H.Res. 450 — Providing for the Consideration of H.R. 597 to reauthorize the Export-Import Bank of the United States, and for other Purposes (Fincher, R-TN)

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FLOOR SCHEDULE:

Motions to discharge pursuant to a petition are in order to be considered on the second and fourth Mondays of the month, are privileged if the discharge petition has been on the calendar for seven legislative days, and is debatable for 20 minutes, equally divided. On 10/9/2015, a motion was filed to discharge the Committee on Rules from the consideration of H.Res.450, a resolution providing for consideration of H.R. 597. The discharge petition, which requires 218 signatures for further action, can be found here 114-2. Upon adoption of the motion to discharge, the House will proceed to immediately consider H.Res. 450 and, if adopted, shall then immediately proceed to consideration of H.R. 597. The adoption of the Rule contains a self-executing amendment, which will replace the text of H.R. 597 with the text for H.R. 3611, the Export-Import Bank Reauthorization Act.

For more information regarding discharge petitions, please contact Brittan Specht, Policy Director for the RSC.

TOPLINE SUMMARY:

H.Res. 450 would provide the rule for consideration of H.R. 597, the Reform Exports and Expand the American Economy Act. The adoption of the Rule contains a self-executing amendment, which will replace the text of H.R. 597 with the text for H.R. 3611, the Export-Import Bank Reauthorization Act. This bill would reauthorize and reform the Export-Import bank through September 30, 2019.

COST:

A Congressional Budget Office (CBO) estimate for H.Res. 450 is not required. CBO estimate for H.R. 597 and H.R. 3611 are not currently available.

CONSERVATIVE CONCERNS:

Some members are concerned that the Export-Import Bank has become a symbol for crony capitalism, forces taxpayers to bare the risk of loans to private firms, and is plagued by corruption and mismanagement. Some believe American businesses are strong enough to compete on their own, without taxpayer-funded subsidized financing. . The RSC position on the Ex-Im Bank can be found here.

Some conservatives are also concerned that the discharge process providing for consideration of the reauthorization effectively cedes control of the House legislative schedules to the minority and thwarts the will of both the Republican House majority and the Committee on Financial Services.

- **Expand the Size and Scope of the Federal Government?** Yes. The authorization for the Export-Import Bank expired on June 30, 2015. Thereafter the Bank cannot issue new financing commitments. H.R. 597 as amended by the discharged rule would re authorize the bank and provide for new financing commitments to be made, forcing taxpayers to incur additional risk.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

The Export-Import Bank was established under Franklin Delano Roosevelt to improve trade with the Soviet Union. The bank guarantees loans and provides direct financing at subsidized interest rates to foreign companies so they can purchase products and services from the United States, creating what is seen by some as an unfair playing field for American businesses who must receive private sector financing to purchase US products and services. American taxpayers bear the risk for this financing and suffer loses when a foreign borrower defaults. Of the roughly a $2 trillion in annual U.S. exports, only 2% is a result of the efforts of the Export-Import Bank. Though it has been touted as providing support for small businesses, roughly 76% of Ex-Im's financial support is directed at large corporations. In testimony year, the CBO stated that the Ex-Im credit programs operate at a loss on a fair value basis, which will cost the American government almost $2 billion over the course of ten years. Moreover, the Ex-Im total lending cap has ballooned to $140 billion, subsidized by the American taxpayer.

The Ex-Im Bank's authorization expired on June 30, ending the Bank's authority to make new financing commitments. Existing loans, however, continue to be serviced.

H.R. 3611 would reauthorize the Export-Import Bank through September 30, 2019 and make a series of reforms aimed at improving the institution.

Section 101 - This section would reduce the Bank's limit on outstanding loans, guarantees, and insurance from $140 billion to $135 billion. It would also freeze the bank's lending cap, if the default rate is 2% or more.

Section 102 - This section would require the Bank to hold reserve capital of not less than 5% of the aggregate amount of disbursed and outstanding loans, guarantees, and insurance. This section would go into effect one year after enactment.

Section 103 - This section would require the Comptroller General to review fraud controls of the Bank every 4 years. The Comptroller General would be required to submit a report to the House and Senate detailing how the Bank detects, prevents, and investigates fraudulent applications for loans, as well as perform an audit of sample transactions.

Section 104 - This section would require the President of the Bank to appoint a Chief Ethics Officer within 180 days, who would be approved by the Board of Directors. The officer would be required to report ethics violations to the relevant state and federal authorities and would be required to create and enforce standards of ethical conduct.

Section 105 - This section would require the President of the Bank to appointment a Chief Risk Officer within 180 days, who would be approved by the Board of Directors. The Chief Risk Officer would manage and mitigate the risk of the Bank, create a risk management program, and oversee all risk policies Specifically, the position would manage the process for risk assessment and underwriting for each transaction to ensure the consideration of the effect of the transaction on the entire portfolio of the bank. Combined with section 106, this reform would bring the Bank risk management structure closer in line with financial industry best practices.

Section 106 - This section would establish a Risk Management Committee comprised of the Board of Directors, with the President and First Vice President of the Bank serving as ex officio members, to manage stress testing of the banks portfolio, review all reports, and monitor exposure levels. Combined with Section 105, this reform would bring the Bank risk management structure closer in line with financial industry best practices. However, Section 106 would also terminate the Bank's Audit Committee, a change out of line with both financial and general industry best practices, which encourage firms to maintain an audit committee composed of independent directors in order to oversee the financial reporting process.

Section 107 - This section would require the Inspector General of the Export-Import Bank of the United States to conduct an audit of the portfolio risk management procedure of the Bank, and to submit a report containing its findings to Congress within one year after enactment, and every three years thereafter.

Section 108 - This section would create a pilot program for reinsurance that would allow the Bank to enter into contracts to share risks associated with guarantees, insurance, or credit issued by the Bank. The Bank is authorized to transfer liability through risk-sharing arrangement not exceeding $1 billion. The aggregate amount the Bank may transfer during a fiscal year may not exceed $10 billion. The Bank is required to submit a report to Congress within one year of enactment, and every year until 2019, containing details of the pilot program. The program would terminate September 30, 2016.

Section 201 - This section would increase the Bank's small business lending target from 20% to 25%.

Section 202 - This section would require the Bank to submit reports to Congress detailing efforts to support businesses with less than $250,000,000 in annual revenue.

Section 301 - This section would require the Bank to modernize and implement policies allowing the Bank to accept online payments within two years of enactment.

Section 302 - This section would reauthorize information technology updating, allowing the Bank to continue to use administrative funds up to 1.25% of the Bank's surplus for technology systems infrastructure through 2019. Importantly, the Bank's surplus would not be calculated on a fair-value basis, therefore funds spent on technology upgrades would deplete reserves and could lead to larger losses for taxpayers in the event of portfolio loses.

Section 401 - This section would extend the Bank's authority through September 30, 2019, and extends other expiring portions of the Bank's charter, including the allowance for dual-use exports and the Sub-Saharan Africa Advisory Committee.

Section 402 - This section would increase the maximum size for medium-term loan financing, the loan threshold requiring approval by small business specialists at the Bank, and the loan threshold for insurance, from $10 million to $25 million. This section would also require the trigger for environmental review to be consistent with international obligations.

Section 501 - This section would prohibit discrimination by the bank based solely on industry, including the creation of policies that discriminate against any type of energy source. The bank would also be unable to deny financing of an application based on the industry presented in the application.

Section 502 - This section would shift from the Secretary of the Treasury to the President of the United States, the responsibility for establishing a strategy to end government-supported subsidies to major exporting countries. It would also require a report to Congress concerning a plan to do so over not more than 10 years. The President would be required to submit a report to Congress every year through 2019, detailing these efforts and negotiations.

Sec. 503 - This section would require the Bank to conduct a study concerning its financing of information and communications technology and services, which would include the number of jobs in technology services, the effects of the reduction of financing from 2013-2014, the activities of foreign export credit agencies in facilitating information export, proposals for how the bank could provide new financing in this sector, and proposals for new products the bank could offer to provide. The report would be submitted to Congress within 180 day after enactment.

COMMITTEE ACTION:

H.Res. 450 was introduced on September 30, 2015 and was referred to the House Committee on Rules. The Motion to discharge was filed on October 9, 2015. H.R. 597 was introduced on January 28, 2015 and was referred to the House Committee on Financial Services. H.R. 3611 was introduced on September 25, and was referred to the House Committee on Financial Services.

Neither of the committees of referral have acted on any of their respective measures.

ADMINISTRATION POSITION:

A statement of Administration Policy is not available

CONSTITUTIONAL AUTHORITY:

According to the sponsor, Congress has the power to enact this legislation pursuant to Article I, Section 8. A specific Clause detailing an enumerated power of Congress was not provided.

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