

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4863, THE UNITED STATES EXPORT
FINANCE AGENCY ACT OF 2019
OFFERED BY MS. WATERS OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “United States Export
3 Finance Agency Act of 2019”.

4 SEC. 2. TABLE OF CONTENTS.

5 The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Renaming of the Export-Import Bank of the United States.
- Sec. 4. Authorization period.
- Sec. 5. Aggregate loan, guarantee, and insurance authority.
- Sec. 6. Office of Minority and Women Inclusion.
- Sec. 7. Support for United States territories.
- Sec. 8. Alternative procedures during quorum lapse.
- Sec. 9. Strengthening support for U.S. small businesses.
- Sec. 10. Enhancing flexibility to respond to predatory export financing by
China.
- Sec. 11. Restriction on financing for certain entities.
- Sec. 12. Prohibitions on financing for certain persons involved in sanctionable
activities.
- Sec. 13. Promoting renewable energy exports, environmental and social stand-
ards, and accountability.
- Sec. 14. Reinsurance program.
- Sec. 15. Information technology systems.
- Sec. 16. Administratively determined pay.

1 **SEC. 3. RENAMING OF THE EXPORT-IMPORT BANK OF THE**
2 **UNITED STATES.**

3 (a) IN GENERAL.—The Export-Import Bank of the
4 United States is hereby redesignated as the United States
5 Export Finance Agency.

6 (b) REFERENCES.—Any reference to the Export-Im-
7 port Bank of the United States in any law, rule, regula-
8 tion, certificate, directive, instruction, or other official
9 paper in force on the date of the enactment of this Act
10 is deemed a reference to the United States Export Finance
11 Agency.

12 **SEC. 4. AUTHORIZATION PERIOD.**

13 Section 7 of the Export-Import Bank Act of 1945
14 (12 U.S.C. 635f) is amended by striking “2019” and in-
15 serting “2029”.

16 **SEC. 5. AGGREGATE LOAN, GUARANTEE, AND INSURANCE**
17 **AUTHORITY.**

18 Section 6(a)(2) of the Export-Import Bank Act of
19 1945 (12 U.S.C. 635e(a)(2)) is amended to read as fol-
20 lows:

21 “(2) APPLICABLE AMOUNT DEFINED.—In this
22 subsection, the term ‘applicable amount’ means—

23 “(A) \$145,000,000,000 for fiscal year
24 2020;

25 “(B) \$150,000,000,000 for fiscal year
26 2021;

1 “(C) \$155,000,000,000 for fiscal year
2 2022;

3 “(D) \$160,000,000,000 for fiscal year
4 2023;

5 “(E) \$165,000,000,000 for fiscal year
6 2024;

7 “(F) \$170,000,000,000 for fiscal year
8 2025; and

9 “(G) \$175,000,000,000 for each of fiscal
10 years 2026 through 2029.”.

11 **SEC. 6. OFFICE OF MINORITY AND WOMEN INCLUSION.**

12 (a) IN GENERAL.—Section 3(i) of the Export-Import
13 Bank Act of 1945 (12 U.S.C. 635a(i)) is amended to read
14 as follows:

15 “(i) OFFICE OF MINORITY AND WOMEN INCLU-
16 SION.—

17 “(1) ESTABLISHMENT.—The Agency shall es-
18 tablish an Office of Minority and Women Inclusion
19 which shall be responsible for carrying out this sub-
20 section and all matters relating to diversity in man-
21 agement, employment, and business activities in ac-
22 cordance with such standards and requirements as
23 the Director of the Office shall establish.

24 “(2) TRANSFER OF RESPONSIBILITIES.—The
25 Agency shall ensure that, to the extent that the re-

1 responsibilities described in paragraph (1) (or com-
2 comparable responsibilities) were, as of the date of the
3 enactment of this subsection, performed by another
4 office of the Agency, the responsibilities shall be
5 transferred to the Office.

6 “(3) DUTIES WITH RESPECT TO CIVIL RIGHTS
7 LAWS.—The responsibilities described in paragraph
8 (1) shall not include enforcement of statutes, regula-
9 tions, or executive orders pertaining to civil rights,
10 except that the Director of the Office shall coordi-
11 nate with the President of the Agency, or the des-
12 ignee of the President of the Agency, regarding the
13 design and implementation of any remedies resulting
14 from violations of the statutes, regulations, or execu-
15 tive orders.

16 “(4) DIRECTOR.—

17 “(A) IN GENERAL.—The Director of the
18 Office shall be appointed by, and shall report
19 directly to, the President of the Agency. The
20 position of Director of the Office shall be a ca-
21 reer reserved position in the Senior Executive
22 Service, as that position is defined in section
23 3132 of title 5, United States Code, or an
24 equivalent designation.

25 “(B) DUTIES.—The Director shall—

1 “(i) develop standards for equal em-
2 ployment opportunity and the racial, eth-
3 nic, and gender diversity of the workforce
4 and senior management of the Agency;

5 “(ii) develop standards for increased
6 participation of minority-owned and
7 women-owned businesses in the programs
8 and contracts of the Agency, including
9 standards for coordinating technical assist-
10 ance to the businesses; and

11 “(iii) enhance the outreach activities
12 of the Agency with respect to, and increase
13 the total amount of loans, guarantees, and
14 insurance provided by the Agency to sup-
15 port exports by socially and economically
16 disadvantaged small business concerns (as
17 defined in section 8(a)(4) of the Small
18 Business Act) and small business concerns
19 owned by women.

20 “(C) OTHER DUTIES.—The Director shall
21 advise the President of the Agency on the im-
22 pact of the policies of the Agency on minority-
23 owned and women-owned businesses.

24 “(5) INCLUSION IN ALL LEVELS OF BUSINESS
25 ACTIVITIES.—

1 “(A) CONTRACTS.—The Director of the
2 Office shall develop and implement standards
3 and procedures to ensure, to the maximum ex-
4 tent possible, the inclusion and utilization of
5 minorities (as defined in section 1204(e) of the
6 Financial Institutions Reform, Recovery, and
7 Enforcement Act of 1989 (12 U.S.C. 1811
8 note)) and women, and minority- and women-
9 owned businesses (as such terms are defined in
10 section 21A(r)(4) of the Federal Home Loan
11 Bank Act (12 U.S.C. 1441a(r)(4)) in all busi-
12 ness and activities of the Agency at all levels,
13 including in procurement, insurance, and all
14 types of contracts. The processes established by
15 the Agency for review and evaluation for con-
16 tract proposals and to hire service providers
17 shall include a component that gives consider-
18 ation to the diversity of the applicant.

19 “(B) APPLICABILITY.—This paragraph
20 shall apply to all contracts for services of any
21 kind, including all contracts for all business and
22 activities of the Agency, at all levels.

23 “(C) OUTREACH.—The Agency shall estab-
24 lish a minority outreach program to ensure the
25 inclusion (to the maximum extent practicable)

1 of contracts entered into with the enterprises of
2 minorities and women and businesses owned by
3 minorities and women, including financial insti-
4 tutions, investment banking firms, under-
5 writers, accountants, brokers, and providers of
6 legal services.

7 “(6) DIVERSITY IN AGENCY WORKFORCE.—The
8 Agency shall take affirmative steps to seek diversity
9 in its workforce at all levels of the Agency consistent
10 with the demographic diversity of the United States,
11 in a manner consistent with applicable law, includ-
12 ing—

13 “(A) to the extent the Agency engages in
14 recruitment efforts to fill vacancies—

15 “(i) recruiting at historically Black
16 colleges and universities, Hispanic-serving
17 institutions, Tribal colleges and univer-
18 sities, women’s colleges, and colleges that
19 typically serve majority minority popu-
20 lations; and

21 “(ii) recruiting at job fairs in urban
22 communities, and placing employment ad-
23 vertisements in print and digital media ori-
24 ented toward women and people of color;

1 “(B) partnering with organizations that
2 are focused on developing opportunities for mi-
3 norities and women to place talented young mi-
4 norities and women in industry internships,
5 summer employment, and full-time positions;
6 and

7 “(C) by use of any other mass media com-
8 munications that the Director of the Office de-
9 termines necessary.”.

10 (b) INCLUSION IN ANNUAL REPORT.—Section 8 of
11 such Act (12 U.S.C. 635g) is amended by adding at the
12 end the following:

13 “(l) OFFICE OF MINORITY AND WOMEN INCLU-
14 SION.—

15 “(1) IN GENERAL.—The Agency shall include in
16 its annual report to the Congress under subsection
17 (a) a report from the Office of Minority and Women
18 Inclusion regarding the actions taken by the Agency
19 and the Office pursuant to section 3(i), which shall
20 include—

21 “(A) a statement of the total amounts paid
22 by the Agency to contractors since the most re-
23 cent report under this subsection;

1 “(B) the percentage of the amounts de-
2 scribed in subparagraph (A) that were paid to
3 contractors as described in section 3(i)(5)(A);

4 “(C) the successes achieved and challenges
5 faced by the Agency in operating minority and
6 women outreach programs;

7 “(D) a description of the progress made by
8 the Agency in supporting exports by minority-
9 owned small business concerns and the progress
10 made by the Agency in supporting small busi-
11 ness concerns owned by women, including esti-
12 mates of the amounts made available to finance
13 exports directly by both categories of small
14 business concerns, a comparison of these
15 amounts with the amounts made available to all
16 small business concerns, and a comparison of
17 such amounts with the amounts so made avail-
18 able during the 2 preceding years;

19 “(E) the challenges the Agency may face
20 in hiring qualified minority and women employ-
21 ees and contracting with qualified minority-
22 owned and women-owned businesses; and

23 “(F) any other information, findings, con-
24 clusions, and recommendations for legislative or

1 Agency action, as the Director of the Office
2 deems appropriate.

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

4 “(A) MINORITY-OWNED SMALL BUSINESS
5 CONCERN.—The term ‘minority-owned small
6 business concern’ has the meaning given that
7 term ‘socially and economically disadvantaged
8 small business concern’ under section 8(a)(4) of
9 the Small Business Act.

10 “(B) SMALL BUSINESS CONCERN.—The
11 term ‘small business concern’ has the meaning
12 given that term under section 3(a) of the Small
13 Business Act.”.

14 (c) CONFORMING AMENDMENT.—Section 8(f) of the
15 Export-Import Bank Act of 1945 (12 U.S.C. 635g(f)) is
16 amended—

17 (1) by striking paragraph (4); and

18 (2) by redesignating paragraphs (5) through
19 (8) as paragraphs (4) through (7), respectively.

20 **SEC. 7. SUPPORT FOR UNITED STATES TERRITORIES.**

21 (a) CREATION OF THE OFFICE OF TERRITORIAL EX-
22 PORTING.—Section 3 of the Export-Import Bank Act of
23 1945 (12 U.S.C. 635a) is amended by adding at the end
24 the following:

1 “(n) OFFICE OF TERRITORIAL EXPORTING.—The
2 President of the Agency shall establish an Office of Terri-
3 torial Exporting, and shall hire such staff as may be nec-
4 essary, including at least 1 staffer responsible for liaising
5 with Puerto Rico, to perform the functions of the Office,
6 which shall be to promote the export of goods and services
7 from the territories, conduct outreach, education, and dis-
8 seminate information concerning export opportunities and
9 the availability of Agency support for such activities, and
10 to increase the total amount of loans, guarantees, and in-
11 surance provided by the Agency benefitting the territories.
12 In this Act, the term ‘territory’ means the Commonwealth
13 of Puerto Rico, the United States Virgin Islands, Guam,
14 the Commonwealth of the Northern Mariana Islands, and
15 American Samoa.”.

16 (b) ANNUAL REPORT.—Section 8 of such Act (12
17 U.S.C. 635g), as amended by section 6(b) of this Act, is
18 amended by adding at the end the following:

19 “(m) REPORT ON ACTIVITIES IN THE TERRI-
20 TORIES.—The Agency shall include in its annual report
21 to Congress under subsection (a) a report on the steps
22 taken by the Agency in the period covered by the report
23 to increase—

24 “(1) awareness of the Agency and its services
25 in the territories; and

1 “(2) the provision of Agency support to export
2 businesses in the territories.”.

3 **SEC. 8. ALTERNATIVE PROCEDURES DURING QUORUM**
4 **LAPSE.**

5 (a) IN GENERAL.—Section 3(c)(6) of the Export-Im-
6 port Bank Act of 1945 (12 U.S.C. 635a(c)(6)) is amend-
7 ed—

8 (1) by inserting “(A)” after “(6)”; and

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

10 “(B)(i) If there is an insufficient number of directors
11 to constitute a quorum under subparagraph (A) for 90
12 consecutive days during the term of a President of the
13 United States, a temporary Board, consisting of the fol-
14 lowing members, shall act in the stead of the Board of
15 Directors:

16 “(I) The United States Trade Representative,

17 “(II) The Secretary of the Treasury,

18 “(III) The Secretary of Commerce, and

19 “(IV) The members of the Board of Directors.

20 “(ii) If, at a meeting of the temporary Board—

21 “(I) a member referred to in clause (i)(IV) is
22 present, the meeting shall be chaired by such a
23 member, consistent with Agency bylaws; or

1 “(II) no such member is present, the meeting
2 shall be chaired by the United States Trade Rep-
3 resentative.

4 “(iii) A member described in subclause (I), (II), or
5 (III) of clause (i) may delegate the authority of the mem-
6 ber to vote on whether to authorize a transaction, whose
7 value does not exceed \$100,000,000, to—

8 “(I) if the member is the United States Trade
9 Representative, the Deputy United States Trade
10 Representative; or

11 “(II) if the member is referred to in such sub-
12 clause (II) or (III), the Deputy Secretary of the de-
13 partment referred to in the subclause.

14 “(iv) If the temporary Board consists of members of
15 only 1 political party, the President of the United States
16 shall, to the extent practicable, appoint to the temporary
17 Board a qualified member of a different political party
18 who occupies a position requiring nomination by the Presi-
19 dent, by and with the consent of the Senate.

20 “(v) The temporary board may not change or amend
21 Agency policies, procedures, bylaws, or guidelines.

22 “(vi) The temporary Board shall expire at the end
23 of the term of the President of the United States in office
24 at the time the temporary Board was constituted or upon

1 restoration of a quorum of the Board of Directors as de-
2 fined in subparagraph (A).

3 “(vii) With respect to a transaction that equals or
4 exceeds \$100,000,000, the Chairperson of the temporary
5 Board shall ensure that the Agency complies with section
6 2(b)(3).”.

7 (b) TERMINATION.—The amendments made by sub-
8 section (a) shall have no force or effect after the 10-year
9 period that begins with the date of the enactment of this
10 Act.

11 **SEC. 9. STRENGTHENING SUPPORT FOR U.S. SMALL BUSI-**
12 **NESSES.**

13 (a) SMALL BUSINESS POLICY.—Section 2(b)(1) of
14 the Export-Import Bank Act of 1945 (12 U.S.C.
15 635(b)(1)) is amended by striking subparagraph (E)(i)(I)
16 and inserting the following:

17 “(E)(i)(I) It is further the policy of the United States
18 to encourage the participation of small business (including
19 women-owned businesses, minority-owned businesses, vet-
20 eran-owned businesses, businesses owned by persons with
21 disabilities, and businesses in rural areas) and start-up
22 businesses in international commerce, and to educate such
23 businesses about how to export goods using the United
24 States Export Finance Agency.”.

25 (b) OUTREACH.—

1 (1) PLAN.—Within 120 days after the date of
2 the enactment of this Act, the United States Export
3 Finance Agency shall prepare and submit to the
4 Committee on Financial Services of the House of
5 Representatives and the Committee on Banking,
6 Housing, and Urban Affairs of the Senate a com-
7 prehensive outreach plan to ensure that small busi-
8 ness owners are aware of the financing options avail-
9 able to them through the Agency. The plan shall in-
10 clude—

11 (A) input from the Small Business Admin-
12 istration and statewide small business coalitions
13 with operations in rural, urban, and suburban
14 regions;

15 (B) an emphasis on outreach to businesses
16 owned by women, minorities, veterans, and per-
17 sons with disabilities; and

18 (C) a proposed budget for carrying out the
19 plan during fiscal years 2020 through 2029,
20 that provides for the spending of at least
21 \$1,000,000 annually for outreach to small busi-
22 nesses.

23 (2) IMPLEMENTATION.—Section 2(b)(1)(E) of
24 such Act (12 U.S.C. 635(b)(1)(E)) is amended by
25 adding at the end the following:

1 “(xi) After consultation with the Committee on Fi-
2 nancial Services of the House of Representatives and the
3 Committee on Banking, Housing, and Urban Affairs of
4 the Senate, the Agency shall implement the outreach plan
5 referred to in section 9(b)(1) of the United States Export
6 Finance Agency Act of 2019.”.

7 (c) EXCLUSION OF UNUTILIZED INSURANCE AU-
8 THORITY IN CALCULATING SMALL BUSINESS THRESH-
9 OLD.—Section 2(b)(1)(E)(v) of such Act (12 U.S.C.
10 635(b)(1)(E)(v)) is amended by adding at the end the fol-
11 lowing: “For the purpose of calculating the amounts of
12 authority required under this clause, the Agency shall,
13 with respect to insurance, exclude unutilized authoriza-
14 tions that terminated during the fiscal year.”.

15 (d) INCREASE IN SMALL BUSINESS THRESHOLD.—

16 (1) IN GENERAL.—Section 2(b)(1)(E)(v) of
17 such Act (12 U.S.C. 635(b)(1)(E)(v)) is amended by
18 striking “25” and inserting “30”.

19 (2) EFFECTIVE DATE.—The amendment made
20 by paragraph (1) shall take effect on October 1,
21 2028.

22 **SEC. 10. ENHANCING FLEXIBILITY TO RESPOND TO PREDA-**
23 **TORY EXPORT FINANCING BY CHINA.**

24 (a) DEEMING RULE UNDER TIED AID CREDIT PRO-
25 GRAM.—Section 10(b)(5)(B)(i)(III) of the Export-Import

1 Bank Act of 1945 (12 U.S.C. 635i-3(b)(5)(B)(i)(III)) is
2 amended by adding at the end the following new sentence:
3 “The requirement that there be credible evidence of a his-
4 tory of a foreign export credit agency making offers not
5 subject to the Arrangement is deemed met in the case of
6 exports likely to be supported by official financing from
7 the People’s Republic of China, unless the Secretary of
8 the Treasury has reported to the Committee on Financial
9 Services of the House of Representatives and the Com-
10 mittee on Banking, Housing, and Urban Affairs of the
11 Senate that China is in substantial compliance with the
12 Arrangement.”.

13 (b) COLLABORATION WITH USDA ON EXPORT FI-
14 NANCING PROGRAMS.—Section 13(1)(A) of such Act (12
15 U.S.C. 635i-7(1)(A)) is amended by inserting “, the De-
16 partment of Agriculture,” before “and other Federal agen-
17 cies”.

18 **SEC. 11. RESTRICTION ON FINANCING FOR CERTAIN ENTI-**
19 **TIES.**

20 Section 2 of the Export-Import Bank Act of 1945
21 (12 U.S.C. 635) is amended by adding at the end the fol-
22 lowing:

23 “(m) RESTRICTION ON FINANCING FOR CERTAIN
24 ENTITIES.—

1 “(1) IN GENERAL.—Beginning on the date that
2 is 180 days after the date of the enactment of this
3 subsection, the Board of Directors may not approve
4 a transaction that is subject to approval by the
5 Board with respect to the provision by the Agency
6 of any guarantee, insurance, or extension of credit,
7 or the participation by the Agency in any extension
8 of credit for which the end user, obligor, or lender
9 is described in paragraph (2).

10 “(2) PROHIBITED END USER, OBLIGOR, OR
11 LENDER.—An end user, obligor, or lender is de-
12 scribed in this paragraph if the end user, obligor, or
13 lender is known to the Agency to be:

14 “(A) The People’s Liberation Army of the
15 People’s Republic of China.

16 “(B) The Ministry of State Security of the
17 People’s Republic of China.

18 “(C) Included on the Denied Persons List
19 or the Entity List maintained by the Bureau of
20 Industry and Security of the Department of
21 Commerce.

22 “(D) Included on the Arms Export Control
23 Act debarred list maintained by the Directorate
24 of Defense Trade Controls of the Department
25 of State.

1 “(E) Any person who has paid a criminal
2 fine or penalty pursuant to a conviction or reso-
3 lution or settlement agreement with the Depart-
4 ment of Justice for a violation of the Foreign
5 Corrupt Practices Act in the preceding 3 years.

6 “(F) A person who, in the preceding 3
7 years, appeared on the Annual Intellectual
8 Property Report to Congress by the Intellectual
9 Property Enforcement Coordinator in the Exec-
10 utive Office of the President, if the person was
11 convicted in any court

12 “(3) DEFINITIONS.—In this subsection:

13 “(A) PERSON.—The term ‘person’ means
14 an individual or entity.

15 “(B) ENTITY.—The term ‘entity’ means a
16 partnership, association, trust, joint venture,
17 corporation, group, subgroup, or other organi-
18 zation.”.

19 **SEC. 12. PROHIBITIONS ON FINANCING FOR CERTAIN PER-**
20 **SONS INVOLVED IN SANCTIONABLE ACTIVI-**
21 **TIES.**

22 Section 2 of the Export-Import Bank Act of 1945
23 (12 U.S.C. 635), as amended by section 11 of this Act,
24 is amended by adding at the end the following:

1 “(n) PROHIBITIONS ON FINANCING FOR CERTAIN
2 PERSONS INVOLVED IN SANCTIONABLE ACTIVITIES.—

3 “(1) IN GENERAL.—Beginning on the date that
4 is 180 days after the date of the enactment of this
5 subsection, the Board of Directors of the Agency
6 may not approve any transaction that is subject to
7 approval by the Board with respect to the provision
8 by the Agency of any guarantee, insurance, or exten-
9 sion of credit, or the participation by the Agency in
10 any extension of credit, to a person in connection
11 with the exportation of any good or service unless
12 the person provides the certification described in
13 paragraph (2).

14 “(2) CERTIFICATION DESCRIBED.—The certifi-
15 cation described in this paragraph is a certification
16 by a person who is an end user, obligor, or lender
17 that neither the person nor any other person owned
18 or controlled by the person engages in any activity
19 in contravention of any United States law, regula-
20 tion, or order applicable to the person concerning—

21 “(A) trade and economic sanctions, includ-
22 ing an embargo;

23 “(B) the freezing or blocking of assets of
24 designated persons; or

1 “(C) other restrictions on exports, imports,
2 investment, payments, or other transactions
3 targeted at particular persons or countries.

4 “(3) CERTIFICATION REQUIREMENTS.—The
5 certification described in paragraph (2) shall be
6 made after reasonable due diligence and based on
7 best knowledge and belief.”.

8 **SEC. 13. PROMOTING RENEWABLE ENERGY EXPORTS, ENVI-**
9 **RONMENTAL AND SOCIAL STANDARDS, AND**
10 **ACCOUNTABILITY.**

11 (a) OFFICE OF FINANCING FOR RENEWABLE EN-
12 ERGY, ENERGY EFFICIENCY AND ENERGY STORAGE EX-
13 PORTS.—Section 2(b)(1)(C) of the Export-Import Bank
14 Act of 1945 (12 U.S.C. 635(b)(1)(C)) is amended to read
15 as follows:

16 “(C) OFFICE OF FINANCING FOR RENEWABLE EN-
17 ERGY, ENERGY EFFICIENCY AND ENERGY STORAGE.—
18 The President of the Agency shall establish an office
19 whose functions shall be to promote the export of goods
20 and services to be used in the development, production,
21 and distribution of renewable energy resources, and energy
22 efficiency and energy storage technologies, and dissemi-
23 nate information concerning export opportunities and the
24 availability of Agency support for such activities, to in-
25 crease the total amount of loans, guarantees, and insur-

1 ance provided by the Agency to support exports related
2 to renewable energy, energy efficiency, and energy stor-
3 age.”.

4 (b) ENVIRONMENTAL POLICY AND PROCEDURES.—
5 Section 11(a) of such Act (12 U.S.C. 635i–5(a)) is amend-
6 ed—

7 (1) in paragraph (1)—

8 (A) in the 2nd sentence, by inserting “, in-
9 cluding to potentially impacted communities in
10 the country in which the activity will be carried
11 out, at least 60 days before the date of the
12 vote,” before “and supplemental”;

13 (B) by inserting after the 2nd sentence the
14 following: “The procedures shall include a re-
15 quirement for an analysis of the environmental
16 and social impacts, including worker impacts
17 and anticipated health impacts and costs, of the
18 proposed activity and of alternatives to the pro-
19 posed activity, including mitigation measures,
20 where appropriate.”; and

21 (C) in the 3rd sentence, by striking “The
22 preceding sentence” and inserting “This para-
23 graph”; and

1 (2) by redesignating paragraph (2) as para-
2 graph (3) and inserting after paragraph (1) the fol-
3 lowing:

4 “(2) CONSULTATIONS WITH POTENTIALLY IM-
5 PACTED COMMUNITIES.—In any credit or common
6 terms agreements to which the Agency is a party re-
7 lating to a transaction described in paragraph (1),
8 the Agency shall include a provision to ensure that
9 robust consultations with potentially impacted com-
10 munities in the country in which the activity will be
11 carried out have been and will continue to be carried
12 out throughout the project cycle.”.

13 (c) SENSE OF THE CONGRESS REGARDING AGENCY
14 ACCOUNTABILITY.—It is the sense of the Congress that—

15 (1) the Board of Directors of the United States
16 Export Finance Agency (in this section referred to
17 as the “Agency”) should, after a public consultation
18 process, establish a formal, transparent, and inde-
19 pendent accountability mechanism to review, inves-
20 tigate, offer independent dispute resolution to re-
21 solve, and publicly report on allegations by affected
22 parties of any failure of the Agency to follow its own
23 policies and procedures with regard to the environ-
24 mental and social impacts of projects, and on situa-
25 tions where the Agency is alleged to have failed in

1 ensuring the borrower is fulfilling its obligations in
2 financing agreements with respect to the policies and
3 procedures;

4 (2) the accountability mechanism should be able
5 to provide advice to management on policies, proce-
6 dures, guidelines, resources, and systems established
7 to ensure adequate review and monitoring of the en-
8 vironmental and social impacts of projects;

9 (3) in carrying out its mandate, the confiden-
10 tiality of sensitive business information should be re-
11 spected, as appropriate, and, in consultation with
12 potentially impacted communities, project sponsors,
13 Agency management, and other relevant parties, a
14 flexible process should be followed aimed primarily
15 at correcting project failures and achieving better re-
16 sults on the ground;

17 (4) the accountability mechanism should be
18 independent of the line operations of management,
19 and report its findings and recommendations directly
20 to the Board of Directors of the Agency and annu-
21 ally to the Congress;

22 (5) the annual report of the Agency should in-
23 clude a detailed accounting of the activities of the
24 accountability mechanism for the year covered by
25 the report and the remedial actions taken by the

1 Agency in response to the findings of the account-
2 ability mechanism;

3 (6) in coordination with the accountability
4 mechanism, the Agency and relevant parties should
5 engage in proactive outreach to communities im-
6 pacted or potentially impacted by Agency financing
7 and activities to provide information on the existence
8 and availability of the accountability mechanism;

9 (7) the President of the Agency should, subject
10 to the approval of the Board of Directors of the
11 Agency, and consistent with applicable law, through
12 an open and competitive process, including sollicita-
13 tion of input from relevant stakeholders, appoint a
14 director of the accountability mechanism, who would
15 be responsible for the day-to-day operations of the
16 mechanism, and a panel of not less than 3 experts,
17 including the director, who would also serve as chair
18 of the panel; and

19 (8) The accountability mechanism director and
20 members of the panel should not have been em-
21 ployed by the Agency within the 5 years preceding
22 their appointment, and should be ineligible from fu-
23 ture employment at the Agency.

1 **SEC. 14. REINSURANCE PROGRAM.**

2 Section 51008 of the Fixing America's Surface
3 Transportation Act (12 U.S.C. 635 note) is amended—

4 (1) in the section heading, by striking
5 “**PILOT**”;

6 (2) in subsection (a), by striking “pilot”;

7 (3) in subsection (b)(1), by striking
8 “\$1,000,000,000” and inserting “\$2,000,000,000”;
9 and

10 (4) by striking subsections (c) through (e) and
11 inserting the following:

12 “(c) **FACTORS FOR CONSIDERATION IN REINSUR-**
13 **ANCE POOLS.**—In implementing this section, the Agency
14 shall, with respect to a reinsurance pool, pursue appro-
15 priate objectives to reduce risk and costs to the Agency,
16 including by the following, to the extent practicable:

17 “(1) Ensuring a reasonable diversification of
18 risks.

19 “(2) Including larger exposures where the pos-
20 sibility of default raises overall portfolio risk for the
21 Agency.

22 “(3) Excluding transactions from the pool that
23 are covered by first-loss protection.

24 “(4) Excluding transactions from the pool that
25 are collateralized at a rate greater than standard
26 market practice.

1 “(5) Diversifying reinsurance pools by industry
2 and other appropriate factors.

3 “(6) Exploring different time periods of cov-
4 erage.

5 “(7) Exploring both excess of loss structures on
6 a per-borrower as well as an aggregate basis.

7 “(d) BIENNIAL REPORTS.—Not later than 1 year
8 after the date of the enactment of this subsection, and
9 every 2 years thereafter through 2029, the Agency shall
10 submit to the Committee on Financial Services of the
11 House of Representatives and the Committee on Banking,
12 Housing, and Urban Affairs of the Senate a written report
13 that contains an assessment of the use of the program
14 carried out under subsection (a) since the most recent re-
15 port under this subsection.

16 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
17 tion shall be construed to limit any authority of the Agen-
18 cy described in section 2(a)(1) of the Export-Import Bank
19 Act of 1945.”.

20 **SEC. 15. INFORMATION TECHNOLOGY SYSTEMS.**

21 Section 3(j) of the Export-Import Bank Act of 1945
22 (12 U.S.C. 635a(j)) is amended—

23 (1) in paragraph (1), by striking all that pre-
24 cedes subparagraph (A) and inserting the following:

1 “(1) IN GENERAL.—Subject to paragraphs (3)
2 and (4), the Agency may use an amount equal to
3 1.25 percent of the surplus of the Agency during fis-
4 cal years 2020 through 2029 to—”; and

5 (2) by striking paragraph (3) and inserting the
6 following:

7 “(3) LIMITATION.—The aggregate of the
8 amounts used in accordance with paragraph (1) for
9 fiscal years 2020 through 2029 shall not exceed
10 \$40,000,000.”.

11 **SEC. 16. ADMINISTRATIVELY DETERMINED PAY.**

12 Section 3 of the Export-Import Bank Act of 1945
13 (12 U.S.C. 635a), as amended by section 7(a) of this Act,
14 is amended by adding at the end the following:

15 “(o) COMPENSATION OF EMPLOYEES.—

16 “(1) RATES OF PAY.—Subject to paragraph
17 (2), the Board of Directors of the Agency, consistent
18 with standards established by the Director of the Of-
19 fice of Minority and Women Inclusion, may set and
20 adjust rates of basic pay for employees and new
21 hires of the Agency without regard to the provisions
22 of chapter 51 and subchapter III of chapter 53 of
23 title 5, United States Code, except that no employee
24 of the Agency may receive a rate of basic pay that

1 exceeds the rate for level III of the Executive Sched-
2 ule under section 5313 of such title.

3 “(2) LIMITATIONS.—The Board of Directors of
4 the Agency may not apply paragraph (1) to more
5 than 35 employees at any point in time. Nothing in
6 paragraph (1) may be construed to apply to any po-
7 sition of a confidential or policy-determining char-
8 acter that is excepted from the competitive service
9 under section 3302 of title 5, United States Code,
10 (pursuant to schedule C of subpart C of part 213 of
11 title 5 of the Code of Federal Regulations) or to any
12 position that would otherwise be subject to section
13 5311 or 5376 of title 5, United States Code.”.

