

Issue Brief

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Mission Creep at the Export-Import Bank Exposes Taxpayers to Greater Risk

Introduction

On December 13, the Export-Import Bank of the United States (Ex-Im) will convene its [annual conference](#) where attendees can learn about the Bank's financing tools.¹ Lawmakers in Congress should likewise convene to provide oversight over a concerning expansion of its mission undertaken this year.

While Ex-Im's [mission](#) is to facilitate the export of U.S. goods and services, the Bank has also had a history of cronyism tied to its loans and credit programs in support of international trade.² It is deeply troubling that under the direction of President Biden, the independent federal agency has taken another step away from its original mission in order to create a dubious new program to support domestic manufacturing.

The expansion of the Bank's mission to include domestic manufacturing raises fresh concerns about the economic, budgetary, and policy impact of the Bank. It is questionable

¹ "EXIM 2022 ANNUAL CONFERENCE, Washington, DC, December 13, 2022." Export-Import Bank of the United States. Retrieved from: <https://www.exim.gov/events/annual-conference>.

² "About EXIM." Export-Import Bank of the United States. Retrieved from: <https://www.exim.gov/about>.

Key Facts:



The Export-Import Bank's mission is to facilitate the export of U.S. goods and services as a lender of last resort through loans and loan guarantees.



Pursuant to a Biden administration executive order, the Bank has created a new domestic manufacturing program only tangentially related to its core trade mission. Moreover, it is duplicative of several existing federal programs.



Congress should clarify the Bank's charter to prevent the expansion of its mission, increase the Bank's small business target, decrease taxpayers' exposure to risk, implement fair-value accounting reform, and work towards reducing or eliminating subsidies.

whether this mission creep is even permissible under its current charter. Moreover, the creation was made pursuant to an executive order and an announcement in the Federal Register without congressional authorization. But most importantly, it threatens to create new market distortions in an increasingly protectionist American economy — distortions which will first and foremost harm American consumers.

Background on the Bank and its New Domestic Initiative

President Franklin D. Roosevelt established the Ex-Im Bank through an executive order in 1934 and Congress codified it in 1945. Ex-Im provides direct loans and loan guarantees to U.S. companies attempting to export and to foreign companies wanting to import U.S. goods. The Bank [represents itself](#) as a “lender of last resort,” which immediately raises questions about the risks entailed in its loans to firms unable to secure private financing.³ This inherent risk was apparent in the early years of the Bank. During the New Deal era from 1935-1941, Ex-Im issued \$327 million in loans, but only [\\$141 million](#) (42 percent) were paid back.⁴

Nowadays there is at least a statutory cap on Ex-Im’s default rate, yet there are still persistent problems with its operations. For instance, a handful of large corporations tend to comprise the largest share of its lending activity. In FY 2021, just 28.2 percent of Ex-Im authorizations went to [small businesses](#).⁵ The Bank has also been emblematic of [cronyism](#), where large corporations that have the ability to lobby the government for subsidies have an advantage against other American firms that do not have these abilities.⁶

This problem will be exacerbated with the expansion of the Bank’s mission to domestic manufacturing. This new program was initiated by an executive order regarding supply chains in February, 2021. A few months later, a follow up [report](#) to the executive order tasked Ex-Im with examining its ability to “use existing authorities to further support domestic manufacturing.”⁷ In December, Ex-Im published a [notice](#) in the Federal Register for comments on a potential plan.⁸

The plan was then approved by the Ex-Im Board in April. Its primary feature is that it has weaker export nexus parameters than are required in its regular program. As opposed to loans, guarantees, and insurance that directly support export activities, under the new initiative, a firm engaged in manufacturing for the domestic market can get a loan if it supplies goods to other companies that directly engage in exporting.

Eligibility is based on an “[export nexus](#)” of 25 percent in general, or 15 percent for small businesses.⁹ According to the Federal Register notice, “... if a company sells 50 percent of its output to a domestic company, which in turn uses 50 percent of the supplier’s inputs for exports, this transaction would meet the 25 percent threshold.”

³ Export-Import Bank of the United States. (June 2017) “Report to the U.S. Congress on Global Export Credit Competition.” Retrieved from: https://img.exim.gov/s3fs-public/reports/EXIM-Competitiveness-Report_June2017.pdf.

⁴ “Export-Import Bank (1934).” The Living New Deal, January 4, 2011. Retrieved from: <https://livingnewdeal.org/glossary/export-im-port-bank-1934/>.

⁵ Export-Import Bank of the United States. (2021). “Building a Better America: 2021 Annual Report.” Retrieved from: https://img.exim.gov/s3fs-public/reports/annual/2021/EXIM_2021_AnnualReport.pdf.

⁶ Brady, Demian, Woody, Spencer, and Surka, Michelle. “Toward Common Ground: Bridging the Political Divide with Deficit Reduction Recommendations for Congress, 2017.” National Taxpayer Union Foundation and U.S. Public Interest Research Group, June 5, 2017. Retrieved from: <https://www.whitehouse.gov/wp-content/uploads/2021/06/100-day-supply-chain-review-report.pdf>. <https://www.ntu.org/library/doclib/Toward-Common-Ground-2017.pdf>.

⁷ “Building Resilient Supply Chains, Revitalizing American Manufacturing, and Fostering Broad-based Growth.” The White House, June 2021. Retrieved from: <https://www.whitehouse.gov/wp-content/uploads/2021/06/100-day-supply-chain-review-report.pdf>.

⁸ “Information Request on Potential Parameters of Export-Import Bank Financing for Domestic Projects.” Federal Register, December 23, 2021. Retrieved from: <https://www.federalregister.gov/documents/2021/12/23/2021-27835/information-request-on-potential-parameters-of-export-import-bank-financing-for-domestic-projects>.

⁹ Export-Import Bank of the United States. “Strengthening America’s Supply Chains with EXIM’s Make More in America Initiative,” Retrieved from: <https://www.exim.gov/about/special-initiatives/make-more-in-america-initiative>.

Problems with the Domestic Initiative

Supporters of the plan argue that this will level the playing field with other countries that currently have similar financing schemes in place. It allegedly [works toward](#) “creating a level playing field for American companies competing in overseas markets” because other countries have domestic financing subsidy programs. This essentially boils down to a high school peer pressure argument that “everyone else is doing it so why can’t we?”¹⁰

Milton Friedman’s response to this argument in his [Free to Choose](#) series still resonates:

When anyone complains about unfair competition, consumers beware. That is really a cry for special privilege, always at the expense of the consumer. What we need in this country is free competition.

History provides lots of evidence on what happens when government protected industries compete with industries who have to operate in an open and free market. It’s almost always the government-protected industries that come out second best.

Moreover, the data shows that the Ex-Im has had an insignificant impact on overall trade. Ex-Im [reported](#) that in FY 2021, it authorized loans, guarantees, and insurance supporting \$9.2 billion in exports.¹¹ That’s just 0.36 percent of total U.S. exports of goods and services for the year. ([\\$2.5 trillion](#)).¹²

In 2019, NTUF [warned](#) that “debate over Ex-Im’s costs to taxpayers has given way to ‘whataboutism’ pointing to other countries’ subsidized lending practices. If the debate [continues] down this path, the unchecked proliferation of the Bank is an inevitability.” We are seeing this come to fruition with the new domestic initiative.

Because the new financing has no direct export component, the subsidies would [skirt](#) Organisation for Economic Co-Operation and Development (OECD) rules designed to provide a framework for the orderly use of officially supported export credits.¹³

Mission Creep

Instead of considering the overall effectiveness and impact of the Ex-Im historic mission, the watering-down of the direct export requirement opens an ill-conceived opportunity for it to expand its activities. Sen. Pat Toomey (R-PA) sent a [letter to the Ex-Im](#) raising precisely this concern:

I was troubled to learn that the new Domestic Financing Program would provide taxpayer support to domestic manufacturing facilities and infrastructure projects so long as there is an expectation that some arbitrary portion of goods produced will be exported. This requirement can even be satisfied by indirect exports. That is, an Ex-Im-financed manufacturer does not actually have to export anything, so long as its customers do. This is worse than mission creep. It subverts Congressional intent and strains Ex-Im’s statutory mandate to such an extent to make it meaningless. There is no reason for Ex-Im

¹⁰ Perry, Mark J. “Milton Friedman in 1979: Subsidies of Foreign Producers That Lower Prices for Americans Are a Form of Philanthropy, Why Should We Complain?” American Enterprise Institute, December 2017. Retrieved from: <https://www.aei.org/carpe-diem/milton-friedman-in-1979-subsidies-of-foreign-producers-that-lower-prices-for-americans-are-a-form-of-philanthropy-why-should-we-complain/>.

¹¹ Export-Import Bank of the United States. (2021). “Building a Better America: 2021 Annual Report.” Retrieved from: https://img.exim.gov/s3fs-public/reports/annual/2021/EXIM_2021_AnnualReport.pdf.

¹² “U.S. International Trade in Goods and Services, December 2021.” Retrieved from: <https://www.bea.gov/news/2022/us-international-trade-goods-and-services-december-2021>.

¹³ Federal Register. (2021). “Information Request on Potential Parameters of Export-Import Bank Financing for Domestic Projects.” Retrieved from: <https://www.federalregister.gov/documents/2021/12/23/2021-27835/information-request-on-potential-parameters-of-export-import-bank-financing-for-domestic-projects>.

to provide domestic financing.¹⁴

The letter also asked the Bank to demonstrate how it plans to monitor compliance and how it can ensure that borrowers are accurately fulfilling reporting requirements.

Does the Bank Have Authority to Do This?

As noted in the quotation above, Sen. Toomey's letter raises a serious concern about the domestic financing program. Is it permissible? After all, the program was established through the regulatory process and a vote by the Bank board. These actions were pursuant to an Executive Order rather than a law duly passed by Congress, which has control over power of the purse.

There is also an open question of whether the initiative is permissible within the Bank's existing authority. Section 2(a)(1) of the Export-Import Bank Act of 1945, as amended provides what is referred to as the [Bank's Charter](#):

The objects and purposes of the Bank shall be to aid in financing and to facilitate exports of goods and services, imports, and the exchange of commodities and services between the United States or any of its territories or insular possessions and any foreign country or the agencies or nationals of any such country, and in so doing to contribute to the employment of United States workers. The Bank's objective in authorizing loans, guarantees, insurance, and credits shall be to contribute to maintaining or increasing employment of United States workers. In connection with and in furtherance of its objects and purposes, the bank is authorized and empowered to do a general banking business ...¹⁵

Up until this year, that had meant credit activities and subsidies involving direct export activities. The Bank is now re-interpreting its charter to permit any indirect, tangential ties to trade, essentially providing an open-ended mission for the Bank.

New Opportunities for Cronyism

The expanded program opens up the risk that the scandals that have swirled around the Bank over its history will make a resurgence. Douglas Holtz-Eakin, former Director of the Congressional Budget Office (CBO) and President of the American Action Forum, has generally been a supporter of the Bank over the years. But he is very [critical of the new domestic program](#):

There is no reason for domestic lending. U.S. manufacturers have access to ample capital from the world's finest private sector financial markets. The only way EXIM could attract business would be to underprice its lending. And then who would get the sweetheart loans? It is a recipe for cronyism and corruption – the last thing EXIM needs.¹⁶

Budget and Risk Concerns

For FY 2022, Ex-Im was appropriated [\\$114 million](#) for administrative expenses.¹⁷ The Bank's exposure from outstanding loans and guarantees are estimated at [\\$50 billion](#), a slight increase over the previous two years.¹⁸ The biggest risk surrounding the Ex-Im Bank is that it relies on American taxpayers to carry the financial burden if a company defaults on its loan.

¹⁴ Toomey, Sen. Pat (R-PA). Letter to: Export-Import Bank Chair Reta Jo Lewis. Senate Banking Committee, March 9, 2022. Retrieved from: https://www.banking.senate.gov/imo/media/doc/toomey_letter_to_exim_on_domestic_financing_program.pdf.

¹⁵ Export-Import Bank of the United States. (2019). "The Charter of the Export-Import Bank of the United States as amended through P.L. 116-94." Retrieved from: <https://img.exim.gov/s3fs-public/21-01-19-exim-bank-2019-charter-as-amended-final.pdf>.

¹⁶ Holtz-Eakin, Douglas. "The Export-Import-Whatever Bank." American Action Forum, April 12, 2022. Retrieved from: <https://www.americanactionforum.org/daily-dish/the-export-import-whatever-bank/>.

¹⁷ "H.R.2471 - Consolidated Appropriations Act, 2022." Retrieved from: <https://www.congress.gov/bill/117th-congress/house-bill/2471>.

¹⁸ Export-Import Bank of the United States. (2021). "FY 2022 Congressional Budget Justification." Retrieved from: <https://img.exim.gov/s3fs-public/congressional-resources/budet-justification/exim-fy2022-congressional-budget-justification.pdf>.

The subsidy cost of loans are determined by discounting the expected future cash flows into a present value. Under the Fair Credit Reporting Act (FCRA) of 1990, the discount rate is based on U.S. Treasury securities' interest rates. CBO has [argued](#) that “FCRA-based cost estimates do not provide a full accounting of what federal credit programs actually cost the government because they do not incorporate the full cost of the risk associated with the loans.”¹⁹ An alternative method known as fair-value accounting, uses market interest rates to discount the cost of loans.

CBO regularly assesses federal credit programs using both FCRA and fair-value. The methods lead to strikingly different results. Most recently, CBO examined the projected lifetime costs of credit activities expected in 2023. Under FCRA, Ex-Im's expected \$16 billion in loans are scored as generating \$600 million in income. Through fair-value, they will instead result in a \$200 million subsidy cost.

This scoring trap, whereby the loans look like a money maker for the federal government, has made it tricky to reform or terminate the program because under FCRA, they get scored as increasing the deficit. Now that the Ex-Im is expanding to domestic manufacturing, political pressure and parochialism could lead to higher appropriations for the Bank and ultimately, greater risk for taxpayers from unsound loans.

It is unclear whether this new initiative is even necessary given its mission overlap with other programs already in the budget. In 2021 NTUF noted that eliminating several [wasteful domestic corporate subsidy programs](#) including the Department of Commerce's Economic Development Agency, the Hollings Manufacturing Extension Program, and the Rural Business-Cooperative Service would help save \$6.5 billion.²⁰

Perhaps the current government activities that [most closely overlap](#) with Ex-Im is the Small Business Administration's International Trade Promotion Program (ITTP) and the State Trade Expansion Program (STEP). ITTP, funded at \$14 million in FY 2022, provides loans and guarantees to small businesses for export-related activities. STEP, funded at \$27 million in FY 2023, provides grants to subsidize small business trade activities.

Those three programs are just the tip of the iceberg. The Congressional Research Service [notes](#) that “Congress has authorized over 130 economic development programs, which are administered by over 20 departments and agencies.”²¹ These include multiple grant programs managed by the US Department of Agriculture (USDA), the Department of Housing and Urban Development (HUD), and the Department of Labor. There are also multiple credit programs for economic development provided by USDA, HUD, and the Department of the Treasury.

Trade Policy Concerns

Congress has called for negotiations to limit the use of export credit subsidies at least as far back as the [Carter](#) administration.²² The most recent Ex-Im Bank [reauthorization](#) extended the directive for the president to pursue negotiations “to substantially reduce, with the possible goal of eliminating, subsidized export financing programs and other forms of export subsidies” through 2029.²³

¹⁹ Congressional Budget Office. (2012). “Fair-Value Accounting for Federal Credit Programs.” Retrieved from: <https://www.cbo.gov/publication/43027>.

²⁰ Brady, Demian, and James, Matthew. “Wasteful Corporate Subsidy Programs Should be Eliminated.” National Taxpayer Union Foundation, July 20, 2021. Retrieved from: <https://www.ntu.org/foundation/detail/wasteful-corporate-subsidy-programs-should-be-eliminated>.

²¹ Congressional Budget Office. (2021). “Federal Resources for State and Local Economic Development,” Retrieved from: <https://crsreports.congress.gov/product/pdf/IF/IF11794>.

²² Carter, President Jimmy. “International Export Credit Negotiations Message to the Congress Reporting on the Negotiations.” March 16, 1979. Retrieved from: <https://www.presidency.ucsb.edu/documents/international-export-credit-negotiations-message-the-congress-reporting-the-negotiations>.

²³ S.2293 - Export-Import Bank Reauthorization Act of 2019. Retrieved from: <https://www.congress.gov/bill/116th-congress/senate-bill/2293/text?r=8&s=1>.

The U.S. Treasury Department has largely blown off this requirement. Its most recent annual report on export credit negotiations provides no evidence that it is even attempting to reduce or eliminate export financing subsidies. Instead, it references International Working Group on Export Credits (IWG) negotiations that are designed to extend current export credit disciplines dealing with issues like transparency to more countries – not to reduce or eliminate subsidies. Those IWG negotiations have been indefinitely suspended.

The World Trade Organization (WTO) [prohibits](#) export subsidies including government-provided export guarantees and insurance. A loophole applies for countries that participate in the OECD Export Credit Arrangement or that comply with those OECD rules.²⁴ Currently, the Treasury Department is engaged in negotiations at the OECD pursuant to this loophole.

According to a Treasury report, “The United States and other OECD countries are continuing discussions on reforming the OECD’s export credit guidelines—a so-called ‘modernization’ of the Arrangement—to level the playing field for U.S. exporters competing against unregulated export finance competition from non-OECD countries.” This conflicts with Treasury’s explicit legal mandate to engage in negotiations to reduce or eliminate subsidies, not to “reform” or “modernize” them.

The argument that more domestic Ex-Im subsidies or OECD negotiations are needed to “level the playing field” is entirely specious. By terminating this arrangement, the United States and our trading partners would be subject to the WTO’s “level playing field” of zero export credit subsidies. The fact that the United States has refused to pursue this suggests that U.S. officials are more interested in maintaining or increasing domestic subsidies than in reducing subsidies in China and other countries.

As with the expansion of Ex-Im financing for domestic goods via executive order, the failure of the Treasury Department to engage in legally required negotiations to reduce or eliminate export financing subsidies demonstrates a total lack of regard for Congress.

Recommendations

The best option for taxpayers would be to revoke the Bank’s authority to issue new loans and guarantees, leaving it to administer its current portfolio until accounts wind down at which time the Bank would be closed. Short of that, there are actions lawmakers could take to protect taxpayers by reforming the Bank:

- **Stop the mission creep:** Lawmakers should clarify the Bank’s charter and prevent the expansion of its mission to create a domestic-facing support program that is duplicative of other programs.
- **Increase the small business target:** Ex-Im is currently required to reserve 30 percent of its financing for small businesses.
- **Limit taxpayers’ exposure to risk:** Decrease the current cap on Bank total aggregate loan, guarantee, and insurance exposure from \$135 billion.
- **Do a better job of accounting for risk:** The FCRA method for scoring federally-backed credit programs does not fully account for the risks involved. Lawmakers should enact fair-value accounting reform for scoring loan and credit activities to use the same method used by the private sector. Representative Ralph Norman’s (R-SC) Fair Value Accounting and Budget Act, [H.R. 3785](#), would make this the standard.
- **Terminate the OECD Export Credit Arrangement:** This would close a loophole that allows countries to provide export credit subsidies.

²⁴ “Agreement on Subsidies and Countervailing Measures,” World Trade Organization. Retrieved from: https://www.wto.org/english/docs_e/legal_e/24-scm.pdf.

Conclusion

The 118th Congress is set to start in January. It is expected that lawmakers will work on the debt limit, expiring taxes, and the farm bill. Among those topics, Congress should also set aside time to provide the necessary oversight of the Ex-Im Bank in general and in particular for its new domestic manufacturing mission creep.

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