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112TH CONGRESS
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IN THE SENATE OF THE UNITED STATES

MAY 9, 2012

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AN ACT

To reauthorize the Export-Import Bank of the United States,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Export-Import Bank Reauthorization Act of 2012”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Extension of authority.
- Sec. 3. Limitations on outstanding loans, guarantees, and insurance.
- Sec. 4. Export-Import Bank exposure limit business plan.
- Sec. 5. Study by the Comptroller General on the role of the Bank in the world economy and the Bank’s risk management.
- Sec. 6. Monitoring of default rates on Bank financing; reports on default rates; safety and soundness review.

- Sec. 7. Improvement and clarification of due diligence standards for lender partners.
- Sec. 8. Non-subordination requirement.
- Sec. 9. Notice and comment for Bank transactions exceeding \$100,000,000.
- Sec. 10. Categorization of purpose of loans and long-term guarantees in annual report.
- Sec. 11. Negotiations to end export credit financing.
- Sec. 12. Publication of guidelines for economic impact analyses and documentation of such analyses.
- Sec. 13. Report on implementation of recommendations of the Government Accountability Office.
- Sec. 14. Examination of Bank support for small business.
- Sec. 15. Review and report on domestic content policy.
- Sec. 16. Improvement of method for calculating the effects of Bank financing on job creation and maintenance in the United States.
- Sec. 17. Periodic audits of Bank transactions.
- Sec. 18. Prohibitions on financing for certain persons involved in sanctionable activities with respect to Iran.
- Sec. 19. Use of portion of Bank surplus to update information technology systems.
- Sec. 20. Modifications relating to the advisory committee.
- Sec. 21. Financing for goods manufactured in the United States used in global textile and apparel supply chains.
- Sec. 22. Technical correction.
- Sec. 23. Sub-Saharan Africa Advisory Committee.
- Sec. 24. Dual use exports.
- Sec. 25. Effective date.

1 SEC. 2. EXTENSION OF AUTHORITY.

2 Section 7 of the Export-Import Bank Act of 1945
 3 (12 U.S.C. 635f) is amended by striking “2011” and in-
 4 serting “2014”.

**5 SEC. 3. LIMITATIONS ON OUTSTANDING LOANS, GUARAN-
 6 TEES, AND INSURANCE.**

7 Section 6(a)(2) of the Export-Import Bank Act of
 8 1945 (12 U.S.C. 635e(a)(2)) is amended—

- 9 (1) in subparagraph (D), by striking “and”;
- 10 (2) in subparagraph (E), by striking the comma
 11 at the end and inserting “; and”; and
 12 (3) by adding at the end the following:

1 “(F) during fiscal year 2012 and each suc-
2 ceeding fiscal year, \$120,000,000,000, except
3 that—

4 “(i) the applicable amount for each of
5 fiscal years 2013 and 2014 shall be
6 \$130,000,000,000 if—

7 “(I) the Bank has submitted a
8 report as required by section 4(a) of
9 the Export-Import Bank Reauthoriza-
10 tion Act of 2012; and

11 “(II) the rate calculated under
12 section 8(g)(1) of this Act is less than
13 2 percent for the quarter ending with
14 the beginning of the fiscal year, or for
15 any quarter in the fiscal year; and

16 “(ii) notwithstanding clause (i), the
17 applicable amount for fiscal year 2014
18 shall be \$140,000,000,000 if—

19 “(I) the rate calculated under
20 section 8(g)(1) of this Act is less than
21 2 percent for the quarter ending with
22 the beginning of the fiscal year, or for
23 any quarter in the fiscal year;

24 “(II) the Bank has submitted a
25 report as required by subsection (b) of

1 section 5 of the Export-Import Bank
2 Reauthorization Act of 2012, except
3 that the preceding provisions of this
4 subclause shall not apply if the Comp-
5 troller General has not submitted the
6 report required by subsection (a) of
7 such section 5 on or before July 1,
8 2013; and

9 “(III) the Secretary of the Treas-
10 ury has submitted the reports re-
11 quired by section 11(b) of the Export-
12 Import Bank Reauthorization Act of
13 2012.”.

14 **SEC. 4. EXPORT-IMPORT BANK EXPOSURE LIMIT BUSINESS**
15 **PLAN.**

16 (a) IN GENERAL.—Not later than September 30,
17 2012, the Export-Import Bank of the United States shall
18 submit to the Congress and the Comptroller General a
19 written report that contains the following:

20 (1) A business plan that—

21 (A) includes an estimate by the Bank of
22 the appropriate exposure limits of the Bank for
23 2012, 2013, and 2014;

24 (B) justifies the estimate; and

1 (C) estimates any anticipated growth of
2 the Bank for 2012, 2013, and 2014—

3 (i) by industry sector;

4 (ii) by whether the products involved
5 are short-term loans, medium-term loans,
6 long-term loans, insurance, medium-term
7 guarantees, or long-term guarantees; and

8 (iii) by key market.

9 (2) An analysis of the potential for increased or
10 decreased risk of loss to the Bank as a result of the
11 estimated exposure limit, including an analysis of in-
12 creased or decreased risks associated with changes
13 in the composition of Bank exposure, by industry
14 sector, by product offered, and by key market.

15 (3) An analysis of the ability of the Bank to
16 meet its small business and sub-Saharan Africa
17 mandates and comply with its carbon policy mandate
18 under the proposed exposure limit, and an analysis
19 of any increased or decreased risk of loss associated
20 with meeting or complying with the mandates under
21 the proposed exposure limit.

22 (4) An analysis of the adequacy of the re-
23 sources of the Bank to effectively process, approve,
24 and monitor authorizations, including the conducting

1 of required economic impact analysis, under the pro-
2 posed exposure limit.

3 (b) GAO REVIEW OF REPORT AND BUSINESS
4 PLAN.—Not later than June 1, 2013, the Comptroller
5 General shall submit to the Congress a written analysis
6 of the report and business plan submitted under sub-
7 section (a), which shall include such recommendations
8 with respect to the report and business plan as the Comp-
9 troller General deems appropriate.

10 **SEC. 5. STUDY BY THE COMPTROLLER GENERAL ON THE**
11 **ROLE OF THE BANK IN THE WORLD ECON-**
12 **OMY AND THE BANK'S RISK MANAGEMENT.**

13 (a) IN GENERAL.—Within 10 months after the date
14 of the enactment of this Act, the Comptroller General of
15 the United States shall complete and submit to the Ex-
16 port-Import Bank of the United States, the Committee on
17 Banking, Housing, and Urban Affairs of the Senate and
18 the Committee on Financial Services of the House of Rep-
19 resentatives a report which—

20 (1) evaluates—

21 (A) the history of the rate of growth of the
22 Bank, and its causes, with specific consider-
23 ation given to—

24 (i) the capital market conditions for
25 export financing;

1 (ii) increased competition from foreign
2 export credit agencies;

3 (iii) the rate of growth of the Bank
4 from 2008 to the present;

5 (B) the effectiveness of the Bank's risk
6 management, including—

7 (i) potential for losses from each of
8 the products offered by the Bank; and

9 (ii) the overall risk of the Bank's
10 portfolio, taking into account—

11 (I) market risk;

12 (II) credit risk;

13 (III) political risk;

14 (IV) industry-concentration risk;

15 (V) geographic-concentration
16 risk;

17 (VI) obligor-concentration risk;

18 and

19 (VII) foreign-currency risk;

20 (C) the Bank's use of historical default
21 and recovery rates to calculate future program
22 costs, taking into consideration cost estimates
23 determined under the Federal Credit Reform
24 Act of 1990 (2 U.S.C. 661 et seq.) and whether

1 discount rates applied to cost estimates should
2 reflect the risks described in subparagraph (B);

3 (D) the fees charged by the Bank for the
4 products the Bank offers, whether the Bank's
5 fees properly reflect the risks described in sub-
6 paragraph (B), and how the fees are affected by
7 United States participation in international
8 agreements; and

9 (E) whether the Bank's loan loss reserves
10 policy is sufficient to cover the risks described
11 in subparagraph (B); and

12 (2) makes appropriate recommendations with
13 respect to the matters so evaluated.

14 (b) RECOMMENDATIONS AND REPORT BY THE
15 BANK.—Not later than 120 days after the Bank receives
16 the report, the Bank shall submit to the Congress a report
17 on the implementation of recommendations included in the
18 report so received. If the Bank does not adopt the rec-
19 ommendations, the Bank shall include in its report an ex-
20 planation of why the Bank has not done so.

1 **SEC. 6. MONITORING OF DEFAULT RATES ON BANK FI-**
2 **NANCING; REPORTS ON DEFAULT RATES;**
3 **SAFETY AND SOUNDNESS REVIEW.**

4 Section 8 of the Export-Import Bank Act of 1945
5 (12 U.S.C. 635g) is amended by adding at the end the
6 following:

7 “(g) MONITORING OF DEFAULT RATES ON BANK FI-
8 NANCING; REPORTS ON DEFAULT RATES; SAFETY AND
9 SOUNDNESS REVIEW.—

10 “(1) MONITORING OF DEFAULT RATES.—Not
11 less frequently than quarterly, the Bank shall cal-
12 culate the rate at which the entities to which the
13 Bank has provided short-, medium-, or long-term fi-
14 nancing are in default on a payment obligation
15 under the financing, by dividing the total amount of
16 the required payments that are overdue by the total
17 amount of the financing involved.

18 “(2) ADDITIONAL CALCULATION BY TYPE OF
19 PRODUCT, BY KEY MARKET, AND BY INDUSTRY SEC-
20 TOR; REPORT TO CONGRESS.—In addition, the Bank
21 shall, not less frequently than quarterly—

22 “(A) calculate the rate of default—

23 “(i) with respect to whether the prod-
24 ucts involved are short-term loans, me-
25 dium-term loans, long-term loans, insur-

1 ance, medium-term guarantees, or long-
2 term guarantees;

3 “(ii) with respect to each key market
4 involved; and

5 “(iii) with respect to each industry
6 sector involved; and

7 “(B) submit to the Committee on Banking,
8 Housing, and Urban Affairs of the Senate and
9 the Committee on Financial Services of the
10 House of Representatives a report on each such
11 rate and any information the Bank deems rel-
12 evant.

13 “(3) REPORT ON CAUSES OF DEFAULT RATE;
14 PLAN TO REDUCE DEFAULT RATE.—Within 45 days
15 after a rate calculated under paragraph (1) equals
16 or exceeds 2 percent, the Bank shall submit to the
17 Congress a written report that explains the cir-
18 cumstances that have caused the default rate to be
19 at least 2 percent, and includes a plan to reduce the
20 default rate to less than 2 percent.

21 “(4) PLAN CONTENTS.—The plan referred to in
22 paragraph (3) shall—

23 “(A) provide a detailed explanation of the
24 processes and controls by which the Bank mon-
25 itors and tracks outstanding loans;

1 “(B) detail specific planned actions, includ-
2 ing a time frame for completing the actions, to
3 reduce the default rate described in paragraph
4 (1) to less than 2 percent.

5 “(5) MONTHLY REPORTS REQUIRED WHILE DE-
6 FAULT RATE IS AT LEAST 2 PERCENT.—For so long
7 as the default rate calculated under paragraph (1)
8 is at least 2 percent, the Bank shall submit monthly
9 reports to the Congress describing the specific ac-
10 tions taken during such period to reduce the default
11 rate.

12 “(6) SAFETY AND SOUNDNESS REVIEW.—If the
13 default rate calculated under paragraph (1) remains
14 above 2 percent for a period of 6 months, the Sec-
15 retary of the Treasury shall provide for an inde-
16 pendent third party to—

17 “(A) conduct a review of the loan pro-
18 grams and funds of the Bank, which shall de-
19 termine—

20 “(i) the financial safety and sound-
21 ness of the programs and funds; and

22 “(ii) the extent of loan loss reserves
23 and capital adequacy of the programs and
24 funds; and

1 “(B) submit to the Secretary, within 60
2 days after the end of the 6-month period, a re-
3 port that—

4 “(i) describes the methodology and
5 standards used to conduct the review re-
6 quired by subparagraph (A);

7 “(ii) sets forth the results and find-
8 ings of the review, including the extent of
9 loan loss reserves and capital adequacy of
10 the programs and funds of the Bank; and

11 “(iii) includes recommendations re-
12 garding restoring the reserves and capital
13 to maintain the programs and funds in a
14 safe and sound condition.”.

15 **SEC. 7. IMPROVEMENT AND CLARIFICATION OF DUE DILI-**
16 **GENCE STANDARDS FOR LENDER PARTNERS.**

17 Section 2 of the Export-Import Bank Act of 1945
18 (12 U.S.C. 635) is amended by adding at the end the fol-
19 lowing:

20 “(i) **DUE DILIGENCE STANDARDS FOR LENDER**
21 **PARTNERS.**—The Bank shall set due diligence standards
22 for its lender partners and participants, which should be
23 applied across all programs consistently. To minimize or
24 prevent fraudulent activity, the Bank should require all

1 delegated lenders to implement ‘Know your customer prac-
2 tices’.”.

3 **SEC. 8. NON-SUBORDINATION REQUIREMENT.**

4 Section 2 of the Export-Import Bank Act of 1945
5 (12 U.S.C. 635), as amended by section 7 of this Act,
6 is amended by adding at the end the following:

7 “(j) NON-SUBORDINATION REQUIREMENT.—In en-
8 tering into financing contracts, the Bank shall seek a cred-
9 itor status which is not subordinate to that of all other
10 creditors, in order to reduce the risk to, and enhance re-
11 coveries for, the Bank.”.

12 **SEC. 9. NOTICE AND COMMENT FOR BANK TRANSACTIONS**
13 **EXCEEDING \$100,000,000.**

14 (a) IN GENERAL.—Section 3(c) of the Export-Import
15 Bank Act of 1945 (12 U.S.C. 635a(c)) is amended by add-
16 ing at the end the following:

17 “(10) NOTICE AND COMMENT REQUIRE-
18 MENTS.—

19 “(A) IN GENERAL.—Before any meeting of
20 the Board for final consideration of a long-term
21 transaction the value of which exceeds
22 \$100,000,000, and concurrent with any state-
23 ment required to be submitted under section
24 2(b)(3) with respect to the transaction, the

1 Bank shall provide a notice and comment pe-
2 riod.

3 “(B) FINANCIAL THRESHOLD DETERMINA-
4 TIONS.—For purposes of determining whether
5 the value of a proposed transaction exceeds the
6 financial threshold set forth in subparagraph
7 (A), the Bank shall aggregate the dollar
8 amount of the proposed transaction and the
9 dollar amounts of all long-term loans and guar-
10 antees, approved by the Bank in the preceding
11 12-month period, that involved the same foreign
12 entity and substantially the same product to be
13 produced.

14 “(C) SPECIFIC REQUIREMENTS.—

15 “(i) IN GENERAL.—The Bank shall—

16 “(I) publish in the Federal Reg-
17 ister a notice of the application pro-
18 posing the transaction;

19 “(II) provide a period of not less
20 than 25 days for the submission to
21 the Bank of comments on the applica-
22 tion; and

23 “(III) notify the Committee on
24 Banking, Housing, and Urban Affairs
25 of the Senate, and the Committee on

1 Financial Services of the House of
2 Representatives of the application,
3 and seek comments on the application
4 from the Department of Commerce
5 and the Office of Management and
6 Budget.

7 “(ii) CONTENT OF NOTICE.—The no-
8 tice published under clause (i)(I) with re-
9 spect to an application for a loan or finan-
10 cial guarantee shall include appropriate in-
11 formation about—

12 “(I) a brief non-proprietary de-
13 scription of the purposes of the trans-
14 action and the anticipated use of any
15 item being exported, including, to the
16 extent the Bank is reasonably aware,
17 whether the item may be used to
18 produce exports or provide services in
19 competition with the exportation of
20 goods or the provision of services by a
21 United States industry;

22 “(II) the identities of the obligor,
23 principal supplier, and guarantor; and

24 “(III) a description, such as type
25 or model number, of any item with re-

1 spect to which Bank financing is
2 being sought, but only to the extent
3 the description does not disclose any
4 information that is confidential or
5 proprietary business information, that
6 would violate the Trade Secrets Act,
7 or that would jeopardize jobs in the
8 United States by supplying informa-
9 tion which competitors could use to
10 compete with companies in the United
11 States.

12 “(D) PROCEDURE REGARDING MATERI-
13 ALLY CHANGED APPLICATIONS.—

14 “(i) IN GENERAL.—If a material
15 change is made to an application to which
16 this paragraph applies, after a notice with
17 respect to the application is published
18 under subparagraph (C)(i)(I), the Bank
19 shall publish in the Federal Register a re-
20 vised notice of the application and provide
21 for an additional comment period as pro-
22 vided in subparagraph (C)(i)(II).

23 “(ii) MATERIAL CHANGE DEFINED.—
24 In clause (i), the term ‘material change’,
25 with respect to an application for a loan or

1 guarantee, includes an increase of at least
2 25 percent in the amount of a loan or
3 guarantee requested in the application.

4 “(E) REQUIREMENT TO ADDRESS VIEWS
5 OF COMMENTERS.—Before taking final action
6 on an application to which this paragraph ap-
7 plies, the staff of the Bank shall provide in
8 writing to the Board of Directors the views of
9 any person who submitted comments on the ap-
10 plication pursuant to this paragraph.

11 “(F) PUBLICATION OF CONCLUSIONS.—
12 Within 30 days after a final decision of the
13 Board of Directors with respect to an applica-
14 tion to which this paragraph applies, the Bank
15 shall provide to a commenter on the application
16 or the decision who makes a request therefor,
17 a non-confidential summary of the facts found
18 and conclusions reached in any detailed analysis
19 or similar study with respect to the loan or
20 guarantee that is the subject of the application,
21 that was submitted to the Board of Directors.
22 Such summary should be sent within 30 days of
23 the receipt of the written request or date of the
24 final decision of the Board of Directors, which-
25 ever is later.

1 “(G) RULE OF INTERPRETATION.—The
2 obligations imposed by this paragraph shall not
3 be interpreted to create, modify, or preclude
4 any legal right of action.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall take effect 60 days after the date of
7 the enactment of this Act.

8 **SEC. 10. CATEGORIZATION OF PURPOSE OF LOANS AND**
9 **LONG-TERM GUARANTEES IN ANNUAL RE-**
10 **PORT.**

11 Section 8 of the Export-Import Bank Act of 1945
12 (12 U.S.C. 635g), as amended by section 6 of this Act,
13 is amended by adding at the end the following:

14 “(h) CATEGORIZATION OF PURPOSE OF LOANS AND
15 LONG-TERM GUARANTEES.—In the annual report of the
16 Bank under subsection (a), the Bank shall categorize each
17 loan and long-term guarantee made by the Bank in the
18 fiscal year covered by the report, and according to the fol-
19 lowing purposes:

20 “(1) ‘To assume commercial or political risk
21 that exporter or private financial institutions are un-
22 willing or unable to undertake’.

23 “(2) ‘To overcome maturity or other limitations
24 in private sector export financing’.

1 “(3) ‘To meet competition from a foreign, offi-
2 cially sponsored, export credit competition’.

3 “(4) ‘Not identified’, and the reason why the
4 purpose is not identified.”.

5 **SEC. 11. NEGOTIATIONS TO END EXPORT CREDIT FINANC-**
6 **ING.**

7 (a) IN GENERAL.—The Secretary of the Treasury (in
8 this section referred to as the “Secretary”) shall initiate
9 and pursue negotiations—

10 (1) with other major exporting countries, in-
11 cluding members of the Organisation for Economic
12 Co-operation and Development (OECD) and non-
13 OECD members, to substantially reduce, with the
14 ultimate goal of eliminating, subsidized export fi-
15 nancing programs and other forms of export sub-
16 sidies; and

17 (2) with all countries that finance air carrier
18 aircraft with funds from a state-sponsored entity, to
19 substantially reduce, with the ultimate goal of elimi-
20 nating, aircraft export credit financing for all air-
21 craft covered by the 2007 Sector Understanding on
22 Export Credits for Civil Aircraft (in this section re-
23 ferred to as the “ASU”), including any modification
24 thereof, and all of the following types of aircraft:

1 (A) Heavy aircraft that are capable of a
2 takeoff weight of 300,000 pounds or more,
3 whether or not operating at such a weight dur-
4 ing a particular phase of flight.

5 (B) Large aircraft that are capable of a
6 takeoff weight of more than 41,000 pounds,
7 and have a maximum certificated takeoff weight
8 of not more than 300,000 pounds.

9 (C) Small aircraft that have a maximum
10 certificated takeoff weight of 41,000 pounds or
11 less.

12 (b) ANNUAL REPORTS ON PROGRESS OF NEGOTIA-
13 TIONS.—Not later than 180 days after the date of the en-
14 actment of this Act, and annually thereafter, the Secretary
15 shall submit to the Committee on Banking, Housing, and
16 Urban Affairs of the Senate and the Committee on Finan-
17 cial Services of the House of Representatives—

18 (1) a report on the progress of any negotiations
19 described in subsection (a)(1), until the Secretary
20 certifies in writing to the committees that all coun-
21 tries that support subsidized export financing pro-
22 grams have agreed to end the support; and

23 (2) a report on the progress of any negotiations
24 described in subsection (a)(2), including the progress
25 of any negotiations with respect to each classifica-

1 tion of aircraft set forth in subsection (a)(2), until
2 the Secretary certifies in writing to the committees
3 that all countries that support subsidized export fi-
4 nancing programs have agreed to end the support of
5 aircraft covered by the ASU.

6 **SEC. 12. PUBLICATION OF GUIDELINES FOR ECONOMIC IM-**
7 **PACT ANALYSES AND DOCUMENTATION OF**
8 **SUCH ANALYSES.**

9 (a) PUBLICATION OF GUIDELINES.—Not later than
10 180 days after the date of the enactment of this Act, the
11 Export-Import Bank of the United States shall develop
12 and make publicly available methodological guidelines to
13 be used by the Bank in conducting economic impact anal-
14 yses or similar studies under section 2(e) of the Export-
15 Import Bank Act of 1945. In developing the guidelines,
16 the Bank shall take into consideration any relevant guid-
17 ance from the Office of Management and Budget.

18 (b) MAINTENANCE OF DOCUMENTATION.—Section
19 2(e)(7) of the Export-Import Bank Act of 1945 (12
20 U.S.C. 635(e)(7)) is amended by redesignating subpara-
21 graphs (E) and (F) as subparagraphs (F) and (G), respec-
22 tively, and inserting after subparagraph (D) the following:

23 “(E) MAINTENANCE OF DOCUMENTA-
24 TION.—The Bank shall maintain documentation
25 relating to economic impact analyses and simi-

1 lar studies conducted under this subsection in a
2 manner consistent with the Standards for Inter-
3 nal Control of the Federal Government issued
4 by the Comptroller General of the United
5 States.”.

6 **SEC. 13. REPORT ON IMPLEMENTATION OF RECOMMENDA-**
7 **TIONS OF THE GOVERNMENT ACCOUNT-**
8 **ABILITY OFFICE.**

9 Not later than 180 days after the date of the enact-
10 ment of this Act, the Export-Import Bank of the United
11 States shall submit to the Committee on Banking, Hous-
12 ing, and Urban Affairs of the Senate and the Committee
13 on Financial Services of the House of Representatives a
14 report on the implementation or rejection by the Bank of
15 the recommendations contained in the report of the Gov-
16 ernment Accountability Office entitled “Export-Import
17 Bank: Improvements Needed in Assessment of Economic
18 Impact”, dated September 12, 2007 (GAO–07–1071),
19 that includes—

20 (1) a detailed description of the progress made
21 in implementing each such recommendation; and

22 (2) for any such recommendation that has not
23 yet been implemented, an explanation of the reasons
24 the recommendation has not been implemented.

1 **SEC. 14. EXAMINATION OF BANK SUPPORT FOR SMALL**
2 **BUSINESS.**

3 Within 180 days after the date of the enactment of
4 this Act, the Export-Import Bank of the United States
5 shall examine and report to Congress on its current pro-
6 grams, products, and polices with respect to the implemen-
7 tation of its export credit insurance program, delegated
8 lending authority, and direct loans, and any other pro-
9 grams, products, and policies established to support ex-
10 ports from small businesses in the United States, and de-
11 termine the extent to which those policies adequately meet
12 the needs of the small businesses in obtaining Bank fi-
13 nancing to support the maintenance or creation of jobs
14 in the United States through exports, consistent with the
15 requirement that the Bank obtain a reasonable assurance
16 of repayment.

17 **SEC. 15. REVIEW AND REPORT ON DOMESTIC CONTENT**
18 **POLICY.**

19 (a) IN GENERAL.—The Export-Import Bank of the
20 United States shall conduct a review of its domestic con-
21 tent policy for medium- and long-term transactions. The
22 review shall examine and evaluate the effectiveness of the
23 Bank’s policy—

24 (1) in maintaining and creating jobs in the
25 United States; and

1 (2) in contributing to a stronger national econ-
2 omy through the export of goods and services.

3 (b) FACTORS TO CONSIDER.—In conducting the re-
4 view under subsection (a), the Bank shall consider the fol-
5 lowing:

6 (1) Whether the domestic content policy accu-
7 rately captures the costs of United States production
8 of goods and services, including the direct and indi-
9 rect costs of manufacturing costs, parts, compo-
10 nents, materials and supplies, research, planning en-
11 gineering, design, development, production, return
12 on investment, marketing and other business costs
13 and the effect of such policy on the maintenance and
14 creation of jobs in the United States.

15 (2) The ability of the Bank to provide financing
16 that is competitive with the financing provided by
17 foreign export credit agencies and the impact that
18 such financing has in enabling companies with oper-
19 ations in the United States to contribute to a
20 stronger United States economy by increasing em-
21 ployment through the export of goods and services.

22 (3) The effects of the domestic content policy
23 on the manufacturing and service workforce of the
24 United States.

1 (4) Any recommendations the members of the
2 Bank's Advisory Committee have regarding the
3 Bank's domestic content policy.

4 (5) The effect that changes to the Bank's do-
5 mestic content requirements would have in providing
6 companies an incentive to create and maintain oper-
7 ations in the United States and to increase jobs in
8 the United States.

9 (c) REPORT.—Not later than 1 year after the date
10 of the enactment of this Act, the Bank shall submit a re-
11 port on the results of the review conducted under this sec-
12 tion to the Committee on Banking, Housing, and Urban
13 Affairs of the Senate, and the Committee on Financial
14 Services of the House of Representatives.

15 **SEC. 16. IMPROVEMENT OF METHOD FOR CALCULATING**
16 **THE EFFECTS OF BANK FINANCING ON JOB**
17 **CREATION AND MAINTENANCE IN THE**
18 **UNITED STATES.**

19 (a) GAO STUDY.—The Comptroller General of the
20 United States shall conduct a study of the process and
21 methodology used by the Export-Import Bank of the
22 United States (in this section referred to as the “Bank”)
23 to calculate the effects of the provision of financing by
24 the Bank on the creation and maintenance of employment
25 in the United States, determine and assess the basis on

1 which the Bank has so used the methodology, and make
2 any recommendations the Comptroller General deems ap-
3 propriate.

4 (b) REPORT.—Within 1 year after the date of the en-
5 actment of this Act, the Comptroller General shall submit
6 to the Congress and the Bank the results of the study
7 required by subsection (a).

8 (c) IMPLEMENTATION OF RECOMMENDATIONS.—If
9 the report submitted pursuant to subsection (b) includes
10 recommendations, the Bank may establish a more accu-
11 rate methodology of the kind described in subsection (a)
12 based on the recommendations.

13 **SEC. 17. PERIODIC AUDITS OF BANK TRANSACTIONS.**

14 (a) IN GENERAL.—Within 2 years after the date of
15 the enactment of this Act, and periodically (but not less
16 frequently than every 4 years) thereafter, the Comptroller
17 General of the United States shall conduct an audit of
18 the loan and guarantee transactions of the Export-Import
19 Bank of the United States to determine the compliance
20 of the Bank with the underwriting guidelines, lending poli-
21 cies, due diligence procedures, and content guidelines of
22 the Bank.

23 (b) REVIEW OF FRAUD CONTROLS.—The Comp-
24 troller General of the United States shall review the ade-
25 quacy of the design and effectiveness of the controls used

1 by the Export-Import Bank of the United States to pre-
2 vent, detect, and investigate fraudulent applications for
3 loans and guarantees, including by auditing a sample of
4 Bank transactions, and submit to the Congress a written
5 report which contains such recommendations with respect
6 to the controls as the Comptroller General deems appro-
7 priate.

8 **SEC. 18. PROHIBITIONS ON FINANCING FOR CERTAIN PER-**
9 **SONS INVOLVED IN SANCTIONABLE ACTIVI-**
10 **TIES WITH RESPECT TO IRAN.**

11 (a) PROHIBITION ON FINANCING FOR PERSONS
12 THAT ENGAGE IN CERTAIN SANCTIONABLE ACTIVI-
13 TIES.—

14 (1) IN GENERAL.—Beginning on the date that
15 is 180 days after the date of the enactment of this
16 Act, the Board of Directors of the Export-Import
17 Bank of the United States may not approve any
18 transaction that is subject to approval by the Board
19 with respect to the provision by the Bank of any
20 guarantee, insurance, or extension of credit, or the
21 participation by the Bank in any extension of credit,
22 to a person in connection with the exportation of any
23 good or service unless the person makes the certifi-
24 cation described in paragraph (2).

1 (2) CERTIFICATION DESCRIBED.—The certifi-
2 cation described in this paragraph is a certification
3 by a person—

4 (A) that neither the person nor any other
5 person owned or controlled by the person—

6 (i) engages in any activity described
7 in section 5(a) of the Iran Sanctions Act
8 of 1996 (Public Law 104–172; 50 U.S.C.
9 1701 note) for which the person may be
10 subject to sanctions under that Act;

11 (ii) exports sensitive technology, as
12 defined in section 106 of the Comprehen-
13 sive Iran Sanctions, Accountability, and
14 Divestment Act of 2010 (22 U.S.C. 8515),
15 to Iran; or

16 (iii) engages in any activity prohibited
17 by part 560 of title 31, Code of Federal
18 Regulations (commonly known as the “Ira-
19 nian Transactions Regulations”), unless
20 the activity is disclosed to the Office of
21 Foreign Assets Control of the Department
22 of the Treasury when the activity is discov-
23 ered; or

24 (B) if the person or any other person
25 owned or controlled by the person has engaged

1 in an activity described in subparagraph (A),
2 that—

3 (i) in the case of an activity described
4 in subparagraph (A)(i)—

5 (I) the President has waived the
6 imposition of sanctions with respect to
7 the person that engaged in that activ-
8 ity pursuant to section 4(c), 6(b)(5),
9 or 9(c) of the Iran Sanctions Act of
10 1996 (Public Law 104–172; 50
11 U.S.C. 1701 note);

12 (II)(aa) the President has in-
13 voked the special rule described in
14 section 4(e)(3) of that Act with re-
15 spect to the person that engaged in
16 that activity; or

17 (bb)(AA) the person that en-
18 gaged in that activity determines,
19 based on its best knowledge and be-
20 lief, that the person meets the criteria
21 described in subparagraph (A) of such
22 section 4(e)(3) and has provided to
23 the President the assurances de-
24 scribed in subparagraph (B) of that
25 section; and

1 (BB) the Secretary of State has
2 issued an advisory opinion to that per-
3 son that the person meets such cri-
4 teria and has provided to the Presi-
5 dent those assurances; or

6 (III) the President has deter-
7 mined that the criteria have been met
8 for the exception provided for under
9 section 5(a)(3)(C) of the Iran Sanc-
10 tions Act of 1996 to apply with re-
11 spect to the person that engaged in
12 that activity; or

13 (ii) in the case of an activity described
14 in subparagraph (A)(ii), the President has
15 waived, pursuant to section 401(b)(1) of
16 the Comprehensive Iran Sanctions, Ac-
17 countability, and Divestment Act of 2010
18 (22 U.S.C. 8551(b)(1)), the application of
19 the prohibition under section 106(a) of
20 that Act (22 U.S.C. 8515(a)) with respect
21 to that person.

22 (b) PROHIBITION ON FINANCING.—Beginning on the
23 date that is 180 days after the date of the enactment of
24 this Act, the Board of Directors of the Export-Import
25 Bank of the United States may not approve any trans-

1 action that is subject to approval by the Board with re-
2 spect to the provision by the Bank of any guarantee, in-
3 surance, or extension of credit, or the participation by the
4 Bank in any extension of credit, in connection with a fi-
5 nancing in which a person that is a borrower or controlling
6 sponsor, or a person that is owned or controlled by such
7 borrower or controlling sponsor, is subject to sanctions
8 under section 5(a) of the Iran Sanctions Act of 1996
9 (Public Law 104–172; 50 U.S.C. 1701 note).

10 (c) ADVISORY OPINIONS.—

11 (1) AUTHORITY.—The Secretary of State is au-
12 thorized to issue advisory opinions described in sub-
13 section (a)(2)(B)(i)(II).

14 (2) NOTICE TO CONGRESS.—If the Secretary
15 issues an advisory opinion pursuant to paragraph
16 (1), the Secretary shall notify the appropriate con-
17 gressional committees of the opinion not later than
18 30 days after issuing the opinion.

19 (d) DEFINITIONS.—In this section:

20 (1) APPROPRIATE CONGRESSIONAL COMMIT-
21 TEES; PERSON.—The terms “appropriate congres-
22 sional committees” and “person” have the meanings
23 given those terms in section 14 of the Iran Sanc-
24 tions Act of 1996 (Public Law 104–172; 50 U.S.C.
25 1701 note).

1 (2) CONTROLLING SPONSOR.—The term “con-
2 trolling sponsor” means a person providing control-
3 ling direct private equity investment (excluding in-
4 vestments made through publicly held investment
5 funds, publicly held securities, public offerings, or
6 similar public market vehicles) in connection with a
7 financing.

8 **SEC. 19. USE OF PORTION OF BANK SURPLUS TO UPDATE**
9 **INFORMATION TECHNOLOGY SYSTEMS.**

10 Section 3 of the Export-Import Bank Act of 1945
11 (12 U.S.C. 635a) is amended by adding at the end the
12 following:

13 “(j) AUTHORITY TO USE PORTION OF BANK SUR-
14 PLUS TO UPDATE INFORMATION TECHNOLOGY SYS-
15 TEMS.—

16 “(1) IN GENERAL.—Subject to paragraphs (3)
17 and (4), the Bank may use an amount equal to 1.25
18 percent of the surplus of the Bank during fiscal
19 years 2012, 2013, and 2014 to—

20 “(A) seek to remedy any of the operational
21 weakness and risk management vulnerabilities
22 of the Bank which are the result of the infor-
23 mation technology system of the Bank;

1 “(B) remedy data fragmentation, enhance
2 information flow throughout the Bank, and
3 manage data across the Bank; and

4 “(C) enhance the operational capacity and
5 risk management capabilities of the Bank to
6 better enable the Bank to increase exports and
7 grow jobs while protecting the taxpayer.

8 “(2) SURPLUS.—In paragraph (1), the term
9 ‘surplus’ means the amount (if any) by which—

10 “(A) the sum of the interest and fees col-
11 lected by the Bank; exceeds

12 “(B) the sum of—

13 “(I) the funds set aside to cover ex-
14 pected losses on transactions financed by
15 the Bank; and

16 “(ii) the costs incurred to cover the
17 administrative expenses of the Bank.

18 “(3) LIMITATION.—The aggregate of the
19 amounts used in accordance with paragraph (1) for
20 fiscal years 2012, 2013, and 2014 shall not exceed
21 \$20,000,000.

22 “(4) SUBJECT TO APPROPRIATIONS.—The au-
23 thority provided by paragraph (1) may be exercised
24 only to such extent and in such amounts as are pro-
25 vided in advance in appropriations Acts.”.

1 **SEC. 20. MODIFICATIONS RELATING TO THE ADVISORY**
2 **COMMITTEE.**

3 (a) REPRESENTATION OF THE TEXTILE INDUS-
4 TRY.—Section 3(d)(1)(B) of the Export-Import Bank Act
5 of 1945 (12 U.S.C. 635a(d)(1)(B)) is amended by striking
6 “and State government” inserting “State government, and
7 the textile industry”.

8 (b) ACCESS TO BANK PRODUCTS BY THE TEXTILE
9 INDUSTRY.—

10 (1) CONSIDERATION BY ADVISORY COM-
11 MITTEE.—Section 3(d) of such Act (12 U.S.C.
12 635a(d)) is amended by adding at the end the fol-
13 lowing:

14 “(5) In carrying out paragraph (4), the Advisory
15 Committee shall consider ways to promote the financing
16 of Bank transactions for the textile industry, consistent
17 with the requirement that the Bank obtain a reasonable
18 assurance of repayment, and determine ways to—

19 “(A) increase Bank support for the exports of
20 textile components or inputs made in the United
21 States; and

22 “(B) support the maintenance, promotion and
23 expansion of jobs in the United States that are crit-
24 ical to the manufacture of textile components and
25 inputs.”.

1 (2) ANNUAL REPORT TO CONGRESS ON ADVI-
2 SORY COMMITTEE DETERMINATIONS.—Section 8 of
3 such Act (12 U.S.C. 635g), as amended by sections
4 6 and 10 of this Act, is amended by adding at the
5 end the following:

6 “(i) ACCESS TO BANK PRODUCTS BY THE TEXTILE
7 INDUSTRY.—The Bank shall include in its annual report
8 to the Congress under subsection (a) of this section a re-
9 port on the determinations made by the Advisory Com-
10 mittee under section 3(d)(5) in the year covered by the
11 report.”.

12 **SEC. 21. FINANCING FOR GOODS MANUFACTURED IN THE**
13 **UNITED STATES USED IN GLOBAL TEXTILE**
14 **AND APPAREL SUPPLY CHAINS.**

15 (a) ANALYSIS OF TEXTILE INDUSTRY USE OF BANK
16 PRODUCTS.—The Export-Import Bank of the United
17 States (in this section referred to as the “Bank”) shall
18 conduct a study of the extent to which the products of-
19 fered by the Bank are available and used by manufactur-
20 ers in the United States that export goods manufactured
21 in the United States used as components in global textile
22 and apparel supply chains. In conducting the study, the
23 Bank shall examine the following:

24 (1) Impediments to use of Bank products by
25 such firms.

1 (2) The number of jobs in the United States
2 that are supported by the export of such component
3 parts and the degree to which access to financing
4 will increase exports.

5 (3) Specific proposals for how the Bank, using
6 its authority and products, could provide the financ-
7 ing, including through risk-sharing with other export
8 credit agencies and other third parties.

9 (4) Ways in which the Bank can take into ac-
10 count the full global textile and apparel supply
11 chain—in particular, the ultimate purchase, and ul-
12 timate United States-based purchaser, of the fin-
13 ished good, that would result from the supply
14 chain—in making credit and risk determinations
15 and the creditworthiness of the ultimate purchaser.

16 (5) Proposals for new products the Bank could
17 offer to provide the financing, including—

18 (A) the extent to which the Bank is au-
19 thorized to offer new products;

20 (B) the extent to which the Bank would
21 need additional authority to offer the new prod-
22 ucts; and

23 (C) specific proposals for changes in law
24 that would enable the Bank to provide such fi-

1 nancing in compliance with the credit and risk
2 standards of the Bank.

3 (b) REPORT.—Within 180 days after the date of the
4 enactment of this Act, the Bank shall submit to the Con-
5 gress a report that contains the results of the study re-
6 quired by subsection (a).

7 (c) ANNUAL REPORTS.—Section 8 of the Export-Im-
8 port Bank Act of 1945 (12 U.S.C. 635g), as amended by
9 sections 6, 10, and 20(b)(2) of this Act, is amended by
10 adding at the end the following:

11 “(j) TEXTILE AND APPAREL SUPPLY CHAIN FINANC-
12 ING.—The Bank shall include in its annual report to the
13 Congress under subsection (a) of this section a description
14 of the success of the Bank in providing effective and rea-
15 sonably priced financing to the United States textile and
16 apparel industry for exports of goods manufactured in the
17 United States that are used as components in global tex-
18 tile and apparel supply chains in the year covered by the
19 report, and steps the Bank has taken to increase the use
20 of Bank products by such firms.”.

21 **SEC. 22. TECHNICAL CORRECTION.**

22 Section 2(b)(2)(B)(ii) of the Export-Import Bank Act
23 of 1945 (12 U.S.C. 635(b)(2)(B)(ii)) is amended by strik-
24 ing subclauses (I), (IV), and (VII) and by redesignating

1 subclauses (II), (III), (V), (VI), (VIII), and (IX) as sub-
2 clauses (I) through (VI), respectively.

3 **SEC. 23. SUB-SAHARAN AFRICA ADVISORY COMMITTEE.**

4 Section 2(b)(9)(B)(iii) of the Export-Import Bank
5 Act of 1945 (12 U.S.C. 635(b)(9)(B)(iii)) is amended by
6 striking “2011” and inserting “2014”.

7 **SEC. 24. DUAL USE EXPORTS.**

8 Section 4 of Public Law 109–438 (12 U.S.C. 635
9 note; 108 Stat. 4376) is amended by striking “2011” and
10 inserting “2014”.

11 **SEC. 25. EFFECTIVE DATE.**

12 Except as provided in section 9(b), this Act and the
13 amendments made by this Act shall take effect on the ear-
14 lier of June 1, 2012, or the date of the enactment of this
15 Act.

Passed the House of Representatives May 9, 2012.

Attest:

KAREN L. HAAS,

Clerk.

Calendar No. 396

112TH CONGRESS
2^D SESSION

H. R. 2072

AN ACT

To reauthorize the Export-Import Bank of the
United States, and for other purposes.

MAY 9, 2012

Received; read twice and placed on the calendar