

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074

MINORITY (202) 225-5051

<http://oversight.house.gov>

September 17, 2015

The Honorable Fred P. Hochberg
Chairman and President
Export-Import Bank of the United States
811 Vermont Avenue NW
Washington, D.C. 20571

Dear Chairman Hochberg:

Authorization for the Export-Import Bank expired on June 30, 2015, and Congress has not reauthorized the Bank's charter. Section 7 of the Bank's charter expressly limits the Bank's activities after expiration to those in furtherance of performing an "orderly liquidation."¹ To date, the Bank has not provided details with respect to its plans to wind down.

According to information you provided to the Committee,² the Bank employed 486 staff as of April 21, 2015. Some of this staff engages in sales, marketing, and other activities associated with initiating new business for the Bank. You previously stated that the Bank would not lay off staff after the Bank's charter expired, despite the Bank's statutory obligation to cease certain activities and wind down its business.³ As recently as last month, the Bank reported that it did not lay off or furlough any staff, and instead assigned "all the employees who would normally be working on new business to 'other duties.'"⁴

The Committee subsequently learned that Bank staff may be traveling and participating in conferences and other meetings in their capacity as Bank employees. For example, Bob Morin, the Bank's Senior Vice President of Business and Product Development, was listed as a speaker at this month's 16th Annual Global Export Finance Conference in Barcelona, Spain. The event organizers released a biography for the event that states, "Mr. Morin will continue to take an active role in developing new financial products . . . offered by Ex-Im Bank . . ."⁵

¹ 12 U.S.C. 635f.

² Email from Erin Gulick, Senior Vice President, Office of Cong. Affairs & Intergov. Affairs, Export-Import Bank of the U.S. to Committee Staff (Apr. 23, 2015), "Exim Authorized FTEs 4-21-16 final.pdf."

³ Kevin Cirilli, *Ex-Im bank braces for end of charter*, THE HILL (June 24, 2015).

⁴ Pete Kasperowicz, *No layoffs at Export-Import Bank despite losing authorization*, WASHINGTON EXAMINER (Aug. 13, 2015).

⁵ The 16th Annual Global Export Finance Conference, 8-9 September 2015, Hotel Arts, Barcelona, Spain, <http://www.euromoneyseminars.com/global-export-finance/speakers.html> (last accessed Sept. 14, 2015).

To help the Committee better understand the Bank's efforts to wind down, please provide the following documents and information as soon as possible, but no later than 5:00 p.m. on September 29, 2015:

1. Documents sufficient to show the number of Bank employees as of June 30, 2015; the number of Bank employees that were laid off or furloughed as a result of the Bank's expiration, since June 30, 2015; and the current number of Bank employees.
2. All documents and communications referring or relating to the initiation of new business since June 30, 2015.
3. All documents, communications, directives, or other guidance provided to staff who were assigned to "other duties," including any official employment records documenting a change in duties.
4. All documents and communications referring or relating to the employment status of Mr. Bob Morin as of September 9, 2015.
5. All documents and communications referring or relating to any "new financial products" the Bank is developing.
6. All documents and communications referring or relating to speaking engagements or participation in non-Bank meetings or conferences by any Bank employee since June 30, 2015, including, but not limited to, documents and communications referring or relating to amounts paid by the Bank for travel, participation, or related expenses associated with those engagements.
7. All travel records for any Bank employee who traveled for Bank business, or traveled in their official capacity, since June 30, 2015.
8. All meeting minutes, transcripts, and electronic recordings of any meeting of the Board of Directors (the Board) since June 30, 2015.⁶
9. All documents and communications referring or relating to plans for an orderly liquidation under consideration or voted on by the Board or otherwise currently in practice at the Bank, including, but not limited to, any timeline for the completion of an orderly liquidation.
10. Documents sufficient to show all obligations currently serviced by the Bank, including the term or maturation date of each obligation.

⁶ Per 12 C.F.R. 407.6 "Transcripts, recordings and minutes of closed meetings."

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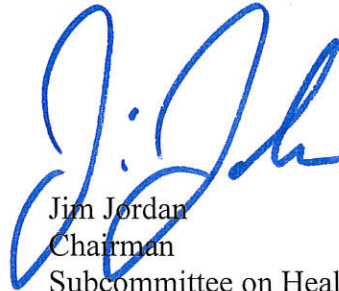
The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. When producing documents to the Committee, please deliver production sets to the Majority staff in Room 2157 of the Rayburn House Office Building and the Minority staff in Room 2471 of the Rayburn House Office Building. An attachment to this letter contains additional instructions for responding to document requests from the Committee.

Please contact Christina Aizcorbe of the Committee staff at (202) 225-5074 with any questions about this request. Thank you for your attention to this matter.

Sincerely,



Jason Chaffetz
Chairman



Jim Jordan
Chairman
Subcommittee on Health Care,
Benefits, and Administrative Rules

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member

The Honorable Matt Cartwright, Ranking Member
Subcommittee on Health Care, Benefits, and Administrative Rules

The Honorable Harold Rogers, Chairman
Committee on Appropriations

The Honorable Jeb Hensarling, Chairman
Committee on Financial Services

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term "employee" means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.