Aircraft Sector Understanding (ASU) is an agreement among the United States, the EU, Canada, Brazil, and other countries that sets terms and conditions for government-backed export financing for aircraft. It has been updated a number of times, most recently in 2011, with the goal of leveling the playing field among ECA-supported aircraft financing. GAO, *Export-Import Bank: Information on Export Credit Agency Financing Support for Wide-Body Jets*, GAO-14-642R, July 8, 2014, http://www.gao.gov/products/GAO-14-642R.

[111] The White House, "White House Fact Sheet on U.S.-China Economic Relations," press release, November 12, 2014, http://www.whitehouse.gov/the-press-office/2014/11/12/fact-sheet-us-china-economic-relations/.

[112] The White, "White House Fact Sheet on U.S.-China Economic Relations," press release, September 25, 2015, https://www.whitehouse.gov/the-press-office/2015/09/25/fact-sheet-us-china-economic-relations; and European Commission, *Annual Report on negotiations undertaken by the Commission in the field of export credits, in the sense of Regulation (EU) No 1233/2011*, October 20, 2015.

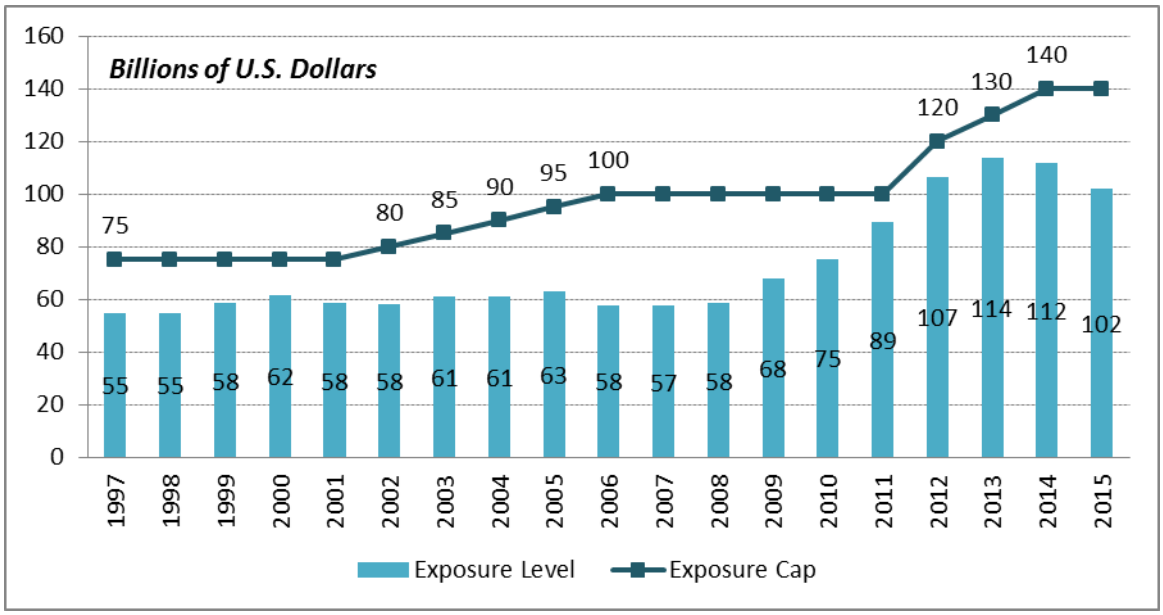
[113] *Treasury Report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on Export Credit Negotiations*, December 2014.

[114] See U.S. Congress, House Committee on Financial Services, *Testimony of Richard B. Hirst, Executive Vice President and Chief Legal Office, Delta Air Lines*, Hearing entitled "Examining the Export-Import Bank's Reauthorization Request and the Government's Role in Export Financing", 114th Cong., 1st sess., June 3, 2007, p. 3.

[115] 12 U.S.C. §635e(F)(ii).

exposure totaled $112.0 billion—below the $140 billion statutory cap for that year. This represents a decrease following recent years of record highs in Ex-Im Bank's exposure level (see **Figure 3**). According to Ex-Im Bank, prior years' growing levels of exposure were associated largely with increased demand for Ex-Im Bank's services during the financial crisis as commercial lending declined, among other things.[116] Ex-Im Bank's portfolio is distributed across its financial products, as well as geographical regions and economic sectors (see **Figure 4**). The Export-Import Bank Reform and Reauthorization Act of 2015 (Sec. 51001 of P.L. 114-94) decreases Ex-Im Bank's exposure cap to $135 billion for each of FY2015 through FY2019.[117]

Figure 3. Ex-Im Bank Exposure Levels and Exposure Cap, FY1997-FY2015

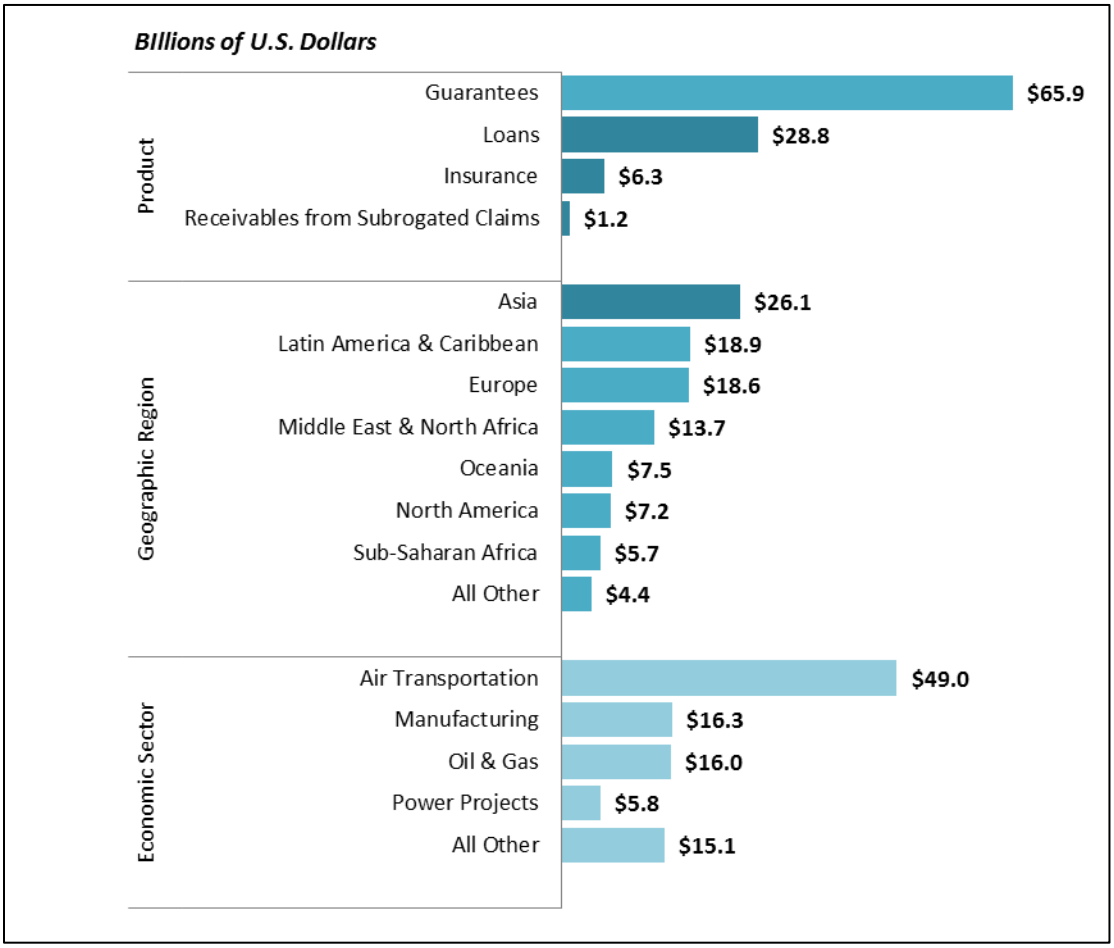


Source: CRS analysis of data from Ex-Im Bank annual reports.

[116] GAO, *Export-Import Bank: Recent Growth Underscores Need for Continued Improvements in Risk Management*, GAO-13-303, March 2013, pp. 14-20 (hereinafter GAO-13-303, March 2013).

[117] The act provides that if Ex-Im Bank's default rate is 2% or more for a quarter, then the Bank cannot exceed the amount of loans, guarantees, and insurance outstanding on the last day of the quarter until the default rate is less than 2%.

Figure 4. Ex-Im Bank Exposure Level Composition, FY2015



Source: CRS, based on data from Ex-Im Bank annual reports.

Notes: Ex-Im Bank reported its FY2015 exposure as $102.2 billion.

How much credit and insurance does Ex-Im Bank authorize?

In the context of Ex-Im Bank's activities, its authorizations are the new commitments for credit and insurance that the agency approves each year.[118] Ex-Im Bank authorized 2,630 transactions in the amount of $12.4 billion in FY2015, down from 3,746 transactions in the amount of $20.5 billion in FY2014 (see **Figure 5**). Following several years of record highs in authorizations since the 2008 financial crisis, Ex-Im Bank's authorizations have declined over the past couple of years with improvements in the private sector lending environment.[119]

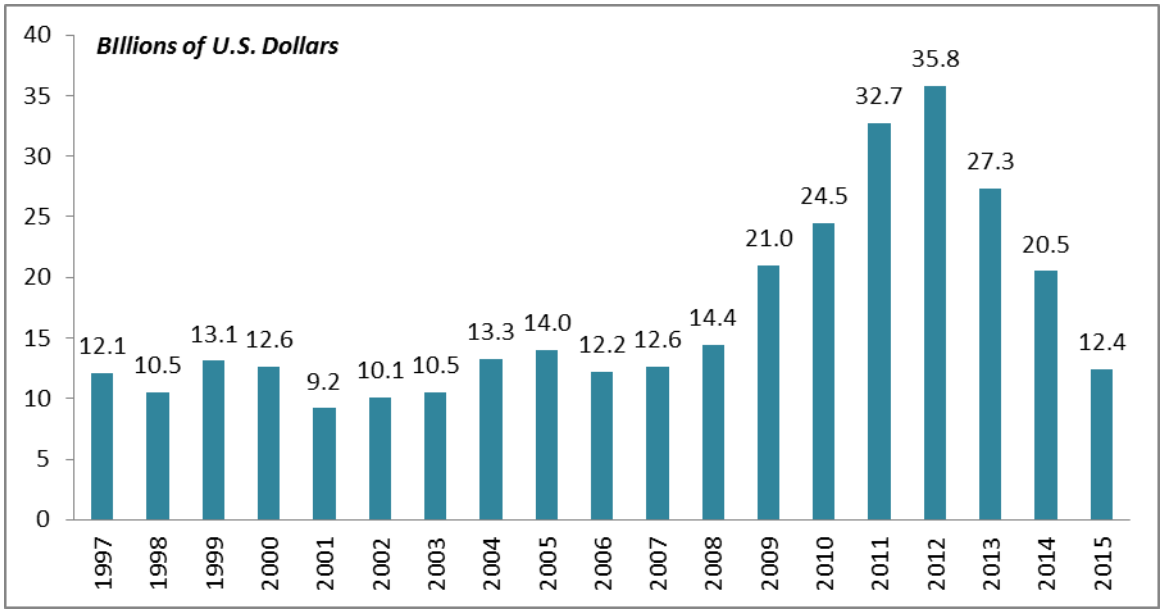
Ex-Im Bank provides annual reports that discuss its program activity levels and focus areas, as well as its financial performance. The current year's reports, as well as certain earlier years' reports, are accessible at http://www.exim.gov/news/reports/annual-reports. The "Financial Report" section of the annual report includes a summary of Ex-Im Bank's overall authorizations

[118] This usage of authorization is distinct from its usage in the budget process context, where it refers to the amount authorized to be appropriated.

[119] *Export-Import Bank of the United States Annual Report 2014*, p. 57.

by financial product type; its overall authorizations by market; and its long-term loans and guarantee authorizations by market.

Figure 5. Ex-Im Bank Authorizations for Credit and Insurance Commitments, FY1997-FY2015



Source: CRS, from Ex-Im Bank annual reports.

How does Ex-Im Bank work to ensure that its financing does not compete with the private sector?

The requirement that Ex-Im Bank transactions should "supplement and encourage, and not compete with private capital" has been a longtime statutory requirement. The 2012 Ex-Im Bank reauthorization act (Sec. 10 of P.L. 112-122) amended the Bank's charter to require, in its annual report to Congress, a categorization of each loan and long-term guarantee made by the Bank in the fiscal year covered by the report according to the following purposes:

1. To assume commercial or political risk that the exporter or private financial institutions are unwilling or unable to undertake.
2. To overcome maturity or other limitations in private sector export financing.
3. To meet competition from a foreign, officially sponsored, export credit competition.
4. Not identified, and the reason why the purpose is not identified.

Ex-Im Bank applicants reportedly generally indicate the purpose for seeking Ex-Im Bank support.[120] For example, a section in Ex-Im Bank's application for long-term loans and guarantees (for amounts greater than $10 million) requires the applicant to list the reason for requesting Ex-Im Bank support in terms of which factor is the most important.[121] Additionally, a

[120] Ex-Im Bank, *Report to the U.S. Congress on the Export-Import Bank of the United States and Global Export Credit Competition*, for the period January 1, 2013, through December 31, 2013, June 2014, p. 113.

[121] Ex-Im Bank, "Application for Long-Term Loan or Guarantee," p. 7, http://www.exim.gov/sites/default/files/forms/eib95-10all.pdf.

certification section of the application requires the applicant to certify, under the penalty of perjury, "The representations made and the facts stated in this application and its attachments are true and Applicant has not misrepresented or omitted any material facts...." Ex-Im Bank states that it verifies the certifications when warranted. Additionally, other aspects of its policies, such as its underwriting, policy research, and Board approval process may support its efforts to ensure that its financing does not compete with the private sector. The agency's annual competitiveness report provides an aggregation of the primary purpose of Ex-Im Bank transactions by calendar year, by both dollar amount and number of transactions (see **Table 2**).

In the 114th Congress, debate centered on the circumstances in which Ex-Im Bank provides support, the frequency of the Bank's support to fill in gaps in private sector financing versus offsetting foreign ECA competition, the Bank's current practices for ensuring that it does not compete with the private sector and fulfills its mandate, and appropriate reforms that may be undertaken—with congressional and stakeholder views varying across these issues.

Table 2. Purpose of Ex-Im Bank Transactions Authorized, 2014

	Private sector limitations		Private sector unwilling to take risks		Potential competition		ALL TRANSACTIONS	
	$ mn	#	$ mn	#	$ mn	#	$ mn	#
Working capital guarantees	$7.2	2	$1,870.9	468	$0.0	0	$1,878.1	470
Short-term insurance	$723.0	1,128	$4,403.4	1,853	$2.5	2	$5,128.9	2,983
Medium-term insurance	$0.0	0	$38.3	20	$66.4	40	$104.7	60
Medium- & long-term guarantees	$1,536.9	14	$1,509.2	41	$8,005.7	44	$11,051.8	99
Loans	$144.0	2	$0.0	0	$775.6	4	$919.6	6
Subtotal	$2,411.1	1,146	$7,821.8	2,382	$8,850.2	90	$19,083.1	3,618
% of all transactions	12.6%	31.7%	41.0%	65.8%	46.4%	2.5%	100%	100%

Source: CRS, based on Ex-Im Bank, *Report to the U.S. Congress on the Export-Import Bank of the United States and Global Export Credit Competition* (for the period January 1, 2014, through December 31, 2014), June 2015, p. 91.

Note: The data reflect the purpose of Ex-Im Bank transactions authorized in 2014, as provided by Ex-Im Bank in the document cited above. Data in "All Transactions" reflect summations for each row and may vary slightly from Ex-Im Bank-provided totals.

What amount of U.S. exports and number of U.S. jobs are associated with Ex-Im Bank activity?

Ex-Im Bank estimates the amount of U.S. exports and number of U.S. jobs supported by its activity. For FY2015, Ex-Im Bank estimates that its authorizations of $12.8 billion are in support of $17.1 billion in U.S. export value and 109,000 U.S. jobs.[122] The Bank also maintains data through an interactive map of the United States with its estimated export and jobs impact at the

[122] *Export-Import Bank of the United States Annual Report 2015*, p. 28.

state and congressional district levels. It is accessible at http://www.exim.gov/who-we-serve/congressional.

It is important to note that various factors affect U.S. export and employment levels. As such, while the role of Ex-Im Bank support at the individual firm level may be apparent, it may be difficult to determine the precise impact of the presence or absence of Ex-Im Bank financing on the U.S. economy in the long run.

What is the opportunity cost of Ex-Im Bank activity to U.S. exports and jobs?

A limitation in demonstrating export and employment relationships is in trying to determine the opportunity cost of Ex-Im Bank financing. Ex-Im Bank's credit and insurance programs, in supporting exports and employment, draw from the capital and labor resources within the economy that would be available for other uses, such as alternative exports and employment.[123] Challenges arise in determining what impact the presence of Ex-Im Bank has on the allocation of resources in the market, as well as whether, in the absence of Ex-Im Bank, the sales of exports and resulting employment attributed to Ex-Im Bank would have occurred. For example, if Ex-Im Bank financing was not available, would firms have used services and financing from the private sector, perhaps at a higher cost, to export? Or would the private sector costs be too prohibitive due to market failures, such as imperfect information, and discourage U.S. firms from exporting? In that case, economic theory would predict that fewer jobs would be created in the export industry, but more jobs would be created elsewhere in the economy, for no net loss in total employment in the long run.

How does Ex-Im Bank calculate its estimated jobs support?

Ex-Im Bank uses an "input-output" approach based on data from the Bureau of Labor Statistics (BLS) to estimate the number of U.S. jobs it supports through its export financing.[124] BLS develops a domestic employment requirements table (ERT) to calculate the number of direct and indirect production-related jobs associated with $1 million of final demand for nearly 200 industries.[125] Ex-Im Bank's methodology is to (1) determine and apply the specific industry code to each transaction that it finances; (2) determine the value of all exports it supports for each industry; (3) multiply the export value by the jobs ratio from the ERT needed to support $1 million in exports in each industry; and (4) add together the estimate of jobs supported across all industries to get a total number of jobs supported.[126] Under this methodology, Ex-Im Bank's

[123] Theoretically, the value of any opportunity cost would rise the closer the economy gets to full employment.

[124] An estimate of "jobs supported" by Ex-Im Bank financing of U.S. exports may be distinct from an estimate of "jobs created" by such financing.

[125] Bureau of Labor Statistics (BLS), *Employment Outlook: 2012-2022, Layout and Description for 195-Order Employment Requirements Tables: Historical 1993 through 2012*, http://www.bls.gov/emp/ep_data_emp_requirements.htm; and *Export-Import Bank of the United States Annual Report 2014*, p. 10. The Employment Requirements Table (E7RT) is based on the 2007 North American Industry Classification System (NAICS).

[126] GAO, *Export-Import Bank: More Detailed Information about Its Jobs Calculation Methodology Could Improve Transparency*, GAO-13-466, May 23, 2013, pp. 7-10 (hereinafter GAO-13-466, May 23, 2013). The Trade Promotion Coordinating Committee (TPCC) designated this input-output approach based on BLS data to estimate jobs supported as standard for U.S. government agencies. The TPCC is an interagency committee whose objective is to coordinate and set priorities for federal agencies involved in export promotion and to propose a unified export promotion budget to the President.

FY2015 authorizations support 6,199 jobs per $1 billion of U.S. exports. This represents a weighted average based on each industry's relative jobs per $1 billion average at time of calculation.[127]

Although the input-output approach is based on a commonly used methodology, it has certain limitations and is sensitive to certain assumptions. Some of the limitations are specific to the ERT. For instance, the ERT does not distinguish between jobs that were "newly created" and "maintained"; because of this lack of detailed information and limitations, Ex-Im Bank reports that jobs are "associated with" or "supported by its financing." The ERT also treats full-time, part-time, and seasonal jobs equally in its count of jobs. It further assumes average industry relationships, though, in actuality, firms differ within an industry. In addition, it excludes any "multiplier effects" of spending from income generated by jobs supported by Ex-Im Bank. Other limitations are specific to Ex-Im Bank's process for determining industry and export value.[128]

Alternative methodologies may address some limitations but have other drawbacks.[129] As part of a May 2013 study on Ex-Im Bank's jobs calculation methodology, the Government Accountability Office (GAO) recommended that Ex-Im Bank improve the transparency of its methodology in terms of its limitations and assumptions.[130] According to GAO, Ex-Im Bank included greater detail on its job calculation methodology in its FY2013 annual report.[131]

Has Ex-Im Bank fulfilled targets for support concerning small business, renewable energy, and sub-Saharan Africa?

Ex-Im Bank is a demand-driven agency. As such, Ex-Im Bank efforts to meet targets related to small business, renewable energy, and Sub-Saharan Africa depend on alignment with commercial interests, among other factors. Ex-Im Bank met its prior 20% small business target in FY2014 and FY2015 (see **Table 3**), but fell short of it in some other years, based on authorization amount. At the same time, small business transactions supported by the Bank constitute the majority of Ex-Im Bank's transactions by number.[132] During FY2008-FY2015, the Bank's support for renewable energy exports was below the 10% directive each year, possibly due, in part, to market limitations.[133] Although Ex-Im Bank's support for sub-Saharan Africa (for which no quantitative statutory target exists) has increased in recent years, it dipped in FY2015; Ex-Im Bank attributes this to an economic slowdown in the region and a lapse in the Bank's authority.[134]

Table 3. Ex-Im Bank's Credit and Insurance Authorizations, FY2014-FY2015

Program	Number of Authorizations		Amount Authorized ($ millions)	
	FY2014	FY2015	FY2014	FY2015

[127] *Export-Import Bank of the United States Annual Report 2015*, p. 36.

[128] GAO-13-466, May 23, 2013, pp. 10-13.

[129] Ibid., pp. 15-17.

[130] Ibid., p. 13.

[131] Ibid., "Recommendations."

[132] As stated earlier, the 2015 Ex-Im Bank Reform and Reauthorization Act (Sec. 52001 of P.L. 114-94) changed the small business target to 25% for FY2016 and subsequent fiscal years.

[133] GAO, *Export-Import Bank: Reaching New Targets for Environmentally Beneficial Exports Presents Major Challenges for Bank*, GAO-10-682, July 14, 2010, http://www.gao.gov/products/GAO-10-682. As stated earlier, the FY2016 appropriations act does not include the 10% renewable energy directive for Ex-Im Bank.

[134] *Export-Import Bank of the United States Annual Report 2015*, p. 15.

Total Authorizations	**3,746**	**2,630**	**$20,467.9**	**$12,383.0**
Loans	69	41	$1,947.8	$72.7
Loan Guarantees	540	344	$13,314.0	$9,068.1
Insurance	3,137	2,245	$5,206.1	$3,242.2
Authorizations for Specific Types of Exports (Congressional Mandate)				
Exports by Small Business (20% target for amount	3,347	2,342	$5,050.2	$3,030.6
Percent of Total	89.3%	89.0%	24.7%	24.5%
Renewable Energy Exports	32	20	$186.8	$121.5
Percent of Total	0.85%	0.76%	0.91%	0.98%
Exports to Sub-Saharan Africa	192	142	$2,055.1	$396.5
Percent of Total	5.1%	5.4%	10.0%	3.2%

Source: Ex-Im Bank annual reports data adapted by CRS.

How can Ex-Im Bank's support for small business be characterized?

Ex-Im Bank's 25% (and prior 20%) directive for small business support focuses on *direct* support. Some stakeholders say that this approach leads to an impression that Ex-Im Bank supports fewer small businesses than it actually does.[135] For example, a 2011 study of the supply chains of five large companies (Bechtel, Boeing, Case New Holland, General Electric, and Siemens Power Corporation) that are "exporters of record" for Ex-Im Bank, identified over 33,000 small- and medium-sized enterprises (SMEs) that serve as primary suppliers of parts and services incorporated into these large companies' exports; according to the study, these SMEs also benefit from Ex-Im Bank financing.[136] Other SMEs also operate at sub-levels of the supply chain, serving as "suppliers to the suppliers." For FY2015, Ex-Im Bank estimates that it authorized $384.2 million in *indirect* small business support.[137] Other stakeholders assert that focusing on Ex-Im Bank's indirect support for small businesses is not the original intention of Ex-Im Bank's mandate. They express concern that allowing indirect support for small business to count toward the small business target may adversely affect U.S. small business exporters by making it easier for Ex-Im Bank to reach the goal and, thus, reducing incentives to seek small business customers.[138] At the same time, critics of Ex-Im Bank express disapproval over the amount of Ex-Im Bank financing, by dollar value, that has been directed to a few large U.S.

[135] For example, see U.S. Chamber of Commerce Coalition Letter to Members of the United States Congress on Ex-Im Bank, February 13, 2012, https://www.uschamber.com/letter/coalition-letter.

[136] Coalition for Employment Through Exports (CEE), *Supplier Study of 2011*. CEE is a nonprofit advocacy organization whose Board of Directors and members include Bechtel, Case New Holland, General Electric, and Siemens Financial Services. See http://usaexport.org/.

[137] *Export-Import Bank of the United States Annual Report 2014*, p. 34.

[138] Letter from Todd McCracken, President and CEO of Small Business Exporters Association (SBEA), to The Honorable Tim Johnson, Chairman of Senate Banking Committee; The Honorable Michael Crapo, Ranking Member of Senate Banking Committee; The Honorable Jeb Hensarling, Chairman of House Financial Services Committee; and The Honorable Maxine Waters, Ranking Member of House Financial Services Committee, May (assumed) 2014, http://www.nsba.biz/wp-content/uploads/2014/05/SBEA_NSBA_Letter_Admin_SME_Ex-Im_Reauth-Proposal.pdf.

corporations that they believe are capable of shouldering the risks of exporting to developing countries.[139]

Do Ex-Im Bank's activities have a U.S. foreign policy focus?

Ex-Im Bank's activities focus on supporting U.S. commercial interests. However, Ex-Im Bank activities also may support Administration goals and policy initiatives. For example, under the Obama Administration, Ex-Im Bank has been involved in efforts to boost U.S. exports worldwide under the National Export Initiative (NEI) and its successor NEI/NEXT, as well as regional policy initiatives, such as the "rebalancing" towards the Asia-Pacific, the U.S. Strategy Towards Africa, and the "Look South" initiative focused on Central & South America. Additionally, statutory mandates for Ex-Im Bank, such as its directive to expand its support in sub-Saharan Africa, may implicate U.S. foreign policy interests (see "What is Ex-Im Bank's sub-Saharan Africa statutory mandate?").

Is there a relationship between Ex-Im Bank and U.S. national security interests?

Ex-Im Bank's activities may have national security implications in a number of ways.

- **Policies and requirements.** According to Ex-Im Bank, its authority to support dual-use exports and its U.S.-flag shipping requirements have direct national security implications. Additionally, Ex-Im Bank contends that its financing of commercial sales of U.S. manufacturers contributes indirectly to a skilled defense workforce and supports the defense supply chain—based on the rationale that industries involved in commercial and defense fields often utilize the same set of employees and overlap in the suppliers and subcontractors that they use.[140]
- **Role in U.S. trade policy.** The U.S. 2015 *National Security Strategy* highlights U.S. trade policy as part of national security interests.[141] U.S. trade policy goals include supporting economic growth and prosperity and helping to shape the global economic order. The 2015 *Strategy* characterizes the proposed Trans-Pacific Partnership (TPP) free trade agreement (FTA), signed in February 2016, and the potential Transatlantic Trade and Investment Partnership (T-TIP) FTA, negotiations for which are ongoing, as a tool that "brings jobs to [U.S.] shores, increases standards of living, strengthens [U.S.] partners and allies, and promotes stability in critical regions."[142] Services provided by Ex-Im Bank could enhance U.S. companies' abilities to utilize U.S. FTAs by promoting U.S. exports to FTA partner countries.

[139] For example, see Veronique de Rugy, *The Biggest Beneficiaries of the Ex-Im Bank*, Mercatus Center, April 29, 2014.

[140] U.S. Congress, House Committee on Foreign Affairs, Subcommittee on Terrorism, Nonproliferation, and Trade, *Written Testimony of Fred P. Hochberg - President and Chairman, Export-Import Bank of the United States*, Hearing on "Trade Promotion Agencies and U.S. Foreign Policy", 114th Cong., 1st sess., May 19, 2015.

[141] The White House, National Security Strategy, February 2015, https://www.whitehouse.gov/sites/default/files/docs/2015_national_security_strategy.pdf. See also CRS Report R44361, *The Trans-Pacific Partnership (TPP): Strategic Implications*, coordinated by Ben Dolven and Brock R. Williams.

[142] Ibid.

- **Geopolitical role.** The growing role of China, Brazil, India, and other emerging economies has transformed the global economy, presenting both opportunities and challenges for the United States as it seeks to achieve its trade and economic goals. Questions are raised about the extent to which emerging economies' governments and institutions are involved in shaping "rules of the road" that may be different from or detrimental to U.S. interests. Given that Ex-Im Bank has many foreign counterparts, U.S. and emerging economies' trade promotion activities may enter into these power dynamics. Ex-Im Bank may play a role in supporting U.S. interests as a form of commercial diplomacy.

Of congressional interest is the potential impact of Ex-Im Bank on U.S. national security interests, though analysts and observers disagree on the impact. For example, during the latest reauthorization debate, some former national security officials sent a letter to congressional leaders calling for Ex-Im Bank's reauthorization, observing "how commercial and economic diplomacy have become critical elements of [U.S.] national security" and stating that the "involvement of U.S. companies in emerging markets is fundamentally beneficial to the American economy while helping to drive growth, prosperity, and political stability abroad."[143] Critics counter that Ex-Im Bank may adversely affect U.S. interests because of its support for the purchase of U.S. exports in countries "that either have no place doing business with America or actively undermine U.S. national security interests."[144]

However, any national security impacts may be debatable in terms of magnitude. On one hand, some may argue that Ex-Im Bank has slight or negligible effects on U.S. economic activity and, in turn, foreign policy interests. For example, U.S. exports estimated to be supported by Ex-Im Bank have represented a small share of total U.S. exports of goods and services. Some also may note the smaller percentage of Ex-Im Bank transactions whose primary purpose was to offset foreign competition, relative to purposes to address private sector gaps (see **Table 2** in "How does Ex-Im Bank work to ensure that its financing does not compete with the private sector?"). On the other hand, Ex-Im Bank financing may be in higher-impact sectors that benefit the most from government-backed financing and insurance, such as infrastructure-related goods and services, and also that represent a significant share of the foreign country's economic activity.

Risk Management, Fraud Control, and Ethics

What risks does Ex-Im Bank face in financing and insuring exports?

Ex-Im Bank faces a number of risks in financing and insuring U.S. exports, including:

- **repayment risk**, which is the risk that a borrower will not pay according to the original agreement and the Bank may eventually have to write off some or all of the obligation because of credit or political reasons;

[143] Krista Hughes, "Former top U.S. officials urge lifeline for export credit agency," *Reuters*, February 12, 2015.

[144] For example, an issue was previous Ex-Im Bank support to the state-owned Russian bank Vnesheconombank (VEB), subject to U.S. economic sanctions as part of the broader U.S. response to Russia's actions related to Ukraine. Mark Pfeifle, "The Peculiar Use of a Taxpayer Bank," *The Wall Street Journal*, April 26, 2015. For background, see CRS Report R43895, *U.S. Sanctions on Russia: Economic Implications*, by Rebecca M. Nelson.

- **concentration risk**, which is the risk stemming from the composition of the credit portfolio (e.g., concentration of portfolio by geographic region, industry, and obligor), as opposed to the risks related to specific obligors;
- **foreign currency risk**, which is the risk stemming from an appreciation or depreciation in the value of a foreign currency in relation to the U.S. dollar in Ex-Im Bank transactions denominated in that foreign currency;
- **operational risk**, which is the risk of material losses resulting from human error, system deficiencies, and control weaknesses; and
- **interest rate risk**, which stems from Ex-Im Bank making fixed-rate loan commitments prior to borrowing to fund loans and there is a risk that it will have to borrow funds at an interest rate greater than the rate charged on the credit.[145]

How does Ex-Im Bank seek to manage its risks?

The basis for Ex-Im Bank's risk management function is its charter, which requires that all transactions that it supports have a reasonable assurance of repayment[146] and that the Bank maintains reasonable provisions for losses.[147] The Bank has a system in place to mitigate risks through credit underwriting and due diligence of potential transactions, as well as monitoring risks of current transactions. If a transaction has credit weaknesses, the Bank will try to restructure it to help prevent defaults and increase the likelihood of higher recoveries if the transaction does default. Ex-Im Bank also has a claims and recovery process.[148]

How does Ex-Im Bank determine the level of funds necessary to cover future projected claims?

Because loan repayment prospects may change over time due to economic or other factors, Ex-Im Bank's credit losses on the outstanding balance of transactions are re-estimated annually. This re-estimate indicates the appropriate level of funds necessary to cover projected future claims. On an annual basis, the difference between the Bank's financing accounts and the amount needed to cover future estimated claims is reconciled through one of two processes. First, if the balance in Ex-Im Bank's financing accounts is greater than the re-estimates of credit losses, the surplus funds are transferred to a Treasury General Fund receipt account. It is not available to cover future estimated claims. Second, if the balance in the financing accounts is less than the re-estimated level of credit losses, a mandatory appropriation is made available in order for the Bank to issue commitments for new loans and guarantees in excess of those receipts.[149] These transfers and appropriations, when they occur, do not affect the calculation of the budget deficit.[150]

[145] Ex-Im Bank annual reports; and GAO-13-303, March 2013, p. 8.

[146] 12 U.S.C. §635(b)(1)(B).

[147] 12 U.S.C. §635(a)(1).

[148] GAO-13-303, March 2013, p. 42.

[149] *Export-Import Bank of the United States Annual Report 2013*, p. 51.

[150] Financing accounts are nonbudget accounts associated with federal credit programs. Therefore, all transactions (i.e., cash flows) associated with these accounts are not reflected in total outlays, receipts, or the budget surplus/deficit.

How much are in Ex-Im Bank's loss reserves?

Ex-Im Bank maintains reserves to protect against potential future losses from its activities. According to Ex-Im Bank data, its reserves for loan losses totaled $4.0 billion in FY2015, which represented 3.9% of its total exposure (disbursed and outstanding loans, guarantees, and insurance) and 4.7% of its outstanding balance.[151] The Export-Import Bank Reform and Reauthorization Act of 2015 requires Ex-Im Bank to build and hold in its reserve to protect against future losses an amount not less than 5% of the "aggregate amount of [its] disbursed and outstanding loans, guarantees, and insurance," effective one year after December 4, 2015 (Sec. 51002 of P.L. 114-94).

What is Ex-Im Bank's default rate?

Ex-Im Bank calculates its default rate as a "total amount of required payments that are overdue (claims paid on guarantees and insurance transactions plus loans past due) divided by a total amount of financing involved (disbursements)."[152] The 2012 reauthorization act required Ex-Im Bank to monitor its default rate, report it on a quarterly basis to Congress, and to develop a plan to reduce the default rate if it exceeded 2% (sometimes called "the 2% rule").[153] Ex-Im Bank reported its default rate as 0.235% as of September 2015.[154] According to Ex-Im Bank, its historical default rate has been less than 1% since its inception.[155]

However, there is some debate about how the default rate should be interpreted. According to a GAO study, the ultimate impact of Ex-Im Bank's recent business on default rates is not yet known as it contains a large volume of transactions that have not reached their peak default periods.[156] GAO also has stated that trends in Ex-Im Bank's default rate should be viewed with caution because of limitations in the agency's analysis of its financial performance.[157] GAO reported that Ex-Im Bank has implemented its recommendation in this area by retaining data starting in 2013 to compare newer and older business and enhance loss modeling.[158]

What happens when Ex-Im Bank has to pay a claim?

Ex-Im Bank pays a claim when a loan that it has guaranteed or an insurance policy that it has issued defaults. In the case of a loan guarantee, Ex-Im Bank will take the loan over from the bank and pay the lending bank the full amount of the principal of the loan that it guaranteed, plus any accrued interest. In addition, when Ex-Im Bank pays a claim for a loan guarantee that is

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[151] *Export-Import Bank of the United States Annual Report 2015*, p. 41. Ex-Im Bank's exposure includes both outstanding and undisbursed loans, guarantees, and insurance.

[152] Ibid., p. 48.

[153] 12 U.S.C. §635g(g).

[154] Ex-Im Bank, *Default Rate Report as of September 2015*, p. 2. The default rate provided by Ex-Im Bank is different from the default rate calculated by the Office of Management and Budget (OMB) to calculate the credit subsidy for budgetary purposes. The default rate calculated by OMB is a lifetime default rate, and is typically higher than the one that is reported quarterly.

[155] Ibid., p. 11.

[156] GAO-13-303, March 2013, p. 31.

[157] GAO, *Export-Import Bank: Recent Growth Underscores Need for Continued Improvements in Risk Management*, GAO-13-703T, June 13, 2013, p. 6.

[158] Ibid; and GAO, *Export-Import Bank: Status of Actions to Address GAO Recommendations since the Bank's 2012 Reauthorization*, GAO-15-557T, April 15, 2015, pp. 6-7, http://www.gao.gov/products/GAO-15-557T.

denominated in a foreign currency, it seeks to manage its foreign currency risk by purchasing the foreign currency to pay the claim to the lender and then attempts recovery on the U.S. dollar equivalent, which represents the obligor's debt obligation—shifting the foreign currency risk to the obligor after the claim has been paid.[159] After Ex-Im Bank takes possession of a loan in default, it engages in recovery efforts to minimize its losses (see next question).

What is Ex-Im Bank's recovery rate?

Ex-Im Bank reports that, since 1992, it has been able to recover 50 cents on the dollar on average for transactions in default.[160] Backed by the U.S. government, Ex-Im Bank can take legal action against obligors for transactions in default.[161]

What is the debate over Ex-Im Bank's risk management practices?

Ex-Im Bank's financial risk management practices present debates about addressing goals such as allowing Ex-Im Bank to prudentially manage risk and minimize potential taxpayer losses, while also enabling it to take on appropriate risks to meet its U.S. exports and jobs mandate. The Export-Import Bank Act of 2012, among other things, required Ex-Im Bank to monitor its default rate, report it on a quarterly basis to Congress, and to develop a plan to reduce the default rate if it equals or exceeds 2% (sometimes called "the 2% rule"). Pursuant to the 2012 reauthorization act, GAO published reports in March 2013 and May 2013 that reviewed Ex-Im Bank's risk management and reporting practices.[162] GAO found that Ex-Im Bank had made certain improvements in its risk management framework, including enhancing credit loss modeling with qualitative factors. GAO also provided recommendations to Ex-Im Bank to address remaining weaknesses in the areas of collecting data for estimating losses of transactions, managing financial risks through stress testing and monitoring default rates of sub-portfolios,[163] forecasting exposure levels; and analyzing staff resources and associated operational risks—all of which GAO states that Ex-Im Bank has implemented.[164] The Bank also notes other changes it has made in recent years, including appointing a Chief Risk Officer in 2013 to ensure prudential risk management, as well as establishing an Enterprise Risk Committee, modernizing its credit monitoring, creating a Special Assets unit to address emerging credit issues, expanding pro-active monitoring efforts, and improving underwriting criteria.[165]

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[159] GAO-13-303, March 2013, pp. 41-42; and CRS meeting with Ex-Im Bank, April 7, 2014.

[160] U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on Health Care, Benefits, and Administrative Rules, and House Committee on Financial Services, Subcommittee on Monetary Policy and Trade, *Written Testimony of Fred P. Hochberg, President and Chairman, Export-Import Bank of the United States*, Hearing on "Assessing Reforms at the Export-Import Bank," 114th Cong., 1st sess., April 15, 2015.

[161] *Export-Import Bank of the United States Annual Report 2013*, p. 5; and *Export-Import Bank of the United States Annual Report 2014*, p. 51.

[162] GAO-13-303, March 2013; and GAO, *Export-Import Bank: Additional Analysis and Information Could Better Inform Congress on Exposure, Risk, and Resources*, GAO-13-620, May 2013.

[163] Ex-Im Bank subportfolios could be, for example, by industry, products, markets, and congressional mandates. See GAO-13-620, May 2013, p. 23.

[164] GAO, *Export-Import Bank: Status of Actions to Address GAO Recommendations since the Bank's 2012 Reauthorization*, GAO-15-557T, April 15, 2015; and Hochberg April 15, 2015, testimony.

[165] U.S. Congress, Senate Committee on Banking, Housing, and Urban Affairs, *Oversight and Reauthorization of the Export-Import Bank of the United States*, Written Testimony of Fred P. Hochberg - President and Chairman of Ex-Im Bank, 113th Cong., 2nd sess., January 28, 2014.

Supporters contend that it has adequate systems and staffing in place to manage its risk, and poses low risk to U.S. taxpayers. They argue that the Bank has a strong mandate to manage risk under its charter and has a strong record of risk management, noting the low default rate and high recovery rate reported by Ex-Im Bank.[166] Critics hold that there are weaknesses in the Bank's risk governance, and question its methodology to calculate expected losses and contributions to the Treasury. Supporters may counter that GAO determined that Ex-Im Bank's figures for amounts sent to the Treasury were reasonable based on GAO's analysis of Ex-Im Bank appropriations acts, budget appendixes, and financial statements for the 1992-2012 period.[167] Critics also express concern that the Bank's exposure growth and concentrations, such as in aircraft, pose a risk to U.S. taxpayers and the federal budget, pointing to certain findings in studies by GAO and the Bank's Office of Inspector General.[168] Critics further question Ex-Im Bank's capacity for underwriting and due diligence. Other stakeholders caution that the Bank may be becoming too risk-averse, raising concerns about the appropriate balance in Ex-Im Bank's risk management with its overall mandate to support U.S. exports. Ex-Im Bank reauthorization proposals in the 114th Congress included a focus on Ex-Im Bank's reserve requirements, organizational structure for risk management, auditing, and risk-sharing agreements.

What are Ex-Im Bank's fraud control and ethics practices?

Ex-Im Bank's Office of Inspector General (OIG), statutorily created in 2002 and in operation since 2007, is an independent office within the agency. Its mission is to "to conduct and supervise audits, investigations, inspections, and evaluations related to agency programs and operations; provide leadership and coordination as well as recommend policies that will promote economy, efficiency, and effectiveness in such programs and operations; and prevent and detect fraud, waste, abuse, and mismanagement."[169] OIG audits, inspections, and investigations of the agency are available at http://www.exim.gov/about/oig.

To mitigate corruption and fraud, Ex-Im Bank staff conduct "risk-based due diligence" to underwrite transactions; they screen and evaluate transactions for eligibility requirements and conformity with the Bank's credit risk policies, as well as determine the appropriate credit structure for a proposed transaction.[170] They conduct further due diligence after transactions are authorized using a "risk-based sampling of authorized transactions" to identify possible corruption and fraud, referring evidence of concern to the OIG.[171] Pursuant to the 2012

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[166] For example, see NAM, *Facts on the Export-Import (Ex-Im) Bank*, http://www.nam.org/~/media/5AF9A722407E46D6A1264820B2208860.ashx.

[167] GAO-13-303, March 2013; and GAO, *Export-Import Bank: Additional Analysis and Information Could Better Inform Congress on Exposure, Risk, and Resources*, GAO-13-620, May 2013, p. 35.

[168] For example, see Diane Katz, *U.S. Export-Import Bank: Corporate Welfare on the Backs of Taxpayers," The Heritage Foundation*, April 11, 2014, http://www.heritage.org/research/reports/2014/04/us-exportimport-bank-corporate-welfare-on-the-backs-of-taxpayers.

[169] U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on Health Care, Benefits, and Administrative Rules, and House Committee on Financial Services, Subcommittee on Monetary Policy and Trade, *Statement of Michael T. McCarthy, Deputy Inspector General, Export-Import Bank of the United States*, Hearing on "Assessing Reforms at the Export-Import Bank," 114th Cong., 1st sess., April 15, 2015, p. 9.

[170] GAO, *Export-Import Bank: Enhancements Needed in Loan Guarantee Procedures and for Documenting Fraud Processes*, GAO-14-574, September 9, 2014, pp. 11-15 (hereinafter GAO-14-574, September 9, 2014); U.S. Congress, Senate Committee on Banking, Housing, and Urban Affairs, *Written Testimony of Fred P. Hochberg – President and Chairman*, Export-Import Bank of the United States, Hearing on "Oversight of the Export-Import Bank," 114th Congress, 1st sess., April 6, 2015.

[171] Ibid.

reauthorization act, Ex-Im Bank implemented new standards and requirements to improve and clarify its due diligence standards for lender partners.[172] Specifically, on May 30, 2014, Ex-Im Bank updated its "Know Your Customer" requirements and transaction due diligence standards for its guaranteed and insured lender partners and participants[173] (e.g., a commercial bank that loans to a foreign buyer that Ex-Im Bank guarantees).[174]

Ex-Im Bank also has an ethics program for its employees, which includes mandatory ethics training and responsibilities. It states that it works to "foster an environment where employees are encouraged to ask questions and report suspected unethical behavior."[175]

The Export-Import Bank Reform and Reauthorization Act of 2015 requires the U.S. Comptroller General to conduct periodic reviews and reports of Ex-Im Bank's fraud controls. It statutorily established an Office of Ethics, a Chief Risk Officer, and a Risk Management Committee (while terminating the existing Audit Committee). Additionally, among other things, it requires Ex-Im Bank's Inspector General to conduct an audit of Ex-Im Bank's portfolio risk management procedures, with associated reporting requirements. (Sections 51003-51007 of P.L. 114-94.)

Ex-Im Bank's reauthorization in 2015 was preceded by debate in Congress over the adequacy of Ex-Im Bank's existing fraud control and ethics practices. Focus on Ex-Im Bank's ethics practices became more prominent due to certain OIG investigations,[176] as well the fact that a former Ex-Im Bank loan officer pleaded guilty to a bribery charge in federal court in April 2015.[177] The OIG states, "the most common fraud schemes we have encountered involve outside parties obtaining loans or guarantees through false representations and submission of false documents," prompting OIG training for Ex-Im Bank employees and delegated lending institutions on fraud indicators.[178] Ex-Im Bank asserts its ethics program is "fully compliant with all laws, regulations, and policies...,"[179] and notes that the OIG investigations send a signal of its "zero tolerance for waste,

[172] 12 U.S.C. §635(i). The 2012 reauthorization act requires Ex-Im Bank to "set due diligence standards for its lender partners and participants, which should be applied across all programs consistently."

[173] Ex-Im Bank defines a "participant" as "any person or entity that is, or is seeking to be, an insured or guaranteed party under any Ex-Im Bank program, and any applicant for Ex-Im support under any Ex-Im Bank program, any person (including an arranger or advisor) that assists an applicant in seeking Ex-Im Bank support for any transaction, and any party acting as an agent or trustee for Ex-Im Bank.

[174] For more information, see Ex-Im Bank, "Requirements and Due Diligence Standards," http://www.exim.gov/policies/due-diligence-standards.

[175] U.S. Congress, Senate Committee on Banking, Housing, and Urban Affairs, *Written Testimony of Fred P. Hochberg – President and Chairman*, Export-Import Bank of the United States, Hearing on "Oversight of the Export-Import Bank," 114th Congress, 1st sess., April 6, 2015.

[176] For discussion of outcomes of these investigations, see U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on Health Care, Benefits, and Administrative Rules, and House Committee on Financial Services, Subcommittee on Monetary Policy and Trade, *Statement of Michael T. McCarthy, Deputy Inspector General, Export-Import Bank of the United States*, Hearing on "Assessing Reforms at the Export-Import Bank," 114th Cong., 1st sess., April 15, 2015.

[177] Department of Justice, "Former Loan Officer at Export-Import Bank Pleads Guilty to Accepting Over $78,000 in Bribes," press release, April 22, 2015.

[178] U.S. Congress, Senate Committee on Banking, Housing, and Urban Affairs, *Written Testimony of Fred P. Hochberg – President and Chairman*, Export-Import Bank of the United States, Hearing on "Oversight of the Export-Import Bank," 114th Congress, 1st sess., April 6, 2015.

[179] U.S. Congress, Senate Committee on Banking, Housing, and Urban Affairs, *Written Testimony of Fred P. Hochberg – President and Chairman, Export-Import Bank of the United States*, Hearing on "Oversight of the Export-Import Bank," 114th Congress, 1st sess., April 6, 2015.

fraud, and abuse."[180] For others, fraud allegations bolster the argument against reauthorization or for focusing on reforms to Ex-Im Bank's charter.[181]

Budget and Appropriations

How does Ex-Im Bank fund its activities?

Ex-Im Bank's program revenues include the fees and premia charged for services, interest generated from loans, and repayment of loan principals. For a given year, the Bank's program revenues that are in excess of the forecasted loss on those transactions (credit losses) are retained as offsetting collections. These offsetting collections are used to fund new obligations during the year, which include administrative costs, claim payments, loan disbursements, and prudent reserves to cover future losses. Ex-Im Bank borrows from the Treasury to finance medium- and long-term loans.

According to Ex-Im Bank, there is no limit on the total amount of offsetting collections that the Bank can have. However, there are limits on how much and for how long the Bank can keep the offsetting collections. Through the annual appropriations process, Ex-Im Bank receives authority to spend its offsetting collections.

See "How does Ex-Im Bank determine the level of funds necessary to cover future projected claims?" in the "Risk Management, Fraud Control, and Ethics" section.

How does Ex-Im Bank's appropriations process work?

As a federal credit program, the activities of the Bank are subject to federal credit accounting rules and the calculation of a credit subsidy. Ex-Im Bank's credit subsidy was negative in FY2015 and is estimated to be negative in FY2016. Therefore, no appropriation is required to cover the cost of the subsidy for budgetary purposes. However, if the credit subsidy calculation resulted in a positive subsidy rate or if the methodology for calculating subsidies for federal credit programs should change (i.e., to fair-value accounting) resulting in a positive subsidy rate, then an appropriation would be required to cover the credit subsidy amount for the fiscal year in which a positive subsidy was calculated.[182]

Separately, an appropriation is provided for the activities of the Ex-Im Bank's Office of Inspector General (OIG) and sets an upper limit on its administrative expenses as part of the Department of State, Foreign Operations, and Related Programs appropriations act. These expenses are not included in the credit subsidy calculation, unlike the majority of the Bank's activities, but are recorded on a cash basis. Because Ex-Im Bank collects revenues from its customers, classified in the federal budget as offsetting collections, it is able to reimburse the Treasury for the costs of those expenses resulting in a net appropriation of zero.

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[180] U.S. Congress, House Committee on Financial Services, *Written Testimony of Fred P. Hochberg – President and Chairman, Export-Import Bank of the United States*, Hearing on "Examining the Export-Import Bank's Reauthorization Request and the Government's Role in Export Financing," 114th Congress, 1st sess., June 3, 2015, p. 7.

[181] For example, see U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on Economic Growth, Job Creation and Regulatory Affairs, *Mismanagement of Export-Import Bank Invites Fraud*, Testimony by Diane Katz, 113th Cong., 2nd sess., July 29, 2014.

[182] During the 1990s and early 2000s, Ex-Im Bank's credit subsidy was positive in most years. If positive subsidies persisted over the long term, Ex-Im Bank could opt to charge higher fees or premia or restructure its products to eliminate these positive subsidies.

For FY2016, appropriations legislation provided $6 million for Ex-Im Bank's OIG, set an upper limit of $106.3 million for the Bank's administrative expenses, and allowed carryover funds of up to $10 million to remain available until September 30, 2019.

How are Ex-Im Bank's activities accounted for under Federal Credit Reform Act of 1990 (FCRA)?

Beginning with FY1992, the Federal Credit Reform Act (FCRA, P.L. 101-508) required that the reported budgetary cost of a credit program equal the estimated subsidy costs at the time the credit is provided. FCRA defines the subsidy cost as "the estimated long-term cost to the government of a direct loan or a loan guarantee, calculated on a net present value basis, excluding administrative costs."[183] Before FY1992, the budgetary cost of a new loan or new loan guarantee was reported as its net cash flow for that fiscal year. The change to FCRA places the cost of federal credit programs on a budgetary basis that more closely matches other federal outlays.

The FCRA methodology described above resulted in an estimated budgetary impact for Ex-Im Bank's credit activities of FY2015 of -$456 million, or reduction in the budget deficit of $456 million. A negative subsidy indicates that the discounted present value of cash inflows exceeds the discounted value of cash outflows over the life of the loans, resulting in a reduction in the budget deficit for the fiscal year in which the subsidy estimate is made. This negative credit subsidy is calculated based on the negative credit subsidy rate multiplied by the total dollar value of loans and loan guarantees in that year. The estimated subsidy is -$473 million for FY2016 and -$433 million for FY2017.[184] Subsidy rates from federal credit programs are subject to re-estimates in future years, resulting in new subsidy estimates that may be higher or lower compared to the original estimate. For example, in FY2014, the original subsidy rate for Ex-Im Bank's direct loans was -3.36%. Currently, it has been re-estimated at -3.81%. The original credit subsidy rate for loan guarantees in the same year was -2.13%, and it is re-estimated at -0.58% currently.

What is the relationship between Ex-Im Bank activity and the U.S. debt and deficit?

Beginning with FY1992, the FCRA required that the reported budgetary cost of a credit program equal the estimated subsidy costs at the time the credit is provided. This methodology resulted in an estimated budgetary impact of Ex-Im Bank's activities of -$456 million in FY2015 and an estimated -$473 million for FY2016.[185] In other words, Ex-Im Bank's activities in FY2015 were estimated to reduce the budget deficit by $456 million in FY2015, and are estimated to reduce the budget deficit by $473 million in FY2016.

The budgetary impact (the credit subsidy) of the Ex-Im Bank's activities is different from its impact on the federal debt. When the Bank issues a new direct loan or has to pay an obligation on a loan guarantee, it borrows money from the U.S. Treasury, which is raised by the Treasury by

[183] For more information on the effect of FCRA on the budgetary cost of credit programs, see CRS Report R44193, *Federal Credit Programs: Comparing Fair Value and the Federal Credit Reform Act (FCRA)*, by Raj Gnanarajah.

[184] These subsidy estimates were taken from the President's Budget documents prepared by the Office of Management and Budget (OMB). The Congressional Budget Office (CBO) uses different models and assumptions when making credit estimates for purposes of the appropriations process and CBO's baseline estimates.

[185] These subsidy estimates were taken from the President's Budget documents prepared by OMB. CBO uses different models and assumptions when making credit estimates for purposes of the appropriations process and CBO's baseline estimates.

selling Treasury securities to the extent that the Bank does not have enough incoming revenue to cover the obligation. That borrowing from the Treasury increases the size of the U.S. federal debt in the amount borrowed on a dollar-for-dollar basis. Therefore, while the loan or loan guarantee remains outstanding, the activities of the Bank increase the size of the U.S. debt. As these obligations are repaid, the amount of debt outstanding to the U.S. Treasury declines, thereby decreasing the size of the Ex-Im Bank's contribution to the federal debt. The size of the credit subsidy calculated for budgetary purposes should reflect the size of the long-term cost (or debt burden) on the U.S. Treasury, though the estimates are inherently inexact. Outstanding borrowing owed to the U.S. Treasury totaled $22.7 billion at the end of FY2015.[186] (Any repayments to the Treasury for outstanding debt do not directly affect Ex-Im Bank's credit subsidy for budgetary purposes.)

What does Ex-Im Bank do with its excess revenues?

Ex-Im Bank collects revenues from customers, from fees and premia and loan principal and interest payments in the form of offsetting collections. Offsetting collections are defined as funds collected by government agencies from other government agencies or from the public in businesslike or market-oriented transactions that are credited to an expenditure account. Offsetting collections in FY2015 were $548.7 million after setting funds aside for credit loss reserves. Ex-Im Bank reported providing $431.6 million to the Treasury in FY2015 after covering operating expenses. That amount is calculated on a cash basis and based on $548.7 million in offsetting collections less $107.1 million in administrative expenses.[187]

The amount of excess revenue calculated on a cash basis, discussed above, is different than the amount calculated on a budgetary basis. For budgetary purposes, the credit subsidy calculation incorporates the expected costs as well as profits (i.e., excess cash). When a credit account generates a negative subsidy rate, as is the case with the Ex-Im Bank, a negative credit subsidy is recorded in the federal budget in the form of offsetting receipts and can be used to offset other costs incurred by the Bank. The negative credit subsidy indicates that over the lifetime of the obligations outstanding, Ex-Im Bank is projected to generate more in offsetting collections than what was initially borrowed to provide the direct loan in present value terms. For FY2015, the amount of the negative subsidy or budgetary impact was -$456 million.[188]

How would changes in federal credit accounting affect Ex-Im Bank?

There have been some proposals introduced and considered in the past few Congresses to change the methodology for scoring federal credit programs from an FCRA approach, based on Treasury interest rates, to a fair value approach, based on market rates (i.e., higher interest rates to account for market risk). In the 113th Congress, the Budget and Transparency Act of 2014 (H.R. 1872), which passed the House but was not acted on in the Senate, would have made such a change. CBO estimated that if this accounting change were to be made for federal credit programs, the 10-year cost of the Ex-Im Bank (FY2015-FY2024) would have increased from -$14 billion to +$2 billion.[189] This would mean that Ex-Im Bank's budgetary impact would shift from reducing

[186] *Export-Import Bank of the United States Annual Report 2015*, Notes to the Financial Statement, p. 66.

[187] Ibid., p. 82.

[188] In some years, the credit subsidy was positive.

[189] CBO, *Fair-Value Estimates of the Costs of Selected Federal Credit Programs for 2015 to 2024*, May 2014, http://www.cbo.gov/sites/default/files/cbofiles/attachments/45383-FairValue.pdf.

the deficit to increasing it over the 10-year period. In this scenario, funds would have to be appropriated to cover the projected positive subsidy for the fiscal year that it was calculated. In the 114th Congress, separate bills have been introduced in the House (H.R. 119) and Senate (S. 399) that would also provide for fair value accounting of credit programs.

Sunset in Authority

What are the implications of a sunset in Ex-Im Bank's authority for the agency's activities?[190]

Ex-Im Bank's general statutory authority expired for about five months in 2015 (July 31-December 3, 2015) when Congress did not take action to renew its charter.[191] Generally when an executive agency's statutory charter expires, that agency "ceases to exist" and is no longer legally authorized to perform any functions.[192] However, Ex-Im Bank's charter provides some exceptions to that general rule of law by expressly authorizing the Bank to engage in certain activities, even after its general statutory termination date.

Pursuant to 12 U.S.C. Section 635f, Congress has expressly authorized Ex-Im Bank to perform certain functions before the statutory termination date that would create obligations that are binding after the termination date.[193] Specifically, Section 635f permits the Bank to

1. take on loans or similar obligations prior to its termination date that mature subsequent to the termination date;
2. assume prior to the termination date liability as an insurer, guarantor, etc. of obligations that mature subsequent to the termination date; and
3. issue prior to the termination date debt (in the form of "notes, debentures, bonds, or other obligations which mature subsequent to the [termination] date") generally to be purchased by the U.S. Treasury.[194]

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[190] This portion of the report was written by David H. Carpenter, Legislative Attorney.

[191] 12 U.S.C. §635f.

[192] Civil Rights Commission, B-246541, 71 Comp. Gen. 378, 380 (1992) ("[O]nce a termination or sunset provision becomes effective, the agency ceases to exist and no new obligations may be incurred after the termination date ... Payment of obligations incurred prior to the termination date is usually made by a successor agency or by another agency pursuant to an Economy Act, 31 U.S.C. Sec. 1535, agreement entered into prior to the termination date.").

[193] 12 U.S.C. §635f, which is entitled "Termination date of Bank's functions; exceptions; liquidation," currently states, in its entirety:

> Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes until the close of business on June 30, 2015, but the provisions of this section shall not be construed as preventing the bank from acquiring obligations prior to such date which mature subsequent to such date or from assuming prior to such date liability as guarantor, endorser, or acceptor of obligations which mature subsequent to such date or from issuing, either prior or subsequent to such date, for purchase by the Secretary of the Treasury or any other purchasers, its notes, debentures, bonds, or other obligations which mature subsequent to such date or from continuing as a corporate agency of the United States and exercising any of its functions subsequent to such date for purposes of orderly liquidation, including the administration of its assets and the collection of any obligations held by the bank.

[194] This language, which seems to be modeled after 12 U.S.C. §635d, appears to authorize the Ex-Im Bank to issue debt, generally to the U.S. Treasury.

These provisions permit the Bank to perform its customary functions prior to the termination date without structuring every loan, guarantee, or other financial or contractual instrument to address the possibility that the Bank will terminate. Because of these three provisions, Ex-Im Bank has debts, assets, and contractual duties that were entered into prior to the termination date that remain valid and enforceable by and against the United States, if not the Bank itself, after the termination date.[195]

Other provisions of Section 635f expressly authorize the Bank to continue to perform certain functions *after* its termination. Most notably, Ex-Im Bank may "continu[e] as a corporate agency of the United States" and exercise any of its functions "for purposes of an orderly liquidation," including (but apparently not limited to) administering its assets and collecting any obligations it holds.[196] Additionally, Section 147 of P.L. 113-164, the Continuing Appropriations Resolution, 2015, authorizes Ex-Im Bank to continue funding its permissible operations through FY2015.[197]

What is an "orderly liquidation" for the purposes of Ex-Im Bank's Charter?[198]

Section 635f of the Bank's charter offers little guidance as to what an "orderly liquidation" entails in this context. For example, it does not address how long the Bank might continue to engage in the specified permissible functions after its termination—a potentially significant omission given that some of the Bank's obligations have repayment periods of more than seven years.[199] "Orderly liquidation" is not a term of art with a discrete meaning under federal law. There does not appear to be any case law interpreting this term as it applies specifically to Section 635f. Furthermore, CRS is unaware of any formal Ex-Im Bank issued regulations, guidance, etc. interpreting this provision or otherwise explaining how the Bank would administer its affairs for an "orderly liquidation."

One of the standard principles of statutory interpretation is that, in the absence of a statutory definition, courts may "construe a statutory term in accordance with its ordinary or natural meaning."[200] The everyday meanings of the terms *orderly* and *liquidation*, however, would suggest that the Bank could undertake activities that it considers to be implicated in the

[195] *See, e.g.*, Civil Rights Commission, B-246541, 71 Comp. Gen. 378, 380 (1992). The Bank's insurance and guarantees are explicitly backed by the full faith and credit of the United States. 12 U.S.C. §635k. ("All guarantees and insurance issued by the Bank shall be considered contingent obligations backed by the full faith and credit of the government of the United States of America.").

[196] 12 U.S.C. §635f. Section 635f also permits Ex-Im Bank to issue debt after the termination date (in the form of "notes, debentures, bonds, and other obligations") generally for purchase by the Treasury.

[197] P.L. 113-164 §147. Ex-Im Bank generally funds itself through revenues generated from its ongoing operations rather than through appropriations, although legislation caps the Bank's total administrative costs at $106.3 million for FY2015. P.L. 113-235.

[198] This portion of the report was written by David H. Carpenter, Legislative Attorney.

[199] *See Export-Import Bank of the United States Annual Report 2013*, at 12, Rev. Apr. 2014, available at http://www.exim.gov/about/library/reports/annualreports/2013/annual-report-2013.pdf.

[200] Fed Deposit Ins. Corp. v. Meyer, 510 U.S. 471, 476 (1994). Dictionary definitions are commonly used in determining the ordinary or natural meaning. *See, e.g.*, Asgrow Seed Co. v. Winterboer, 513 U.S. 179, 187 (1995) (relying on the dictionary definition of "marketing" in construing the Plant Variety Protection Act); Commissioner v. Soliman, 506 U.S. 168, 174 (1993) (similar, as to the definition of "principal" used to modify a taxpayer's place of business for purposes of an income tax deduction).

methodical settlement of its affairs.[201] This likely would include the authority to, for the purposes of orderly liquidation, continue to accept payments on, and otherwise administer loans, guarantees, and other obligations and liabilities entered into prior to the termination date that had not fully matured by the termination date.[202] The Bank also likely would be legally permitted to continue to pay employees needed to perform permissible functions.[203] It is unclear, however, how a prolonged lapse in its general statutory charter would affect Ex-Im Bank's employees.[204]

Notably, because the acquisition of obligations and the assumption of liabilities are not among the functions that the Bank is expressly authorized to perform after the termination date, it would appear that the Bank could not enter into new loans or offer new loan guarantees after this date, except insofar as any new obligations[205] or liabilities might be implicated in the "orderly liquidation" of its functions.[206]

However, given the dearth of statutory, administrative, and judicial guidance on the meaning of "orderly liquidation" pursuant to Section 635f, the Bank would appear to have considerable discretion in structuring its "orderly liquidation" in the absence of any relevant statutory changes to Section 635f (subject to the Bank generating sufficient revenue and receiving adequate appropriations to fund the liquidation).[207]

In July 2015, six Senators wrote a letter to Ex-Im Bank's Chairman and President requesting "clarity on [Ex-Im Bank's] plan for an orderly liquidation," including a timeline for its completion.[208] In his response, Ex-Im Bank's Chairman and President reportedly said that Ex-Im Bank has "broad discretion" to wind down its operations and did not specify a timeline.[209] Since the renewal of its authority, Ex-Im Bank reported that it was resuming its operations.[210]

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[201] *See, e.g.,* Merriam-Webster Dictionary, available at http://www.merriam-webster.com/dictionary/orderly (defining *orderly*); Merriam-Webster Dictionary, available at http://www.merriam-webster.com/dictionary/liquidation (defining *liquidation*).

[202] As previously mentioned, it is unclear how long the Bank could administer its obligations and liabilities while still complying with the "orderly liquidation" requirement of 12 U.S.C. §635f. For example, it is unclear whether or to what extent the Bank would be required to treat a loan that matures two *days* after the statutory termination date differently from one that matures seven *years* after such date.

[203] P.L. 113-164 §147. Ex-Im Bank generally funds itself through revenues generated from its ongoing operations rather than through appropriations, although legislation caps the Bank's total administrative costs at $106.3 million for FY2015. P.L. 113-235.

[204] The Bank had more than 400 employees on the statutory termination date (June 30, 2015).

[205] As discussed in the previous question, the Bank also would continue to be authorized to issue "notes, bonds, debentures, or other obligations." 12 U.S.C. §635f.

[206] For example, a contract is generally recognized as an obligation, and the Bank could potentially enter into a contract with another government agency under the authority of the Economy Act (31 U.S.C. §1535) that would provide for that agency to pay obligations that the Bank had incurred prior to the termination date.

[207] For an understanding of how the Ex-Im Bank is funded, *see* the "Ex-Im Bank Budget" section of this report.

[208] Letter from U.S. Senators Marco Rubio, Ted Cruz, Mike Lee, Ben Sasse, Pat Toomey, and Rand Paul to Fred Hochberg, Ex-Im Bank Chairman and President, July 1, 2015.

[209] "Hochberg Tells GOP Critics Ex-Im Has Broad Discretion to Wind Down," *Inside U.S. Trade,* August 13, 2015.

[210] Ex-Im Bank, "EXIM Bank Reauthorization Letter to Customers and Stakeholders," press release, December 4, 2015.

What is the potential economic impact of a sunset on Ex-Im Bank's authority?

In general, Ex-Im Bank states that, under a lapse in its authority, no new loan, guarantee, or insurance commitments can be approved by its Board or under delegated authority, but Ex-Im Bank may continue administering and servicing existing obligations (including disbursements on already-approved final commitments).[211]

Stakeholders and observers disagree on the economic implications of a lapse in Ex-Im Bank's authority. Some argue that Ex-Im Bank's inability to extend new commitments could adversely affect particular U.S. firms or their employees relying on its support when facing difficulty accessing private sector financing at commercially viable terms.[212] The impact also may extend to businesses in Ex-Im Bank users' supply chains, as well as "suppliers to the suppliers." Others contend that the sunset could boost export financing by the private sector. They argue that Ex-Im Bank's activities have opportunity costs, drawing capital and labor resources within the economy otherwise available for alternative uses.[213] Nevertheless, doubts remained over whether a sunset would affect the overall level of U.S. exports and employment. A range of macroeconomic factors affects the overall level of trade, and it may be difficult to determine the precise long-term economic impact of Ex-Im Bank's presence or absence.

In terms of competitiveness, supporters argue that, without Ex-Im Bank, certain U.S. companies may face difficulty competing for export contracts on a "level playing field" with foreign competitors receiving support from their official ECAs or may choose to source from overseas markets.[214] They argue that Ex-Im Bank's expiration would amount to "unilateral disarmament," given continued operations by foreign ECAs.[215] Critics argue that its expiration would allow the United States to lead by example in efforts to eliminate government-backed ECA programs internationally, and to focus on ways they view as more effective to boost U.S. exports, such as tax reform or the negotiation and enforcement of international trade agreements.[216]

How did U.S. businesses respond to Ex-Im Bank's lapse in authority in 2015?

Debate emerged over the *actual* impact on U.S. businesses of Ex-Im Bank's lapse in authority in 2015. Some U.S. companies claimed that the expiration of Ex-Im Bank's authority prevented them from securing export contracts. For example, Boeing Co. reportedly lost two potential

[211] Ex-Im Bank, "Lapse Information," August 12, 2015, http://www.exim.gov/lapse-information.

[212] Letter from R. Bruce Josten, Executive Vice President, Government Affairs, U.S. Chamber of Commerce, to Chairmen Bill Huizenga and Jim Jordan and Ranking Members Gwen Moore and Matt Cartwright, April 29, 2015, http://democrats.financialservices.house.gov/uploadedfiles/2__chamber_of_commerce__05.19.2015.pdf.

[213] Daniel J. Ikenson, *Examining the Export-Import Bank's Reauthorization Request and the Government's Role in Export Financing*, CATO Institute, June 3, 2015, http://www.cato.org/publications/testimony/examining-export-import-banks-reauthorization-request-governments-role-export.

[214] For background on foreign ECA competition, see Ex-Im Bank, *2014 Competitiveness Report*, June 2015.

[215] Christopher Wenk, "Unilateral Disarmament—Literally: Ex-Im and National Security," U.S. Chamber of Commerce, August 15, 2014, https://www.uschamber.com/blog/unilateral-disarmament-literally-ex-im-and-national-security.

[216] Bryan Riley, "Foreign Export Credit Subsidies: Kill Them, Don't Copy Them," The Heritage Foundation, September 12, 2014, http://www.heritage.org/research/reports/2014/09/foreign-export-credit-subsidies-kill-them-dont-copy-them.

foreign satellite contracts due to the sunset in Ex-Im Bank's authority.[217] Boeing also announced several hundred possible layoffs in its satellite business, reportedly due in part to uncertainty over the future availability of Ex-Im Bank financing. According to press reports, some larger U.S. companies planned to move their operations overseas in response to uncertainty over the Bank's authorization status. General Electric (GE), for instance, reportedly was taking steps to move some of its U.S. manufacturing overseas; it said that it was bidding on projects that require government-backed export financing and seeking financing from foreign ECAs, with much of the production in turn possibly going to GE plants located in those countries (e.g., Canada, China, and European countries).[218] According to GE, a renewal of Ex-Im Bank would not reverse a decision to relocate a factory because of the possibility of a future lapse in Ex-Im Bank's authority.[219] In contrast, smaller companies, with generally less geographic flexibility, reported varying experiences pursuing private sector alternatives. Some small businesses said that they were able to return to the private sector,[220] while others faced difficulty accessing financing from the private sector and lost export contracts.[221] Some also noted that they already obtain loans through the private sector, but relied on Ex-Im Bank's support, such as through guarantees, to mitigate risks of nonpayment. Businesses in the supply chains of companies with Ex-Im Bank-supported exports also said that the lapse hurt them.[222]

Critics countered that business losses from Ex-Im Bank's sunset are not to the extent that they are claimed to be.[223] Some argued that while Ex-Im Bank's expiration may hurt companies dependent on its support, its operations result in more costs than benefits overall.[224] According to critics, those adversely affected by the Ex-Im Bank include U.S. companies that did *not* use Ex-Im Bank financing and were disadvantaged competitively against *U.S.* companies that did receive its support.[225] Under this view, Ex-Im Bank financing has opportunity costs—resources within the economy that would otherwise be available for other exports and jobs. Critics also contend that U.S. companies reportedly faced an unfair disadvantage competing against *foreign* companies that received Ex-Im Bank support. Delta Air Lines, for example, has claimed that Ex-Im Bank adversely affected its competitiveness by financing Boeing aircraft export purchases by Emirates Airline and Air India, its competitors.[226] Other examples include Cliffs Natural Resources Inc., a U.S. iron ore producer, which claimed that Ex-Im Bank's direct loan to the Roy Hill iron ore project in Australia exacerbated the current oversupply situation.[227] Critics argued that, because

[217] Andrea Shalal, "Exclusive: Boeing loses large satellite deal due to trade credit woes – sources," Reuters, August 4, 2015; and "Boeing loses second potential satellite deal over Ex-Im lapse, "Reuters, September 15, 2015.

[218] David Lawder, "GE may ship $10 billion in work overseas as U.S. trade bank languishes," Reuters, July 30, 2015.

[219] Steve Lohr, "Ex-Im Bank Dispute Threatens G.E. Factory That Obama Praised," *The New York Times*, October 24, 2015.

[220] Freedom Partners, "Private Financiers Are Already Filling the Ex-Im Bank Void," July 8, 2015.

[221] Ex-Im Coalition, "Loss of Ex-Im Hurting US Companies."

[222] Samantha Masunga, "Boeing's Southern California layoffs could affect subcontractors," *Los Angeles Times*, November 4, 2015.

[223] Diane Katz and Veronique de Rugy, "The End of Ex-Im: No Threat to Exports or Employment," The Heritage Foundation, June 10, 2015.

[224] Daniel Ikenson, *The Export-Import Bank and Its Victims: Which Industries and States Bear the Brunt?*, CATO Institute, September 10, 2014, Policy Analysis Number 756.

[225] Timothy P. Carney, "Export-Import Bank's victims," American Enterprise Institute, May 11, 2015.

[226] U.S. Congress, House Committee on Financial Services, *Testimony of Richard H. Anderson, Chief Executive Officer, Delta Air Lines*, Hearing entitled, "Examining Reauthorization of the Export-Import Bank: Corporate Necessity or Corporate Welfare?", 114th Cong., 1st sess., June 25, 2014.

[227] U.S. Congress, House Committee on Financial Services, Testimony of Clifford Smith, Executive Vice President of

Ex-Im Bank supports such a small share of U.S. exports, any impact of its expiration is negligible and, at best, difficult to measure.[228]

Historical and Current Approaches to Reauthorization

Historically, for how long has Congress extended Ex-Im Bank's authority?

The primary method of continuing the Bank's authority has been through the enactment of provisions that extend the sunset date in 12 U.S.C. 635f, most typically in authorizing laws. These laws are listed in **Appendix C** of this report, in **Table C-1**. Such extensions of the Bank's authority during the first two decades of its existence tended to be for between about five and seven years. Since that time, the length of these extensions has varied, from periods of days or weeks, to about six years. The most recent such extension, in 2015, was for a period of about three years and ten months (P.L. 114-94).

Provisions in other laws, most typically appropriations acts, have also been used to provide for the continuation of Bank functions during periods when the sunset date had lapsed and not yet been extended. These laws and their relevant provisions are listed in **Appendix C** of this report, in **Table C-2**. While such provisions have varied in form, they have generally indicated congressional intent that the Bank's operations should continue during a specified time period. For example, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002, which was enacted on January 10, 2002, carried the following provision:

> SEC. 588. [...] Provided, That notwithstanding the dates specified in section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) and section 1(c) of P.L. 103-428, the Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes through March 31, 2002.

The most recent extension of Ex-Im Bank authority, through a provision in an appropriations act, allowed the Bank to exercise its functions through June 30, 2015 (P.L. 113-164).

Shorter extensions in the past arguably have given Congress the opportunity to weigh in on Ex-Im Bank operations on a more frequent basis through the lawmaking process. On the other hand, Ex-Im Bank and certain stakeholders have asserted that longer-term extensions can enhance the Bank's long-term planning ability and provide more assurance to clients of the Bank's viability.[229]

Business Development, Cliffs Natural Resources Inc., Hearing entitled, "Examining the Export-Import Bank's Reauthorization Request and the Government's Role in Export Financing," 114th Cong., 1st sess., June 3, 2015.

[228] For example, see Veronique de Rugy, "The Export-Import Bank Assists a Tiny Portion of All US Small Business Jobs and Firms," Mercatus Center, July 21, 2014.

[229] For example, see Ex-Im Bank, "The Facts About Ex-Im Bank," June 24, 2014, http://www.exim.gov/newsandevents/the-facts-about-ex-im-bank.cfm; and Vicki Needham, "Business Demands Vote on Ex-Im Bank," *The Hill*, June 23, 2014, http://thehill.com/policy/finance/210278-chamber-demands-up-or-down-vote-on-export-import-bank.

How have previous continuing resolutions addressed an imminent sunset of the Bank's authority?

Continuing resolutions (CRs) are appropriations laws that provide temporary or full year appropriations in the absence of regular appropriations being enacted.[230] After the first CR is enacted for a fiscal year, usually by the beginning of the fiscal year, one or more additional CRs may be enacted until the annual appropriations process has concluded.

Over the past several decades, CRs have often been used to temporarily extend authorizing provisions that are scheduled to expire at the beginning of a fiscal year, or to provide authority to continue functions notwithstanding applicable sunset provisions. In the case of Ex-Im Bank, such provisions have been enacted on a number of occasions to authorize the Bank to continue its functions, either during the duration of the CR or some other specified period (see **Appendix C** of this report, **Table C-2**). This occurred, for example, at the beginning of FY2012, when the Bank's authority sunsetted and an extension of that sunset date was not enacted until May 30, 2012 (P.L. 112-122). Provisions in the first CR for the fiscal year (P.L. 112-33) provided authority for the Bank to continue its functions through the duration of the CR:

> Sec. 137. The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) shall be applied by substituting the date specified in section 106(3) of this Act for "September 30, 2011" in section 7 of such Act.

Further extensions of this authority were enacted in subsequent CRs for FY2012.[231]

Most recently, the FY2015 CR (P.L. 113-164), which was enacted on September 19, 2014, extended Ex-Im Bank's authority through the following provision:

> Sec. 147. The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) shall be applied through June 30, 2015, by substituting such date for "September 30, 2014" in section 7 of such Act.

What provisions are in the Ex-Im Bank Reform and Reauthorization Act of 2015?

The Export-Import Bank Reform and Reauthorization Act of 2015 (P.L. 114-94), enacted December 4, 2015, extended Ex-Im Bank's general statutory authority to the close of business on September 30, 2019. This act also generally lowered Ex-Im Bank's statutory lending authority to $135 billion for each of FY2015-FY2019, and made reforms to, among other things, Ex-Im Bank's policies or operations in risk management, fraud controls, and ethics, as well as the U.S. approach to international negotiations on export credit financing (see **Table 4**).

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[230] For general information on CRs, see CRS Report R42647, *Continuing Resolutions: Overview of Components and Recent Practices*, by James V. Saturno and Jessica Tollestrup.

[231] The final extension of the authority to operate prior to the enactment of P.L. 112-122 was provided in the Consolidated Appropriations Act of 2012 (P.L. 112-74), Division I, Title VI, through the following provision:

> Provided further, That notwithstanding the dates specified in section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 6350 and section 1(c) of P.L. 103-428), the Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes through May 31, 2012.

Table 4. Overview of Export-Import Bank Reform and Reauthorization Act of 2015 (Division E, P.L. 114-94)

Summary of Selected Provisions
General Provisions
General statutory authority: Extended Ex-Im Bank's general statutory authority to the close of business on September 30, 2019 (Sec. 54001(a)).
"Dual use" authority: Extended Ex-Im Bank's authority to finance certain sensitive "dual-use" exports to Ex-Im Bank's new sunset date (September 30, 2019) (Sec. 54001(b)).
Sub-Saharan Africa Advisory Committee: Extended the Sub-Saharan Africa Advisory Committee's authority to Ex-Im Bank's new sunset date (September 30, 2019) (Sec. 54001(c)).
Exposure cap: Reduced Ex-Im Bank's exposure cap from $140 billion to $135 billion for each of FY2015-FY2019; provides that if "default rate" equals or exceeds 2% for a quarter, the Bank may not exceed the amount of loans, guarantees, and insurance outstanding at the end of the quarter until default rate is less than 2% (Sec. 51001).
Loss reserve requirement: Requires Ex-Im Bank to maintain reserves to protect against future losses an amount not less than 5% of its aggregate amount of disbursed and outstanding loans, guarantees, and insurance, starting one year after December 4, 2015 (Sec. 51002).
Accountability and Monitoring
Fraud controls: Requires review of Ex-Im Bank's fraud controls by the Comptroller General of the United States every four years (Sec. 51003).
Ethics: Established an Office of Ethics, headed by a Chief Ethics Officer reporting to Ex-Im Bank's Board (Sec. 51004).
Chief Risk Officer position: Codified the Chief Risk Officer position within Ex-Im Bank, stipulating qualifications and duties of the position (Sec. 51005).
Risk Management Committee: Established a Risk Management Committee to oversee, in conjunction with the Office of the Chief Financial Officer, periodic stress testing of the Bank's portfolio, monitoring of exposure levels, and review of required Ex-Im Bank default rate reports (Sec. 51006).
Auditing: Requires independent auditing of Ex-Im Bank's portfolio by its Inspector General, with reporting requirement (Sec. 51007).
Products/Process
Risk-sharing: Permits Ex-Im Bank to enter into certain risk-sharing arrangements through a pilot program, subject to limitations and with a reporting requirement (Sec. 51008).
Loan term amounts: Modified loan terms associated with certain Ex-Im Bank programs. • Specified that Ex-Im Bank's medium-term financing is for principal amounts of no more than $25 million (Sec. 54002(a)). • Increased threshold from $10 million to $25 million for long-term loan or guarantees at or above which Ex-Im Bank must seek to ensure that U.S. insurance companies are given a fair and competitive opportunity to provide insurance against risk of loss in connection with any such Ex-Im Bank-supported transaction (Sec. 54002(b)). • Increases from $10 million to $25 million the financing amount up to which Ex-Im Bank small business specialists can approve applications for working capital loans/guarantees and insurance according to Ex-Im Bank procedures (Sec. 54002(c)). • Increases the threshold for which long-term transactions are subject to environmental impact procedures from $10 million to either $25 million or to an amount less than established pursuant to international agreements, including under the OECD (Sec. 54002(d)).

Summary of Selected Provisions
Treatment of applications based on industry, sector, or business: Prohibits Ex-Im Bank from denying an application for financing, or from promulgating or implementing policies, that would discriminate against an application, based solely on the industry, sector, or business that the application concerns; prohibition applies only to financing for projects "concerning the exploration, development, or export of energy sources and the generation or transmission of electrical power, or combined heat and power, regardless of the energy source" (Sec. 55001).
Focus Areas
Support for small/medium-sized businesses: Modified the small business directive by increasing the small business authorization amount that Ex-Im Bank must make available from 20% to 25% (Sec. 52001).
Services exports promotion: Requires Ex-Im Bank to conduct a study of the availability and use of its products by companies that export information and communications technology (ICT) services and related goods (Sec. 55003).
Information Technology and Modernization
Electronic system modernization: Requires Ex-Im Bank to implement policies to accept electronic documents for transactions when possible without undermining potential civil or criminal enforcement related to the transactions and to accept electronic payments for its programs no later than two years after the act's enactment (Sec. 53001).
Use of funds to update information technology (IT): Extended Ex-Im Bank's authority to use an amount equal to 1.25% of its surplus during FY2015-FY2019 to update its IT systems, with the amount used not to exceed $20 million (Sec. 53002).
International Context
International export credit negotiations: Revised the 2012 Ex-Im Bank reauthorization act negotiation requirement to have the "possible [instead of "ultimate"] goal of eliminating" export credit financing over 10 years following the enactment of the act; replaced the "Secretary of the Treasury" with the "President" as the negotiator, and added reporting requirements (Sec. 55002).

Source: CRS, synthesized from P.L. 114-94.

What are scenarios for Ex-Im Bank's authorization status?

Congress could take a range of approaches related to Ex-Im Bank's authorization status. At one end of the spectrum is the option of a "clean renewal" of Ex-Im Bank's charter, with an extension of its termination date. At the other end of the spectrum is the option of a sunset in Ex-Im Bank's authority, such as by taking no legislative action (since sunset provisions are contained in Ex-Im Bank's charter in 12 U.S.C. Section 635f), or passing legislation with specific parameters for a wind-down in Ex-Im Bank's functions. In between are options including a renewal of Ex-Im Bank's charter with limited changes (such as revising its exposure cap) or renewal with more substantive reforms (such as to its authorities, policies, and practices). Reforms may be motivated by a range of reasons, including enhancing Ex-Im Bank's ability to fill in gaps in private sector financing and offset competition from foreign ECAs; limiting its size and scope and exposure to U.S. taxpayers; and furthering efforts to eliminate all ECA activity internationally. Proposed reforms may raise, among other things, issues regarding the extent to which such changes would balance Ex-Im Bank's core mission to boost U.S. exports and jobs with supporting other U.S. policy interests. Other options also exist, such as reorganization of Ex-Im Bank's functions. To this end, various proposals have been considered over time, including President Obama's proposal in 2012 to reorganize the business- and trade-related functions of Ex-Im Bank and five other agencies into an umbrella "department of trade," a proposal reiterated in the President's

subsequent budget requests.[232] Such proposals prompt debates about whether reorganization would reduce costs and duplication and improve the effectiveness of trade policy programs, or undermine the effectiveness of federal agencies, given their differing missions, and result in the creation of a larger, more costly bureaucracy.[233]

What were legislative developments in the 114th Congress related to Ex-Im Bank reauthorization?

Members of the 114th Congress actively debated Ex-Im Bank and ultimately reauthorized the Bank with bipartisan support. Division E of a surface transportation authorization measure (H.R. 22/P.L. 114-94), enacted on December 4, 2015, renewed Ex-Im Bank's charter through the end of FY2019. The Senate passed an amended version of H.R. 22 on July 30, 2015, including an Ex-Im Bank extension, as an amendment (voted 64-29). The Ex-Im Bank provisions are substantively identical to those in S. 819 (Kirk). The House voted (363-64) on November 5, 2015, on further changes to the highway bill, which also included the Ex-Im Bank extension, as an amendment to the Senate amendment to H.R. 22. Congress used conference proceedings to resolve differences on the House and Senate-passed versions of H.R. 22 (H.Rept. 114-357).

The House action on H.R. 22 followed a vote on October 27, 2015, in favor (313-118) of H.R. 597 (Fincher) which, as amended, was substantively the same as the Ex-Im Bank extension in the Senate-passed version of H.R. 22. The House considered and passed H.R. 597 pursuant to H.Res. 450, which was a special rule that the House voted to discharge from the Committee on Rules (246-177).[234]

Multiple stand-alone bills related to Ex-Im Bank, many focusing on "reforms," also were introduced in the 114th Congress. In addition to S. 819 (Kirk) and H.R. 597 (Fincher) (discussed above), others included S. 824 (Shaheen), H.R. 1031 (Waters), H.R. 1605 (Amash), and H.R. 3847 (Issa).

Ex-Im Bank reauthorization was an active issue in debates over other legislative issues in the 114th Congress. For example, Senator Cantwell filed amendments to H.R. 1314, the vehicle in the Senate for Trade Promotion Authority (TPA), to reauthorize Ex-Im Bank: three (S.Amdt. 1376, S.Amdt. 1377, and S.Amdt. 1415) would have provided short-term extensions of authority, and one (S.Amdt. 1248) appeared to be substantively identical to S. 819 (Kirk).[235] Additionally, a motion to table S.Amdt. 1986 (Kirk)—an amendment to reauthorize Ex-Im Bank that was offered to H.R. 1735, the National Defense Authorization Act for FY2016—failed by a vote of 31-65. The amendment was later withdrawn, but was characterized as a "test vote" on bipartisan support in the Senate for Ex-Im Bank reauthorization.[236]

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[232] The White House, "Government Reorganization Fact Sheet," press release, January 13, 2012, http://www.whitehouse.gov/the-press-office/2012/01/13/government-reorganization-fact-sheet.

[233] See CRS Report R42555, *Trade Reorganization: Overview and Issues for Congress*, by Shayerah Ilias Akhtar.

[234] The discharge proceedings were carried our pursuant to House Rule XV, clause 2, which provides a means for the House to bring to the floor for consideration a measure that has not been reported from committee. A discharge motion may be offered on the floor only if a majority of the entire membership of the House, 218 Members, first signs a petition in support of the action. For further information, see CRS Report 97-552, *The Discharge Rule in the House: Principal Features and Uses*, by Richard S. Beth.

[235] For more information on TPA, see CRS Report R43491, *Trade Promotion Authority (TPA): Frequently Asked Questions*, by Ian F. Fergusson and Richard S. Beth; and CRS In Focus IF10038, *Trade Promotion Authority (TPA)*, by Ian F. Fergusson.

[236] Kathleen Miller, "Ex-Im Bank Reauthorization Gets Support in U.S. Senate Test," Bloomberg, June 10, 2015.

As discussed in the above sections, Ex-Im Bank continues to present possible issues of oversight and legislative interest in the 114th Congress.

Appendix A. Selected CRS Resources

General Resources

CRS Report R43581, *Export-Import Bank: Overview and Reauthorization Issues*, by Shayerah Ilias Akhtar.

CRS In Focus IF10017, *Export-Import Bank of the United States (Ex-Im Bank)*, by Shayerah Ilias Akhtar.

International and Market Context

CRS Report RS21128, *The Organization for Economic Cooperation and Development*, by James K. Jackson.

CRS Report R42744, *U.S. Implementation of the Basel Capital Regulatory Framework*, by Darryl E. Getter.

Budget and Appropriations

CRS Report R42632, *Budgetary Treatment of Federal Credit (Direct Loans and Loan Guarantees): Concepts, History, and Issues for Congress*, by Mindy R. Levit.

CRS Report R42098, *Authorization of Appropriations: Procedural and Legal Issues*, by Jessica Tollestrup and Brian T. Yeh.

Federal Export Promotion Programs

CRS Report R41495, *U.S. Government Agencies Involved in Export Promotion: Overview and Issues for Congress*, coordinated by Shayerah Ilias Akhtar.

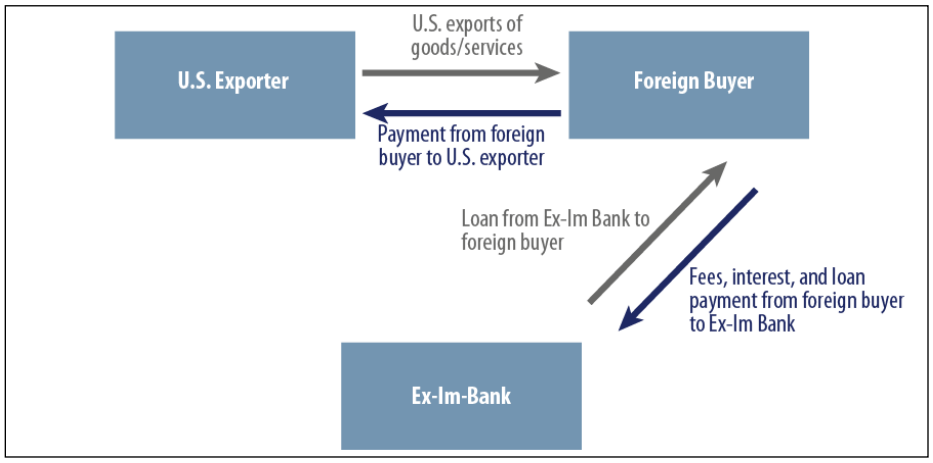
CRS Report R43155, *Small Business Administration Trade and Export Promotion Programs*, by Sean Lowry.

CRS Report 98-567, *The Overseas Private Investment Corporation: Background and Legislative Issues*, by Shayerah Ilias Akhtar.

CRS Report R42555, *Trade Reorganization: Overview and Issues for Congress*, by Shayerah Ilias Akhtar.

Appendix B. Examples of Ex-Im Bank Financial Product Structures

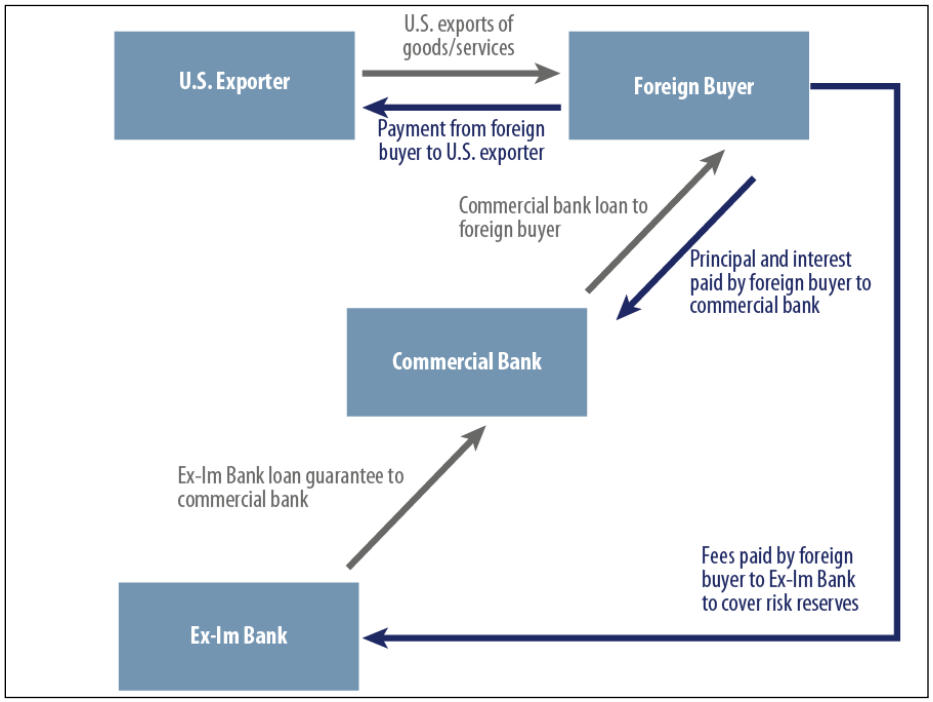
Figure B-1. Ex-Im Bank Direct Loan Structure



Source: CRS, based on Ex-Im Bank information.

Notes: This diagram is a general representation of Ex-Im Bank direct loans. Specifics vary by transaction.

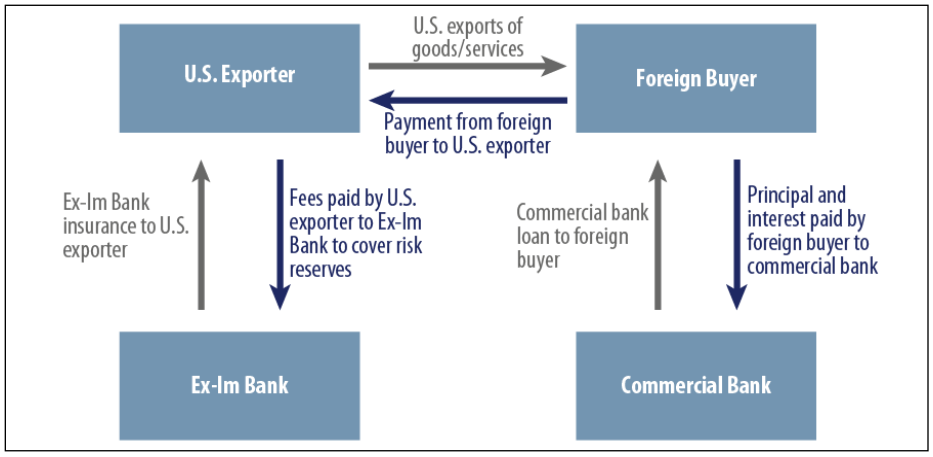
Figure B-2. Ex-Im Bank Loan Guarantee Structure



Source: CRS, based on Ex-Im Bank information.

Notes: This diagram is a general representation of Ex-Im Bank loan guarantees. Specifics vary by transaction.

Figure B-3. Ex-Im Bank Exporter Insurance Structure



Source: CRS, based on Ex-Im Bank information.

Notes: This diagram is a general representation of Ex-Im Bank exporter insurance. Specifics vary by transaction.

Appendix C. Laws and Final Legislative Action Related to the Sunset Date of Ex-Im Bank Functions

The tables below list the public laws that created the Ex-Im Bank and extended its authority.[237] The tables include the specific statutory text as well as the new sunset date set by the amending act. **Table C-1** contains the original law and amendments that were identified through analysis of the statutory notes to 12 U.S.C. Section 635f. Specifically, they are the laws listed in the "Amendments" section. In contrast, in some cases, particularly in the modern era, an extension of the authority of the Export-Import Bank was provided through an appropriations act, such as a consolidated appropriations bill or a continuing resolution.[238] **Table C-2** reflects these provisions. As such, it contains provisions allowing the Export-Import Bank to continue to exercise its functions as described in the "Continuation of Bank Functions" section of the statutory notes accompanying 12 U.S.C. Section 635f, as well as some additional such provisions that were independently identified by CRS and the *Wall Street Journal*. While CRS has made every attempt to be comprehensive, it is possible that some laws that extended the Bank's authority did not come up in our search.

The final two columns of both tables contain information on the last action taken by the Senate and House, respectively, on the legislative vehicle that became law. If the action was taken by roll call vote, the number of yea and nay votes, as well as the number of Members not voting, is also presented. (The one instance that a bill was approved through a division vote is also noted.)[239] Additional actions, including roll call votes, might have occurred during other stages of consideration of these measures, for example, House and Senate votes on earlier versions of these measures prior to action on resolving differences, such as through a conference report. In addition, legislative vehicles proposing to extend the authority of Ex-Im Bank that did not become law are also not listed in the table.

Information on final disposition of the measure in each chamber since the 93rd Congress (1973-1974) was gathered from the Legislative Information System (LIS). Information for the period not in LIS was collected from the *Congressional Record,* and page citations are provided in the table.

[237] In some instances, the sunset date may have been extended retroactively.

[238] For more information on continuing resolutions, including historical examples, see CRS Report R42647, *Continuing Resolutions: Overview of Components and Recent Practices*, by James V. Saturno and Jessica Tollestrup.

[239] H.R. 3771 (79th Cong.). Division votes are official votes that are counted without a roll call. For information on forms of voting, see CRS Report 98-228, *House Voting Procedures: Forms and Requirements*, by Walter J. Oleszek, and CRS Report 98-227, *Voting in the Senate: Forms and Requirements*, by Walter J. Oleszek.

Table C-1. Original Act and Amendments to the Sunset Date of Export-Import Bank Functions

Law (Bill Number)	Sunset Date	Final Legislative Action	
		Senate	House
P.L. 79-173 (H.R. 3771), 59 Stat. 526 Export-Import Bank Act of 1945 July 31, 1945		Passed on July 20, 1945 (91 Cong. Rec. 7841)	Passed by division vote on July 13, 1945; Yeas 102, Nays 6 (91 Cong. Rec. 7548)
P.L. 80-89 (S. 993), §3, 61 Stat. 131 Export-Import Bank Reincorporation June 9, 1947	June 30, 1953 *SEC. 3. The Export-Import Bank Act of 1945, as amended, is hereby amended by striking out section 8 therefrom and substituting in lieu thereof a new section 8 as follows:* *"SEC. 8. Export-Import Bank of Washington shall continue to exercise its functions in connection with and in furtherance of its objects and purposes until the close of business on June 30, 1953, [...]."*	Passed on April 21, 1947 (93 Cong. Rec. 3711)	Passed on June 2, 1947 (93 Cong. Rec. 6214)
P.L. 82-158 (S. 2006), §1(c), 65 Stat. 367 Export-Import Bank Act of 1945, Amendment October 3, 1951	June 30, 1958 *That the Export-Import Bank Act of 1945, as amended (59 Stat. 526, 666; 61 Stat. 130), is hereby amended in the following particulars:* *(c) By deleting from section 8 the date "June 30, 1953" and substituting in lieu thereof the date "June 30, 1958".*	Passed on September 7, 1951 (97 Cong. Rec. 11062)	Passed on September 25, 1951; Roll #182, Yeas 259, Nays 69, Not Voting 102 (97 Cong. Rec. 12077)
P.L. 85-55 (H.R. 4136), 71 Stat. 82 Export-Import Bank Act of 1945, Amendment June 17, 1957	June 30, 1963 *That section 8 of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635f), is amended by striking out "June 30, 1958" and inserting in lieu thereof "June 30, 1963".*	Passed on June 5, 1957 (103 Cong. Rec. 8376)	Passed on April 9, 1957 (103 Cong. Rec. 5389)
P.L. 88-101 (H.R. 3872), §2, 77 Stat. 128 Export-Import Bank Act of 1945, Amendment August 20, 1963	June 30, 1968 *Sec. 2. Section 8 of the Export-Import Bank Act of 1945 is amended by striking out "June 30, 1963" and inserting in lieu thereof "June 30, 1968".*	Conference Report agreed to on August 15, 1963 (109 Cong. Rec. 15183)	Conference Report agreed to on August 19, 1963 (109 Cong. Rec. 15315)
P.L. 90-267 (S. 1155), §1(f), 82 Stat. 49 Export-Import Bank Act of 1945, Amendment March 13, 1968	June 30, 1973 *SECTION 1. The Export-Import Bank Act of 1945 is amended-* *(f) By changing, in section 8 of that Act, "June 30, 1968" to read "June 30, 1973".*	Conference Report agreed to on February 21, 1968 (114 Cong. Rec. 3836)	Conference Report agreed to on February 27, 1963 (114 Cong. Rec. 4308)

Law (Bill Number)	Sunset Date	Final Legislative Action	
		Senate	House
P.L. 92-126 (S. 581), §1(b)(4), 85 Stat. 345 Export Expansion Finance Act of 1971 August 17, 1971	June 30, 1974 *(b) The Export-Import Bank Act of 1945 (12 U.S.C. 635 and following) is amended as follows:* *(4) Section 8 of such Act is amended by striking out "June 30, 1973" and inserting in lieu thereof "June 30, 1974", [...]*	Conference Report agreed to on August 2, 1971 (117 Cong. Rec. 28810)	Conference Report agreed to on August 5, 1971; Roll #246; Yeas 219, Nays 140, Not Voting 74 (117 Cong. Rec. 29795)
P.L. 93-331 (S.J.Res. 218), 88 Stat. 289 Export-Import Bank Act of 1945, Amendment July 4, 1974	July 30, 1974 *That section 8 of the Export-Import Bank Act of 1945 is amended by striking out "June 30" and inserting in lieu thereof "July 30".*	Passed on June 26, 1974	Passed on July 1, 1974; Roll #358; Yeas 238, Nays 115, Not Voting 80, Present 1
P.L. 93-374 (S.J.Res. 229), 88 Stat. 445 Export-Import Bank Act of 1945, Amendment August 14, 1974	September 30, 1974 *That section 8 of the Export-Import Bank Act of 1945 is amended by striking out "July 30" and inserting in lieu thereof "September 30".*	Agreed to House amendment on August 7, 1974	Passed with an amendment on August 5, 1974; Roll #447; Yeas 271, Nays 113, Not Voting 50
P.L. 93-425 (S.J.Res. 244), 88 Stat. 1166 Export-Import Bank Act of 1945, Amendment September 30, 1974	October 15, 1974 *That section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "September 30, 1974" and inserting in lieu thereof "October 15, 1974".*	Passed on September 24, 1974	Passed on September 25, 1974
P.L. 93-450 (S.J.Res. 251), 88 Stat. 1368 Export-Import Bank Act of 1945, Amendment October 18, 1974	November 30, 1974 *That section 8 of the Export-Import Bank Act of 1945 is amended by striking out "October 15, 1974" and inserting in lieu thereof "November 30, 1974": [...].*	Passed on October 10, 1974	Passed on October 15, 1974
P.L. 93-646 (H.R. 15977), §9, 88 Stat. 2336 Export-Import Bank Amendments of 1974 January 4, 1975	June 30, 1978 *SEC. 9. Section 8 of the Export-Import Bank Act of 1945 is amended by striking out "November 30, 1974" and inserting in lieu thereof "June 30, 1978".*	Third Conference Report agreed to on December 19, 1974; Record Vote #575; Yeas 71, Nays 24, Not Voting 5	Third Conference Report agreed to on December 18, 1974; Roll #711; Yeas 280, Nays 96, Not Voting 58
P.L. 95-143 (H.R. 6415), §4, 91 Stat. 1211 Export-Import Bank Act of 1945, Amendment October 26, 1977	September 30, 1978 *SEC. 4. Section 8 of the Export-Import Bank Act of 1945 is amended by striking out "June 30" and inserting in lieu thereof "September 30", [...]."*	Conference Report agreed to on September 23, 1977	Conference Report agreed to on October 14, 1977; Roll #654; Yeas 281, Nays 62, Not Voting 91
P.L. 95-407 (H.J.Res. 1140), 92 Stat. 882 Export-Import Bank Act of 1945, Amendment September 30, 1978	December 31, 1978 *That section 8 of the Export-Import Bank Act of 1945 is amended by striking out "September 30" and inserting in lieu thereof "December 31".*	Passed on September 29, 1978	Passed on September 28, 1978

Law (Bill Number)	Sunset Date	Final Legislative Action	
		Senate	House
P.L. 95-630 (H.R. 14279), Title XIX, §1906, 92 Stat. 3725 Financial Institutions Regulatory and Interest Rate Control Act of 1978; Title XIX - Export-Import Bank Act Amendments of 1978 November 10, 1978	September 30, 1983 *SEC. 1906. Section 8 of the Export-Import Bank Act of 1945 is amended by striking out "December 31, 1978" and inserting in lieu thereof "September 30. 1983".*	Concurred in House amendments to Senate amendments on October 14, 1978	Passed on motion to suspend the rules and agree to a resolution providing that the House concur in Senate amendments with amendments on October 14, 1978; Roll #930; Yeas 341, Nays 32, Not Voting 48, Present 9
P.L. 98-109 (H.J.Res. 366), §6, 97 Stat. 746 Export-Import Bank Act of 1945, Amendment October 1, 1983	October 31, 1983 *SEC. 6. Section 8 of the Export-Import Bank Act of 1945 is amended by striking out "September 30, 1983" and inserting in lieu thereof "October 31, 1983".*	Passed with an amendment on September 29, 1983	Agreed to Senate amendment September 30, 1983.
P.L. 98-143 (S.J.Res. 189), 97 Stat. 916 Export-Import Bank Act of 1945, Amendment November 1, 1983	November 18, 1983 *That section 8 of the Export-Import Bank Act of 1945 is amended by striking out "October 31, 1983" and inserting in lieu thereof "November 18, 1983".*	Passed on October 28, 1983	Passed on October 31, 1983
P.L. 98-181 (H.R. 3959), Title VI, §611, 97 Stat. 1254 Supplemental Appropriations Act, 1984; Title VI - Export-Import Bank Act Amendments of 1983 November 30, 1983	September 30, 1986 *SEC. 611. Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking out "November 18, 1983" and inserting in lieu thereof "September 30, 1986".*	Concurred in House amendment to a Senate amendment reported in disagreement from conference with an amendment containing the Export-Import provision and other matters on November 17, 1983; Record Vote #374; Yeas 67, Nays 30, Not Voting 3	Agreed to a resolution providing that the House concur in the Senate amendment to the House amendment to the Senate amendment reported in disagreement from the conference on November 18, 1983; Roll #532; Yeas 226, Nays 186
P.L. 99-472 (H.R. 5548), §14, 100 Stat. 1204 Export-Import Bank Act Amendments of 1986 October 15, 1986	September 30, 1992 *SEC. 14. EXTENSION OF CHARTER.* *Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1992".*	Conference Report agreed to on October 7, 1983	Conference Report agreed to on October 2, 1983

Law (Bill Number)	Sunset Date	Final Legislative Action	
		Senate	House
P.L. 102-429 (H.R. 5739), Title I, §§102, 121(c)(2), 106 Stat. 2187, 2199 Export Enhancement Act of 1992 October 21, 1992	September 30, 1997 *SEC. 102. EXTENSION OF AUTHORITY.* *Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "1992" and inserting "1997".* *SEC. 121. ELIMINATION OF OUTDATED PROVISIONS.* *(C) REPEAL OF CERTAIN OUTDATED SECTIONS.-The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended-* *(2) by redesignating sections 6 through 9 as sections 5 through 8, respectively;*	Conference Report agreed to on October 8, 1992	Conference Report agreed to on October 6, 1992; Roll #483; Yeas 332, Nays 44, Not Voting 56
P.L. 105-46 (H.J.Res. 94), §122, 111 Stat. 1158 Continuing Appropriations for FY1998 September 30, 1997	October 23, 1997 *SEC. 122. Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C.635f) is amended by striking "1997" and inserting "October 23, 1997".*	Passed on September 30, 1997; Record Vote #261; Yeas 99, Nays 0	Passed on September 29, 1997; Roll #461; Yeas 355, Nays 57, Not Voting 21
P.L. 105-121 (S. 1026), §2(a), 111 Stat. 2528 Export-Import Bank Reauthorization Act of 1997 November 26, 1997	September 30, 2001 *SEC. 2. EXTENSION OF AUTHORITY.* *(a) IN GENERAL.-Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "until" and all that follows through "but" and inserting "until the close of business on September 30, 2001, but".*	Conference Report agreed to on November 8, 1997	Conference Report agreed to on November 9, 1997
P.L. 107-189 (S. 1372), §3, 116 Stat. 699 Export-Import Bank Reauthorization Act of 2002 June 14, 2002	September 30, 2006 *SEC. 3. EXTENSION OF AUTHORITY.* *Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "2001" and inserting "2006".*	Conference Report agreed to on June 6, 2002	Conference Report agreed to on June 5, 2002; Roll #210; Yeas 344, Nays 78, Not Voting 12
P.L. 109-438 (S. 3938), §2, 120 Stat. 3268 Export-Import Bank Reauthorization Act of 2006 December 20, 2006	September 30, 2011 *SEC. 2. EXTENSION OF AUTHORITY.* *Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "2006" and inserting "2011".*	Concurred in House amendment on December 6, 2006	Passed with an amendment on December 6, 2006

Law (Bill Number)	Sunset Date	Final Legislative Action	
		Senate	House
P.L. 112-122 (H.R. 2072), §2, 126 Stat. 350 Export-Import Bank Reauthorization Act of 2012 May 30, 2012	September 30, 2014 *SEC. 2. EXTENSION OF AUTHORITY.* *Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "2011" and inserting "2014".*	Passed on May 15, 2012; Record Vote #96; Yeas 78, Nays 20, Not Voting 2	Passed on motion to suspend the rules and pass the bill as amended on May 9, 2012, Roll #224; Yeas 330, Nays 93, Not Voting 8
P.L. 114-94 (H.R. 22), 129 Stat. 1312 Export-Import Bank Reform and Reauthorization Act of 2015, Division E of Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act December 4, 2015	September 30, 2019 *SEC. 54001. EXTENSION OF AUTHORITY.* *Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "2014" and inserting "2019".*	Conference report agreed to on December 3, 2015; Record Vote #331; Yeas 83, Nays 16, Not Voting 1	Conference report agreed to on December 3, 2015; Roll # 673; Yeas 359, Nays 65, Not Voting 9

Source: Compiled by CRS from 12 U.S.C. §635f, ProQuest Congressional, HeinOnline, and the Legislative Information System (LIS).

Table C-2. Provisions Providing for the Continuation of Export-Import Bank Functions

Law (Bill Number)	Sunset Date	Final Legislative Action	
		Senate	House
P.L. 102-391 (H.R. 5368), Title IV, 106 Stat. 1655[240] Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 October 6, 1992	*The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, [...]."*	Conference Report agreed to on October 5, 1992	Conference Report agreed to on October 5, 1992; Roll #470; Yeas 312, Nays 105, Not Voting 15
P.L. 105-64 (H.J.Res. 97), 111 Stat. 1343 Further Continuing Appropriations, FY1998 October 23, 1997	November 7, 1997 *That section 106(3) of P.L. 105-46 is amended by striking "October 23, 1997" and inserting in lieu thereof "November 7, 1997", and each provision amended by sections 118, 122, and 123 of such public law shall be applied as if "November 7, 1997" was substituted for "October 23, 1997".*	Passed on October 23, 1997; Record Vote #276; Yeas 100, Nays 0	Passed on October 22, 1997
P.L. 105-68 (H.J.Res. 101), 111 Stat. 1453 Further Continuing Appropriations, FY1998 November 7, 1997	November 9, 1997 *That section 106(3) of P.L. 105-46 is further amended by striking "November 7, 1997" and inserting in lieu thereof "November 9, 1997", and each provision amended by sections 122 and 123 of such public law shall be applied as if "November 9, 1997" was substituted for "October 23, 1997".*	Passed on November 7, 1997	Passed on November 7, 1997
P.L. 105-69 (H.J.Res. 104), 111 Stat. 1454 Further Continuing Appropriations, FY1998 November 9, 1997	November 10, 1997 *That section 106(3) of P.L. 105-46 is further amended by striking "November 9, 1997" and inserting in lieu thereof "November 10, 1997", and each provision amended by sections 122 and 123 of such public law shall be applied as if "November 10, 1997" was substituted for "October 23, 1997".*	Passed on November 9, 1997	Passed on November 9, 1997

[240] Identified by CRS from information available from Michael R. Crittenden, "Ex-Im Bank Was An Easy Vote in Past Years," *Wall Street Journal Online*, June 27, 2014, at http://blogs.wsj.com/washwire/2014/06/27/ex-im-bank-was-an-easy-vote-in-past-years/.

Law (Bill Number)	Sunset Date	Final Legislative Action	
		Senate	House
P.L. 105-71 (H.J.Res. 105), 111 Stat. 1456 Further Continuing Appropriations, FY1998 November 10, 1997	November 14, 1997 *That section 106(3) of P.L. 105-46 is further amended by striking "November 10, 1997" and inserting in lieu thereof "November 14, 1997", and each provision amended by sections 122 and 123 of such public law shall be applied as if "November 14, 1997" was substituted for "October 23, 1997".*	Passed on November 10, 1997	Passed on November 10, 1997
P.L. 105-84 (H.J.Res. 106), 111 Stat. 1628 Further Continuing Appropriations, FY1998 November 14, 1997	November 26, 1997 *That section 106(3) of P.L. 105-46 is further amended by striking "November 14, 1997" and inserting in lieu thereof "November 26, 1997", and each provision amended by sections 122 and 123 of such public law shall be applied as if "November 26, 1997" was substituted for "October 23, 1997".*	Passed on November 13, 1997	Passed on November 13, 1997
P.L. 107-44 (H.J.Res. 65), §§107, 115, 115 Stat. 255, 256 Continuing Appropriations, FY2002 September 28, 2001	October 16, 2001 *SEC. 107. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 16, 2001, whichever first occurs.* *SEC. 115. Activities authorized by section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) and section 1(c) of P.L. 103-428, may continue through the date specified in section 107(c) of this joint resolution.*	Passed on September 25, 2001	Passed on September 24, 2001; Roll #350; Yeas 392, Nays 0, Not Voting 38

Law (Bill Number)	Sunset Date	Final Legislative Action	
		Senate	House
P.L. 107-48 (H.J.Res. 68), 115 Stat. 261 Continuing Appropriations, FY2002 October 12, 2001	October 23, 2001 *That P.L. 107-44 is amended by striking "October 16, 2001" in section 107(c) and inserting in lieu thereof "October 23, 2001";* *[...] by striking section 115 and adding the following:* *"SEC. 115. Notwithstanding the dates specified in section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) and section 1(c) of P.L. 103-428, the Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes through the date specified in section 107(c) of this joint resolution."; and adding the following new section:*	Passed on October 12, 2001	Passed on October 11, 2001
P.L. 107-53 (H.J.Res. 69), 115 Stat. 269 Continuing Appropriations, FY2002 October 22, 2001	October 31, 2001 That P.L. 107-44 is further amended by striking the date specified in section 107(c) and inserting in lieu thereof 'October 31, 2001'.	Passed on October 17, 2001	Passed on October 17, 2001
P.L. 107-58 (H.J.Res. 70), 115 Stat. 406 Continuing Appropriations, FY2002 October 31, 2001	November 16, 2001 That P.L. 107-44 is further amended by striking the date specified in section 107(c) and inserting in lieu thereof 'November 16, 2001'.	Passed on October 25, 2001	Passed on October 25, 2001
P.L. 107-70 (H.J.Res. 74), 115 Stat. 596 Continuing Appropriations, FY2002 November 17, 2001	December 7, 2001 That P.L. 107-44 is further amended by striking the date specified in section 107(c) and inserting in lieu thereof 'December 7, 2001'; and by striking the date specified in section 123 and inserting in lieu thereof 'December 1, 2001'.	Passed on November 15, 2001	Passed on November 15, 2001
P.L. 107-79 (H.J.Res. 76), 115 Stat. 809 Continuing Appropriations, FY2002 December 7, 2001	December 15, 2001 That P.L. 107-44 is further amended by striking the date specified in section 107(c) and inserting in lieu thereof 'December 15, 2001'.	Passed on December 5, 2001	Passed on December 5, 2001

Law (Bill Number)	Sunset Date	Final Legislative Action	
		Senate	House
P.L. 107-83 (H.J.Res. 78), 115 Stat. 960 Continuing Appropriations, FY2002 December 15, 2001	December 21, 2001 That P.L. 107-44 is further amended by striking the date specified in section 107(c) and inserting in lieu thereof "December 21, 2001".	Passed on December 14, 2001	Passed on December 13, 2001
P.L. 107-97 (H.J.Res. 79), 115 Stat. 960 Continuing Appropriations, FY2002 December 21, 2001	January 10, 2002 That P.L. 107-44 is further amended by striking the date specified in section 107(c) and inserting in lieu thereof 'January 10, 2002'; and by striking the date specified in section 123 and inserting in lieu thereof 'January 1, 2002'.	Passed on December 20, 2001	Passed on December 20, 2001
P.L. 107-115 (H.R. 2506), §588, 115 Stat. 2174 Foreign Operations, Export Financing, and Related Programs Appropriations Act, FY2002 January 10, 2002	March 31, 2002 *SEC. 588. [...] Provided, That notwithstanding the dates specified in section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) and section 1(c) of P.L. 103-428, the Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes through March 31, 2002.*	Conference Report agreed to on December 20, 2001	Conference Report agreed to on December 19, 2001; Roll #505; Yeas 357, Nays 66, Not Voting 11
P.L. 107-156 (S. 2019), §1, 116 Stat. 117 Export-Import Bank Act of 1945, Extension March 31, 2002	April 30, 2002 *SECTION 1. EXTENSION OF EXPORT-IMPORT BANK* *Notwithstanding the dates specified in section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) and section 1(c) of P.L. 103-428, the Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes through April 30, 2002.*	Passed on March 14, 2002	Passed on March 19, 2002

Law (Bill Number)	Sunset Date	Final Legislative Action	
		Senate	House
P.L. 107-168 (S. 2248), §1, 116 Stat. 131 Export-Import Bank Act of 1945, Extension May 1, 2002	May 31, 2002 *SECTION 1. EXTENSION OF EXPORT-IMPORT BANK.* *Notwithstanding the dates specified in section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) and section 1(c) of P.L. 103-428, the Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes through May 31, 2002.*	Passed on April 24, 2002	Passed on April 30, 2002; Roll #118; Yeas 318, Nays 92, Not Voting 24
P.L. 107-186 (H.R. 4782), §1, 116 Stat. 589 Export-Import Bank Act of 1945, Extension May 30, 2002	June 14, 2002 *SECTION 1. EXTENSION OF EXPORT-IMPORT BANK* *Notwithstanding the dates specified in section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) and section 1(c) of P.L. 103-428, the Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes through June 14, 2002.*	Passed on May 22, 2002	Passed on May 21, 2002
P.L. 109-289 (H.R. 5631), Div. B, §106, 120 Stat. 1313 Department of Defense Appropriations Act, 2007 Division B-Continuing Appropriations Resolution, 2007 September 29, 2006	November 17, 2006 *SEC. 106. Unless otherwise provided for in this division or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this division shall be available until whichever of the following first occurs: (1) the enactment into law of an appropriation for any project or activity provided for in this division; (2) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity; or (3) November 17, 2006.*	Conference Report agreed to on September 29, 2006; Record Vote #261; Yeas 100, Nays 0	Conference Report agreed to on September 26, 2006; Roll #486; Yeas 394, Nays 22, Not Voting 16
P.L. 109-369 (H.J.Res. 100), 120 Stat. 2642 Further Continuing Appropriations, FY2007 November 17, 2006	December 8, 2006 *That the Continuing Appropriations Resolution, 2007 (P.L. 109-289, division B) is amended by striking the date specified in section 106(3) and inserting "December 8, 2006".*	Passed on November 15, 2006	Passed on November 15, 2006

Law (Bill Number)	Sunset Date	Final Legislative Action	
		Senate	House
P.L. 109-383 (H.J.Res. 102), 120 Stat. 2678 Further Continuing Appropriations, FY2007 December 9, 2006	February 15, 2007 *That the Continuing Appropriations Resolution, 2007 (P.L. 109-289, division B) is further amended by striking the date specified in section 106(3) and inserting "February 15, 2007".*	Passed on December 9, 2006	Passed on December 8, 2006; Roll #540; Yeas 370, Nays 20, Not Voting 43
P.L. 112-33, (H.R. 2017) §§106(3), 137, 125 Stat. 364, 368 Continuing Appropriations Act, 2012 September 30, 2011	*October 4, 2011* *SEC. 106. Unless otherwise provided for in this Act or in the applicable appropriations Act for fiscal year 2012, appropriations and funds made available and authority granted pursuant to this Act shall be available until whichever of the following first occurs: (1) the enactment into law of an appropriation for any project or activity provided for in this Act; (2) the enactment into law of the applicable appropriations Act for fiscal year 2012 without any provision for such project or activity; or (3) October 4, 2011.* *Sec. 137. The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) shall be applied by substituting the date specified in section 106(3) of this Act for "September 30, 2011" in section 7 of such Act.*	Passed with an amendment and an amendment to the Title on September 26, 2011	Passed on a motion to agree to the Senate amendments on September 29, 2011
P.L. 112-36, (H.R. 2608), §106, 125 Stat. 387 Continuing Appropriations Act, 2012 October 5, 2011	November 18, 2011 *Sec. 106. Unless otherwise provided for in this Act or in the applicable appropriations Act for fiscal year 2012, appropriations and funds made available and authority granted pursuant to this Act shall be available until whichever of the following first occurs: (1) the enactment into law of an appropriation for any project or activity provided for in this Act; (2) the enactment into law of the applicable appropriations Act for fiscal year 2012 without any provision for such project or activity; or (3) November 18, 2011.*	Concurred in the House amendment to the Senate amendment on September 26, 2011; Record Vote #153; Yeas 79, Nays 12, Not Voting 9	Agreed to the Senate amendment to the House amendment to the Senate amendment on October 4, 2011; Roll #745; Yeas 352, Nays 66, Not Voting 15

Law (Bill Number)	Sunset Date	Final Legislative Action	
		Senate	House
P.L. 112-55 (H.R. 2112), Div. D, §101, 125 Stat. 710 Consolidated and Further Continuing Appropriations Act, 2012 Division D—Further Continuing Appropriations, 2012 November 18, 2011	December 16, 2011 *Sec. 101. The Continuing Appropriations Act, 2012 (P.L. 112-36) is amended by striking the date specified in section 106(3) and inserting "December 16, 2011".*	Conference Report agreed to on November 17, 2011; Roll #208; Yeas 70, Nays 30	Conference Report agreed to on November 17, 2011; Roll #857; Yeas 298, Nays 121, Not Voting 14
P.L. 112-67 (H.J.Res. 94), 125 Stat. 769 Further Continuing Appropriations Act, 2012 December 16, 2011	December 17, 2011 *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Continuing Appropriations Act, 2012 (P.L. 112-36) is further amended by striking the date specified in section 106(3) and inserting "December 17, 2011".*	Passed on December 16, 2011	Passed on December 16, 2011
P.L. 112-68 (H.J.Res. 95), 125 Stat. 770 Further Continuing Appropriations Act, 2012 December 17, 2011	December 23, 2011 *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Continuing Appropriations Act, 2012 (P.L. 112-36) is further amended by striking the date specified in section 106(3) and inserting "December 23, 2011".*	Passed on December 17, 2011	Passed on December 16, 2011
P.L. 112-74 (H.R. 2055), Title VI, 125 Stat. 1191 Consolidated Appropriations Act, 2012 Title VI – Export and Investment Assistance December 23, 2011	May 31, 2012 *TITLE VI - EXPORT AND INVESTMENT ASSISTANCE* *Provided further, That notwithstanding the dates specified in section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 6350 and section 1(c) of P.L. 103-428), the Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes through May 31, 2012.*	Conference Report agreed to on December 17, 2011; Record Vote #235; Yeas 67, Nays 32, Not Voting 1	Conference Report agreed to on December 16, 2011; Roll #941, Yeas 296, Nays 121
P.L. 113-164 (H.J.Res. 124), §147, 128 Stat. 1874 Continuing Appropriations Resolution, 2015 September 19, 2014	June 30, 2015 *SEC. 147. The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) shall be applied through June 30, 2015, by substituting such date for "September 30, 2014" in section 7 of such Act.*	Passed on September 18, 2014	Passed on September 17, 2014

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