

## EFFECTIVE DATE

Section effective Nov. 10, 1978, see section 1917 of Pub. L. 95-630, set out as an Effective Date of 1978 Amendment note under section 635 of this title.

## IMPROVEMENT OF METHOD FOR CALCULATING THE EFFECTS OF BANK FINANCING ON JOB CREATION AND MAINTENANCE IN THE UNITED STATES

Pub. L. 112-122, §16, May 30, 2012, 126 Stat. 359, provided that:

“(a) GAO STUDY.—The Comptroller General of the United States shall conduct a study of the process and 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 and assess the basis on which the Bank has so used the methodology, and make any recommendations the Comptroller General deems appropriate.

“(b) REPORT.—Within 1 year after the date of the enactment of this Act [May 30, 2012], 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.”

**§ 635a-3. Export-Import Bank financing to match foreign financing****(a) Noncompetitive financing; inquiry by Secretary; notification of foreign country and prospective parties to transaction**

(1) Upon receipt of information that foreign sales to the United States are being offered involving foreign official export credits which exceed limits under existing standstills, minutes, or practices to which the United States and other major exporting countries have agreed, irrespective of whether these credits are being offered by governments which are signatories to such standstills, minutes, or practices, the Secretary of the Treasury shall immediately conduct an inquiry to determine whether “non-competitive financing” is being offered. The inquiry, and where appropriate, the determination and authorization to the Export-Import Bank of the United States referred to in this section shall be completed and made within 60 days of the receipt of such information.

(2) If the Secretary determines that such foreign “noncompetitive” financing is being offered, the Secretary shall request the immediate withdrawal of such financing by the foreign official export credit agency involved.

(3) If the offer is not withdrawn or if there is no immediate response to the withdrawal request, the Secretary of the Treasury shall notify the country offering such financing and all parties to the proposed transaction that the Eximbank may be authorized to provide competing United States sellers with financing to match that available through the foreign official export financing entity.

**(b) Issuance of authorization to Bank to provide guarantees, insurance, and credits to competing United States sellers**

The Secretary of the Treasury shall issue such authorization to the Bank to provide guarantees, insurance, and credits to competing United

States sellers, unless the Secretary determines that—

(1) the availability of foreign official non-competitive financing is not likely to be a significant factor in the sale; or

(2) the foreign noncompetitive financing has been withdrawn.

**(c) Provision of financing by Bank pursuant to authorization**

Upon receipt of authorization by the Secretary of the Treasury, the Export-Import Bank may provide financing to match that offered by the foreign official export credit entity: *Provided, however*, That loans, guarantees and insurance provided under this authority shall conform to all provisions of the Export-Import Bank Act of 1945, as amended [12 U.S.C. 635 et seq.].

(Pub. L. 95-630, title XIX, §1912, Nov. 10, 1978, 92 Stat. 3726; Pub. L. 98-181, title I [title VI, §§631, 633], Nov. 30, 1983, 97 Stat. 1262, 1263; Pub. L. 99-472, §15, Oct. 15, 1986, 100 Stat. 1204.)

## REFERENCES IN TEXT

The Export-Import Bank Act of 1945, as amended, referred to in subsec. (c), is act July 31, 1945, ch. 341, 59 Stat. 526, as amended, which is classified generally to subchapter 1 (§635 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 635 of this title and Tables.

## CODIFICATION

Section was enacted as part of the Export-Import Bank Act Amendments of 1978, and not as part of the Export-Import Bank Act of 1945 which comprises this subchapter.

## AMENDMENTS

1986—Subsec. (a)(1). Pub. L. 99-472, §15(b), which directed the insertion of “irrespective of whether these credits are being offered by governments which are signatories to such standstills, minutes, or practices,” after “major export countries have agreed,” was executed by inserting that phrase after “major exporting countries have agreed,” as the probable intent of Congress.

Subsec. (b). Pub. L. 99-472, §15(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The Secretary of the Treasury shall only issue such authorization to the Bank to provide guarantees, insurance and credits to competing United States sellers, if the Secretary determines that:

“(1) the availability of foreign official noncompetitive financing is likely to be a significant factor in the sale, and

“(2) the foreign noncompetitive financing has not been withdrawn on the date the Bank is authorized to provide competitive financing.”

1983—Subsec. (a)(1). Pub. L. 98-181, §631(1), inserted provision that the inquiry, and where appropriate, the determination and authorization to the Export-Import Bank of the United States referred to in this section shall be completed and made within 60 days of the receipt of such information.

Subsec. (a)(2). Pub. L. 98-181, §633(b), substituted “the Secretary shall request” for “he shall request”.

Subsec. (b). Pub. L. 98-181, §633(a), substituted “if the Secretary determines that” for “if he determines that” in provisions preceding par. (1).

Subsec. (b)(1). Pub. L. 98-181, §631(2), substituted “significant factor” for “determining factor”.

## EFFECTIVE DATE

Section effective Nov. 10, 1978, see section 1917 of Pub. L. 95-630, set out as an Effective Date of 1978 Amendment note under section 635 of this title.

**§ 635a-4. Guarantees for export accounts receivable and inventory**

The Export-Import Bank of the United States is authorized and directed to establish a program to provide guarantees for loans extended by financial institutions or other public or private creditors to export trading companies as defined in section 1843(c)(14)(F)(i) of this title, or to other exporters, when such loans are secured by export accounts receivable, inventories of exportable goods, accounts receivable from leases, performance contracts, grant commitments, participation fees, member dues, revenue from publications, or such other collateral as the Board of Directors may deem appropriate, and when in the judgment of the Board of Directors—

- (1) the private credit market is not providing adequate financing to enable otherwise creditworthy export trading companies or exporters to consummate export transactions; and
- (2) such guarantees would facilitate expansion of exports which would not otherwise occur.

The Board of Directors shall attempt to insure that a major share of any loan guarantees ultimately serves to promote exports from small, medium-size, and minority businesses or agricultural concerns. Guarantees provided under the authority of this section shall be subject to limitations contained in annual appropriations Acts.

(Pub. L. 97-290, title II, §206, Oct. 8, 1982, 96 Stat. 1239; Pub. L. 98-181, title I [title VI, §616(b)], Nov. 30, 1983, 97 Stat. 1257.)

CODIFICATION

Section was enacted as part of the Bank Export Services Act, and not as part of the Export-Import Bank Act of 1945 which comprises this subchapter.

AMENDMENTS

1983—Pub. L. 98-181 substituted “export accounts receivable, inventories of exportable goods, accounts receivable from leases, performance contracts, grant commitments, participation fees, member dues, revenue from publications, or such other collateral as the Board of Directors may deem appropriate,” for “export accounts receivable or inventories of exportable goods”.

**§ 635a-5. Negotiations to end export credit financing**

**(a) In general**

The Secretary of the Treasury (in this section referred to as the “Secretary”) shall initiate and pursue negotiations—

- (1) with other major exporting countries, including members of the Organisation for Economic Co-operation and Development (OECD) and non-OECD members, to substantially reduce, with the ultimate goal of eliminating, subsidized export financing programs and other forms of export subsidies; and
- (2) with all countries that finance air carrier aircraft with funds from a state-sponsored entity, to substantially reduce, with the ultimate goal of eliminating, aircraft export credit financing for all aircraft covered by the 2007

Sector Understanding on Export Credits for Civil Aircraft (in this section referred to as the “ASU”), including any modification thereof, and all of the following types of aircraft:

- (A) Heavy aircraft that are capable of a takeoff weight of 300,000 pounds or more, whether or not operating at such a weight during a particular phase of flight.
- (B) Large aircraft that are capable of a takeoff weight of more than 41,000 pounds, and have a maximum certificated takeoff weight of not more than 300,000 pounds.
- (C) Small aircraft that have a maximum certificated takeoff weight of 41,000 pounds or less.

**(b) Annual reports on progress of negotiations**

Not later than 180 days after May 30, 2012, and annually thereafter, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

- (1) a report on the progress of any negotiations described in subsection (a)(1), until the Secretary certifies in writing to the committees that all countries that support subsidized export financing programs have agreed to end the support; and
- (2) a report on the progress of any negotiations described in subsection (a)(2), including the progress of any negotiations with respect to each classification of aircraft set forth in subsection (a)(2), until the Secretary certifies in writing to the committees that all countries that support subsidized export financing programs have agreed to end the support of aircraft covered by the ASU.

(Pub. L. 112-122, §11, May 30, 2012, 126 Stat. 356.)

CODIFICATION

Section was enacted as part of the Export-Import Bank Reauthorization Act of 2012, and not as part of the Export-Import Bank Act of 1945 which comprises this subchapter.

**§ 635a-6. Periodic audits of bank transactions**

**(a) In general**

Within 2 years after May 30, 2012, and periodically (but not less frequently than every 4 years) thereafter, the Comptroller General of the United States shall conduct an audit of the loan and guarantee transactions of the Export-Import Bank of the United States to determine the compliance of the Bank with the underwriting guidelines, lending policies, due diligence procedures, and content guidelines of the Bank.

**(b) Review of fraud controls**

The Comptroller General of the United States shall review the adequacy of the design and effectiveness of the controls used by the Export-Import Bank of the United States to prevent, detect, and investigate fraudulent applications for loans and guarantees, including by auditing a sample of Bank transactions, and submit to the Congress a written report which contains such recommendations with respect to the controls as the Comptroller General deems appropriate.

(Pub. L. 112-122, §17, May 30, 2012, 126 Stat. 359.)