

Union Calendar No. 216

116TH CONGRESS
1ST SESSION

H. R. 4863

[Report No. 116–271]

To promote the competitiveness of the United States, to reform and reauthorize the United States Export Finance Agency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 2019

Ms. WATERS (for herself, Mr. HECK, Mr. SAN NICOLAS, Mrs. CAROLYN B. MALONEY of New York, Ms. VELÁZQUEZ, Mr. SHERMAN, Mr. MEEKS, Mr. DAVID SCOTT of Georgia, Mr. CLAY, Mr. GREEN of Texas, Mr. CLEAVER, Mr. PERLMUTTER, Mr. FOSTER, Mrs. BEATTY, Mr. VARGAS, Mr. MCADAMS, Ms. WEXTON, Mr. LYNCH, Ms. ADAMS, Ms. DEAN, Ms. GARCIA of Texas, Mr. PHILLIPS, and Mr. STANTON) introduced the following bill; which was referred to the Committee on Financial Services

NOVEMBER 8, 2019

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on October 28, 2019]

A BILL

To promote the competitiveness of the United States, to reform and reauthorize the United States Export Finance Agency, 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.**

4 *This Act may be cited as the “United States Export*
 5 *Finance Agency Act of 2019”.*

6 **SEC. 2. TABLE OF CONTENTS.**

7 *The table of contents of this Act is as follows:*

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Renaming of the Export-Import Bank of the United States.

Sec. 4. Authorization period.

Sec. 5. Aggregate loan, guarantee, and insurance authority.

Sec. 6. Office of Minority and Women Inclusion.

Sec. 7. Support for United States territories.

Sec. 8. Alternative procedures during quorum lapse.

Sec. 9. Strengthening support for U.S. small businesses.

Sec. 10. Enhancing flexibility to respond to predatory export financing by China.

Sec. 11. Restriction on financing for certain entities.

Sec. 12. Prohibitions on financing for certain persons involved in sanctionable activities.

*Sec. 13. Promoting renewable energy exports, environmental and social stand-
ards, and accountability.*

Sec. 14. Reinsurance program.

Sec. 15. Information technology systems.

Sec. 16. Administratively determined pay.

8 **SEC. 3. RENAMING OF THE EXPORT-IMPORT BANK OF THE**
 9 **UNITED STATES.**

10 *(a) IN GENERAL.—The Export-Import Bank of the*
 11 *United States is hereby redesignated as the United States*
 12 *Export Finance Agency.*

13 *(b) REFERENCES.—Any reference to the Export-Im-*
 14 *port Bank of the United States in any law, rule, regulation,*
 15 *certificate, directive, instruction, or other official paper in*
 16 *force on the date of the enactment of this Act is deemed*
 17 *a reference to the United States Export Finance Agency.*

1 **SEC. 4. AUTHORIZATION PERIOD.**

2 *Section 7 of the Export-Import Bank Act of 1945 (12*
 3 *U.S.C. 635f) is amended by striking “2019” and inserting*
 4 *“2029”.*

5 **SEC. 5. AGGREGATE LOAN, GUARANTEE, AND INSURANCE**
 6 **AUTHORITY.**

7 *Section 6(a)(2) of the Export-Import Bank Act of 1945*
 8 *(12 U.S.C. 635e(a)(2)) is amended to read as follows:*

9 *“(2) APPLICABLE AMOUNT DEFINED.—In this*
 10 *subsection, the term ‘applicable amount’ means—*

11 *“(A) \$145,000,000,000 for fiscal year 2020;*

12 *“(B) \$150,000,000,000 for fiscal year 2021;*

13 *“(C) \$155,000,000,000 for fiscal year 2022;*

14 *“(D) \$160,000,000,000 for fiscal year 2023;*

15 *“(E) \$165,000,000,000 for fiscal year 2024;*

16 *“(F) \$170,000,000,000 for fiscal year 2025;*

17 *and*

18 *“(G) \$175,000,000,000 for each of fiscal*
 19 *years 2026 through 2029.”.*

20 **SEC. 6. OFFICE OF MINORITY AND WOMEN INCLUSION.**

21 *(a) IN GENERAL.—Section 3(i) of the Export-Import*
 22 *Bank Act of 1945 (12 U.S.C. 635a(i)) is amended to read*
 23 *as follows:*

24 *“(i) OFFICE OF MINORITY AND WOMEN INCLUSION.—*

25 *“(1) ESTABLISHMENT.—The Agency shall estab-*
 26 *lish an Office of Minority and Women Inclusion*

1 *which shall be responsible for carrying out this sub-*
2 *section and all matters relating to diversity in man-*
3 *agement, employment, and business activities in ac-*
4 *cordance with such standards and requirements as the*
5 *Director of the Office shall establish.*

6 “(2) *TRANSFER OF RESPONSIBILITIES.—The*
7 *Agency shall ensure that, to the extent that the re-*
8 *sponsibilities described in paragraph (1) (or com-*
9 *parable responsibilities) were, as of the date of the en-*
10 *actment of this subsection, performed by another office*
11 *of the Agency, the responsibilities shall be transferred*
12 *to the Office.*

13 “(3) *DUTIES WITH RESPECT TO CIVIL RIGHTS*
14 *LAWS.—The responsibilities described in paragraph*
15 *(1) shall not include enforcement of statutes, regula-*
16 *tions, or executive orders pertaining to civil rights,*
17 *except that the Director of the Office shall coordinate*
18 *with the President of the Agency, or the designee of*
19 *the President of the Agency, regarding the design and*
20 *implementation of any remedies resulting from viola-*
21 *tions of the statutes, regulations, or executive orders.*

22 “(4) *DIRECTOR.—*

23 “(A) *IN GENERAL.—The Director of the Of-*
24 *fice shall be appointed by, and shall report di-*
25 *rectly to, the President of the Agency. The posi-*

tion of Director of the Office shall be a career reserved position in the Senior Executive Service, as that position is defined in section 3132 of title 5, United States Code, or an equivalent designation.

“(B) DUTIES.—The Director shall—

“(i) develop standards for equal employment opportunity and the racial, ethnic, and gender diversity of the workforce and senior management of the Agency;

“(ii) develop standards for increased participation of minority-owned and women-owned businesses in the programs and contracts of the Agency, including standards for coordinating technical assistance to the businesses; and

“(iii) enhance the outreach activities of the Agency with respect to, and increase the total amount of loans, guarantees, and insurance provided by the Agency to support exports by socially and economically disadvantaged small business concerns (as defined in section 8(a)(4) of the Small Business Act) and small business concerns owned by women.

1 “(C) *OTHER DUTIES.*—*The Director shall*
2 *advise the President of the Agency on the impact*
3 *of the policies of the Agency on minority-owned*
4 *and women-owned businesses.*

5 “(5) *INCLUSION IN ALL LEVELS OF BUSINESS AC-*
6 *TIVITIES.*—

7 “(A) *CONTRACTS.*—*The Director of the Of-*
8 *fice shall develop and implement standards and*
9 *procedures to ensure, to the maximum extent*
10 *possible, the inclusion and utilization of minori-*
11 *ties (as defined in section 1204(c) of the Finan-*
12 *cial Institutions Reform, Recovery, and Enforce-*
13 *ment Act of 1989 (12 U.S.C. 1811 note)) and*
14 *women, and minority- and women-owned busi-*
15 *nesses (as such terms are defined in section*
16 *21A(r)(4) of the Federal Home Loan Bank Act*
17 *(12 U.S.C. 1441a(r)(4)) in all business and ac-*
18 *tivities of the Agency at all levels, including in*
19 *procurement, insurance, and all types of con-*
20 *tracts. The processes established by the Agency*
21 *for review and evaluation for contract proposals*
22 *and to hire service providers shall include a com-*
23 *ponent that gives consideration to the diversity*
24 *of the applicant.*

1 “(B) *APPLICABILITY.*—*This paragraph*
2 *shall apply to all contracts for services of any*
3 *kind, including all contracts for all business and*
4 *activities of the Agency, at all levels.*

5 “(C) *OUTREACH.*—*The Agency shall estab-*
6 *lish a minority outreach program to ensure the*
7 *inclusion (to the maximum extent practicable) of*
8 *contracts entered into with the enterprises of mi-*
9 *norities and women and businesses owned by mi-*
10 *norities and women, including financial institu-*
11 *tions, investment banking firms, underwriters,*
12 *accountants, brokers, and providers of legal serv-*
13 *ices.*

14 “(6) *DIVERSITY IN AGENCY WORKFORCE.*—*The*
15 *Agency shall take affirmative steps to seek diversity*
16 *in its workforce at all levels of the Agency consistent*
17 *with the demographic diversity of the United States,*
18 *in a manner consistent with applicable law, includ-*
19 *ing—*

20 “(A) *to the extent the Agency engages in re-*
21 *ruitment efforts to fill vacancies—*

22 “(i) *recruiting at historically Black*
23 *colleges and universities, Hispanic-serving*
24 *institutions, Tribal colleges and univer-*
25 *sities, women’s colleges, and colleges that*

1 *typically serve majority minority popu-*
2 *lations; and*

3 *“(ii) recruiting at job fairs in urban*
4 *communities, and placing employment ad-*
5 *vertisements in print and digital media ori-*
6 *ented toward women and people of color;*

7 *“(B) partnering with organizations that are*
8 *focused on developing opportunities for minori-*
9 *ties and women to place talented young minori-*
10 *ties and women in industry internships, summer*
11 *employment, and full-time positions; and*

12 *“(C) by use of any other mass media com-*
13 *munications that the Director of the Office deter-*
14 *mines necessary.”.*

15 *(b) INCLUSION IN ANNUAL REPORT.—Section 8 of such*
16 *Act (12 U.S.C. 635g) is amended by adding at the end the*
17 *following:*

18 *“(l) OFFICE OF MINORITY AND WOMEN INCLUSION.—*

19 *“(1) IN GENERAL.—The Agency shall include in*
20 *its annual report to the Congress under subsection (a)*
21 *a report from the Office of Minority and Women In-*
22 *clusion regarding the actions taken by the Agency and*
23 *the Office pursuant to section 3(i), which shall in-*
24 *clude—*

1 “(A) a statement of the total amounts paid
2 by the Agency to contractors since the most re-
3 cent report under this subsection;

4 “(B) the percentage of the amounts de-
5 scribed in subparagraph (A) that were paid to
6 contractors as described in section 3(i)(5)(A);

7 “(C) the successes achieved and challenges
8 faced by the Agency in operating minority and
9 women outreach programs;

10 “(D) a description of the progress made by
11 the Agency in supporting exports by minority-
12 owned small business concerns and the progress
13 made by the Agency in supporting small busi-
14 ness concerns owned by women, including esti-
15 mates of the amounts made available to finance
16 exports directly by both categories of small busi-
17 ness concerns, a comparison of these amounts
18 with the amounts made available to all small
19 business concerns, and a comparison of such
20 amounts with the amounts so made available
21 during the 2 preceding years;

22 “(E) the challenges the Agency may face in
23 hiring qualified minority and women employees
24 and contracting with qualified minority-owned
25 and women-owned businesses; and

1 “(F) any other information, findings, con-
 2 clusions, and recommendations for legislative or
 3 Agency action, as the Director of the Office
 4 deems appropriate.

5 “(2) DEFINITIONS.—In this subsection:

6 “(A) MINORITY-OWNED SMALL BUSINESS
 7 CONCERN.—The term ‘minority-owned small
 8 business concern’ has the meaning given the term
 9 ‘socially and economically disadvantaged small
 10 business concern’ under section 8(a)(4) of the
 11 Small Business Act.

12 “(B) SMALL BUSINESS CONCERN.—The
 13 term ‘small business concern’ has the meaning
 14 given that term under section 3(a) of the Small
 15 Business Act.”.

16 (c) CONFORMING AMENDMENT.—Section 8(f) of the
 17 Export-Import Bank Act of 1945 (12 U.S.C. 635g(f)) is
 18 amended—

19 (1) by striking paragraph (4); and

20 (2) by redesignating paragraphs (5) through (8)
 21 as paragraphs (4) through (7), respectively.

22 **SEC. 7. SUPPORT FOR UNITED STATES TERRITORIES.**

23 (a) CREATION OF THE OFFICE OF TERRITORIAL EX-
 24 PORTING.—Section 3 of the Export-Import Bank Act of

1 1945 (12 U.S.C. 635a) is amended by adding at the end
2 the following:

3 “(n) *OFFICE OF TERRITORIAL EXPORTING.*—

4 “(1) *IN GENERAL.*—*The President of the Agency*
5 *shall establish an Office of Territorial Exporting, the*
6 *functions of which shall be to—*

7 “(A) *promote the export of goods and serv-*
8 *ices from the territories;*

9 “(B) *conduct outreach, education, and dis-*
10 *seminate information concerning export opportu-*
11 *nities and the availability of Agency support for*
12 *such activities; and*

13 “(C) *increase the total amount of loans,*
14 *guarantees, and insurance provided by the Agen-*
15 *cy benefitting the territories.*

16 “(2) *STAFF.*—*The President of the Agency shall*
17 *hire such staff as may be necessary to perform the*
18 *functions of the Office, including—*

19 “(A) *at least 1 staffer responsible for*
20 *liaising with Puerto Rico and the United States*
21 *Virgin Islands; and*

22 “(B) *at least 1 staffer responsible for*
23 *liaising with the United States territories of*
24 *Guam, the Commonwealth of the Northern Mar-*
25 *iana Islands, and American Samoa.*

1 “(3) *DEFINITION OF TERRITORY.*—*In this Act,*
 2 *the term ‘territory’ means the Commonwealth of Puer-*
 3 *to Rico, the United States Virgin Islands, Guam, the*
 4 *Commonwealth of the Northern Mariana Islands, and*
 5 *American Samoa.*”.

6 (b) *ANNUAL REPORT.*—*Section 8 of such Act (12*
 7 *U.S.C. 635g), as amended by section 6(b) of this Act, is*
 8 *amended by adding at the end the following:*

9 “(m) *REPORT ON ACTIVITIES IN THE TERRITORIES.*—
 10 *The Agency shall include in its annual report to Congress*
 11 *under subsection (a) a report on the steps taken by the*
 12 *Agency in the period covered by the report to increase—*

13 “(1) *awareness of the Agency and its services in*
 14 *the territories; and*

15 “(2) *the provision of Agency support to export*
 16 *businesses in the territories.*”.

17 **SEC. 8. ALTERNATIVE PROCEDURES DURING QUORUM**
 18 **LAPSE.**

19 (a) *IN GENERAL.*—*Section 3(c)(6) of the Export-Im-*
 20 *port Bank Act of 1945 (12 U.S.C. 635a(c)(6)) is amended—*

21 (1) *by inserting “(A)” after “(6)”;* and

22 (2) *by adding at the end the following:*

23 “(B)(i) *If there is an insufficient number of directors*
 24 *to constitute a quorum under subparagraph (A) for 90 con-*
 25 *secutive days during the term of a President of the United*

1 *States, a temporary Board, consisting of the following mem-*
 2 *bers, shall act in the stead of the Board of Directors:*

3 “(I) *The United States Trade Representative,*

4 “(II) *The Secretary of the Treasury,*

5 “(III) *The Secretary of Commerce, and*

6 “(IV) *The members of the Board of Directors.*

7 “(ii) *If, at a meeting of the temporary Board—*

8 “(I) *a member referred to in clause (i)(IV) is*
 9 *present, the meeting shall be chaired by such a mem-*
 10 *ber, consistent with Agency bylaws; or*

11 “(II) *no such member is present, the meeting*
 12 *shall be chaired by the United States Trade Rep-*
 13 *resentative.*

14 “(iii) *A member described in subclause (I), (II), or*
 15 *(III) of clause (i) may delegate the authority of the member*
 16 *to vote on whether to authorize a transaction, whose value*
 17 *does not exceed \$100,000,000, to—*

18 “(I) *if the member is the United States Trade*
 19 *Representative, the Deputy United States Trade Rep-*
 20 *resentative; or*

21 “(II) *if the member is referred to in such sub-*
 22 *clause (II) or (III), the Deputy Secretary of the de-*
 23 *partment referred to in the subclause.*

24 “(iv) *If the temporary Board consists of members of*
 25 *only 1 political party, the President of the United States*

1 *shall, to the extent practicable, appoint to the temporary*
 2 *Board a qualified member of a different political party who*
 3 *occupies a position requiring nomination by the President,*
 4 *by and with the consent of the Senate.*

5 “(v) *The temporary board may not change or amend*
 6 *Agency policies, procedures, bylaws, or guidelines.*

7 “(vi) *The temporary Board shall expire at the end of*
 8 *the term of the President of the United States in office at*
 9 *the time the temporary Board was constituted or upon res-*
 10 *toration of a quorum of the Board of Directors as defined*
 11 *in subparagraph (A).*

12 “(vii) *With respect to a transaction that equals or ex-*
 13 *ceeds \$100,000,000, the Chairperson of the temporary*
 14 *Board shall ensure that the Agency complies with section*
 15 *2(b)(3).”.*

16 (b) *TERMINATION.—The amendments made by sub-*
 17 *section (a) shall have no force or effect after the 10-year*
 18 *period that begins with the date of the enactment of this*
 19 *Act.*

20 **SEC. 9. STRENGTHENING SUPPORT FOR U.S. SMALL BUSI-**
 21 **NESSES.**

22 (a) *SMALL BUSINESS POLICY.—Section 2(b)(1) of the*
 23 *Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)) is*
 24 *amended by striking subparagraph (E)(i)(I) and inserting*
 25 *the following:*

1 “(E)(i)(I) *It is further the policy of the United States*
2 *to encourage the participation of small business (including*
3 *women-owned businesses, minority-owned businesses, vet-*
4 *eran-owned businesses, businesses owned by persons with*
5 *disabilities, and businesses in rural areas) and start-up*
6 *businesses in international commerce, and to educate such*
7 *businesses about how to export goods using the United*
8 *States Export Finance Agency.*”.

9 (b) *OUTREACH.*—

10 (1) *PLAN.*—*Within 120 days after the date of the*
11 *enactment of this Act, the United States Export Fi-*
12 *nance Agency shall prepare and submit to the Com-*
13 *mittee on Financial Services of the House of Rep-*
14 *resentatives and the Committee on Banking, Housing,*
15 *and Urban Affairs of the Senate a comprehensive out-*
16 *reach plan to ensure that small business owners are*
17 *aware of the financing options available to them*
18 *through the Agency. The plan shall include—*

19 (A) *input from the Small Business Admin-*
20 *istration and statewide small business coalitions*
21 *with operations in rural, urban, and suburban*
22 *regions;*

23 (B) *an emphasis on outreach to businesses*
24 *owned by women, minorities, veterans, and per-*
25 *sons with disabilities; and*

1 (C) a proposed budget for carrying out the
 2 plan during fiscal years 2020 through 2029, that
 3 provides for the spending of at least \$1,000,000
 4 annually for outreach to small businesses.

5 (2) *IMPLEMENTATION.*—Section 2(b)(1)(E) of
 6 such Act (12 U.S.C. 635(b)(1)(E)) is amended by
 7 adding at the end the following:

8 “(xi) After consultation with the Committee on Finan-
 9 cial Services of the House of Representatives and the Com-
 10 mittee on Banking, Housing, and Urban Affairs of the Sen-
 11 ate, the Agency shall implement the outreach plan referred
 12 to in section 9(b)(1) of the United States Export Finance
 13 Agency Act of 2019.”.

14 (c) *EXCLUSION OF UNUTILIZED INSURANCE AUTHOR-*
 15 *ITY IN CALCULATING SMALL BUSINESS THRESHOLD.*—Sec-
 16 tion 2(b)(1)(E)(v) of such Act (12 U.S.C. 635(b)(1)(E)(v))
 17 is amended by adding at the end the following: “For the
 18 purpose of calculating the amounts of authority required
 19 under this clause, the Agency shall, with respect to insur-
 20 ance, exclude unutilized authorizations that terminated
 21 during the fiscal year.”.

22 (d) *INCREASE IN SMALL BUSINESS THRESHOLD.*—

23 (1) *IN GENERAL.*—Section 2(b)(1)(E)(v) of such
 24 Act (12 U.S.C. 635(b)(1)(E)(v)) is amended by strik-
 25 ing “25” and inserting “30”.

1 (2) *EFFECTIVE DATE.*—*The amendment made by*
 2 *paragraph (1) shall take effect on October 1, 2028.*

3 **SEC. 10. ENHANCING FLEXIBILITY TO RESPOND TO PREDA-**
 4 **TORY EXPORT FINANCING BY CHINA.**

5 (a) *DEEMING RULE UNDER TIED AID CREDIT PRO-*
 6 *GRAM.*—*Section 10(b)(5)(B)(i)(III) of the Export-Import*
 7 *Bank Act of 1945 (12 U.S.C. 635i–3(b)(5)(B)(i)(III)) is*
 8 *amended by adding at the end the following new sentence:*
 9 *“The requirement that there be credible evidence of a history*
 10 *of a foreign export credit agency making offers not subject*
 11 *to the Arrangement is deemed met in the case of exports*
 12 *likely to be supported by official financing from the People’s*
 13 *Republic of China, unless the Secretary of the Treasury has*
 14 *reported to the Committee on Financial Services of the*
 15 *House of Representatives and the Committee on Banking,*
 16 *Housing, and Urban Affairs of the Senate that China is*
 17 *in substantial compliance with the Arrangement.”.*

18 (b) *COLLABORATION WITH USDA ON EXPORT FINANC-*
 19 *ING PROGRAMS.*—*Section 13(1)(A) of such Act (12 U.S.C.*
 20 *635i–7(1)(A)) is amended by inserting “, the Department*
 21 *of Agriculture,” before “and other Federal agencies”.*

22 **SEC. 11. RESTRICTION ON FINANCING FOR CERTAIN ENTI-**
 23 **TIES.**

24 *Section 2 of the Export-Import Bank Act of 1945 (12*
 25 *U.S.C. 635) is amended by adding at the end the following:*

1 “(l) *RESTRICTION ON FINANCING FOR CERTAIN ENTI-*
2 *TIES.*—

3 “(1) *IN GENERAL.*—Beginning on the date that
4 is 180 days after the date of the enactment of this
5 subsection, the Board of Directors may not approve a
6 transaction that is subject to approval by the Board
7 with respect to the provision by the Agency of any
8 guarantee, insurance, or extension of credit, or the
9 participation by the Agency in any extension of cred-
10 it for which the end user, obligor, or lender is de-
11 scribed in paragraph (2).

12 “(2) *PROHIBITED END USER, OBLIGOR, OR*
13 *LENDER.*—An end user, obligor, or lender is described
14 in this paragraph if the end user, obligor, or lender
15 is known to the Agency to be:

16 “(A) *The People’s Liberation Army of the*
17 *People’s Republic of China.*

18 “(B) *The Ministry of State Security of the*
19 *People’s Republic of China.*

20 “(C) *Included on the Denied Persons List or*
21 *the Entity List maintained by the Bureau of In-*
22 *dustry and Security of the Department of Com-*
23 *merce.*

24 “(D) *Included on the Arms Export Control*
25 *Act debarred list maintained by the Directorate*

1 *of Defense Trade Controls of the Department of*
2 *State.*

3 “(E) *Any person who has paid a criminal*
4 *fine or penalty pursuant to a conviction or reso-*
5 *lution or settlement agreement with the Depart-*
6 *ment of Justice for a violation of the Foreign*
7 *Corrupt Practices Act in the preceding 3 years.*

8 “(F) *A person who, in the preceding 3*
9 *years, appeared on the Annual Intellectual Prop-*
10 *erty Report to Congress by the Intellectual Prop-*
11 *erty Enforcement Coordinator in the Executive*
12 *Office of the President, if the person was con-*
13 *victed in any court*

14 “(3) *DEFINITIONS.—In this subsection:*

15 “(A) *PERSON.—The term ‘person’ means an*
16 *individual or entity.*

17 “(B) *ENTITY.—The term ‘entity’ means a*
18 *partnership, association, trust, joint venture,*
19 *corporation, group, subgroup, or other organiza-*
20 *tion.”.*

1 **SEC. 12. PROHIBITIONS ON FINANCING FOR CERTAIN PER-**
2 **SONS INVOLVED IN SANCTIONABLE ACTIVI-**
3 **TIES.**

4 *Section 2 of the Export-Import Bank Act of 1945 (12*
5 *U.S.C. 635), as amended by section 11 of this Act, is*
6 *amended by adding at the end the following:*

7 *“(m) PROHIBITIONS ON FINANCING FOR CERTAIN*
8 *PERSONS INVOLVED IN SANCTIONABLE ACTIVITIES.—*

9 *“(1) IN GENERAL.—Beginning on the date that*
10 *is 180 days after the date of the enactment of this*
11 *subsection, the Board of Directors of the Agency may*
12 *not approve any transaction that is subject to ap-*
13 *proval by the Board with respect to the provision by*
14 *the Agency of any guarantee, insurance, or extension*
15 *of credit, or the participation by the Agency in any*
16 *extension of credit, to a person in connection with the*
17 *exportation of any good or service unless the person*
18 *provides the certification described in paragraph (2).*

19 *“(2) CERTIFICATION DESCRIBED.—The certifi-*
20 *cation described in this paragraph is a certification*
21 *by a person who is an end user, obligor, or lender*
22 *that neither the person nor any other person owned*
23 *or controlled by the person engages in any activity in*
24 *contravention of any United States law, regulation,*
25 *or order applicable to the person concerning—*

1 “(A) trade and economic sanctions, includ-
2 ing an embargo;

3 “(B) the freezing or blocking of assets of des-
4 ignated persons; or

5 “(C) other restrictions on exports, imports,
6 investment, payments, or other transactions tar-
7 geted at particular persons or countries.

8 “(3) CERTIFICATION REQUIREMENTS.—The cer-
9 tification described in paragraph (2) shall be made
10 after reasonable due diligence and based on best
11 knowledge and belief.”.

12 **SEC. 13. PROMOTING RENEWABLE ENERGY EXPORTS, ENVI-**
13 **RONMENTAL AND SOCIAL STANDARDS, AND**
14 **ACCOUNTABILITY.**

15 (a) OFFICE OF FINANCING FOR RENEWABLE ENERGY,
16 ENERGY EFFICIENCY AND ENERGY STORAGE EXPORTS.—
17 Section 2(b)(1)(C) of the Export-Import Bank Act of 1945
18 (12 U.S.C. 635(b)(1)(C)) is amended to read as follows:

19 “(C) OFFICE OF FINANCING FOR RENEWABLE EN-
20 ERGY, ENERGY EFFICIENCY AND ENERGY STORAGE.—The
21 President of the Agency shall establish an office whose func-
22 tions shall be to promote the export of goods and services
23 to be used in the development, production, and distribution
24 of renewable energy resources, and energy efficiency and en-
25 ergy storage technologies, and disseminate information con-

1 cerning export opportunities and the availability of Agency
 2 support for such activities, to increase the total amount of
 3 loans, guarantees, and insurance provided by the Agency
 4 to support exports related to renewable energy, energy effi-
 5 ciency, and energy storage.”.

6 (b) ENVIRONMENTAL POLICY AND PROCEDURES.—Sec-
 7 tion 11(a) of such Act (12 U.S.C. 635i–5(a)) is amended—

8 (1) in paragraph (1)—

9 (A) in the 2nd sentence, by inserting “, in-
 10 cluding to potentially impacted communities in
 11 the country in which the activity will be carried
 12 out, at least 60 days before the date of the vote,”
 13 before “and supplemental”;

14 (B) by inserting after the 2nd sentence the
 15 following: “The procedures shall include a re-
 16 quirement for an analysis of the environmental
 17 and social impacts, including worker impacts
 18 and anticipated health impacts and costs, of the
 19 proposed activity and of alternatives to the pro-
 20 posed activity, including mitigation measures,
 21 where appropriate.”; and

22 (C) in the 3rd sentence, by striking “The
 23 preceding sentence” and inserting “This para-
 24 graph”;

1 (2) *by redesignating paragraph (2) as para-*
2 *graph (7) and inserting after paragraph (1) the fol-*
3 *lowing:*

4 “(2) *CONSULTATIONS WITH POTENTIALLY IM-*
5 *PACTED COMMUNITIES.—In any credit or common*
6 *terms agreements to which the Agency is a party re-*
7 *lating to a transaction described in paragraph (1),*
8 *the Agency shall include a provision to ensure that*
9 *robust consultations with potentially impacted com-*
10 *munities in the country in which the activity will be*
11 *carried out have been and will continue to be carried*
12 *out throughout the project cycle.*

13 “(3) *ENVIRONMENTAL AND SOCIAL DUE DILI-*
14 *GENCE PROCEDURES AND GUIDELINES REVIEW.—By*
15 *the end of 2020 and once at the end of each subse-*
16 *quent 3-year period, the Board of Directors of the*
17 *Agency shall complete a review of the Environmental*
18 *and Social Due Diligence Procedures and Guidelines*
19 *ensuring that the procedures and guidelines incor-*
20 *porate requirements for project consideration that are*
21 *consistent to limit greenhouse gas emissions and, to*
22 *the maximum extent possible, to affirm that the*
23 *Board operates consistently with the multilateral en-*
24 *vironmental agreements to which the United States is*

1 a party that are directly related to transactions in
2 which the Agency is involved.

3 “(4) The Agency shall operate consistently with
4 Annex VI of the Arrangement on Officially Supported
5 Export Credits, as adopted by the Organisation for
6 Economic Co-operation and Development as of Janu-
7 ary 2019.

8 “(5) The Agency shall make publicly available
9 the estimated amounts of CO₂ emissions expected to
10 be produced from pending projects that the Agency
11 has designated as Category A and B projects and
12 work with other export credit agencies to encourage
13 them to do the same.

14 “(A) The Agency shall report CO₂ emissions
15 associated with projects that the Agency has des-
16 ignated as Category A and B fossil fuel projects
17 in its annual report by product categories.

18 “(B) The Agency shall advocate within the
19 OECD and other multilateral fora for the full re-
20 porting of CO₂ emissions associated with appro-
21 priate energy and non-energy projects including
22 manufacturing and agriculture.

23 “(C) The Agency shall undertake periodic
24 reviews with stakeholders to ensure that the
25 Agency employs the most appropriate method-

1 *ology of estimating and tracking the CO₂ emis-*
2 *sions from Category A and B projects the Agency*
3 *supports.*

4 “(6) *The Agency shall develop and maintain*
5 *measures to provide increased financing support for*
6 *evolving technologies that reduce CO₂ emissions.*

7 “(A) *The Agency shall develop and main-*
8 *tain measures to encourage foreign buyers to seek*
9 *available, commercially viable technology to re-*
10 *duce the CO₂ footprint of projects.*

11 “(B) *The Agency shall develop and main-*
12 *tain initiatives to finance aspects of project de-*
13 *velopment that reduce or mitigate CO₂ emis-*
14 *sions, such as effective carbon capture and se-*
15 *questration technology, while maintaining the*
16 *competitiveness of United States exporters.*

17 “(C) *In coordination with the Department*
18 *of the Treasury, the Agency shall advocate in*
19 *international fora for the availability of financ-*
20 *ing incentives for low to net zero CO₂-emitting*
21 *projects, a common methodology for evaluating*
22 *and taking into account the social cost of carbon.*

23 “(D) *The Agency shall encourage export*
24 *credit agencies and other relevant lending insti-*
25 *tutions to adopt similar CO₂ policies, including*

1 *encouraging transparency and the involvement*
 2 *of stakeholders.”; and*

3 *(3) in paragraph (7) (as so redesignated by*
 4 *paragraph (2) of this subsection), by striking “para-*
 5 *graph (1)” and inserting “this subsection”.*

6 *(c) ANNUAL REPORT TO CONGRESS.—Section 11(c) of*
 7 *such Act (12 U.S.C. 635i–5(c)) is amended to read as fol-*
 8 *lows:*

9 *“(c) INCLUSION IN ANNUAL REPORT TO CONGRESS.—*
 10 *The Agency shall include in its annual report to Congress*
 11 *under section 8 a summary of its activities under sub-*
 12 *sections (a) and (b). The Board of Directors shall submit*
 13 *to the Congress a report, which shall be made publicly*
 14 *available on the Internet at the time of delivery—*

15 *“(1) that provides a detailed accounting of the*
 16 *methodology used to make greenhouse gas emissions*
 17 *project determinations; and*

18 *“(2) details the steps taken to ensure that the*
 19 *Environmental and Social Due Diligence Procedures*
 20 *and Guidelines of the Agency are consistent with—*

21 *“(A) reducing greenhouse gas emissions;*
 22 *and*

23 *“(B) operating consistently with the multi-*
 24 *lateral environmental agreements to which the*
 25 *United States is a party that are directly related*

1 to transactions in which the Agency is in-
2 volved.”.

3 (d) *FINANCING FOR RENEWABLE ENERGY, ENERGY*
4 *EFFICIENCY, AND ENERGY STORAGE TECHNOLOGIES.*—Sec-
5 *tion 2(b)(1)(K) of such Act (12 U.S.C. 635(b)(1)(K)) is*
6 *amended by inserting “, energy efficiency, and energy stor-*
7 *age. It shall be a goal of the Bank to ensure that not less*
8 *than 5 percent of the applicable amount (as defined in sec-*
9 *tion 6(a)(2)) is made available each fiscal year for the fi-*
10 *nanicing of renewable energy, energy efficiency, and energy*
11 *storage technology exports” before the period.*

12 (e) *SENSE OF THE CONGRESS REGARDING AGENCY*
13 *ACCOUNTABILITY.*—*It is the sense of the Congress that—*

14 (1) *the Board of Directors of the United States*
15 *Export Finance Agency (in this section referred to as*
16 *the “Agency”) should, after a public consultation*
17 *process, establish a formal, transparent, and inde-*
18 *pendent accountability mechanism to review, inves-*
19 *tigate, offer independent dispute resolution to resolve,*
20 *and publicly report on allegations by affected parties*
21 *of any failure of the Agency to follow its own policies*
22 *and procedures with regard to the environmental and*
23 *social impacts of projects, and on situations where the*
24 *Agency is alleged to have failed in ensuring the bor-*

1 rower is fulfilling its obligations in financing agree-
2 ments with respect to the policies and procedures;

3 (2) the accountability mechanism should be able
4 to provide advice to management on policies, proce-
5 dures, guidelines, resources, and systems established to
6 ensure adequate review and monitoring of the envi-
7 ronmental and social impacts of projects;

8 (3) in carrying out its mandate, the confiden-
9 tiality of sensitive business information should be re-
10 spected, as appropriate, and, in consultation with po-
11 tentially impacted communities, project sponsors,
12 Agency management, and other relevant parties, a
13 flexible process should be followed aimed primarily at
14 correcting project failures and achieving better results
15 on the ground;

16 (4) the accountability mechanism should be inde-
17 pendent of the line operations of management, and re-
18 port its findings and recommendations directly to the
19 Board of Directors of the Agency and annually to the
20 Congress;

21 (5) the annual report of the Agency should in-
22 clude a detailed accounting of the activities of the ac-
23 countability mechanism for the year covered by the
24 report and the remedial actions taken by the Agency

1 *in response to the findings of the accountability mech-*
2 *anism;*

3 (6) *in coordination with the accountability*
4 *mechanism, the Agency and relevant parties should*
5 *engage in proactive outreach to communities im-*
6 *acted or potentially impacted by Agency financing*
7 *and activities to provide information on the existence*
8 *and availability of the accountability mechanism;*

9 (7) *the President of the Agency should, subject to*
10 *the approval of the Board of Directors of the Agency,*
11 *and consistent with applicable law, through an open*
12 *and competitive process, including solicitation of*
13 *input from relevant stakeholders, appoint a director*
14 *of the accountability mechanism, who would be re-*
15 *sponsible for the day-to-day operations of the mecha-*
16 *nism, and a panel of not less than 3 experts, includ-*
17 *ing the director, who would also serve as chair of the*
18 *panel; and*

19 (8) *The accountability mechanism director and*
20 *members of the panel should not have been employed*
21 *by the Agency within the 5 years preceding their ap-*
22 *pointment, and should be ineligible from future em-*
23 *ployment at the Agency.*

1 **SEC. 14. REINSURANCE PROGRAM.**

2 *Section 51008 of the Fixing America's Surface Trans-*
 3 *portation Act (12 U.S.C. 635 note) is amended—*

4 *(1) in the section heading, by striking “PILOT”;*

5 *(2) in subsection (a), by striking “pilot”;*

6 *(3) in subsection (b)(1), by striking*

7 *“\$1,000,000,000” and inserting “\$2,000,000,000”;*

8 *and*

9 *(4) by striking subsections (c) through (e) and*

10 *inserting the following:*

11 *“(c) FACTORS FOR CONSIDERATION IN REINSURANCE*

12 *POOLS.—In implementing this section, the Agency shall,*

13 *with respect to a reinsurance pool, pursue appropriate ob-*

14 *jectives to reduce risk and costs to the Agency, including*

15 *by the following, to the extent practicable:*

16 *“(1) Ensuring a reasonable diversification of*

17 *risks.*

18 *“(2) Including larger exposures where the possi-*

19 *bility of default raises overall portfolio risk for the*

20 *Agency.*

21 *“(3) Excluding transactions from the pool that*

22 *are covered by first-loss protection.*

23 *“(4) Excluding transactions from the pool that*

24 *are collateralized at a rate greater than standard*

25 *market practice.*

1 “(5) *Diversifying reinsurance pools by industry*
2 *and other appropriate factors.*

3 “(6) *Exploring different time periods of coverage.*

4 “(7) *Exploring both excess of loss structures on*
5 *a per-borrower as well as an aggregate basis.*

6 “(d) *BIENNIAL REPORTS.*—*Not later than 1 year after*
7 *the date of the enactment of this subsection, and every 2*
8 *years thereafter through 2029, the Agency shall submit to*
9 *the Committee on Financial Services of the House of Rep-*
10 *resentatives and the Committee on Banking, Housing, and*
11 *Urban Affairs of the Senate a written report that contains*
12 *an assessment of the use of the program carried out under*
13 *subsection (a) since the most recent report under this sub-*
14 *section.*

15 “(e) *RULE OF CONSTRUCTION.*—*Nothing in this sec-*
16 *tion shall be construed to limit any authority of the Agency*
17 *described in section 2(a)(1) of the Export-Import Bank Act*
18 *of 1945.”.*

19 **SEC. 15. INFORMATION TECHNOLOGY SYSTEMS.**

20 *Section 3(j) of the Export-Import Bank Act of 1945*
21 *(12 U.S.C. 635a(j)) is amended—*

22 *(1) in paragraph (1), by striking all that pre-*
23 *cedes subparagraph (A) and inserting the following:*

24 “(1) *IN GENERAL.*—*Subject to paragraphs (3)*
25 *and (4), the Agency may use an amount equal to 1.25*

1 *percent of the surplus of the Agency during fiscal*
 2 *years 2020 through 2029 to—”; and*

3 *(2) by striking paragraph (3) and inserting the*
 4 *following:*

5 “(3) *LIMITATION.—The aggregate of the amounts*
 6 *used in accordance with paragraph (1) for fiscal*
 7 *years 2020 through 2029 shall not exceed*
 8 *\$40,000,000.”.*

9 **SEC. 16. ADMINISTRATIVELY DETERMINED PAY.**

10 *Section 3 of the Export-Import Bank Act of 1945 (12*
 11 *U.S.C. 635a), as amended by section 7(a) of this Act, is*
 12 *amended by adding at the end the following:*

13 “(o) *COMPENSATION OF EMPLOYEES.—*

14 “(1) *RATES OF PAY.—Subject to paragraph (2),*
 15 *the Board of Directors of the Agency, consistent with*
 16 *standards established by the Director of the Office of*
 17 *Minority and Women Inclusion, may set and adjust*
 18 *rates of basic pay for employees and new hires of the*
 19 *Agency without regard to the provisions of chapter 51*
 20 *and subchapter III of chapter 53 of title 5, United*
 21 *States Code, except that no employee of the Agency*
 22 *may receive a rate of basic pay that exceeds the rate*
 23 *for level III of the Executive Schedule under section*
 24 *5313 of such title.*

1 “(2) *LIMITATIONS.—The Board of Directors of*
2 *the Agency may not apply paragraph (1) to more*
3 *than 35 employees at any point in time. Nothing in*
4 *paragraph (1) may be construed to apply to any po-*
5 *sition of a confidential or policy-determining char-*
6 *acter that is excepted from the competitive service*
7 *under section 3302 of title 5, United States Code,*
8 *(pursuant to schedule C of subpart C of part 213 of*
9 *title 5 of the Code of Federal Regulations) or to any*
10 *position that would otherwise be subject to section*
11 *5311 or 5376 of title 5, United States Code.”.*

Union Calendar No. 216

116TH CONGRESS
1ST Session

H. R. 4863

[Report No. 116-271]

A BILL

To promote the competitiveness of the United States, to reform and reauthorize the United States Export Finance Agency, and for other purposes.

NOVEMBER 8, 2019

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed