

SECURING AMERICAN JOBS THROUGH EXPORTS ACT OF  
2011

SEPTEMBER 8, 2011.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mr. BACHUS, from the Committee on Financial Services,  
submitted the following

R E P O R T

[To accompany H.R. 2072]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2072) to reauthorize the Export-Import Bank of the United States, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

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

(a) **SHORT TITLE.**—This Act may be cited as the “Securing American Jobs Through Exports Act of 2011”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings; statement of purpose.
- Sec. 3. Extension of authority.
- Sec. 4. Limitations on outstanding loans, guarantees, and insurance.
- Sec. 5. Content guidelines for the provision of bank financing.
- Sec. 6. Improvement of method for calculating the effects of Bank financing on job creation and maintenance in the United States.
- Sec. 7. Biennial audits of Bank transactions.
- Sec. 8. Use of portion of Bank surplus to update information technology systems.
- Sec. 9. Monitoring of default rates on Bank financing; reports on default rates.
- Sec. 10. Sense of the Congress regarding Bank accountability.
- Sec. 11. Sub-saharan africa advisory committee.
- Sec. 12. Extension of authority to provide financing for the export of nonlethal defense articles or services the primary end use of which will be for civilian purposes.
- Sec. 13. Elimination of obsolete provisions.
- Sec. 14. Examination of bank support for small business.
- Sec. 15. Categorization of purpose of loans and long-term guarantees in annual report.
- Sec. 16. Disclosure requirement for board meetings.
- Sec. 17. Modifications relating to the advisory committee.
- Sec. 18. Financing for goods manufactured in the United States used in global textile and apparel supply chains.
- Sec. 19. Prohibition on Bank assistance for project to be participated in by an entity that has recently engaged in certain prohibited activities with respect to Iran.
- Sec. 20. Effective date.

**SEC. 2. FINDINGS; STATEMENT OF PURPOSE.**

(a) FINDINGS.—The Congress finds as follows:

(1) Export sales by United States companies are critical to national economic growth.

(2) Increased demand for United States exports in emerging markets will help small and large companies maintain and create United States jobs.

(3) The Export-Import Bank contributes to a stronger national economy by financing the export of United States goods and services in markets where private capital is limited or unavailable.

(4) The Export-Import Bank of the United States does not compete with private sector lenders.

(5) The Export-Import Bank of the United States helps finance United States exports to 183 countries.

(6) A large percentage of global growth will be centered in markets served by the Export-Import Bank of the United States, and the Bank will be critical to helping United States companies compete for these opportunities.

(7) Through its support for exports, in fiscal year 2010 the Export-Import Bank of the United States supported 227,000 American jobs at over 3,300 companies.

(8) The Export-Import Bank of the United States helps to level the playing field for United States exporters by matching the financing that other governments provide to their exporters.

(9) All the leading exporting nations have official export credit agencies that are used actively to support their exporters.

(10) Through its insurance, loan, and loan guarantee products, the Export-Import Bank of the United States supports the promotion and maintenance of high levels of employment and real income and increased development of the productive resources of the United States.

(11) The Export-Import Bank of the United States requires reasonable assurance of repayment for the transactions it authorizes, and the Bank closely monitors credit and other risks in its portfolio. The Bank prices transactions based on its risk assessment of the buyers.

(12) Since 1934, the net loss rate for all long-, medium-, and short-term loans made by the Export-Import Bank of the United States is 1.5 percent.

(13) The Export-Import Bank of the United States has been a self-sustaining institution since fiscal year 2008, and surpluses of the Bank are remitted to the United States Treasury. From fiscal years 2008 through 2010, the Bank generated a surplus of \$551,000,000.

(14) In fiscal year 2010, the Export-Import Bank of the United States provided a record \$5,000,000,000 directly supporting United States small business exporters through 3,091 transactions, representing 20 percent of the total value of the Bank's authorizations and nearly 88 percent of the total number of the Bank's authorizations.

(b) STATEMENT OF PURPOSE.—The purpose of this Act is to reauthorize the activities and operations of the Export-Import Bank of the United States to ensure that the Bank provides financing, when commercial banks are unable or unwilling to do so, competitive with the financing provided by foreign export credit agencies, in order to enable United States companies to contribute to a stronger national economy by maintaining or increasing the employment of workers in the United States through the export of goods and services.

**SEC. 3. EXTENSION OF AUTHORITY.**

Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "2011" and inserting "2015".

**SEC. 4. LIMITATIONS ON OUTSTANDING LOANS, GUARANTEES, AND INSURANCE.**

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

(1) in subparagraph (D), by striking "and";

(2) in subparagraph (E), by striking the comma at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(F) during fiscal year 2012, \$120,000,000,000;

"(G) during fiscal year 2013, \$140,000,000,000; and

"(H) during fiscal year 2014 and each fiscal year thereafter, \$160,000,000,000."

**SEC. 5. CONTENT GUIDELINES FOR THE PROVISION OF BANK FINANCING.**

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

“(i) CONTENT GUIDELINES FOR THE PROVISION OF FINANCING.—

“(1) IN GENERAL.—The Bank shall, after notice and comment and Board approval, establish clear and comprehensive guidelines with respect to the content of the goods and services involved in a transaction for which the Bank will provide financing, which shall be aimed at ensuring that the Bank enables companies with operations in the United States to maintain and create jobs in the United States and contribute to a stronger national economy through the export of their goods and services.

“(2) REQUIRED CONSIDERATIONS.—In establishing the guidelines, the Bank shall take into account such considerations as the Bank deems relevant to meet the purposes described in paragraph (1), including the following:

“(A) The needs of different industry sectors to obtain financing from the Bank for exporting their products or services in order to create and maintain jobs in the United States.

“(B) The ability of companies with operations in the United States to compete effectively for export opportunities that will create and maintain jobs in the United States, particularly with respect to the Bank’s content requirements and co-financing arrangements.

“(C) The totality of support, including financing and subsidies, extended by export credit agencies to support the exports of goods and services, as well as key differences in, types of trade-offs among, and national trade promotion strategies of OECD member countries and of non-OECD member countries.

“(D) Recommendations from the advisory committee established under section 3(d), including any dissenting views.

“(E) Any findings or recommendations of the Government Accountability Office pertaining to the ability of the Bank to provide financing that is competitive with the financing provided by foreign export credit agencies, to enable companies with operations in the United States to contribute to a stronger United States economy by maintaining or increasing the employment of workers in the United States through the export of goods and services.

“(F) The effects of the guidelines on the manufacturing workforce and service workforce of the United States.

“(G) The effect of changes to current Bank content requirements on the incentive for companies to create and maintain operations in the United States in order to increase the employment of workers in the United States.

“(3) SEPARATE GUIDELINES.—

“(A) The Bank may establish separate guidelines under this subsection for services and for goods.

“(B) The Bank may establish separate guidelines under this subsection for small business concerns (as defined in section 3(a) of the Small Business Act).

“(C) The Bank may continue separate guidelines under this subsection with respect to different terms and products.

“(4) CERTIFICATION THAT DOMESTIC CONTENT HAS NOT BEEN REDUCED BECAUSE OF THE GUIDELINES.—In determining whether to provide financing for a proposed transaction, the exporter shall certify that the domestic content of a good has not been reduced solely as a result of the guidelines.

“(5) PROCEDURAL PROVISIONS.—Within 60 days after the date of the enactment of this Act, the Bank shall publish a notice with respect to the issuance or modification of guidelines under this subsection. Within 60 days after the end of the public comment period otherwise required by law with respect to the issuance or modification of the guidelines, the Bank shall submit to the Congress, for its review, the guidelines in proposed final form. At the end of the 60-day period that begins with the date the proposed final guidelines are so submitted, the proposed final guidelines shall be considered a final agency action for all purposes and shall take effect and be implemented immediately.

“(6) TERM.—Every 2 years, the Bank shall review and, as appropriate, modify the guidelines, subject to paragraph (5).

“(7) REPORT TO CONGRESS.—Within 1 year after the implementation of new or modified guidelines under this subsection, the Inspector General of the Bank shall submit to the Congress a report evaluating the guidelines, which shall include—

“(A) a discussion of the considerations required to be taken into account in establishing the guidelines, a comparison of how the guidelines reflect each consideration, and a description of the extent to which the guidelines enabled companies with operations in the United States who submitted an application for financing from the Bank to maintain and create jobs in the

United States and contribute to a stronger national economy through the export of their goods and services;

“(B) a description of the effect of the guidelines on the number of domestic jobs to be supported, the kinds of domestic jobs to be supported, including their duration and geographic location, and the existence and nature of any transfers of technology or production; and

“(C) recommendations for how the guidelines could be modified to better facilitate exports of goods and services from the United States in order to maintain and create jobs in the United States and contribute to a stronger national economy.”.

**SEC. 6. IMPROVEMENT OF METHOD FOR CALCULATING THE EFFECTS OF BANK FINANCING ON JOB CREATION AND MAINTENANCE IN THE UNITED STATES.**

(a) GAO STUDY.—The Comptroller General of the United States shall conduct a study to analyze the methodology used by the Export-Import Bank of the United States (in this section referred to as the “Bank”) to calculate the effects of the provision of financing by the Bank on the creation and maintenance of employment in the United States, determine whether there is a more accurate methodology for calculating the effects, and if so, make recommendations with respect to the use of such a methodology.

(b) REPORT.—Within 6 months after the date of the enactment of this Act, the Comptroller General shall submit to the Congress and the Bank the results of the study required by subsection (a).

(c) IMPLEMENTATION OF RECOMMENDATIONS.—If the report submitted pursuant to subsection (b) includes recommendations, the Bank may establish a more accurate methodology of the kind described in subsection (a) based on the recommendations.

**SEC. 7. BIENNIAL AUDITS OF BANK TRANSACTIONS.**

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

“(j) AUDITS OF BANK TRANSACTIONS.—Every 2 years, the Comptroller General of the United States, in consultation with Inspector General of the Bank, shall audit a representative sample of Bank transactions to ensure that Bank underwriting, policies, due diligence, and content guidelines are met by applicants who receive Bank support.”.

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

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

“(j) AUTHORITY TO USE PORTION OF BANK SURPLUS TO UPDATE INFORMATION TECHNOLOGY SYSTEMS.—

“(1) IN GENERAL.—Subject to paragraphs (3) and (4), the Bank may use an amount equal to 1.25 percent of the surplus of the Bank during each fiscal year to—

“(A) seek to remedy any of the operational weakness and risk management vulnerabilities of the Bank which are the result of the information technology system of the Bank;

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

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

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

“(A) the sum of the interest and fees collected by the Bank; exceeds

“(B) the sum of—

“(i) the funds set aside to cover expected losses on transactions financed by the Bank; and

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

“(3) LIMITATION.—The aggregate of the amounts used in accordance with paragraph (1) for all fiscal years shall not exceed \$20,000,000.

“(4) SUBJECT TO APPROPRIATIONS.—The authority provided by paragraph (1) may be exercised only to such extent and in such amounts as are provided in advance in appropriations Acts.”.

**SEC. 9. MONITORING OF DEFAULT RATES ON BANK FINANCING; REPORTS ON DEFAULT RATES.**

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

**“(g) MONITORING OF DEFAULT RATES ON BANK FINANCING; REPORTS ON DEFAULT RATES.—**

**“(1) MONITORING OF DEFAULT RATES.—**Not less frequently than quarterly, the Bank shall calculate the rate at which the entities to which the Bank has provided short-, medium-, or long-term financing are in default on a payment obligation under the financing, by dividing the total amount of the required payments that are overdue by the total amount of the financing involved.

**“(2) REPORTS.—**Within 45 days after a rate calculated under paragraph (1) equals or exceeds 2 percent, the Bank shall submit to the Congress a written report that explains the circumstances that have caused the default rate to equal or exceed 2 percent, and includes a plan to reduce the default rate to less than 2 percent.”.

**SEC. 10. SENSE OF THE CONGRESS REGARDING BANK ACCOUNTABILITY.**

It is the sense of the Congress that—

(1) the Board of Directors of the Export-Import Bank of the United States (in this section referred to as the “Bank”) should establish a formal, transparent, and independent accountability mechanism that would review, investigate, and report on allegations by affected parties of failure of the Bank to follow its own policies and procedures, including situations where the Bank is alleged to have failed in its follow-up on the borrower’s obligations in financing agreements with respect to such policies and procedures;

(2) such an accountability mechanism should be able to provide advice to management on policies, procedures, guidelines, resources, and systems established to ensure adequate review and monitoring of projects;

(3) in carrying out its mandate, the confidentiality of sensitive business information should be respected, and, in consultation with affected parties, project sponsors, and Bank management, a flexible process should be followed aimed primarily at correcting project failures and achieving better results on the ground; and

(4) the accountability mechanism should be independent of the line operations of management, and report its findings and recommendations directly to the Board of Directors of the Bank.

**SEC. 11. SUB-SAHARAN AFRICA ADVISORY COMMITTEE.**

Section 2(b)(9)(B)(iii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)(B)(iii)) is amended by striking “2011” and inserting “2015”.

**SEC. 12. EXTENSION OF AUTHORITY TO PROVIDE FINANCING FOR THE EXPORT OF NON-LETHAL DEFENSE ARTICLES OR SERVICES THE PRIMARY END USE OF WHICH WILL BE FOR CIVILIAN PURPOSES.**

Section 1(c) of Public Law 103–428 (12 U.S.C. 635 note; 108 Stat. 4376) is amended by striking “2011” and inserting “2015”.

**SEC. 13. ELIMINATION OF OBSOLETE PROVISIONS.**

(a) FOREIGN CREDIT INSURANCE ASSOCIATION.—

(1) IN GENERAL.—Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)) is amended by striking subparagraph (F) and redesignating subparagraphs (G) through (L) as subparagraphs (F) through (K), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Section 2(h)(2) of such Act (12 U.S.C. 635(h)(2)) is amended by striking “(J)” and inserting “(I)”.

(B) Section 3 of such Act (12 U.S.C. 635a) is amended in each of subsections (f)(1)(A) and (g)(7) by striking “(I)” and inserting “(H)”.

(C) Section 8 of such Act (12 U.S.C. 635g) is amended in each of subsections (c) and (f)(8)(A) by striking “(J)” and inserting “(I)”.

(D) Section 8A(a)(5) of such Act (12 U.S.C. 635g-1(a)(5)) is amended by striking “2(b)(1)(K)” and inserting “2(b)(1)(J)”.

(b) DEFINITION OF MARXIST-LENINIST COUNTRY.—Section 2(b)(2)(B)(ii) of such Act (12 U.S.C. 635(b)(2)(B)(ii)) is amended by striking subclause (VII) and redesignating subclauses (VIII) and (IX) as subclauses (VII) and (VIII), respectively.

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

Within 180 days after the date of the enactment of this Act, the Export-Import Bank of the United States shall examine and report to Congress on its current programs, products, and policies with respect to the implementation of its export credit insurance program, delegated lending authority, and direct loans, and any other programs, products, and policies established to support exports from small businesses in the United States, and determine the extent to which those policies adequately meet the needs of the small businesses in obtaining Bank financing to support the maintenance or creation of jobs in the United States through exports, con-

sistent with the requirement that the Bank obtain a reasonable assurance of repayment.

**SEC. 15. CATEGORIZATION OF PURPOSE OF LOANS AND LONG-TERM GUARANTEES IN ANNUAL REPORT.**

Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635g), as amended by section 9 of this Act, is amended by adding at the end the following:

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

“(1) ‘To assume commercial or political risk that exporter or private financial institutions are unwilling or unable to undertake’.

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

“(3) ‘To meet competition from a foreign, officially sponsored, export credit competition’.

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

**SEC. 16. DISCLOSURE REQUIREMENT FOR BOARD MEETINGS.**

Section 3(c)(9) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(a)) is amended by adding at the end the following new sentence: “Not later than 25 days before any meeting of the Board for final consideration of a transaction the value of which exceeds \$75,000,000, and concurrent with any statement required to be submitted under section 2(b)(3) with respect to the transaction, the Bank shall post a notice on the website of the Bank that includes a description of the item proposed to be financed, the identities of the obligor, principal supplier, and guarantor, and a description of any item with respect to which Bank financing is being sought, in a manner that does not disclose any information that is confidential or proprietary business information, that would violate the Trade Secrets Act, or that would jeopardize jobs in the United States by supplying information which competitors could use to compete with companies in the United States.”.

**SEC. 17. MODIFICATIONS RELATING TO THE ADVISORY COMMITTEE.**

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

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

(1) CONSIDERATION BY ADVISORY COMMITTEE.—Section 3(d) of such Act (12 U.S.C. 635a(d)) is amended by adding at the end the following:

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

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

“(B) support the maintenance, promotion and expansion of jobs in the United States that are critical to the manufacture of textile components and inputs.”.

(2) ANNUAL REPORT TO CONGRESS ON ADVISORY COMMITTEE DETERMINATIONS.—Section 8 of such Act (12 U.S.C. 635g), as amended by the preceding provisions of this Act, is amended by adding at the end the following:

“(i) ACCESS TO BANK PRODUCTS BY THE TEXTILE INDUSTRY.—The Bank shall include in its annual report to the Congress under subsection (a) of this section a report on the determinations made by the Advisory Committee under section 3(d)(5) in the year covered by the report.”.

**SEC. 18. FINANCING FOR GOODS MANUFACTURED IN THE UNITED STATES USED IN GLOBAL TEXTILE AND APPAREL SUPPLY CHAINS.**

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

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

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

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

(4) Ways in which the Bank can take into account the full global textile and apparel supply chain—in particular, the ultimate purchase, and ultimate United States-based purchaser, of the finished good, that would result from the supply chain—in making credit and risk determinations and the creditworthiness of the ultimate purchaser.

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

- (A) the extent to which the Bank is authorized to offer new products;
- (B) the extent to which the Bank would need additional authority to offer the new products; and
- (C) specific proposals for changes in law that would enable the Bank to provide such financing in compliance with the credit and risk standards of the Bank.

(b) REPORT.—Within 180 days after the date of the enactment of this Act, the Bank shall submit to the Congress a report that contains the results of the study required by subsection (a).

(c) ANNUAL REPORTS.—Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635g), as amended by the preceding provisions of this Act, is amended by adding at the end the following:

“(j) TEXTILE AND APPAREL SUPPLY CHAIN FINANCING.—The Bank shall include in its annual report to the Congress under subsection (a) of this section a description of the success of the Bank in providing effective and reasonably priced financing to the United States textile and apparel industry for exports of goods manufactured in the United States that are used as components in global textile and apparel supply chains in the year covered by the report, and steps the Bank has taken to increase the use of Bank products by such firms.”.

**SEC. 19. PROHIBITION ON BANK ASSISTANCE FOR PROJECT TO BE PARTICIPATED IN BY AN ENTITY THAT HAS RECENTLY ENGAGED IN CERTAIN PROHIBITED ACTIVITIES WITH RESPECT TO IRAN.**

The Export-Import Bank of the United States shall not guarantee, insure, or extend (or participate in an extension of) credit in connection with the export of any good or service for a person, unless the person has certified to the Bank that, since July 1, 2010, neither the person, nor any other person under common ownership or control with the person—

- (1) has engaged in any activity for which sanctions may be imposed under section 5(a) of the Iran Sanctions Act of 1996;
- (2) has provided sensitive technology (as defined in section 106(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010) to the government of Iran; or
- (3) if the person is a United States person, has engaged in any activity prohibited by part 560 of title 31, Code of Federal Regulations (also known as the “Iran Transaction Regulations”).

**SEC. 20. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall take effect on October 1, 2011.

**PURPOSE AND SUMMARY**

H.R. 2072, the Securing American Jobs Through Exports Act of 2011, would amend the Export-Import Bank Act of 1945 by extending the authority of the Export-Import Bank of the United States (the Bank) for four years, from 2011 to 2015. The mission of the Export-Import Bank is to finance the export of U.S. goods and services to create and maintain U.S. jobs. The purpose of H.R. 2072 is to reauthorize the activities and operations of the Bank so it may carry out its mission and in so doing contribute to a stronger national economy.

Key provisions of H.R. 2072 include: (1) a four-year reauthorization of the Export-Import Bank charter; (2) a gradual increase in the Bank’s financing authority from \$100 billion to \$160 billion; (3) a requirement that the Bank establish clear and comprehensive guidelines regarding the type and amount of content in a good or service eligible for Bank financing; (4) authorization for the Bank to use up to \$20 million of its surplus, subject to appropriations,

to upgrade its information technology system; and (5) a number of new transparency and accountability requirements for the Bank.

The enhanced transparency and accountability requirements included in H.R. 2072 would ensure that the Bank's default rates remain low, its internal policies and procedures are followed, and taxpayers are protected. Bank accountability would be strengthened by requiring the Government Accountability Office to conduct biennial audits of a representative sample of Bank transactions. The Bank would be required to submit a report to Congress if its default rate equals or exceeds two percent, with a written explanation of why the rate increased and a plan to reduce the rate to less than 2 percent. The Bank would be encouraged to establish a formal, transparent, and independent mechanism for affected parties to hold the Bank accountable for noncompliance with its internal policies and procedures. The Bank would be required to post on its website short descriptions of proposed transactions that equal or exceed \$75 million no later than 25 days before final consideration by the Board. In addition, in its Annual Report the Bank would provide a justification for each long-term loan and guarantee transaction it supports. Finally, the bill includes a prohibition on Bank assistance unless entities certify they have not recently engaged in prohibited activities with Iran.

#### BACKGROUND AND NEED FOR LEGISLATION

H.R. 2072 was introduced by Rep. Gary Miller, the Chairman of the Subcommittee on International Monetary Policy and Trade, to amend and reauthorize the charter of the Export Import Bank of the United States (the Bank). The charter under which the Bank operates is set to expire on September 30, 2011. Reauthorization is necessary to ensure that the Bank's support of small and large U.S. companies seeking to export their products can continue uninterrupted in order to maintain and create U.S. jobs.

The Bank was established by an Executive Order in 1934 and was made an independent agency by Congress in 1945 (Public Law 79-173). The Bank is the official export credit agency (ECA) of the United States and serves to promote the creation and maintenance of U.S. jobs by providing direct loans, loan guarantees, working capital guarantees, and export credit insurance to exporters. During Fiscal Year 2010, the Bank provided \$24.5 billion in export financing and estimates that 227,000 jobs were created or maintained at more than 3,300 companies because of its programs. The Bank is a self-sustaining organization and surplus revenue is remitted to the U.S. Treasury. For Fiscal Years 2008 through 2010, the Bank returned \$551 million to the Department of the Treasury.

The Bank's policy is to supplement and encourage, and not compete with, private capital. The Bank requires reasonable assurance of repayment for all authorized transactions. Transactions are based on the Bank's risk assessment of the buyers, and since 1934 the net loss rate for all long, medium, and short term loans made by the Bank is 1.5 percent.

Export sales by United States companies are critical to national economic growth. A large percentage of future global growth will occur in markets served by the Bank, and the Bank will play a critical role in helping U.S. companies compete for these opportunities. The Bank currently supports exports to 183 countries, and has fo-

cused its efforts on nine emerging market nations where the Bank estimates there will be \$3 trillion in infrastructure investments in the next five years. Other countries' ECAs, foreign governments, and foreign firms are also focusing on these markets to gain and maintain market share in these growing economies. Therefore, the Bank's financing is essential to leveling the playing field for U.S. firms seeking to export to these markets.

The Bank provides financial support to small businesses through increased outreach efforts in local communities and enhanced small business loan and insurance programs. Last year, there were more than 700 first-time small business users of the Bank's programs, while the Bank authorized \$5 billion in support of small business interests. In Fiscal Year 2010, 87 percent of the Bank's 3,532 transactions directly benefited small businesses.

The Bank is subject to statutory restrictions and oversight to safeguard its fiscal soundness, limit mismanagement, and prevent corruption. The Bank's charter requires it to submit annually a detailed report of its operations to Congress. In addition, the Bank is required to report annually on its support for small business and its competitiveness in comparison to foreign ECAs.

Since the financial crisis of 2008, the Bank has been an integral part of the U.S. effort to resuscitate the economy by providing export credit financing when private capital is limited or unavailable. At a time when demand for Bank support is increasing, H.R. 2072 would ensure the Bank has the tools and resources it needs to meet such demand, while effectively mitigating risk. The Bank's volume continues to grow at a rate of approximately \$1 billion per month. To meet this demand, H.R. 2072 would gradually increase the Bank's financing authority from \$100 billion to \$160 billion. H.R. 2072 would add new audit procedures, disclosure requirements, and enhanced accountability mechanisms to ensure the continued success and integrity of the Bank.

The Bank needs an information technology system upgrade to keep up with its current rate of growth and to ensure sound underwriting, and guard against fraud. H.R. 2072 would authorize the Bank to use 1.25 percent of its annual surplus, up to an aggregate of \$20 million, to improve its information technology system. The Bank's Inspector General testified that the Bank needs to improve its information technology system to better protect proprietary information, enhance underwriting, and prevent fraud and abuse. The technology upgrade in H.R. 2072 would remedy operational weaknesses and risk management vulnerabilities by enhancing information flow, managing data, and enhancing the operational capacity of the Bank.

Currently, the Bank does not have a transparent process for developing and implementing guidelines that detail the amount of goods and services eligible for Bank financing. H.R. 2072 would direct the Bank to establish clear and comprehensive guidelines for the type and amount of content in a good and service that is eligible for bank financing. These guidelines would be reviewed every two years and would be subject to a notice and comment period so that all stakeholders can provide feedback to the Bank. Proposed guidelines would also be sent to Congress before they are implemented. The Bank's Inspector General would report to Congress on

guidelines within one year of new or modified guidelines taking effect.

H.R. 2072 would also direct the Bank to assess how it can serve additional industry sectors that demonstrate both creditworthiness and the need for Bank assistance. In addition to allowing the Bank to establish separate content guidelines for service-industry exports, the legislation would encourage the Bank to consider the needs of the textile industry. The bill would direct the Bank's Advisory Committee, which meets quarterly and advises the Bank on a range of issues, to expand its focus to include the textile industry. The Advisory Committee's findings would be included in the Bank's Annual Report. In addition, the Bank would conduct a study examining its financial assistance to the textile industry.

As a sense of Congress, the Committee urges the Bank to work with all stakeholders to establish an accountability mechanism, which can help decrease risk and provide stability for successful and sustainable business enterprise. Such a mechanism at the Bank should have two functions. One would be to provide a conflict resolution process for affected people seeking to solve problems with activities supported by the Bank. The purpose of this function is to allow complainants and the Ex-Im client to enter into a structured dialogue with the help of a Bank mediator. This approach can address existing complaints about real, perceived, or potential harm from Bank activities, as well as prevent such harm from escalating or occurring at all. The second function would be compliance review, where a complainant may seek an independent review of the Bank's operation to determine whether or not the Bank has violated its own policies and procedures. Further, the mechanism should operate independently of Bank management, in a transparent manner with a public registry of complaints and clear rules of procedure.

As the Bank supports increased U.S. exports, H.R. 2072 would ensure that the Bank remains accountable, that its policies and procedures are followed, and ultimately the taxpayer is protected.

#### HEARINGS

The Subcommittee on International Monetary Policy and Trade held a hearing on March 10, 2011 entitled "The Role of the Export-Import Bank in U.S. Competitiveness and Job Creation." The following witnesses testified:

- Mr. Karan Bhatia, Vice President and Senior Counsel, General Electric
- Mr. Scott Scherer, Senior Vice President, Boeing Capital Corporation
- Mr. David Ickert, Vice President of Finance, Air Tractor, Inc.
- Mr. Kevin Law, President & CEO, Long Island Association

The Subcommittee on International Monetary Policy and Trade held a hearing on May 24, 2011 entitled "Legislative Proposals on Securing American Jobs Through Exports: Export-Import Bank Reauthorization." The following witnesses testified:

##### *Panel One*

- The Honorable Fred Hochberg, Chairman and President, the Export-Import Bank of the United States

*Panel Two*

- Ms. Donna K. Alexander, Chief Executive Officer, Bankers' Association for Finance and Trade—International Financial Services Association (BAFT–IFSA)
- Ms. Thea Lee, Deputy Chief of Staff, American Federation of Labor and Congress of Industrial Organizations (AFL–CIO)
- Mr. Osvaldo Luis Gratacós, Inspector General for the Export-Import Bank
- Mr. John Hardy, President, Coalition for Employment Through Exports (CEE)
- Dr. Matthew Slaughter, Associate Dean for the MBA Program; Signals Company Professor of Management; Tuck School of Business, Dartmouth College

## COMMITTEE CONSIDERATION

The Subcommittee on International Monetary Policy and Trade met in open session on June 2, 2011 and ordered H.R. 2072, as amended, favorably reported to the full Committee by voice vote.

The Committee on Financial Services met in open session on June 22, 2011 and ordered H.R. 2072, as amended, favorably reported to the House by voice vote.

## COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken on amendments or in connection with ordering H.R. 2072 reported to the House. A motion by Chairman Bachus to report the bill, as amended, to the House with a favorable recommendation was agreed to by voice vote.

During consideration of H.R. 2072, the following amendments and motion were considered by the Committee:

1. An amendment offered by Mr. Royce, no. 1a, to an amendment offered by Mr. Miller of CA, no. 1, to make a technical change that directs Export-Import Bank to categorize the purpose of loans and long-term guarantees in its Annual Report, was agreed to by voice vote.

2. An amendment offered by Mr. Miller of CA, no. 1, as amended by an amendment offered by Mr. Royce, no. 1a, to require the Export-Import Bank to examine and report to Congress its policies to support small business; to provide notice and disclosure for all transactions that exceed \$75 million; to justify its reasons for financing a transaction; and to study how to better serve the textile industry and expand the Bank's advisory committees' focus to include textiles, was agreed to by voice vote.

3. An amendment offered by Mr. Campbell, no. 2, to prohibit the extension of assistance by the Export-Import Bank to any person that engaged in any activity for which sanctions may be imposed under section 5 of the Iran Sanctions Act of 1996 or under section 106(e) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 to the government of Iran, or if the person is a United States person, engaged in any activity prohibited by part 560 of title 31, Code of Federal Regulations, was agreed to by voice vote.

4. An amendment offered by Ms. Velázquez, no. 3, to expand the Export-Import Bank's Direct Loan Program to permit lending to small business concerns, was offered and withdrawn.

5. A motion offered by Mr. Miller of CA to move the previous question on H.R. 2072 was agreed to by voice vote.

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings and made findings that are reflected in this report.

#### PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The purpose of H.R. 2072, the Securing American Jobs Through Exports Act of 2011, is to extend the authority of the Export-Import Bank of the United States for four years, from 2011 to 2015 so that it may carry out its mission. The mission of the Export-Import Bank is to finance the export of U.S. goods and services to create and maintain U.S. jobs. It is also the purpose of H.R. 2072 to provide for enhanced transparency and accountability requirements to ensure that the Bank's default rates remain low, its policies and procedures are followed, and taxpayers are protected.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, August 1, 2011.

Hon. SPENCER BACHUS, *Chairman,*  
*Committee on Financial Services,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2072, the Securing American Jobs Through Exports Act of 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte.

Sincerely,

DOUGLAS W. ELMENDORF,  
*Director.*

Enclosure.

*H.R. 2072—Securing American Jobs Through Exports Act of 2011*

Summary: H.R. 2072 would extend through 2015 the authority of the Export-Import Bank of the United States (Ex-Im) to provide loans and insurance to finance exports of U.S. products and services. The bill also would gradually raise to \$160 billion the total amount of insurance, loan guarantees, and loans that Ex-Im can have outstanding at any time. Finally, it would prohibit the bank from doing business with entities who cannot certify that neither they nor their business partners or affiliates have engaged in certain business dealings with Iran.

CBO estimates that implementing the legislation would increase spending by about \$170 million over the 2012–2016 period, assuming appropriation of the necessary amounts. Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

H.R. 2072 contains no intergovernmental or private-sector mandates as defined in Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2072 is shown in the following table. The costs of this legislation fall within budget functions 150 (international affairs) and 800 (general government).

	By fiscal year, in millions of dollars—					
	2012	2013	2014	2015	2016	2012–2016
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Reauthorization and Increased Exposure Cap:						
Administrative Expenses:						
Estimated Authorization Level .....	58	88	106	126	98	476
Estimated Outlays .....	48	79	99	117	96	439
Subsidy Costs (Positive Subsidies):						
Estimated Authorization Level .....	76	87	101	116	0	380
Estimated Outlays .....	17	50	69	88	74	298
Collections (Negative Subsidies):						
Estimated Authorization Level .....	–117	–304	–502	–712	–534	–2,169
Estimated Outlays .....	–117	–304	–502	–712	–534	–2,169
Spending of Collections:						
Estimated Authorization Level .....	50	50	50	50	0	200
Estimated Outlays .....	0	11	31	39	45	126
Subtotal:						
Estimated Authorization Level .....	67	–79	–245	–420	–436	–1,113

	By fiscal year, in millions of dollars—					
	2012	2013	2014	2015	2016	2012–2016
Estimated Outlays .....	–52	–164	–303	–468	–319	–1,306
Certifications Regarding Iran:						
Additional Administrative Expenses:						
Estimated Authorization Level .....	6	6	8	9	6	35
Estimated Outlays .....	6	6	7	8	6	33
Lost Collections:						
Estimated Authorization Level .....	47	147	310	544	408	1,456
Estimated Outlays .....	47	147	310	544	408	1,456
Lower Spending of Collections:						
Estimated Authorization Level .....	0	0	–1	–50	0	–51
Estimated Outlays .....	0	0	0	0	–12	–12
Subtotal:						
Estimated Authorization Level .....	53	153	317	503	414	1,440
Estimated Outlays .....	53	153	317	552	402	1,477
Total Changes:						
Estimated Authorization Level .....	120	74	72	83	–22	327
Estimated Outlays .....	1	–11	14	84	83	171

Basis of estimate: H.R. 2072 would extend and modify Ex-Im's authority to provide export financing through 2015 (an additional four years). CBO estimates that implementing the legislation would increase spending by \$171 million over the 2012–2016 period, assuming appropriation of the estimated amounts.

The bill does not authorize the appropriation of specific amounts. CBO assumes that appropriations would continue for both the administrative costs and the subsidy costs of new loans and guarantees as defined in the Federal Credit Reform Act (FCRA).<sup>1</sup> Certain loan guarantees have a negative subsidy (that is, they result in net additional collections); under current law, Ex-Im uses those collections to fully offset both of those costs, and spends any excess on providing additional loans and guarantees with positive subsidy costs. CBO expects that Ex-Im would continue that practice under the bill. For the purpose of this estimate, CBO assumes that the bill will be enacted near the start of fiscal year 2012, that the estimated authorization amounts would be appropriated near the start of each year, and that outlays will follow historical patterns.

#### REAUTHORIZATION AND INCREASED EXPOSURE CAP

The Export-Import Bank assists in financing the export of U.S. goods and services by providing products such as loans, loan guarantees, and export credit insurance. The bank's authority to enter into new agreements expires at the end of fiscal year 2011; however, under current law, the bank would continue to operate for some years after that date to service its existing contracts.

As required under FCRA, Ex-Im receives appropriations each year to cover its administrative expenses and the positive subsidy costs of its loans and insurance. Ex-Im also provides loans on which it makes a profit—also known as a negative subsidy. In recent years, Ex-Im has generated sufficient receipts through those negative subsidy loans to more than offset its other costs. It uses some of those excess receipts to provide additional loans and the

<sup>1</sup>Under the Federal Credit Reform Act of 1990, the subsidy cost of a direct loan or loan guarantee is the net present value of estimated payments by the government to cover defaults and delinquencies, interest subsidies, or other expenses, offset by any payments to the government, including origination fees, other fees, penalties, and recoveries on defaulted loans. Such subsidy costs are recorded in the budget when the loans are disbursed.

remainder are retained as balances or returned, eventually, to the U.S. Treasury. The dollar amount of loans, guarantees, and insurance that Ex-Im can have outstanding at any given time is limited by a cap on its exposure.

Section 3 would allow the bank to continue providing new loans, guarantees, and insurance through 2015. Section 4 would increase Ex-Im's maximum allowable financial exposure to \$120 billion in 2012, \$140 billion in 2013, and \$160 billion each year thereafter. CBO estimates that such an increase would allow Ex-Im to continue expanding at its recent rate of about 15 percent a year. Together, CBO estimates that implementing sections 3 and 4 would decrease spending subject to appropriation by \$1.3 billion over the 2012–2016 period, assuming appropriations action consistent with the bill. The components of this estimate are discussed below.

**Administrative Expenses.** Based on information from Ex-Im, CBO estimates that the bank would require additional appropriations of \$58 million in 2012 for administrative expenses. Over the 2013–2015 period, CBO estimates that Ex-Im's administrative expenses would grow by 10 percent each year. In 2016, when the bank's authorization would again expire, CBO estimates the additional amounts needed would begin to decline. Assuming appropriation of the estimated amounts, CBO estimates that under sections 3 and 4, administrative expenses would increase by about \$440 million over the 2012–2016 period.

**Positive Subsidy Costs.** CBO further estimates that in 2012 Ex-Im would require appropriations of \$76 million for the subsidy cost of new agreements (that amount is identical to the President's request for 2012). Over the 2013–2015 period, CBO estimates that Ex-Im's originations and the subsidy appropriations required would grow by 15 percent each year. In 2016, when Ex-Im's authorization would expire, the bank would not need a subsidy appropriation. Assuming appropriation of the estimated amounts, CBO estimates that subsidy costs under sections 3 and 4 would increase by about \$300 million over the 2012–2016 period.

**Negative Subsidies.** Ex-Im's long-term loan guarantees have negative subsidy rates and generate collections for the bank. CBO estimates that under sections 3 and 4, Ex-Im would collect an additional \$117 million in 2012 and \$2.2 billion over the 2012–2016 period. Each year in annual appropriations acts, Ex-Im is authorized to use the negative subsidy receipts it has generated to offset the amounts that would otherwise need to be appropriated for administrative expenses and the positive subsidy costs of new loans and insurance.

**Spending of Collections.** Assuming those appropriations, CBO further estimates that after using its collections to offset its administrative expenses and subsidy costs, Ex-Im would spend about \$125 million of its excess collections over the 2012–2016 period. (Those amounts would be used for loans and insurance that have a positive subsidy cost. Ex-Im has indicated that because of limited demand for such deals, it does not anticipate using more than \$50 million a year in such authority.)

#### CERTIFICATIONS REGARDING IRAN

Section 19 of the bill would require applicants for Ex-Im products to certify that since July 1, 2010, neither they nor their business

partners or affiliates have engaged in any activities for which sanctions might be imposed under various laws and regulations pertaining to Iran. It would prohibit the bank from doing business with entities that cannot make such certifications. Ex-Im has indicated that complying with those requirements would both lower the volume of certain lucrative deals and increase its administrative costs. CBO estimates that implementing this provision would have a net cost of about \$1.5 billion over the 2012–2016 period, assuming appropriation of the necessary amounts.

Most of the deals that would be affected by the prohibition in section 19 would be long-term loan guarantees with negative subsidy rates that generate collections for Ex-Im. A reduction in the volume of such deals would lower Ex-Im's collections. Based on information from Ex-Im, CBO estimates that the bank would originate 40 percent fewer loans and guarantees and that collections would fall by almost \$1.5 billion over the 2012–2016 period. In 2015, collections would no longer be sufficient to offset Ex-Im's other costs, thereby reducing spending of those collections.

Based on information from Ex-Im, CBO estimates that in 2012 the bank would require additional appropriations of \$6 million for administrative expenses to collect and process the required certifications. After adjusting for inflation, CBO estimates that the administrative costs associated with implementing this provision would amount to \$33 million over the 2012–2016 period, assuming appropriation of the estimated amounts.

It is unclear whether section 19 is intended to apply retrospectively to Ex-Im's existing contracts. If Ex-Im concludes that is the case, it could be forced to cancel contracts with entities found to have links with Iran. Any resulting penalties, reimbursements, or reductions in spending would be considered direct spending; however, in the absence of clear congressional intent CBO expects that the requirement would only be applied to new deals and Ex-Im would not cancel any existing contracts.

#### GOVERNMENT ACCOUNTABILITY OFFICE REPORT

The bill would require the Government Accountability Office (GAO) to conduct a study and report to the Congress on the methodology Ex-Im uses to estimate how its financing promotes job creation. GAO also would be required to conduct biennial audits of bank transactions. Based on information from GAO, CBO estimates that implementing those requirements would cost less than \$500,000 over the 2012–2016 period, assuming availability of appropriated amounts.

Pay-as-you-go considerations: None.

Estimated impact on state, local, and tribal governments: H.R. 2072 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimated impact on the private sector: H.R. 2072 would prohibit Ex-Im from guaranteeing, insuring, or extending credit to any applicant that cannot certify that since July 1, 2010, neither they nor their business partners or affiliates has engaged in activities with Iran for which sanctions may be imposed under various laws and regulations. If Ex-Im concludes that those provisions would apply retroactively, it would be forced to terminate existing contracts with entities found to have certain ties to Iran. Such an action

would impose new conditions on existing agreements, and therefore, would constitute a mandate on certain private-sector entities. However, in the absence of clear Congressional intent to terminate existing contracts, CBO expects that the requirement would only apply to new Ex-Im contracts. Requirements that are imposed pursuant to new voluntary contracts with the Federal Government are not considered mandates under UMRA. Consequently, CBO expects the bill would impose no private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Sunita D'Monte; Impact on State, local, and Tribal Governments: J'nell L. Blanco; Impact on the private sector: Marin Randall and Sean Lowry.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

#### EARMARK IDENTIFICATION

H.R. 2072 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1: Short title; table of contents*

This section provides a short title to the bill of "Securing American Jobs Through Exports Act of 2011."

##### *Section 2: Findings; statement of purpose*

This section includes findings that the Export-Import Bank contributes to a stronger national economy by financing the export of U.S. goods and services where private financing is limited or unavailable. This assistance helps U.S. firms compete in important and growing export markets and creates U.S. jobs. The section also states that in 2010, the Bank supported 227,000 American jobs at over 3,300 companies.

This section provides that the purpose of H.R. 2072 is to reauthorize the activities and operations of the Export-Import Bank to ensure that the Bank provides financing, when commercial banks are unable or unwilling to do so, competitive with the financing provided by foreign export credit agencies, in order to enable

United States companies to contribute to a stronger national economy by maintaining or increasing the employment of workers in the United States through the export of goods and services.

*Section 3: Extension of authority*

This section reauthorizes the Export-Import Bank for four years, from 2011 to 2015.

*Section 4: Limitations on outstanding loans, guarantees, and insurance*

This section increases the Bank's lending authority from \$100 billion to \$160 billion over three years, increasing \$20 billion per year up to \$160 billion in total exposure.

*Section 5: Content guidelines for the provision of bank financing*

This section provides that after a notice and comment period and Board approval, the Bank is required to establish comprehensive content guidelines for goods and services eligible for Bank financing. In establishing these guidelines, the Bank must take into account required considerations that support the creation and maintenance of U.S. jobs and contribute to a stronger national economy through the export of goods and services. In addition to the considerations listed in the bill, the Bank is permitted to take into account any considerations it deems relevant to increasing U.S. employment.

Under this section, the Bank is authorized to establish separate guidelines for (1) goods and services; (2) financing terms and financial products; and (3) small business concerns. Also, before receiving financial support, an exporter is required to certify that the domestic content of a good was not reduced solely as a result of the new guidelines.

Additionally, the Bank must publish proposed content guidelines no later than 60 days after the date of enactment of the Act for notice and comment. Within 60 days after the end of the notice period, the Bank is required to submit the proposed guidelines to Congress for review. Following a 60-day Congressional review period, the guidelines would be considered final and would be implemented.

This section also provides for the Bank to review and, as appropriate, modify the guidelines every two years. Within one year after the implementation of the content guidelines, the Bank's Inspector General would evaluate the Bank's content guidelines and submit a report to Congress.

*Section 6: Improvement of method for calculating the effects of bank financing on job creation and maintenance in the United States*

This section directs the Government Accountability Office (GAO) to conduct a study to determine the most accurate method to calculate the effects of Bank financing on job creation in the United States, and to recommend modifications to the Bank's current methodology, if needed. The GAO is required to submit the results of the study within six months of the date of enactment of the bill.

*Section 7: Biennial audits of bank transactions*

This section requires the GAO, in consultation with the Inspector General of the Bank, to audit a representative sample of Bank transactions every two years to ensure Bank transactions meet the Bank's policies, guidelines and due diligence standards.

*Section 8: Use of portion of the bank surplus to update information technology systems*

This section provides that for each fiscal year, the Bank may use up to 1.25% of its surplus to upgrade its information technology systems, up to an aggregate amount of \$20 million. The use of the Bank's surplus funds for the purpose of investing in its information technology system is subject to appropriations.

*Section 9: Monitoring of default rates on bank financing; reports on default rates*

This section requires the Bank to monitor and calculate its total default rate at least every quarter of each fiscal year. If the total default rate equals or exceeds two percent, then the Bank must submit a report to Congress, within 45 days, explaining the circumstance of the default and develop a plan to reduce the default rate.

*Section 10: Sense of the Congress regarding bank accountability*

This section provides that it is the sense of the Congress to encourage the Board of Directors to establish an independent process for affected parties to hold the Bank accountable for instances of noncompliance with its policies and procedures.

*Section 11: Sub-Saharan Africa Advisory Committee*

This section reauthorizes the Sub-Saharan Africa Advisory Committee for four years, from 2011 to 2015.

*Section 12: Extension of authority to provide financing for the export of non-lethal defense articles or services the primary end use of which will be for civilian purposes*

This section provides for an extension of the Bank's authority to finance the export of non-lethal defense articles or services used primarily for civilian purposes for four years, from 2011 to 2015.

*Section 13: Elimination of obsolete provisions*

This section removes the provisions of the Bank charter relating to the Foreign Credit Insurance Association and certain Marxist-Leninist Countries that no longer exist.

*Section 14: Examination of bank support for small business*

This section provides that within 180 days of the enactment of this Act, the Bank must examine its current products, programs, and policies and report to Congress on whether the Bank adequately meets the needs of small business exporters.

*Section 15: Categorization of purpose of loans and long-term guarantees in annual report*

This section provides that, in its annual report, the Bank must categorize each loan and long-term guarantee according to the following purposes:

(1) To assume commercial or political risk that an exporter or private financial institutions is unwilling or unable to undertake.

(2) To overcome maturity or other limitations in private sector export financing.

(3) To meet competition from a foreign, officially sponsored, export credit competition.

(4) Not identified. The reason why the purpose is not identified.

*Section 16: Disclosure requirement for board meetings*

This section requires the Bank to publish on its website information on proposed financing transactions that equal or exceed \$75 million, no later than 25 days before final consideration by the Board of Directors. The Bank may not, however, publish confidential or proprietary business information that would violate the Trade Secrets Act or jeopardize jobs in the United States by supplying competitors with information that could be used to compete with U.S. firms.

*Section 17: Modifications relating to the Advisory Committee*

This section provides for the inclusion of the textile industry in the interests that will be broadly represented on the Bank's Advisory Committee. The Advisory Committee is directed to consider ways to support the maintenance, promotion and expansion of jobs in the textile industry. Also, in its Annual Report to Congress, the Bank must include a section on Advisory Committee determinations relating to the textile industry.

*Section 18: Financing for goods manufactured in the United States used in global textile and apparel supply chains*

This section requires the Bank to conduct a study examining the ability of the textile industry to access Bank products, and to report to Congress within 180 days of the date of enactment how the Bank could increase accessibility to Bank financing for the textile industry. In addition, the Bank's Annual Report to Congress must include a description of its record in meeting the needs of the textile and apparel industry, and detail the steps taken to increase Bank accessibility.

*Section 19: Prohibition on bank assistance for project to be participated in by an entity that has recently engaged in certain prohibited activities with respect to Iran*

This section prohibits the Bank from providing financing to a person, unless the person certifies to the Bank that, since July 1, 2010, neither the person, nor any other person under common ownership or control with the person, has engaged in activities sanctionable under Section 5(a) of the Iran Sanctions Act of 1996, or Section 106(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, or part 560 of Title 31, Code of Federal Regulations (Iranian Transactions Regulations).

*Section 20: Effective date*

This section provides that the Securing American Jobs Through Exports Act of 2011 and its amendments would take effect on October 1, 2011.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**EXPORT-IMPORT BANK ACT OF 1945**

\* \* \* \* \*  
 SEC. 2. (a) \* \* \*  
 (b)(1)(A) \* \* \*

\* \* \* \* \*  
 [(F)] Consistent with international agreements, the Bank shall urge the Foreign Credit Insurance Association to provide coverage against 100 per centum of any loss with respect to exports having a value of less than \$100,000.]

[(G)] (F) Participation in or access to long-, medium-, and short-term financing, guarantees, and insurance provided by the Bank shall not be denied solely because the entity seeking participation or access is not a bank or is not a United States person.

[(H)] (G)(i) \* \* \*  
 \* \* \* \* \*

[(I)] (H) The President of the Bank shall undertake efforts to enhance the Bank's capacity to provide information about the Bank's programs to small and rural companies which have not previously participated in the Bank's programs. Not later than 1 year after the date of enactment of this subparagraph, the President of the Bank shall submit to Congress a report on the activities undertaken pursuant to this subparagraph.

[(J)] (I) The Bank shall implement an electronic system designed to track all pending transactions of the Bank.

[(K)] (J) The Bank shall promote the export of goods and services related to renewable energy sources.

[(L)] (K) The Bank shall require an applicant for assistance from the Bank to disclose whether the applicant has been found by a court of the United States to have violated the Foreign Corrupt Practices Act of 1977, the Arms Export Control Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979 within the preceding 12 months, and shall maintain, in cooperation with the Department of Justice, for not less than 3 years a record of such applicants so found to have violated any such Act.

- (2) PROHIBITION ON AID TO MARXIST-LENINIST COUNTRIES.—  
 (A) \* \* \*  
 (B) MARXIST-LENINIST COUNTRY DEFINED.—  
 (i) \* \* \*  
 (ii) SPECIFIC COUNTRIES DEEMED TO BE MARXIST-LENINIST.—Unless otherwise determined by the President in

accordance with subparagraph (C), the following countries are deemed to be Marxist-Leninist countries for purposes of this paragraph:

(I) \* \* \*

- \* \* \* \* \*
- [(VII) Socialist Federal Republic of Yugoslavia.]**
- [(VIII) (VII) Socialist Republic of Vietnam.]**
- [(IX) (VIII) Tibet.]**

(9)(A) \* \* \*  
 (B)(i) \* \* \*

\* \* \* \* \*

(iii) The advisory committee shall terminate on September 30, **[2011] 2015.**

\* \* \* \* \*

(h) RESPONSE TO APPLICATION FOR FINANCING; IMPLEMENTATION OF ONLINE LOAN REQUEST AND TRACKING PROCESS.—

(1) \* \* \*

(2) WEBSITE.—Not later than September 1, 2007, the Bank shall exercise the authority granted by subparagraphs (E)(x) and **[(J) (I)]** of subsection (b)(1) to establish, and thereafter to maintain, a website through which—

(A) \* \* \*

\* \* \* \* \*

(i) CONTENT GUIDELINES FOR THE PROVISION OF FINANCING.—

(1) IN GENERAL.—*The Bank shall, after notice and comment and Board approval, establish clear and comprehensive guidelines with respect to the content of the goods and services involved in a transaction for which the Bank will provide financing, which shall be aimed at ensuring that the Bank enables companies with operations in the United States to maintain and create jobs in the United States and contribute to a stronger national economy through the export of their goods and services.*

(2) REQUIRED CONSIDERATIONS.—*In establishing the guidelines, the Bank shall take into account such considerations as the Bank deems relevant to meet the purposes described in paragraph (1), including the following:*

(A) *The needs of different industry sectors to obtain financing from the Bank for exporting their products or services in order to create and maintain jobs in the United States.*

(B) *The ability of companies with operations in the United States to compete effectively for export opportunities that will create and maintain jobs in the United States, particularly with respect to the Bank's content requirements and co-financing arrangements.*

(C) *The totality of support, including financing and subsidies, extended by export credit agencies to support the exports of goods and services, as well as key differences in, types of trade-offs among, and national trade promotion*

*strategies of OECD member countries and of non-OECD member countries.*

*(D) Recommendations from the advisory committee established under section 3(d), including any dissenting views.*

*(E) Any findings or recommendations of the Government Accountability Office pertaining to the ability of the Bank to provide financing that is competitive with the financing provided by foreign export credit agencies, to enable companies with operations in the United States to contribute to a stronger United States economy by maintaining or increasing the employment of workers in the United States through the export of goods and services.*

*(F) The effects of the guidelines on the manufacturing workforce and service workforce of the United States.*

*(G) The effect of changes to current Bank content requirements on the incentive for companies to create and maintain operations in the United States in order to increase the employment of workers in the United States.*

**(3) SEPARATE GUIDELINES.—**

*(A) The Bank may establish separate guidelines under this subsection for services and for goods.*

*(B) The Bank may establish separate guidelines under this subsection for small business concerns (as defined in section 3(a) of the Small Business Act).*

*(C) The Bank may continue separate guidelines under this subsection with respect to different terms and products.*

**(4) CERTIFICATION THAT DOMESTIC CONTENT HAS NOT BEEN REDUCED BECAUSE OF THE GUIDELINES.—***In determining whether to provide financing for a proposed transaction, the exporter shall certify that the domestic content of a good has not been reduced solely as a result of the guidelines.*

**(5) PROCEDURAL PROVISIONS.—***Within 60 days after the date of the enactment of this Act, the Bank shall publish a notice with respect to the issuance or modification of guidelines under this subsection. Within 60 days after the end of the public comment period otherwise required by law with respect to the issuance or modification of the guidelines, the Bank shall submit to the Congress, for its review, the guidelines in proposed final form. At the end of the 60-day period that begins with the date the proposed final guidelines are so submitted, the proposed final guidelines shall be considered a final agency action for all purposes and shall take effect and be implemented immediately.*

**(6) TERM.—***Every 2 years, the Bank shall review and, as appropriate, modify the guidelines, subject to paragraph (5).*

**(7) REPORT TO CONGRESS.—***Within 1 year after the implementation of new or modified guidelines under this subsection, the Inspector General of the Bank shall submit to the Congress a report evaluating the guidelines, which shall include—*

*(A) a discussion of the considerations required to be taken into account in establishing the guidelines, a comparison of how the guidelines reflect each consideration, and a description of the extent to which the guidelines enabled companies with operations in the United States who submitted an application for financing from the Bank to*

*maintain and create jobs in the United States and contribute to a stronger national economy through the export of their goods and services;*

*(B) a description of the effect of the guidelines on the number of domestic jobs to be supported, the kinds of domestic jobs to be supported, including their duration and geographic location, and the existence and nature of any transfers of technology or production; and*

*(C) recommendations for how the guidelines could be modified to better facilitate exports of goods and services from the United States in order to maintain and create jobs in the United States and contribute to a stronger national economy.*

*(j) AUDITS OF BANK TRANSACTIONS.—Every 2 years, the Comptroller General of the United States, in consultation with Inspector General of the Bank, shall audit a representative sample of Bank transactions to ensure that Bank underwriting, policies, due diligence, and content guidelines are met by applicants who receive Bank support.*

SEC. 3. (a) \* \* \*

\* \* \* \* \*

(c)(1) \* \* \*

\* \* \* \* \*

(9) At the request of any 2 members of the Board of Directors, the Chairman of the Board shall place an item pertaining to the policies or procedures of the Bank on the agenda for discussion by the Board. Within 30 days after the date such a request is made, the Chairman shall hold a meeting of the Board at which the item shall be discussed. *Not later than 25 days before any meeting of the Board for final consideration of a transaction the value of which exceeds \$75,000,000, and concurrent with any statement required to be submitted under section 2(b)(3) with respect to the transaction, the Bank shall post a notice on the website of the Bank that includes a description of the item proposed to be financed, the identities of the obligor, principal supplier, and guarantor, and a description of any item with respect to which Bank financing is being sought, in a manner that does not disclose any information that is confidential or proprietary business information, that would violate the Trade Secrets Act, or that would jeopardize jobs in the United States by supplying information which competitors could use to compete with companies in the United States.*

(d)(1)(A) \* \* \*

(B) Such members shall be broadly representative of environment, production, commerce, finance, agriculture, labor, services, **[and State government]** *State government, and the textile industry.*

\* \* \* \* \*

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

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

*(B) support the maintenance, promotion and expansion of jobs in the United States that are critical to the manufacture of textile components and inputs.*

\* \* \* \* \*

(f) SMALL BUSINESS DIVISION.—

(1) ESTABLISHMENT.—There is established a Small Business Division (in this subsection referred to as the “Division”) within the Bank in order to—

(A) carry out the provisions of subparagraphs (E) and **[(I)]** (H) of section 2(b)(1) relating to outreach, feedback, product improvement, and transaction advocacy for small business concerns (as defined in section 3(a) of the Small Business Act);

\* \* \* \* \*

(g) SMALL BUSINESS SPECIALISTS.—

(1) \* \* \*

\* \* \* \* \*

(7) RULE OF INTERPRETATION.—Nothing in this Act shall be construed to prevent the delegation to the Division of any authority necessary to carry out subparagraphs (E) and **[(I)]** (H) of section 2(b)(1).

\* \* \* \* \*

(j) *AUTHORITY TO USE PORTION OF BANK SURPLUS TO UPDATE INFORMATION TECHNOLOGY SYSTEMS.—*

(1) *IN GENERAL.—Subject to paragraphs (3) and (4), the Bank may use an amount equal to 1.25 percent of the surplus of the Bank during each fiscal year to—*

*(A) seek to remedy any of the operational weakness and risk management vulnerabilities of the Bank which are the result of the information technology system of the Bank;*

*(B) remedy data fragmentation, enhance information flow throughout the Bank, and manage data across the Bank; and*

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

(2) *SURPLUS.—In paragraph (1), the term “surplus” means the amount (if any) by which—*

*(A) the sum of the interest and fees collected by the Bank; exceeds*

*(B) the sum of—*

*(i) the funds set aside to cover expected losses on transactions financed by the Bank; and*

*(ii) the costs incurred to cover the administrative expenses of the Bank.*

(3) *LIMITATION.—The aggregate of the amounts used in accordance with paragraph (1) for all fiscal years shall not exceed \$20,000,000.*

(4) *SUBJECT TO APPROPRIATIONS.*—The authority provided by paragraph (1) may be exercised only to such extent and in such amounts as are provided in advance in appropriations Acts.

\* \* \* \* \*

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

(a) **LIMITATION ON OUTSTANDING AMOUNTS.**—

(1) \* \* \*

(2) **APPLICABLE AMOUNT.**—In paragraph (1), the term “applicable amount” means—

(A) \* \* \*

\* \* \* \* \*

(D) during fiscal year 2005, \$95,000,000,000; [and]

(E) during fiscal year 2006, and each fiscal year thereafter through fiscal year 2011[.];

(F) during fiscal year 2012, \$120,000,000,000;

(G) during fiscal year 2013, \$140,000,000,000; and

(H) during fiscal year 2014 and each fiscal year thereafter, \$160,000,000,000.

\* \* \* \* \*

SEC. 7. The Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its object and purposes until the close of business on September 30, [2011] 2015, but the provisions of this section shall not be construed as preventing the Bank from acquiring obligations prior to such date which mature subsequent to such date or from assuming prior to such date liability as guarantor, endorser, or acceptor of obligations which mature subsequent to such date, or from issuing either prior or subsequent to such date, for purchase by the Secretary of the Treasury or any other purchasers, its notes, debentures, bonds, or other obligations which mature subsequent to such date or from continuing as a corporate agency of the United States and exercising any of its functions subsequent to such date for purposes of orderly liquidation, including the administration of its assets and the collection of any obligations held by the Bank.

SEC. 8. (a) \* \* \*

\* \* \* \* \*

(c) **TECHNOLOGY TO ASSIST SMALL BUSINESSES.**—The Bank shall include in its annual report to the Congress under subsection (a) of this section for each of fiscal years 2002 through 2006 a report on the efforts made by the Bank to carry out subparagraphs (E)(x) and [(J)] (I) of section 2(b)(1) of this Act, and on how the efforts are assisting small business concerns (as defined in section 3(a) of the Small Business Act).

\* \* \* \* \*

(f) **ADDITIONAL REPORTS.**—Not later than March 31 of each year, the Bank shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate reports on—

(1) \* \* \*

\* \* \* \* \*

(8)(A) the efforts made by the Bank to carry out subparagraphs (E)(x) and [(J)] (I) of section 2(b)(1) of the Export-Import Bank Act of 1945, including the total amount expended by the Bank to do so; and

\* \* \* \* \*

(g) MONITORING OF DEFAULT RATES ON BANK FINANCING; REPORTS ON DEFAULT RATES.—

(1) MONITORING OF DEFAULT RATES.—Not less frequently than quarterly, the Bank shall calculate the rate at which the entities to which the Bank has provided short-, medium-, or long-term financing are in default on a payment obligation under the financing, by dividing the total amount of the required payments that are overdue by the total amount of the financing involved.

(2) REPORTS.—Within 45 days after a rate calculated under paragraph (1) equals or exceeds 2 percent, the Bank shall submit to the Congress a written report that explains the circumstances that have caused the default rate to equal or exceed 2 percent, and includes a plan to reduce the default rate to less than 2 percent.

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

(1) “To assume commercial or political risk that exporter or private financial institutions are unwilling or unable to undertake”.

(2) “To overcome maturity or other limitations in private sector export financing”.

(3) “To meet competition from a foreign, officially sponsored, export credit competition”.

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

(i) ACCESS TO BANK PRODUCTS BY THE TEXTILE INDUSTRY.—The Bank shall include in its annual report to the Congress under subsection (a) of this section a report on the determinations made by the Advisory Committee under section 3(d)(5) in the year covered by the report.

(j) TEXTILE AND APPAREL SUPPLY CHAIN FINANCING.—The Bank shall include in its annual report to the Congress under subsection (a) of this section a description of the success of the Bank in providing effective and reasonably priced financing to the United States textile and apparel industry for exports of goods manufactured in the United States that are used as components in global textile and apparel supply chains in the year covered by the report, and steps the Bank has taken to increase the use of Bank products by such firms.

**SEC. 8A. ANNUAL COMPETITIVENESS REPORT.**

(a) IN GENERAL.—Not later than June 30 of each year, the Bank shall submit to the appropriate congressional committees a report that includes the following:

(1) \* \* \*

\* \* \* \* \*

(5) EFFORTS OF BANK TO PROMOTE EXPORT OF GOODS AND SERVICES RELATED TO RENEWABLE ENERGY SOURCES.—A description of the activities of the Bank with respect to financing renewable energy projects undertaken under section **2(b)(1)(K)** *2(b)(I)(J)*, and an analysis comparing the level of credit extended by the Bank for renewable energy projects with the level of credit so extended for the preceding fiscal year.

\* \* \* \* \*

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**ACT OF OCTOBER 31, 1994**

(Public Law 103–428)

AN ACT To authorize the Export-Import Bank of the United States to provide financing for the export of nonlethal defense articles and defense services the primary end use of which will be for civilian purposes.

**SECTION 1. AUTHORITY TO PROVIDE FINANCING FOR THE EXPORT OF NONLETHAL DEFENSE ARTICLES OR SERVICES THE PRIMARY END USE OF WHICH WILL BE FOR CIVILIAN PURPOSES.**

(a) \* \* \*

\* \* \* \* \*

(c) **PERIOD OF EFFECTIVENESS.**—The amendments made by this section shall remain in effect during the period beginning on the date of enactment of this Act and ending on September 30, **2011** *2015*.

\* \* \* \* \*

