

**Export-Import Bank Reauthorization Act of 2014**  
**Rep. Gary Miller and Rep. Maxine Waters**

**Section-by-Section Summary**

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**TITLE I. REAUTHORIZATION**

**Section 101. Reauthorization of the Export-Import Bank**

The bill provides for a 5-year reauthorization of the Export-Import Bank (Ex-Im, or the Bank), through September 30, 2019, including the Bank's dual use export authority and authorization of the Sub-Saharan Africa Advisory Committee.

**TITLE II. TAXPAYER PROTECTION PROVISIONS**

**Section 201. Enhanced Bank Loan-Loss Reserve**

Requires the Bank to allocate 50 percent of its annual net earnings to a loan-loss reserve fund until such time as the amount contained in the loan-loss reserve fund is equal to the greater of 95 percent of the losses that could occur under a worst-case stress test scenario reported in the Bank's quarterly default report, or 5 percent of the total outstanding exposure of the Bank at the end of each fiscal year.

**Section 202. Requirement to be a Self Sufficient Entity**

Requires the Bank to be self-sustaining in its operations and conduct of its business by establishing fees in amounts sufficient, in the aggregate, to cover: (1) the costs of providing financial programs, including loans, guarantees, insurance, and credits; (2) the costs of administration, operations, management, and technology systems necessary to carry out the Bank's responsibilities; (3) the Bank's loan-loss reserve requirement; and (4) salaries and expenses for officers, directors, and personnel of the Bank. The bill makes it clear that the costs associated with supporting the Office of the Inspector General will not come from the fee income generated by the Bank.

**Section 203. Financial Institution Risk Sharing Pilot Program**

Requires the Bank to establish a financial institution risk-sharing pilot program under which private financial institutions may share risk in the Bank's long-term guarantee program in exchange for receiving fees received from the participants in that program, commensurate with the level of risk taken by any private participant in the pilot program. The maximum aggregate amount of all risk shared under this program is \$1 billion annually. Requires the Bank at the end of the pilot program to issue a report to Congress that includes an assessment of the pilot program's impact on the competitiveness of the Bank, an evaluation of private financial institutions participation in the pilot program, and

a comparative assessment of the practices of export credit agencies of other OECD countries with respect to risk or fee sharing arrangements.

#### **Section 204. Multilateral Negotiations with Non-OECD Countries**

Requires the Secretary of the Treasury to initiate and pursue negotiations with countries that are not members of the OECD, to bring those countries into a multilateral agreement establishing rules and limitations on officially supported export credits. The bill requires the Secretary to report annually to Congress on the progress of any negotiations over the course of the five year reauthorization period.

### **TITLE III. BANK GOVERNANCE**

#### **Section 301. Chief Risk Officer**

Requires the President of the Bank to appoint a Chief Risk Officer (CRO), who possesses demonstrated ability in the general management of, and knowledge of, and extensive practical experience in, risk evaluation practices in large governmental or business entities. The bill ensures that the Board receives written notice of the impending appointment of the Chief Risk Officer and provides that two or more members of the Board may request a meeting of the Board to consider whether to veto the appointment of the Chief Risk Officer by the President of the Bank. The bill also specifies that the President of the Bank review the performance of the CRO at least every four years, with input from the Board.

- The bill requires that the CRO position be independent from the underwriting division of the Bank and be responsible for all matters relating to managing and mitigating enterprise-risk, including the programs and operations of the Bank. The bill assigns the following additional duties to the CRO:
  - Establish policies and processes for risk oversight, the monitoring of management compliance with risk limits, and the management of risk exposures and risk controls across Bank;
  - Be responsible for the planning and execution of all enterprise risk management activities including policies, reporting, and systems to achieve strategic risk objectives;
  - Develop an integrated risk management program that includes identifying, prioritizing, measuring, monitoring, and managing the internal control, operating and other identified risks;
  - Oversee periodic stress testing on the entire Bank portfolio reflecting different market, industry, and macroeconomic scenarios, in line with common practices of commercial and multilateral development banks in conjunction with the CFO of the Bank;
  - Oversee the monitoring of industry, geographic and obligor exposure levels, in conjunction with the CFO of the Bank;
  - Ensure that the process for risk assessment and underwriting for individual transactions considers how the transaction affects the concentration of exposure in the overall portfolio of the Bank taking into account fees,

- collateralization, and historic default rates;
- Review the adequacy of the use by the Bank of qualitative metrics to assess the risk of default, under various stressed scenarios;
- Conduct an independent assessment of underwriting for transactions of \$100M or more;
- For transactions requiring Board approval, review the assigned risk ratings and any other aspect of the transaction and communicate the results of the review to the Board prior to Board consideration;
- Review workload management issues, to ensure the Bank has proper staffing levels;
- Chair the Enterprise Risk Committee of the Bank.

### **Section 302. Corporate Governance and Internal Controls**

The bill requires the Bank to revise its policies and procedures to ensure verification of certifications of the availability of private financing and reporting requirements, including through the use of random sampling of transactions. The bill also mandates that complete and accurate records are maintained to provide an audit trail on all transactions from application through close-out, including eligibility, due diligence, and documentation of the availability and competitiveness of private financing. Additionally the bill requires the Bank to establish a quality control review program to ensure compliance with Bank policies and the accuracy of records for all transaction types.

### **Section 303. Reauthorization of Information Technology Updating**

The bill reauthorizes the authority for the Bank to utilize administrative funds equal to 1.25 percent of the Bank surplus, but no more than \$20 million consistent with current law, for updates to the Bank's information technology systems infrastructure, through 2019.

### **Section 304. Business Plan**

The bill requires the Bank to publish a business plan within one year, and subsequent business plans every two years thereafter through calendar year 2019. The business plan must include the following:

- An estimate by the Bank of the appropriate exposure limits of the Bank for the two succeeding years, justification for the estimate, an estimate of any anticipated growth of the Bank during the succeeding two years, disaggregated by industry sector; whether the products involved are short-term loans, medium-term loans, long term loans, insurance, medium-term guarantees, or long-term guarantees; and key market.
- An analysis of the potential for increased or decreased risk of loss to the Bank as a result of the estimated exposure limit, including an analysis of increased or decreased risks associated with changes in the composition of Bank exposure, disaggregated by industry sector, product offered, and key market.

- An analysis of the ability of the Bank to meet its mandates with respect to small business and sub-Saharan Africa and renewable energy mandate under the proposed exposure limit, and an analysis of any increased or decreased risk of loss associated with meeting or complying with the mandates under the proposed exposure limit.
- An analysis of the adequacy of the resources of the Bank to effectively process, approve, and monitor authorizations, including the conducting of required economic impact analyses, under the proposed exposure limit.

The bill requires the Government Accountability Office (GAO) to review any business plan submitted by the Bank within 180 days after receiving the plan, and submit to Congress a report analyzing the business plan, and provide any recommendations with respect to the plan as the GAO sees appropriate.

### **Section 305. Independent Audit of Bank Portfolio**

The bill requires the Inspector General of the Bank to conduct an audit of the portfolio risk management procedures of the Bank, including a review of the implementation of the duties assigned to the Chief Risk Officer, within one year.

## **TITLE IV. OPERATIONAL IMPROVEMENTS**

### **Section 401. Anti-Corruption Safeguards**

Reporting of Waste, Fraud, and Corruption – Requires the Bank to develop a policy and mechanism to inform Bank staff and recipients of Bank support of how to report suspected waste, fraud, and corruption, including by publicizing the contact information for the Inspector General or another similar hotline number in transaction documents and in a prominent location of the homepage of the Bank website.

Annual Ethics Training – Requires annual ethics training for all employees, and mandates that ethics manuals are provided to all employees, who are also required to certify in writing that they have received the manuals.

Fraud Detection Training – Requires annual fraud detection training for all underwriters and asset monitors.

Supplemental Ethics Regulations – The bill requires the Bank to conduct a risk assessment of the vulnerability of its programs to employee misconduct based on a historical review of adverse employment actions taken by the Bank and, if appropriate, shall issue updated supplemental standards of ethical conduct for employees of the Bank, pursuant to the Ethics in Government Act.

## **Section 402. Customer and Reputational Assessments**

The bill mandates that “risk-based due diligence,” “know your customer” and “character reputational transaction integrity” assessments are performed for participants who benefit from Bank financing in structured finance and project finance to the extent it is practicable.

## **Section 403. Improved Monitoring of Transactions that Are Subject to Board Approval**

The bill requires the Bank to reserve the right of inspection in any credit agreements for a transaction subject to Board approval sufficient to validate that disbursements comply with the law and the Bank’s policies and procedures. The right of inspection includes a right to examine the books and records of the borrower. The bill also instructs the Bank to allocate sufficient staff to monitor and validate compliance.

## **Section 404. Monitoring Plans and Post- Approval Assessments for Transactions**

**Standard Monitoring Plans.** Requires the Bank to develop and publish standard monitoring plans for structured and project finance transactions. At a minimum, the plans must include a review of financial statements, engineering and environmental reports, site inspections, and to the maximum extent practicable, take into account the risks of each transaction category and commit a level of resources sufficient to monitor the risks.

**Individualized Plans for Certain Large Transactions.** For structured or project finance transactions subject to Board approval, the bill requires the Bank to develop, prior to Board approval, a specific monitoring plan for that transaction that addresses the specific risks presented by the structure of the deal (including the financial stability of the sponsor, risks of unproven technology, social and environmental conditions, and interest rate or exchange rate volatility). The plan must at a minimum include a review of financial statements, a review of engineering reports, a review of environmental assessments, and site visits for engineers and members of the asset management division.

**Post-Approval Assessments for Certain Large Transactions.** The bill requires the Bank to review each structured and project finance transaction no later than two years after funds are first disbursed for the transaction, on a regular and ongoing basis as appropriate, but no later than one year after the final disbursement with respect to the transaction. All findings and determinations made in each review must be submitted to Congress.

## **Section 405. Chief Information and Technology Officer**

The bill requires the President to appoint a Chief Information and Technology Officer, who possess demonstrated ability in the general management of, and knowledge of, and extensive practical experience in, information technology management practices and large governmental or business entities. Consistent with the review provided for with respect to the Chief Risk Officer, the President of the Bank is required to review the performance of the Chief Information and Technology Officer, with input from the Board every four years.

The bill makes the Chief Information and Technology Officer responsible for all matters relating to information technology management associated with the Bank's financing programs, including analysis and assessment of the information technology infrastructures, information technology strategy, and use of information technology. The bill also makes the Chief Information and Technology Officer responsible for safeguarding the Bank's information technology infrastructure and networks and promoting technological innovation.

The Chief Information and Technology Officer is further required to develop a formal data management policy and procedures that ensure complete and accurate participant data is captured in the Bank's centralized database and to define which information is required for reporting purposes. Such policies and procedures must be communicated to the appropriate personnel, be reviewed annually, updated and re-communicated as appropriate, and stored in a readily accessible medium.

Additionally, the Chief Information and Technology Officer is required to develop a clear and comprehensive information technology strategic plan, which meets OMB requirements, and includes a detailed assessment of the cost associated with implementing the plan.

#### **Section 406. Fair Eligibility Standards**

The bill requires the President of the Bank to transmit to the Board any application that meets the legal requirements of the Bank, as well as its published policies and procedures, that Bank staff has recommended be denied, at which time two or more Board members may request that the application be placed on the Board's agenda.

#### **Section 407. GAO Study on Medium-Term Financing Programs**

The bill instructs GAO to conduct a study of the medium-term financing programs of the Bank to identify practices that may pose risks to the taxpayer, the soundness of the programs, or compliance with Bank policies. The GAO is also required to consider past findings by the Inspector General on the matters covered by the study, and is directed to submit to Congress a report on the results of the study, which must include recommendations for additional action as the GAO considers appropriate.

### **TITLE V. FACILITATING EXPORTS BY SMALL BUSINESSES**

#### **Section 501. Increased Participation by Private Partners**

The bill requires the Advisory Committee to make recommendations to the Bank on ways to encourage increased participation by private financial institutions in providing outreach about the Bank to small businesses. The Bank must review all recommendations made by the Advisory Committee and implement a program to expand outreach about the Bank to small businesses through increased participation by private banks and encourage

commercial banks, community banks, and insurance brokers to expand their outreach about the Bank to small businesses.

**Section 502. Technical Assistance for Small Businesses**

The bill requires the Bank to provide technical assistance to small businesses on how to apply for financial assistance provided by the Bank (such as training classes and online webinars).

**Section 503. Report on Indirect Bank Support for Small- and Medium-Sized Companies**

Requires the Bank to include in its annual report to Congress an analysis of how, and the extent to which, the Bank provides indirect support to small and medium-sized companies through the supply chains of medium-sized and large companies that receive Ex-Im Bank assistance.