

May 23, 2019

MEMORANDUM NO:

OIG-O-19-01

To: Kimberly A. Reed
President and Chairman

From: Jennifer Fain
Assistant Inspector General for Audits and Evaluations, OIG 

Subject: EXIM's Implementation of Key Provisions of the 2015 Reform and Reauthorization Act

INTRODUCTION

This memorandum report presents the results of our assessment of the Export-Import Bank of the United States' (EXIM or the Bank) implementation of the key provisions of the Export-Import Bank Reform and Reauthorization Act of 2015 (2015 Reauthorization Act or the Act).¹ The objective of this review was to assess EXIM's actions to implement the key provisions of the Act. This memorandum does not contain any recommendations for corrective action.

This assessment was initiated in part to address the statutory requirement in the Act for EXIM OIG to review the portfolio risk management procedures of the Bank, including the duties of the Chief Risk Officer.² Accordingly, we initiated the assessment as part of our annual work.

SCOPE AND METHODOLOGY

To answer our objective we reviewed applicable federal laws, regulations, as well as EXIM's applicable policies, procedures and guidelines, and related documents. We also interviewed EXIM officials and Department of Treasury officials to gain an understanding of a provision's intent and the Bank's implementation of the Act. This was a limited scope review, where the assessment focused on provisions that required actionable implementation by EXIM. The narrow scope was developed to assess EXIM's operations and actions in implementing the key provisions of the 2015 Reauthorization Act. There are five categories listed as "Title" in the Act which breakdown into 17 provisions that are

¹ See the *Export-Import Bank Reform and Reauthorization Act of 2015*, included in "Division E—Export-Import Bank of the United States" of the "FAST Act," which became public law on December 4, 2015 (Pub. L. No. 114-94) at <https://www.congress.gov/114/bills/hr22/BILLS-114hr22enr.pdf>.

² *Ibid* at sections 51005 and 51007.

identified by section numbers. Out of the 17 sectional provisions, we did not assess three of the provisions, as EXIM is not responsible for acting on or implementing these provisions. The remaining 14 provisions are referred to as “key” provisions. See Appendix B for a summary of the 17 provisions, the actions taken, and the status.

We conducted the assessment from December 2018 through April 2019 at EXIM headquarters in Washington, DC. Our assessment covered the Bank’s operations and activities that occurred during the period December 2015 through March 2019.

This assessment was not an audit or evaluation and therefore was not performed in accordance with the Generally Accepted Government Auditing Standards or the Quality Standards for Inspection and Evaluation. Nonetheless, our approach did not negatively affect our review results. We believe the evidence obtained and reviewed provides a reasonable basis for the results and conclusion of the assessment.

BACKGROUND

Established in 1934 through Executive Order 6581, and subsequently made an independent agency of the United States (U.S.) through congressional charter in 1945, EXIM is a wholly-owned government corporation whose fundamental mission is to aid in the financing and to facilitate the export of U.S. goods and services and contribute to the employment of U.S. workers. EXIM’s charter, reflects the language of its enabling legislation, The Export-Import Bank Act of 1945 (EXIM Act) and its amendments. EXIM’s charter establishes the Bank’s programs and operations and imposes a sun-setting provision on the Bank, directing the agency to terminate on a specified date unless and until it is reauthorized. With the passage of the 2015 Reauthorization Act, the authorization of the Bank’s charter was extended through September 30, 2019.

Our review of the 2015 Reauthorization Act identified 17 provisions, of which the Bank is responsible for 14. The provisions in the Act task EXIM with addressing taxpayer protection, increasing accountability, promoting small business exports, modernizing operations, and a range of other matters. The requirements of the Act varied, for example, it mandated the implementation for a Chief Risk Officer and Chief Ethics Officer while additionally giving authority to the Bank to share risk with other parties. Moreover, the Act mandated additional reporting requirements and gave authority to the Bank to increase its medium-term financing amounts.

EXIM’s Board of Directors (the Board), which consists of five members, are appointed by the President of the United States (U.S.) and confirmed by the U.S. Senate. The responsibilities of the Board, include adopting and amending bylaws as necessary for proper management and functioning of the Bank. By legislation, there are five required Board of Director members, two are the Bank’s President and Vice President. In order to validate meetings or voting actions for any and all business of the Bank, a quorum is required, which consists of three members. From July 2015 to April 2019, the Bank did not have more than two serving board members, thus no quorum existed. Therefore, some of the necessary managing and functioning authorities of the Bank had been on hold. On May 8, 2019, three Board members, which includes the President and Chairman of EXIM, were confirmed by the U.S. Senate and sworn in shortly thereafter by the Bank.

RESULTS OF ASSESSMENT

EXIM generally addressed all of the 14 key provisions outlined in the 2015 Reauthorization Act that fall within its purview. Each provision was assigned to separate working groups by the Bank's General Counsel and senior management. The working groups were led by a senior management official(s) and included staff who held technical knowledge related to the provision(s). To ensure compliance with each provision, EXIM's Deputy General Counsel managed the progression of each working group.

Specifically, of the 14 key provisions, eight are complete because the Bank has implemented or addressed them, five are partially addressed because they are awaiting review and approval by the Board to finalize implementation, and one provision is ongoing because it requires continuous action. The following are three examples of the provisions of the Act, the actions taken by EXIM, and the status:

- Section 53001 requires EXIM to modernize operations by implementing policies for accepting electronic documents and payments within two years for all programs. The Bank did adopt and formalize policies to accept electronic documents and payments, thus this provision is complete.
- Section 51005 requires EXIM to increase accountability by creating the Chief Risk Officer (CRO) position, appointed by the president of the Bank and approved by the Board, to oversee all issues relating to risk within the Bank. The Bank did create a CRO position who was appointed by the president of the Bank to oversee all risk related issues. However, finalization of the appointment of the CRO is pending subject to Board approval.
- Section 51001 requires EXIM to address taxpayer protection by not having at any one time loans, guarantees, and insurance in an aggregate amount in excess of \$135 billion or continue to lend if the default rate exceeds two percent. While the provision is being followed, it is an ongoing task, therefore requires ongoing action by EXIM.

Conclusion

EXIM generally addressed the 14 key provisions outlined in the 2015 Reauthorization Act. Appendix A includes the Bank's response. A summary of the provisions, the actions taken, and the status is included in Appendix B. This memorandum does not contain recommendations.

APPENDIX A: EXIM RESPONSE AND EVALUATION



Reducing Risk. Unleashing Opportunity.

May 22, 2019

Parisa Salehi
Acting Inspector General
Office of the Inspector General
Export-Import Bank of the United States
811 Vermont Avenue, NW
Washington, DC 20571

Dear Ms. Salehi,

Thank you for providing the Export-Import Bank of the United States (“EXIM Bank” or “the Bank”) management with the Office of the Inspector General’s (“OIG”) assessment memorandum of EXIM’s implementation of the key provisions of the Export-Import Bank Reform and Reauthorization Act of 2015 (“2015 Reauthorization Act” or “the Act”), OIG-O-19-01. Management continues to support the OIG’s work which complements the Bank’s efforts to continually improve its processes. EXIM Bank is proud of the strong and cooperative relationship it has with the OIG.

The OIG concluded this assessment with no findings nor recommendations for corrective action.

EXIM Bank appreciates the OIG’s acknowledgment that “The provisions in the Act task EXIM with addressing taxpayer protection, increasing accountability, promoting small business exports, modernizing operations, and a range of other matters” and that EXIM “generally addressed the 14 key provisions outlined in the 2015 Reauthorization Act.”

Further, EXIM values the OIG’s determination that EXIM implemented all of the reforms not requiring Board approval and appreciate the OIG noting that some of the reforms “are awaiting review and approval by the Board to finalize implementation.” With newly sworn in Board quorum, EXIM is working on finalizing the implementation of the remaining reforms.

We thank the OIG for your efforts to ensure the Bank’s policies and procedures continue to improve, as well as the work you do with us to protect EXIM funds from fraud, waste, and abuse. We look forward to strengthening our working relationship and continuing to work closely with the Office of the Inspector General.

Sincerely,

Jeffrey Goettman
Executive Vice President & Chief Operating Officer
Export-Import Bank of the United States

**APPENDIX B: 2015 REAUTHORIZATION ACT –SUMMARY
OF THE PROVISIONS, ACTIONS, AND STATUS**

No.	Section of the Act	Reauthorization Requirements Title LI- Taxpayer Protection and Increased Accountability	Status as of April 8, 2019
1	51001	Exposure Cap: Lowers EXIM’s authorizing limit on aggregate loans, guarantees and insurance to \$135 billion. Freezes the Bank’s lending cap should the default rate exceed two percent.	Ongoing
EXIM’s Actions: For fiscal years 2016 through 2018, EXIM’s exposure cap did not exceed \$135 billion each fiscal year (FY) with \$87 billion in FY 16, \$74 billion in FY 17, and \$60 billion in FY 18. Further, the Bank’s default rate did not exceed two percent in fiscal years 2015 through 2018. The Bank also drafted procedures to manage a potential need for a reduction in its lending cap.			
2	51002	Loss Reserves: Requires the Bank to build and hold in reserve at least 5 percent of the value of its portfolio.	Complete
EXIM’s Actions: For fiscal years 2016, 2017, and 2018, at least five percent of the Bank’s portfolio value was maintained as a reserve. According to its Annual Reports. The Bank reported the overall loss reserves for FY 16 at 5 percent, FY 17 at 5.4 percent, and FY 18 at 6.4 percent.			
3	51003	Review of Fraud Controls and Report: Requires the Government Accountability Office to review fraud controls. Report how the Bank prevents, detects, and investigates fraudulent transactions. Audit a sample of Bank transactions.	GAO Quadrennial Reporting Responsibility
GAO’s Actions: GAO completed its review and issued a report in July 2018.			
4	51004	Office of Ethics: Requires the creation of a Chief Ethics Officer position appointed by the President of the Bank and approved by the Board to serve as the designated ethics official and establish standards of official conduct.	Pending Board Approval
EXIM’s Actions: The Bank hired a qualified Chief Ethics Officer (CEO) who setup the office and established standards of official conduct. Finalization of the appointment of the CEO is pending subject to the Board’s approval.			
5	51005	Chief Risk Officer: Requires the creation of a CRO position appointed by the President of the Bank and approved by the Board to oversee all risk related issues.	Pending Board Approval
EXIM’s Actions: The Bank hired a qualified CRO who setup the office, established standards of official conduct, and provided a structure for the Office of CRO to oversee all issues related to risk within the Bank. Finalization of the appointment of the CRO is pending subject to the Board’s approval.			
6	51006	Risk Management Committee (RMC): Requires the termination of the audit committee and the creation of a risk management committee comprised of the Board to oversee stress testing and comprehensive risk exposure of the Banks portfolio and review default reports to Congress.	Pending Board Approval

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No.	Section of the Act	Reauthorization Requirements Title LI- Taxpayer Protection and Increased Accountability	Status as of April 8, 2019
<p>EXIM’s Actions: According to Bank officials, the RMC has been in operation since February 2016. Since then the committee has held quarterly meetings to review stress test models, the Bank’s <i>Default Rate</i> report, the <i>Portfolio Overview</i> report, the <i>Industry Risk</i> report, the <i>Region Risk</i> report, and internal monitoring strategies. In the absence of EXIM’s Chairman, the role of the RMC leader has been delegated to members of senior leadership. Additionally, the termination of the Audit Committee occurred in March 2016. Finalization of the Bank’s actions are pending subject to Board approval.</p>			
7	51007	Independent Audit of Bank Portfolio: Requires the Inspector General to conduct an audit or evaluation of the risk management procedures, including review of the CRO duties, of the Bank no less than once every three years.	OIG Triennial Reporting Responsibility
<p>EXIM OIG’s Actions: The OIG completed an evaluation of the Bank’s risk management procedures (OIG-EV-16-01, dated July 28, 2016) and an evaluation of the CRO duties (OIG-EV-17-01, dated December 2, 2016).</p>			
8	51008	Pilot Program for Reinsurance. (A) Transactional Risk-Sharing by Private Lenders: Allows the Bank to institute a risk sharing pilot program and enter a risk sharing contract or other agreement not to exceed \$1 million in aggregate for a guarantee, insurance, credit, or other extension of credit. Annually Report to Congress a detailed analysis of the use of the pilot program.	Complete
		<p>EXIM’s Actions: The Bank set up the pilot program, established a template for agreements or contracts, and provided progress updates in the 2016, 2017, and 2018 <i>Annual Report on Pilot Program for Reinsurance</i>. The Bank considers that it has already utilized risk sharing through their existing co-financing agreements with other export credit agencies having 5.2 percent in 2016, 5.9 percent in 2017, and 5.7 percent in 2018 shared on transactions primarily involving wide-body aircraft. Additionally, as of 2018, EXIM received \$12.6 million of reinsurance on an exporter’s transaction and it was also paid for by the exporter.</p>	
		Pilot Program for Reinsurance. (B) Portfolio Reinsurance Risk-Sharing by Private Lenders: Allows the Bank to institute a risk sharing pilot program but limits the aggregate amount of risk sharing liability to less than \$10 billion. Annually report to Congress a detailed analysis of the use of the pilot program.	Complete
		<p>EXIM’s Actions: The Bank set up the pilot program, completed the bidding process, and selected a private insurer to reinsure \$1 billion of future transportation deals within the Bank. EXIM provided updates on the progress of the risk sharing pilot program in the 2016, 2017, and 2018 <i>Annual Report on Pilot Program for Reinsurance</i>.</p>	

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No.	Section of the Act	Reauthorization Requirements Title LI- Taxpayer Protection and Increased Accountability	Status as of April 8, 2019
9	52001	Increase Small Business Lending: Increases the Bank's small business lending target from 20 percent to 25 percent.	Complete
EXIM's Actions: The Bank established strategic priorities and analyzed its small business portfolio. The Bank made 53.2 percent, 63.5 percent, and 66.0 percent of its aggregate financing authority available to finance small business exports in FYs 2016, 2017, and 2018.			
10	52002	Report on Programs for Small and Medium-Sized Business: Requires the Bank to include in its annual report to Congress its efforts to support businesses with less than \$250 million in annual sales.	Complete
EXIM's Actions: In the 2017 and 2018 <i>Annual Report</i> the Bank states that, "all of EXIM's programs (financing products) are available to assist businesses with less than \$250 million in annual sales" and included a brief description of each of the Bank's major product groups and links to further details about those products.			
11	53001	Electronic Payments and Documents: Requires the Bank to implement policies for accepting electronic document and payments.	Complete
EXIM's Actions: The Bank adopted the <i>Acceptance of Electronic Documentation and Acceptance of Electronic Payment</i> policies, which formalized the Bank's practices of accepting transaction documents and payments electronically.			
12	53002	Reauthorization of Information Technology Updating: Allows the Bank to continue using administrative funds of up to 1.25 percent of the Bank's surplus (but not more than \$20 million) for technology systems infrastructure.	Complete
EXIM's Actions: EXIM elected not to use 1.25 percent of its surplus, and instead to update its IT systems to comply with appropriations law which instructs the Bank to charge fees to cover necessary expenses. From FY 2015 to December 2018, EXIM spent \$9,262,516.97 updating its IT systems.			
13	54001	Extension of Authority: Extends the Bank's authority through September 30, 2019.	Pending Board Approval
EXIM's Actions: The Bank incorporated language into its Charter ³ that precisely reflect the extension authority granted by the Reauthorization Act of 2015.			
14	54002	Certain Updated Loan Terms and Amounts. (A) Loan Terms for Medium-Term Financing: Increases the Bank's maximum loan size for medium-term financing from \$10 million to \$25 million.	Pending Board Approval

³ EXIM's Charter mirrors the mandated language as cited in its enabling legislation and amendments to establish programs and perform operational functions.

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No.	Section of the Act	Reauthorization Requirements Title LI- Taxpayer Protection and Increased Accountability	Status as of April 8, 2019
15	55001	Prohibition on Discrimination Based on Industry: Prohibits the Bank from denying financing of an application or promulgating policies that discriminate solely based on the industry, sector, or business involved in the application.	Complete
EXIM's Actions: According to the declined transactions data obtained from EXIM for FY 2015 through FY 2018, the Bank only declined two transactions. Our assessment determined that neither of the two deals were coal or energy sources as defined in Section 55001. Additionally, based on the decision memorandum neither deal appeared to have any discriminatory basis for the denied insurance application but rather appeared to be based on the principle owner's high risk and the exporters' non-compliance with EXIM content and insurance policy requirements.			
16	55002	Negotiations to End Export Credit Financing: Requires the President of the United States to pursue negotiations to end export credit financing and requires various reports for creating a strategy to end government-supported export subsidies or export-financing programs.	U.S. Treasury is the Responsible Party for this Section
President of the United States' Actions: According to the delegated party official in the Secretary of Treasury office the report and strategy are produced annually as required by the 55002 legislation.			
17	55003	Study of Financing for Information and Communication: Requires the Bank to conduct a study on the use of its products by information and communications technology (ICT) and services and goods companies.	Complete
EXIM's Actions: The Bank conducted the required study and reported the results of the ICT study to Congress on June 1, 2016, within the reporting deadline. The study revealed based on ICT representative's feedback that EXIM's product offering is accessible and used by the ICT industry. However, ICT representatives' proposed that EXIM decrease financing criteria in order to increase its product usage in the ICT industry, but the Department of Labor and EXIM identified the proposals as contrary to the Bank's mission and charter requirements. Additionally, EXIM did identify outreach activities to pursue that would potentially support an increase of ICT exporters. However, due to the lack of a quorum and permanent leadership EXIM has been unable to pursue the activities.			

Source: 2015 Reauthorization Act and EXIM

ACKNOWLEDGEMENTS

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