

COMMENTS ON THE EX-IM BANK'S PROPOSED ADDITIONALITY CRITERIA

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I appreciate the opportunity to submit comments to the Export-Import Bank in response to its proposed guidelines for determining Export-Import (Ex-Im) Bank Additionality for medium- and long-term transactions. The Mercatus Center at George Mason University is dedicated to bridging the gap between academic ideas and real-world problems and to advancing knowledge about the effects of regulation on society. These comments, therefore, do not represent the views of any particular affected party or special interest group. Rather, they are designed to help the Ex-Im Bank as it considers the proposed guidelines.

The proposed guidelines are not likely to change anything about the way the Ex-Im Bank selects among applicants. As such, they fail to deliver on the promises made by the Ex-Im Bank's president, Kimberly Reed, to Senator Pat Toomey during her confirmation hearing.¹ The proposed guidelines will also fail to deliver on the policy goal set by the Trump administration to position the Ex-Im Bank to compete with China's expansionary aspirations. It is a goal the agency has acknowledged repeatedly "in countless stakeholder meetings with ECAs, exporters, and banks."²

¹ During Reed's confirmation hearing, Sen. Toomey asked her to confirm the following commitments: (1) improve transparency at the bank; (2) improve protection for domestic companies from economic harm that might arise from the Ex-Im Bank financing their foreign competitors; (3) ensure that the Ex-Im Bank is not crowding out private financing options that would otherwise be available; (4) work with the committee to meet the statutory requirement that the United States negotiate a reduction in global export credit authorities; (5) work with Sen. Toomey and other members of his committee to strengthen taxpayers' protections against losses from deals that go badly; and (6) work with Sen. Toomey and his committee to crack down on bad actors, whether they are employees of the bank or its customers who should not be dealing with the bank. Reed responded "yes" to all of these questions.

² Export-Import Bank of the United States, *Report to the U.S. Congress on Global Export Credit Competition*, June 2019, 4.

EVIDENCE THAT THE EX-IM BANK'S CURRENT ADDITIONALITY STANDARDS ARE LACKING

Measuring additionality should provide a way to estimate the value added by Ex-Im Bank intervention in a market in comparison to what would happen without any Ex-Im Bank financing. The concentration of Ex-Im Bank financing in support of large companies, often exporting to high-income markets where capital is plentiful, shows why the Ex-Im Bank's additionality criteria are in need of a major overhaul.

- In the United States, before 2015, on average 65 percent of all Ex-Im Bank deals benefited the same 10 large manufacturers. Forty percent benefited Boeing alone. Boeing also benefited from 70 percent of Ex-Im Bank loan guarantees.³
- Foreign beneficiaries are often large and dominant in their markets, with plenty of access to capital, and often these beneficiaries are state owned.⁴
- The Ex-Im Bank's competitiveness report for 2018 acknowledges that the agency, along with other Export Credit Agencies (ECAs), is in the business of making deals in high-income nations: "Since 2013, *high-income* countries have generally received the largest portion."⁵ If one adds middle-income nations to the analysis, then a vast majority of the deals supported by Organisation for Economic Co-operation and Development (OECD) ECAs takes place in high-income nations, with very few deals going to low-income ones.
- The OECD reports that, taken together, high-income OECD countries, other high-income countries, and upper-middle-income countries get the vast majority of ECA deals.⁶

This high concentration in high-income nations could be explained by the Ex-Im Bank's singular focus on what other governments and their ECAs are doing rather than a focus on how to fill the market need from US exporters' perspective. A look at the Ex-Im Bank's competitiveness report reveals that the agency is mostly preoccupied with comparing itself to other ECAs.⁷ It also seems to lament the fact that other ECAs are, or appear to be, doing more than the Ex-Im Bank is doing. For instance, the section on "The New Major Official Medium- and Long-Term Export Credit Volumes" ranks countries by volume of export-backed ECA financing. The report points out that for the third year in a row, the United States provided one of the lowest volumes of official medium- and long-term (MLT) export credit among these countries. This statistic is highlighted as a negative for the United States, because the Ex-Im Bank seems to implicitly embrace other governments' beliefs that ECA financing can increase exports, which itself is a lever of economic growth. But this concern makes little sense considering the following facts:

1. The US economy is thriving, with—importantly—flourishing trade and growth in GDP, wages, and employment. Despite 24 countries having large volumes of their exports backed by ECA financing, US economic growth has been stronger than growth in most other

³ Veronique de Rugy and Justin Leventhal, "Ex-Im: Still 'Boeing's Bank,'" Mercatus Center at George Mason University, August 31, 2018.

⁴ Veronique de Rugy and Justin Leventhal, "Ex-Im Bank Aid to State-Owned Businesses Falls without a Quorum," Mercatus Center at George Mason University, June 3, 2019.

⁵ Export-Import Bank of the United States, *Report to the U.S. Congress*, 33.

⁶ Organisation for Economic Co-operation and Development, "Export Credit Statistics," accessed October 4, 2019, <https://www.oecd.org/trade/topics/export-credits/statistics/>.

⁷ Export-Import Bank of the United States, *Report to the U.S. Congress*.

countries in the OECD and much stronger than in most years when the United States had more exports in volume backed by the Ex-Im Bank.

2. The top OECD country by volume of exports backed by ECA financing is Italy. Yet Italy shows no sign that this policy is helping its economic growth. In fact, all economic performance indicators show that Italy is in decline. That country is also one of the worst economic performers in Europe.⁸
3. The second-highest-ranked country on this list is Germany. By all accounts, this country has good economic growth. But a look at the data also reveals that only 0.7 percent of Germany's exports are actually backed by ECA financing. This makes it hard to argue that Germany's strong economic performance has much to do with the German ECA. All other high-performing nations on the list have low shares of their exports financed by ECAs. Even in China, the top-ranked country on the list, the share of export credit represents a mere 2.1 percent of the country's total exports. This reality shows the abundance of private capital available to exporters around the world.
4. Extensive economic literature shows that export subsidies do very little to affect the overall level of exports in a large economy like the United States. While Ex-Im Bank financing has no real effect on the overall level of exports, it does have an impact on which particular exporters get propped up by government funding and which do not. In other words, the Ex-Im Bank distorts capital markets by shifting financing for the benefit of its clients. This explains why the literature also shows that export subsidies are a net negative for an economy as a whole.⁹

In spite of the evidence of abundant private capital (data provided in earlier footnotes), the Ex-Im Bank argues that ECA financing in high-income nations remains a requirement for procurement. Data from the past four years as well as testimonies from Ex-Im Bank beneficiaries in high-income nations prove that the government financing is itself not the reason for the transaction.¹⁰ The same is true for foreign companies in supply chains of large US exporters such as Boeing.¹¹ Data show that foreign companies and domestic companies buying intermediary inputs abroad *first* make the decision to buy American exports and *then* make the financing decision.

In short, the Ex-Im Bank needs additionality criteria that address the high concentration of lending to borrowers in markets where private financing is readily available.

⁸ Giovanni Salzano, Lorenzo Totaro, and Demetrios Pogkas, "Italy Suffers Recession Alone in Economic, Political Isolation," *Bloomberg*, February 22, 2019.

⁹ Salim Furth, "The Export-Import Bank: What the Scholarship Says" (Backgrounder No. 2934, Heritage Foundation, Washington, DC, August 7, 2014).

¹⁰ Veronique de Rugy and Justin Leventhal, "Ex-Im Bank: A Comparative Analysis of Pre- and Post-Quorum Lending" (Mercatus Policy Brief, Mercatus Center at George Mason University, Arlington, VA, April 2019).

¹¹ In spite of what foreign ECAs are saying and what the Ex-Im Bank likes to repeat to justify the need to countervail foreign subsidies (see page 35 in the Ex-Im Bank's competitiveness report for 2018), Boeing makes the decision to buy some of its parts from, say, an Italian supplier, and *then* it secures the government financing with Servizi Assicurativi del Commercio Estero, which is the Italian equivalent of the Ex-Im Bank. In other words, whether at home or abroad, the procurement comes first, and the financing comes later. If financing were the factor that drives these multimillion-dollar investments, one would have seen Boeing move its US suppliers away from the United States when Ex-Im Bank financing was reduced so dramatically over the past four years. It didn't. Nor did companies such as Emirates Air change their purchasing patterns amidst this drought in ECA incentives. They didn't because ECA financing is just gravy; it's not a precondition for viability. That reality should make legislators suspicious of the vague quotes in the Ex-Im Bank's competitiveness report arguing the opposite.

THE EX-IM BANK INSPECTOR GENERAL REPORT ON ADDITIONALITY

The Ex-Im Bank's inspector general (IG) issued a report last November that makes the problem of its additionality policy clear to the careful reader.¹²

At first the authors of the IG report conclude that "EXIM generally conducted sufficient due diligence and adequately interpreted the need for additionality when authorizing transactions." But upon further reading, one finds that the Ex-Im Bank's additionality policy and procedures require no actual justifications or documents. One of the very few requirements is that applicants check the "yes" box in the list of question asked by the Ex-Im Bank, as seen in this quote:

According to the Policy Handbook, the assessment of the need for EXIM support (i.e., the test for additionality) for a prospective transaction begins at application. The Bank has developed a series of questions to determine the reason for requesting EXIM support. . . . The Bank's policy Handbook also requires the relationship manager/loan officer for the transaction to "confirm the information provided [by the applicant] and report the reason EXIM [support] is needed in the final decision memo."¹³

But then one finds out that the process doesn't require the collection of documents justifying the applicants' claims: "The confirmation is usually done verbally. Neither the Policy Handbook nor the Bank's Loan, Guarantee and Insurance Manual require Bank staff to obtain documentation to support additionality."¹⁴ That's why this same report also has phrases like "absent complete record" or "insufficient record keeping makes it difficult for the Bank to provide a basis for its actions."

Without solid justification, the Ex-Im Bank's "additionality policy" is basically a box that applicants check to say that they had to compete with ECA-funded exporters abroad, or that they couldn't get credit themselves, or that they faced some business risk (see the application on page 7). This is an *extremely* light requirement, which means that virtually anyone who wants financing can access it.

The IG goes on to explain that of the 29 transactions studied, only 3 of the transactions contained underlying support for the determination of additionality. The report goes on to say that "for the remaining 26 transactions, Bank staff explained that in most cases confirmation of additionality was done verbally over the phone." But then the IG reports notes, "We did not find documentation in the credit files to support discussions between Bank staff and the applicants for the transactions."¹⁵

While applicants know false statements are punished under the penalty of law, it is unclear how false statements would be established, since no documentation is required, there is no talk of audits, and no process is in place to check the veracity of the information provided on applications.

In order to meet its obligations to the taxpayers, the office of the IG should not accept the policy and process for additionality followed by the Ex-Im Bank as meeting the standards.

¹² Export-Import Bank of the United States, *Evaluation of EXIM's Additionality Policy and Procedures*, November 27, 2018.

¹³ Export-Import Bank of the United States, *Evaluation of EXIM's Additionality Policy and Procedures*, 10-11.

¹⁴ Export-Import Bank of the United States, 11.

¹⁵ Export-Import Bank of the United States, 12.

WEAKNESSES IN THE EX-IM BANK'S NEW ADDITIONALITY PROPOSAL

The comments below are specific to the proposed additionality checklist in appendix B of the Ex-Im Bank draft (checklist items are in quotes and are followed by my comments):¹⁶

Category I: Facing Competition

“(a) The exporter faced, is facing, or expects to face competition from one or more foreign companies from an OECD country.” The existence of foreign competition alone should not justify Ex-Im Bank support unless, in the context of monopolies, competition exists in relevant markets. Also, given the extremely low percentage of trade-related competition that is covered by ECA financing, this criterion at minimum should request evidence that government-backed financing is needed for the US exporter to meet the foreign competition.

“(b) One or more of the foreign competitors is supported by OECD-compliant financing from their official export credit agency(ies)” or “(c) The exported faced, is facing, or expects to face competition from one or more foreign companies with government financing support that does not follow OECD Arrangement terms.” It should not be assumed that foreign ECA financing makes a foreign offer more competitive, since (1) the product itself often drives the sale rather than the financing, and (2) private financing may be equally as competitive as ECA financing, or even more so. Also, as noted earlier in this comment (regarding ECA financing by Italy), there is no evidence that foreign ECA financing has moved the needle on economic growth. Absent such evidence, it would be bad policy for the Ex-Im Bank to make the determination of additionality merely by following what other ECAs are doing. This is especially the case if it would lead the Ex-Im Bank to follow other ECAs into high-income markets where private financing is plentiful.

“(d) One or more foreign ECAs is pursuing a similar transaction in an attempt to influence the current or future supply chain for components in the final exported item.” There should be clear evidence and not merely speculation that the financing offered by a foreign ECA is likely to influence the location of a supply chain. For example, the case of Italy’s ECA supporting Boeing cited by the Ex-Im Bank on page 43 of its 2018 competitiveness report should not be acceptable proof that ECA financing is moving supply chains.

“(e) ECA support is a pre-requisite for bidding on a project/contract.” There is no evidence that this is a major problem, as most exports, including exports similar in all dimensions to the ones backed by the Ex-Im Bank, get by without export credit financing. As a reminder, before 2015, on average 98 percent of US exports took place without Ex-Im Bank financing.¹⁷ That number rose to 99.6 percent from 2015 to 2018. The data from the past four years also show that the curtailment of the Ex-Im Bank’s activities was not associated with any decline in exports.

The Ex-Im Bank’s competitiveness report offers weak support for this particular criterion. On page 34, the report displays a picture of a request that says that export credit financing is required for the procurement to go through. There is no indication of how representative such requests are. The inference is that everyone asks for ECA financing before granting the procurement, but there is no way to know this. The report gives no context and no indication of how statistically representative these three examples are.

¹⁶ Each quoted checklist item on pages 5 and 6 of this comment appear on pages 5 and 6 of Export-Import Bank of the United States, *Re: Establishing Additionality Checklist and Guidance for Medium/Long-term Transactions*, August 30, 2019.

¹⁷ De Rugy and Leventhal, “Ex-Im Bank: A Comparative Analysis.”

Category II: Structural or Risk Constraints

“(a) Bank regulatory requirements constrained one or more elements of commercial financing to the extent that the resulting financing was inadequate or insufficient to facilitate the export sale.” Banking regulations are global in nature, and so they are not a competitive factor among sources of finance. Moreover, massive amounts of private credit remain available, notwithstanding regulatory requirements, and such financing expanded after the Ex-Im Bank curtailed its financing programs in 2015.

“(b) Commercial financing is unavailable due to one or more ‘non-regulatory’ risks, or a combination thereof, and/or other considerations, as identified below.” “Other considerations” is too open-ended of a criterion. It should not be offered.

Category III: Other/Not Identified

“(a) EXIM Bank support for, and participation in, this transaction or project will attract private sector capital to finance the remainder of the same transaction or project.” How will the Ex-Im Bank confirm that it is not crowding out private financing, since a private lender already is part of this transaction? What criteria will the Ex-Im Bank use to determine that its financing is filling a gap that no private financial institution is willing to meet?

“(b) The foreign buyer seeks diversification of funding, including dedicated allocation of funding from ECAs.” A foreign buyer’s preference for a tranche of US-taxpayer-backed financing should not be relevant to an Ex-Im Bank finding of additionality. In fact, it could signal negative additionality as the buyer is choosing a government over a private lender.

“(c) The reason why the purpose of EXIM Bank support is not, or cannot be, identified.” “Cannot be identified” should never be an acceptable reason. Why is it being offered?

AREAS THAT SHOULD BE PART OF AN ADDITIONALITY PROPOSAL

If Ex-Im Bank President Reed is to fulfill commitments made to reformers like Sen. Toomey, the bank should institute real changes that will bring its activities in line with strategic objectives. Specifically, the bank should do the following:

- Request evidence that there isn’t private sector financing available.
- Request evidence that the existence of foreign ECA financing means no private financing is available.
- In keeping with the transparency commitment that Reed made to Sen. Toomey, make the Ex-Im Bank’s additionality determinations public going forward so taxpayers can assess whether the Ex-Im Bank provides good policy outcomes.
- Again, in keeping with Reed’s transparency commitment, and to substantiate the broader claim of additionality that she made in recent Senate testimony, disclose the nearly \$40 billion in pending transactions awaiting Ex-Im Bank broad consideration so that the public understands the types of deals that the Ex-Im Bank claims require its support to move forward.
- Similar to the preceding point, and to show that the proposed guidelines will actually improve Ex-Im Bank additionality, “road test” the proposed guidelines on past deals (e.g., for

the 2012–2015 period) to show which transactions would not have been approved if the new additionality guidelines had been in place at that time.

Congress should do the following:

- Require that the Ex-Im Bank address the issue of sector concentration. In the past, 40 percent of the funding has benefited Boeing. None of the proposed additionality criteria will change that. If the Ex-Im Bank’s balance sheet is clogged with transactions that the private sector could have supported, the Ex-Im Bank will have that much less capacity to help exporters compete on truly difficult deals in Africa or Latin America against Chinese companies. Ryan Young at the Competitive Enterprise Institute proposes a 10 percent cap, which sounds reasonable. If firms that do not need the support face such a cap, then the Ex-Im Bank will be compelled to seek out firms and transactions that may have a harder time finding private financing but which are arguably more strategically important to the United States.
- Require that every applicant provide evidence that it has been rejected at least twice by a private lender to become eligible for Ex-Im Bank support.

ONE MORE ADDITIONALITY REFORM: DIRECT THE ADMINISTRATION TO DE-ESCALATE ECA FINANCING

The past four years have seen a real decrease in the use of ECA financing for the aircraft sector because the Ex-Im Bank and some of its European counterparts were out of the market. For instance, Boeing has relied on private capital for 96 percent of its commercial deliveries, compared to 85 percent when Boeing last had full access to Ex-Im Bank financing, yet Boeing sales grew significantly over the same period. The company’s 2019 Aircraft Finance Market Outlook forecasted another year of funding diversification, stating, “Airlines and lessors are expected to have some of their lowest historical costs of financing. . . . All-in-all, 2019 is expected to be another year of strong and efficient liquidity from diverse markets.”¹⁸ The satellite industry and many other industries show the same trend.¹⁹

The reduced activity of the Ex-Im Bank (at least in the aircraft sector) and other ECAs in the past four years has also demonstrated that when governments step back, the private sector steps in and innovates. There were some new entrants into the market, some innovation, and plenty of credit available.

Given market developments in the past four years, one requirement for the reauthorization should be that the Ex-Im Bank president and the Secretary of the Treasury, within 30 days of reauthorization, notify the other ECAs of the United States’ intent to negotiate downward the use of ECA credits to account for the progress made in recent years in private-sector finance. The statutory requirement to negotiate a reduction in the reliance on ECAs globally has been in the Ex-Im Bank’s charter for years. There has been no action to achieve this. It is time that this changes. This would also meet the commitment of Ex-Im Bank President Reed to Sen. Toomey that she would work with him and the US Senate Committee on Banking, Housing, and Urban Affairs to reduce the reliance on ECA financing globally.

¹⁸ Boeing, “Current Aircraft Finance Market Outlook,” accessed October 4, 2019, <https://www.boeing.com/company/key-orgs/boeing-capital/current-aircraft-financing-market.page>.

¹⁹ Jeff Foust, “Satellite Industry Shifts away from Export Credit Financing,” *Space News*, September 9, 2019.