COMPETITIVE ENTERPRISE INSTITUTE

OnPOINT

September 10, 2019 No. 258

How the Ex-Im Bank Enables Cronyism and Wastes Taxpayer Money

Why Congress Should Pull the Plug on this Wasteful Agency

By Ryan Young[*]

The U.S. Export-Import Bank (Ex-Im) is a federal agency that seeks to boost exports by private U.S. businesses. It pursues its mission through loan guarantees, direct loans, reinsurance, and other financial products. Unlike most agencies, Ex-Im will close if it is not periodically reauthorized by Congress. Its current authorization expires on September 30, 2019. In July 2019, Sens. Kevin Cramer (R-N.D.) and Kyrsten Sinema (D-Ariz.) introduced a reauthorization bill to keep Ex-Im open through September 30, 2029.

Ex-Im recently emerged from a nearly five-year period of reduced activity, including an authorization lapse of nearly a year. Over the period 2014-2018, this resulted in total savings to taxpayers of $47.9 billion, or nearly $12 billion per year. A nearly $52 billion reduction in Ex-Im's total portfolio over this period reduced taxpayer exposure by an average of just under $13 billion per year. These are enormous figures for an agency with a $135 million FY 2018 budget—of which it spent only $60.5 million due to reduced activity.[1]

The Export-Import Bank should be closed for a number of reasons, including internal corruption, corporate rent-seeking, and economic inefficiency.[2] This paper, while it urges Ex-Im's closure as the best policy option, will focus on second-best reforms, given the likelihood that Ex-Im will be reauthorized. The Bank has bipartisan support—especially from the congressional delegations from Washington State and South Carolina, where Boeing has major manufacturing facilities—and President Trump has indicated support for Ex-Im as part of his trade agenda.

Background. Ex-Im was created in 1934, and until this decade mostly kept a low profile.[3] In its 2012 reauthorization cycle, there was a small amount of pushback, mostly from a few Republican legislators who opposed Ex-Im on grounds of cronyism. Historically, most such opposition to Ex-Im came from progressives, so the small GOP turnabout was seen as a minor curiosity. Ex-Im was reauthorized for two years without much trouble.[4]

These grumblings escalated into a major political fight during Ex-Im's 2014 reauthorization cycle, gaining national headlines. Ex-Im's September 30 deadline that year came and went without a bill passing. Ex-Im's authorization lapsed for nearly a year, and the agency virtually shut down. It could only administer existing projects and wind down its portfolio, and was not allowed to take on new business, which at that point was $20.5 billion per year. The lapse lasted until October 25, 2015, when Congress passed a reauthorization bill

[*] *Ryan Young is a Senior Fellow at the Competitive Enterprise Institute.*

sponsored by Rep. Stephen Fincher (R-Tenn.) by a 313-118 margin.[5] This bill authorized Ex-Im through September 30, 2019.

By the time Congress passed the Fincher bill, Ex-Im's five-member board was down to two members due to expiring terms. The Senate refused to confirm new board members until May of 2019. In 2016, Sen. Lindsey Graham (R-S.C.) tried to evade the quorum requirement by giving the president authority to override it for specific projects on national security grounds.[6] He did not succeed, despite trying to tuck the proposal into a must-pass Defense Appropriations bill. For about three and a half years after reauthorization, although it was officially open, Ex-Im could only operate at about a sixth of its usual activity level.

While this affected Ex-Im a great deal, it barely affected anyone else. During Ex-Im's hibernation, annual U.S. exports increased by $128 billion.[7] Boeing, by far Ex-Im's largest beneficiary, recorded both the largest revenue and largest profits in company history while Ex-Im was limited.[8] Even so, Ex-Im's beneficiaries have continued to push for its reauthorization before it lapses again on September 30, 2019.

The Cramer-Sinema Reauthorization Bill and Potential Improvements. As noted, while the best reform option for the Export-Import Bank is to close it, the Bank is likely to be reauthorized via the Cramer-Sinema bill. While just six pages long, the bill has four main provisions, all of which need improvement.

The first problem is the 10-year length of the reauthorization. Ex-Im reauthorizations typically last for four or five years—and should be even shorter. Ex-Im-related legislation would likely almost never appear on the congressional calendar if occasional reauthorization did not require it to. At five years, two entire Congresses can come and go without having any say in Ex-Im policy. At 10 years, as many as five Congresses would have no say. This gives too long a leash to an agency with an unusually long list of corruption-related allegations and convictions.[9] Ten years is also too long of an interval between reform opportunities during a time of rapid economic and technological change.

The second problem is a 10-year extension of a pilot program for reinsurance that began in 2018. This program should be ended. In partnership with 10 private insurers, the pilot program covers up to $1 billion in risk for the aerospace industry—in practice, mostly Boeing. Ex-Im describes the program as "the largest public-private risk-sharing arrangement for a U.S. government agency."[10] Considering the federal government's track record in risk-sharing arrangements in housing, finance, and other sectors of the economy, this venture can be charitably described as unwise.[11] It is also an easy rent-seeking opportunity for both Boeing and the 10 insurers. Given Ex-Im's high corruption rates, this is an acute concern.[12]

The third problem is an increase in Ex-Im's $140 billion portfolio cap. It would increase by $5 billion per year starting in FY 2020 until reaching $175 billion in FY 2026. The cap would remain at $175 billion through 2029, when Ex-Im's authorization would expire. There is no solid case for Ex-Im's importance to increasing U.S. exports. As noted, U.S. exports increased by $128 billion from 2014-2018, even as Ex-Im's portfolio shrank by $52 billion over the same period.[13] At most, Ex-Im's portfolio cap should reflect its current size of $60 billion, and should decrease over time as its long-term projects mature.

The fourth problem is a change in Ex-Im's board composition intended to avoid the quorum issue that limited Ex-Im's activities from 2015-2019. Ex-Im currently has a five-member board of directors, who are nominated by the president and confirmed by the Senate. The Bank's charter requires a quorum of three members to approve projects larger than $10 million. Expiring terms reduced Ex-Im's board to two members during its authorization lapse, and the Senate intentionally refused to fill the vacancies until May 2019. Ex-Im's inability to approve large transactions resulted in a five-sixths reduction in the annual dollar value of its new projects.

To prevent this from happening again, the Cramer-Sinema reauthorization bill would implement a temporary board that would automatically trigger if Ex-Im's regular board loses quorum for 90 days. The temporary members would include the remaining board members plus the Treasury Secretary, the Commerce Secretary, and the United States Trade Representative. If all of the temporary board members are of the same party, the President is to nominate a member of a different political party, subject to Senate confirmation. This requirement applies "to the extent practicable," which in practice means it is optional. This temporary board proposal would reduce an important measure of democratic accountability at Ex-Im, and would further move the separation of powers away from the legislature and towards the President. This section, Section 4, should be struck entirely from the bill.

There are four other necessary Ex-Im reforms not addressed in the Cramer-Sinema bill.

First, Ex-Im should be required to use the same accounting standards as other agencies. Currently, Ex-Im uses Federal Credit Reporting Act (FCRA) standards, which projected it to make a $14 billion profit over the period 2015-2024. However, in 2014, the Congressional Budget Office estimated that Ex-Im would lose the government about $2 billion during the same period under fair-value accounting standards, which are used by most of the federal government and most of the private sector.[14]

Second, Ex-Im should have a 10 percent cap on what percentage of its business can benefit a single firm. Boeing alone benefited from roughly half of Ex-Im's projects in most years, leading to Ex-Im being nicknamed the "Bank of Boeing."[15] A cap to prevent this from happening again would make it more difficult for rent-seeking businesses to extract large grants from Ex-Im.

Third, Ex-Im should remove its quota for green projects, which are especially prone to rent-seeking and corruption. Ex-Im was involved in the Solyndra debacle, and the green quota makes a repeat more likely.[16] Such quotas also do little to reduce fossil fuel investment. Most major oil and gas companies have renewable subsidiaries, which are magnets for subsidies, quotas, and other special treatment. Companies such as BP-owned BP Solar have been Ex-Im beneficiaries in the past. The fact that such favorable financing frees up funds for more oil and gas exploration mostly flies under the radar.[17]

Fourth, Ex-Im's definition of "small business" can include companies of up to 1,500 employees. It needs to be made much narrower and stricter. Ex-Im's charter requires 75 percent of its projects to small businesses. Adopting this unrealistic definition of "small business allows Ex-Im to dodge the spirit of this requirement while staying within its letter. A good start would be to lower the threshold to 100 employees.

Lessons from the 2014 Ex-Im Fight. Nobel laureate economist Ronald Coase wrote in 1975 that "An economist who, by his efforts, is able to postpone by a week a government program which wastes $100 million a year (which I would call a modest success) has, by his action, earned his salary for the whole of his life."[18] By Coase's measure, the Ex-Im fight that began in 2014 was an enormous success, despite Ex-Im having been reauthorized. This fight resulted in $47.9 billion of dollars in reduced Ex-Im activity from 2014-2018, or an average of just under $12 billion per year.[19] By another measure, the size of Ex-Im's total portfolio went from $112.3 billion in 2014 to $60.5 billion in 2018, reducing taxpayer exposure by a total of nearly $52 billion, or an average of just under $13 billion per year. If this much in savings can come from temporary activity reductions in one agency, savings from successful permanent reforms of larger agencies could be substantial.

Moreover, the Ex-Im fight is not actually over. There will be fresh reform opportunities with each reauthorization cycle. The Ex-Im debate is not nearly on the same scale as entitlement reform, deficit reduction, or regulatory reform, each of which have implications ranging from hundreds of billions of dollars to well into the trillions. But unlike those ongoing battles, Ex-Im is winnable. If not in 2019, then in future reauthorization cycles.

Finally, Ex-Im's periodic reauthorization requirement should be extended to more agencies.[20] It offers regularly scheduled opportunities for Congress to enact possible reforms, or even close it entirely. It also adds a level of democratic accountability to agencies that mostly lack it. The burden of proof properly lies on agencies for justifying their existence, not on those advocating for reform or abolishment. If the federal government really needs, say, a Hass Avocado Board, that agency should have no problem making its case to Congress every few years.[21]

Conclusion. The Export-Import Bank should be closed, but will likely be reauthorized. The Cramer-Sinema reauthorization bill proposed in July 2019 contains many provisions that should be dropped or heavily amended. Congress should:

- Shorten Ex-Im's reauthorization period to no more than three years, down from the proposed 10;
- Shut down Ex-Im's reinsurance pilot program;
- Cut the Bank's $140 billion portfolio cap to $60 billion or less, not raise it to the proposed $175 billion;
- Maintain Ex-Im's board quorum requirement for transactions greater than $10 million;
- Require Ex-Im to use the same fair-value accounting standards used by the rest of the federal government and much of the private sector;

- Impose a limit of 10 percent on how much of Ex-Im's business can go to a single beneficiary, in order to avoid agency capture;
- End requirements for green projects that are prone to rent-seeking and prevent projects from being assessed on the merits; and
- Reform Ex-Im's definition of "small business" that covers firms with as many as 1,500 employees.

Fortunately, this battle is not over, regardless of how the 2019 reauthorization cycle plays out. Furthermore, Ex-Im's recent reauthorization history has provided a successful case study for reforming other agencies.

Notes

[1] Author's calculations based on Export-Import Bank annual reports, available at https://www.exim.gov/news/reports/annual-reports. The author's figure assumes Ex-Im activity would have remained constant at 2014's $20.5 billion level. If one assumes increasing Ex-Im activity over time, which is reasonable, the counterfactual savings would be larger. Ex-Im calculates its annual figures on the federal government's fiscal year. This lines up with its usual September 30 authorization deadlines, so Ex-Im's 2014 figures capture a full year of standard activity with no authorization lapse.

[2] Veronique de Rugy, Nita Ghei, and Michael Wilt, "Should the US Export-Import Bank Be Reauthorized?" *Policy Brief*, July 28, 2015, Mercatus Center, https://www.mercatus.org/publication/should-us-export-import-bank-be-reauthorized. Daniel J. Ikenson, "The Export-Import Bank and Its Victims: Which Industries and States Bear the Brunt?" *Policy Analysis* No. 756, Cato Institute, September 10, 2014, https://www.cato.org/publications/policy-analysis/export-import-bank-its-victims-which-industries-states-bear-brunt. Diane Katz, "Export–Import Bank: Cronyism Threatens American Jobs," *Issue Brief* No. 4231, Heritage Foundation, June 2, 2014, https://www.heritage.org/government-regulation/report/export-import-bank-cronyism-threatens-american-jobs. Bryan Riley, "Foreign Export Credit Subsidies: Kill Them, Don't Copy Them," *Backgrounder* No. 2948, Heritage Foundation, September 12, 2014, https://www.heritage.org/trade/report/foreign-export-credit-subsidies-kill-them-dont-copy-them. Ryan Young, "Ten Reasons to Abolish the Export-Import Bank," *OnPoint* No. 195, Competitive Enterprise Institute July 15, 2014, https://cei.org/content/ten-reasons-abolish-export-import-bank.

[3] The only book-length history of the Export-Import Bank, published in 2003, covers the agency's first 65 years. It was commissioned and authorized by the agency, which chose the authors from among competing bidders. Ex-Im also provided the authors funding and office space. Ex-Im's history committee, chaired by then-Ex-Im President and Chairman James A. Harmon, had input during the editorial process. William H. Becker and William M. McClenahan, Jr., *The Market, the State, and the Export-Import Bank of the United States, 1934-2000*, (Cambridge, UK: Cambridge University Press, 2003), pp. ix-xii.

[4] David Dayen, "Wingnuts and Liberals' Bizarre Role Reversal: Why Export-Import Bank Politics Are so Perverse," Salon, June 25, 2014, https://www.salon.com/control/2014/06/25/wingnuts_and_liberals_bizarre_role_reversal_why_export_import_bank_politics_are_so_perverse/.

Ryan Young, "Ex-Im Revival Passes House," Open Market blog, Competitive Enterprise Institute, October 28, 2015, https://cei.org/blog/ex-im-revival-passes-house.

[5] 114th Congress, H.R. 597, The Reform Exports and Expand the American Economy Act, https://www.govtrack.us/congress/bills/114/hr597/text. The roll call vote for Rep. Fincher's bill is at http://clerk.house.gov/evs/2015/roll576.xml.

[6] Ryan Young, "Ex-Im Drama Continues," June 13, 2016, Competitive Enterprise Institute Open Market blog, https://cei.org/blog/export-import-bank-drama-continues.

[7] In chained, seasonally adjusted 2012 dollars, total U.S. exports were $2.400 trillion in Q4 2014, and $2.528 trillion in Q4 2018. This time frame was chosen to line up with the federal government's fiscal years. The increase is especially noteworthy given recent volatility due to tariff increases and other changes in trade

policy. St. Louis Federal Reserve FRED database, "Real Exports of Goods and Services," https://fred.stlouisfed.org/series/EXPGSC1.

[8] Boeing news release, "Boeing Reports Record 2018 Results and Provides 2019 Guidance," January 30, 2019, https://boeing.mediaroom.com/2019-01-30-Boeing-Reports-Record-2018-Results-and-Provides-2019-Guidance.

[9] Diane Katz, then of the Heritage Foundation, found 74 cases of fraud allegations in publicly available Ex-Im documents between May 2009 and June 2014. Ex-Im had roughly 400 employees at the time. Diane Katz, "Careless Lending at Ex-Im Bank Invites Fraud," The Daily Signal, June 24, 2014, https://www.dailysignal.com/2014/06/24/fraud-corruption-rampant-ex-im-bank/.

[10] Export-Import Bank, *2018 Annual Report*, p. 6, https://www.exim.gov/sites/default/files/reports/annual/2018/EXIM-AnnualReport-2018.pdf.

[11] See, for example, John B. Taylor, *Getting off Track: How Government Actions and Interventions Caused, Prolonged, and Worsened the Financial Crisis*, (Stanford: Hoover Institution Press, 2009), and Johan Norberg, *Financial Fiasco: How America's Infatuation With Homeownership and Easy Money Created the Financial Crisis*, (Washington: Cato Institute Press, 2012).

[12] Some of the insurers are Aon Benfield, XL Catlin, Liberty Specialty Markets, and Everest. Export-Import Bank, "EXIM Bank Announces Landmark Risk-Sharing Program With Private-Sector Reinsurers," news release, March 29, 2018, https://www.exim.gov/news/exim-bank-announces-landmark-risk-sharing-program-private-sector-reinsurers.

[13] Per Ex-Im's annual reports, its total portfolio went from $112.3 billion in 2014 to $60.5 billion in 2018, reducing taxpayer exposure by a total of nearly $52 billion, or an average of just under $13 billion per year.

[14] The difference is due mainly to discount rates. Under FCRA standards, a profit is shown if Ex-Im's portfolio outperforms Treasury bonds, which are among lowest-yielding investment instruments on the market. Fair-value standards use a more realistic benchmark, intended to approximate what an asset would sell for in the market. Congressional Budget Office, "Fair-Value Estimates of the Cost of Selected Federal Credit Programs for 2015-2024, May 2014, https://www.cbo.gov/sites/default/files/cbofiles/attachments/45383-FairValue.pdf. Ex-Im profit estimates under FCRA standards are in its annual reports, https://www.exim.gov/news/reports/annual-reports.

[15] Veronique de Rugy, "Kill The Boeing Bank Once and For All," American Institute for Economic Research, March 29, 2019, https://www.aier.org/article/kill-boeing-bank-once-and-all.

[16] Export-Import Bank, Ex-Im Bank Provides $10.3 Million in Renewable Express Financing for California-Based Solyndra's Solar Exports to Belgium," news release, June 9, 2011, https://www.exim.gov/news/ex-im-bank-provides-103-million-renewable-express-financing-for-california-based-solyndras.

[17] Export-Import Bank, "Ex-Im Bank Approves Financing for B.P. Solar Exports to Power Rural Province in Argentina," news release, July 24, 2001, https://www.exim.gov/news/ex-im-bank-approves-financing-for-bp-solar-exports-power-rural-province-argentina.

[18] Ronald Coase, "Economists and Public Policy," reprinted in *Essays on Economics and Economists*, (Chicago: University of Chicago Press, 1995), p. 57.

[19] Author's calculations based on Export-Import Bank annual reports, https://www.exim.gov/news/reports/annual-reports. The author's figure assumes Ex-Im activity would have remained constant at 2014's $20.5 billion level. If one assumes increasing Ex-Im activity over time, which is reasonable, the counterfactual savings would be larger. Ex-Im calculates its annual figures on the federal government's fiscal year. This lines up with its usual September 30 authorization deadlines, so Ex-Im's 2014 figures capture a full year of standard activity with no authorization lapse.

[20] This is not a new idea. The state of Texas has reauthorization requirements for roughly 130 agencies. The policy is administered by the Texas Sunset Advisory Commission, https://www.sunset.texas.gov/. One agency that could be subjected to this model is the Overseas Private Investment Corporation (OPIC). For more on OPIC, see Ryan Young, "The Case Against the Overseas Private Investment Corporation," *OnPoint* No. 208, Competitive Enterprise Institute September 24, 2015, https://cei.org/content/case-against-overseas-private-investment-corporation.

[21] This agency actually exists. U.S. Department of Agriculture, "Hass Avocado Board," accessed August 6, 2019, https://www.ams.usda.gov/rules-regulations/research-promotion/hass-avocado and https://hassavocadoboard.com/.