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Export-Import Bank Impervious to Reform

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Despite overwhelming evidence to the contrary, some Members of Congress believe that a few legislative tweaks will remedy all that is wrong with the Export-Import Bank (Ex-Im).[1] In fact, the pending House bill to reauthorize Ex-Im through 2019 is largely a regurgitation of "reforms" previously mandated by Congress—without appreciable effect. The only meaningful way to remedy Ex-Im's multibillion-dollar risk to taxpayers—and the rampant cronyism the export subsidies perpetrate—is to allow the bank's charter to expire.

Existing law provides for an orderly shutdown of Ex-Im if Congress does not renew the charter by June 30.[2] All existing financing would remain in effect until the contractual expiration dates.

Opposition to reauthorization is mounting as legislators and the public become more aware of the bank's mismanagement, dysfunction, and risk, all of which has repeatedly been documented by the Office of Inspector General[3] and the Government Accountability Office.[4] Nonetheless, legislation introduced on January 28 by Representative Stephen Fincher (R–TN) would reauthorize the Ex-Im charter through 2019 and mandate changes in some bank procedures.[5]

Bank procedures certainly could be improved, but Ex-Im officials have thwarted past attempts by Congress to impose reforms. More important, no amount of bureaucratic tinkering can shield taxpayers from bailouts[6] in the event that bank reserves run dry—as occurred in the 1980s—nor will it protect American businesses from the disadvantages of the U.S. government subsidizing their foreign competitors.[7] The *only* remedy for Ex-Im's worst consequences is to shut it down.

Fincher makes much of the fact that he has garnered 57 co-sponsors for his bill.[8] But the support of these Members actually demonstrates the very cronyism that needs to be ended. Ending such cronyism would be a step toward achieving opportunity for all and favoritism for none.[9]

For example, Representative Aaron Schock (R–IL) claims to oppose government subsidies—with the exception of the $1.6 billion in subsidized Ex-Im financing that benefitted the Caterpillar, Inc., operations in his district between 2010 and 2014.[10] (The company is the world's leading manufacturer of construction and mining equipment, with a market cap of nearly $52 billion.)

Schock's district also includes Komatsu American Corp., a U.S. subsidiary of a Japanese conglomerate with annual revenues exceeding $55 billion. This, the world's second-largest manufacturer and supplier of earth-moving equipment, benefitted from Ex-Im financing in excess of $460 million in 2013 alone.

Representative Glenn Thompson (R–PA) also a co-sponsor, recently pledged to "support stronger economic growth and upward mobility for individuals and families."[11] But the economics literature is virtually unanimous in finding that subsidies, in general, and export subsidies, in particular, are detrimental to the economy. Thompson's dis-

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trict includes General Electric International, which has benefitted from more than $5 billion in Ex-Im financing since 2007.

Co-sponsor Tom Cole (R–OK) argues that Ex-Im is necessary for allowing small business to grow[12]—even though the bank serves just 0.5 percent of small businesses nationwide. Cole's district includes Halliburton Energy Services, a subsidiary of the oil-drilling giant, which benefited from more than $1.1 billion in subsidized Ex-Im financing in 2008 and 2010 combined.

Each of these examples, along with the multitude of other Ex-Im subsidies for mega-corporations, belies advocates' claims that Ex-Im is a necessity. As it is, the bank finances less than 2 percent of total U.S. exports (by value). The recent record levels of American exports indicate no shortage of private financing.

Fincher states that Ex-Im is "in dire need of major reforms."[13] Changes to bank procedures might have marginal effects on the mismanagement noted in a variety of audits, but there is no reform that would prevent the economic distortions caused by Ex-Im's subsidized financing.[14] Most every government subsidy produces disparity elsewhere in the economy. In the case of Ex-Im, the losers include domestic companies that are left to compete against foreign firms and foreign governments bankrolled by U.S. taxpayers.

Many provisions in the Fincher bill (H.R. 597) duplicate existing policies. Following are descriptions of the major elements in the legislation compared to current policy.

Risk

H.R. 597: The bill calls for the appointment of a chief risk officer tasked to work with Ex-Im's board of directors' Audit Committee to develop, implement, and manage processes to reduce risks to the bank portfolio, which currently totals more than $140 billion. The bill directs the Office of Inspector General to audit the risk-management procedures. (Curiously, the legislation also increases risk by dra-

1. The bank funnels billions of taxpayer dollars each year to overseas businesses for the purchase of American products.
2. Congress agreed to a short-term, nine-month Ex–Im reauthorization last fall when the measure was tied to a stopgap spending bill to avert a government shutdown.
3. Diane Katz, "Mismanagement of Export-Import Bank Invites Fraud," Heritage Foundation testimony, July 29, 2014, http://www.heritage.org/research/testimony/2014/08/mismanagement-of-export-import-bank-invites-fraud.
4. Diane Katz, "The Export-Import Bank: A Government Outfit Mired in Mismanagement," Heritage Foundation *Issue Brief* No. 4208, April 29, 2014, http://thf_media.s3.amazonaws.com/2014/pdf/IB4208.pdf.
5. H.R. 597, The Reform Exports and Expand the American Economy Act, 114th Congress.
6. Diane Katz, "Oops: The Export-Import Bank Is Actually Losing Taxpayer Money," The Daily Signal, May 22, 2014, http://dailysignal.com/2014/05/22/export-import-bank-actually-losing-taxpayer-money/.
7. Daniel J. Ikenson, "The Export-Import Bank and Its Victims: Which Industries and States Bear the Brunt?" Cato Institute *Policy Analysis* No. 756, September 10, 2004, http://www.cato.org/publications/policy-analysis/export-import-bank-its-victims-which-industries-states-bear-brunt (accessed February 20, 2015).
8. News release, "58 Members of Congress Support Ex-Im Reform Legislation," U.S. Representative Stephen Fincher, January 28, 2015, http://fincher.house.gov/media-center/press-releases/58-members-of-congress-support-ex-im-reform-legislation (accessed February 20, 2015).
9. Heritage Action for America, "Opportunity for All, Favoritism to None," http://heritageaction.com/opportunityforall/.
10. "Schock Criticizes Government Subsidies But Supports Export-Import Bank," *Illinois Review*, video, August 7, 2014, http://illinoisreview.typepad.com/illinoisreview/2014/08/schock-criticizes-government-subsidies-but-supports-export-import-bank.html (accessed February 20, 2015).
11. News release, "Thompson Sworn in to 114th Congress, Discusses Legislative & Committee Priorities," Congressman Glen "GT" Thompson," January 6, 2015, http://thompson.house.gov/press-release/thompson-sworn-114th-congress-discusses-legislative-committee-priorities (accessed February 20, 2015).
12. Tom Cole, "Ex-Im Bank Benefits American Economy," *The Journal Record*, September 22, 2014, http://journalrecord.com/2014/09/22/cole-ex-im-bank-benefits-american-economy-opinion/#ixzz3E97AfC50 (accessed February 20, 2015).
13. News release, "58 Members of Congress Support Ex-Im Reform Legislation."
14. Veronique de Rugy, "The Unseen Costs of the Export-Import Bank," *U.S. News & World Report*, July 7, 2014, http://www.usnews.com/opinion/economic-intelligence/2014/07/07/export-import-bank-hurts-businesses-and-taxpayers (accessed February 20, 2015).

matically expanding the authority of Ex-Im advisors to unilaterally approve applications for loans, credit guarantees, and insurance.)

Current Policy: Bank officials hired a chief risk officer in 2013, and established an Enterprise Risk Committee in fiscal year 2014 to oversee a "comprehensive and systematic risk management regime" across all bank operations (not just the portfolio). A prior reauthorization required an analysis of the potential for increased or decreased risk of loss to the bank as a result of rapid portfolio growth and changes in its composition.

Ethics

H.R. 597: The bill creates the position of chief ethics officer, and establishes an Office of Ethics under statute. The ethics officer is directed to draft a code of ethics. Bank employees must certify annually that they have "read, understand, and complied with and will continue to comply with the Code of Ethics" as well as the financial disclosures already required by law.

Current Policy: Ex-Im's Office of General Council is designated as the chief ethics official. Bank employees must comply with the Standards of Ethical Conduct for Employees of the Executive Branch and the Supplemental Standards of Ethical Conduct for Employees of the Export-Import Bank. Depending on position, they may also be subject to the Ethics in Government Act and the Foreign Corrupt Practices Act.

Fraud

H.R. 597: The bill requires the comptroller general every four years to review bank controls to prevent, detect, and investigate fraud, including an audit of sample transactions. Following the review, the comptroller general is required to submit a report of the findings to the House Committees on Financial Services and Appropriations, and the Senate Committees on Banking, Housing, and Urban Affairs, and Appropriations.

Current Policy: The bank must set due-diligence standards and require all delegated lenders to implement "Know Your Customer" practices. The comptroller general must review the adequacy of the due-diligence standards and submit the findings to Congress.

Information Technology

H.R. 597: The bill permits the expenditure of a portion of funds available for administrative expenses to improve Ex-Im's systems infrastructure.

Current Policy: The bank is permitted to use an amount equal to 1.25 percent of the surplus of the bank to remedy operational weaknesses in the information technology system.

Audits

H.R. 597: The bill requires the comptroller general to conduct an annual audit of Ex-Im programs. It also directs the board's Audit Committee to develop a program for routine audits.

Current Policy: The comptroller general conducts periodic audits of bank programs to determine compliance with underwriting guidelines, lending policies, due-diligence procedures and content guidelines. The comptroller general also reviews the adequacy of fraud controls and submits a report and recommendations to Congress.

Private Finance

H.R. 597: The bill directs the Federal Reserve Board to issue semiannual reports to Congress on the terms and conditions of private-export financing. Ex-Im Bank officials must issue annual reports to Congress on the steps taken to avoid crowding out private financing. Applicants (other than foreign banks) must demonstrate that they have unsuccessfully sought to obtain competitive financing, or that there is financing available to the applicant from a foreign export credit agency for comparable foreign goods and services.

Current Policy: Ex-Im, in the exercise of its functions, is directed to supplement and encourage, and not compete with, private capital. The bank is also directed to consider the need to involve private capital, as well as the cost of the transaction compared to private financing. The bank must accord equal opportunity to export agents and managers, independent export firms, export-trading companies, and small commercial banks in the formulation and implementation of its programs. The bank is supposed to direct its efforts toward financing export transactions that are unlikely to proceed without Ex-Im support.

Ending Export-Credit Financing

H.R. 597: The bill calls on the U.S. President to initiate and pursue negotiations with both Organization for Economic Co-operation Development (OECD) and non-OECD countries to reduce, with the "possible" goal of eliminating, subsidized export financing programs within 10 years. The bill directs the President to submit to Congress a strategy for ending all forms of government export subsidies, and to submit a report on the progress of negotiations to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services.

Current Policy: The Secretary of the Treasury is required to initiate and pursue negotiations with OECD and non-OECD countries to substantially reduce, with the ultimate goal of eliminating, subsidized export financing and other forms of export subsidies. The Treasury Secretary is also required to pursue negotiations with all countries that finance air carrier aircraft, with the goal of substantially reducing and, ultimately, eliminating, aircraft export credit financing (for all aircraft covered by the 2007 Sector Understanding on Export Credits for Civil Aircraft).[15] The Secretary is obligated to submit a report on the progress of negotiations to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services.

In spite of the "reforms" instituted by previous Congresses—reforms that mirror those in H.R. 597—Ex-Im has failed to fully comply with risk-management standards. There has been a recent uptick in allegations of serious misconduct by Ex-Im Bank employees. The Office of Inspector General has identified deficiencies in internal controls that reduce the reliability of the bank to ferret out improper payments. There also are weaknesses in the bank's "Character, Reputational, Transactional Integrity" screening of applicants, as well as a pattern of insufficient due diligence by delegated lenders, specifically lenders with a history of defaulted transactions.

It may seem understandable that lawmakers regard Ex-Im as helpful to the businesses in their district. They would do well to consider the various drawbacks related to the subsidies, including distortions in the distribution of labor and capital, higher consumer costs, and the disadvantages to domestic firms that do not receive the subsidies that flow to their foreign competitors. In sum, it is time to recognize the huge difference between support for big business and support for free enterprise.

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15. OECD, "Sector Understanding on Export Credits for Civil Aircraft," July 27, 2007, http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=tad/pg(2007)4/FINAL&doclanguage=en (accessed February 20, 2015).