

§ 635d. Issuance of debentures, bonds, etc.; obligations redeemable; payment of interest; obligations purchasable by Secretary of the Treasury; public-debt transactions

The Export-Import Bank of the United States is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed \$6,000,000,000. Such obligations shall be redeemable at the option of the bank before maturity in such manner as may be stipulated in such obligations and shall have such maturity as may be determined by the Board of Directors of the bank with the approval of the Secretary of the Treasury. Each such Bank obligation issued to the Treasury after January 4, 1975, shall bear interest at a rate not less than the current average yield on outstanding marketable obligations of the United States of comparable maturity during the month preceding the issuance of the obligation of the Bank as determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Bank issued hereunder and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued after July 31, 1945, under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such purpose. Payment under this section of the purchase price of such obligations of the Bank and repayments thereof by the Bank shall be treated as public-debt transactions of the United States. (July 31, 1945, ch. 341, § 5, formerly § 6, 59 Stat. 528; June 9, 1947, ch. 101, § 2, 61 Stat. 131; Oct. 3, 1951, ch. 445, § 1(a), 65 Stat. 367; Aug. 9, 1954, ch. 660, § 3(a), 68 Stat. 678; Pub. L. 85-424, § 1(1), May 22, 1958, 72 Stat. 133; Pub. L. 90-267, § 1(a), Mar. 13, 1968, 82 Stat. 47; Pub. L. 93-646, § 7, Jan. 4, 1975, 88 Stat. 2336; renumbered § 5, Pub. L. 102-429, title I, § 121(c)(2), Oct. 21, 1992, 106 Stat. 2199.)

CODIFICATION

“Chapter 31 of title 31” and “that chapter” substituted in text for “the Second Liberty Bond Act, as amended” and “that Act”, respectively, on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 5 of act July 31, 1945, ch. 341, was classified to section 635c of this title, prior to repeal by Pub. L. 102-429, § 121(c)(1).

AMENDMENTS

1975—Pub. L. 93-646 substituted provision making mandatory that each Bank obligation bear interest at a rate not less than the current average yield on outstanding obligations of comparable maturity, for provision requiring that only the current average rate be taken into consideration.

1968—Pub. L. 90-267 changed name of “Export-Import Bank of Washington” to “Export-Import Bank of the United States”.

1958—Pub. L. 85-424 substituted “\$6,000,000,000” for “\$4,000,000,000”.

1954—Act Aug. 9, 1954, substituted “\$4,000,000,000” for “three and one-half times the authorized capital stock of the Bank”.

1951—Act Oct. 3, 1951, substituted “three and one-half” for “two and one-half”.

1947—Act June 9, 1947, struck out “and bear such rate of interest” before “as may be determined” in the second sentence and added the third sentence relating to the rate of interest on obligations.

EFFECTIVE DATE OF 1954 AMENDMENT

For effective date of amendment by act Aug. 9, 1954, see note set out under section 635a of this title.

BOARD OF DIRECTORS

A Board of Directors reestablished for the Export-Import Bank of Washington, see note under section 635 of this title.

§ 635e. Aggregate loan, guarantee, and insurance authority

(a) Limitation on outstanding amounts

(1) In general

The Export-Import Bank of the United States shall not have outstanding at any one time loans, guarantees, and insurance in an aggregate amount in excess of the applicable amount.

(2) Applicable amount

In paragraph (1), the term “applicable amount” means—

(A) during fiscal year 2002, \$80,000,000,000;

(B) during fiscal year 2003, \$85,000,000,000;

(C) during fiscal year 2004, \$90,000,000,000;

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

(E) during fiscal year 2006, and each fiscal year thereafter through fiscal year 2011;¹ and

(F) during fiscal year 2012 and each succeeding fiscal year, \$120,000,000,000, except that—

(i) the applicable amount for each of fiscal years 2013 and 2014 shall be \$130,000,000,000 if—

(I) the Bank has submitted a report as required by section 4(a) of the Export-Import Bank Reauthorization Act of 2012; and

(II) the rate calculated under section 635g(g)(1) of this title is less than 2 percent for the quarter ending with the beginning of the fiscal year, or for any quarter in the fiscal year; and

(ii) notwithstanding clause (i), the applicable amount for fiscal year 2014 shall be \$140,000,000,000 if—

(I) the rate calculated under section 635g(g)(1) of this title is less than 2 percent for the quarter ending with the beginning of the fiscal year, or for any quarter in the fiscal year;

(II) the Bank has submitted a report as required by subsection (b) of section 5 of the Export-Import Bank Reauthorization Act of 2012, except that the preceding provisions of this subclause shall not apply if the Comptroller General has not submitted the report required by subsection (a) of such section 5 on or before July 1, 2013; and

¹So in original. “2011” probably should be followed by a comma and a dollar amount.

(III) the Secretary of the Treasury has submitted the reports required by section 635a-5(b) of this title.

(3) Subject to appropriations

All spending and credit authority provided under this subchapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(b) Presidential determination

(1) In general

Not later than March 31 of each fiscal year, the President of the United States shall determine whether the authority available to the Bank for such fiscal year will be sufficient to meet the Bank's needs, particularly those needs arising from—

(A) increases in the level of exports unforeseen at the time of the original budget request for such fiscal year;

(B) any increased foreign export credit subsidies; or

(C) the lack of progress in negotiations to reduce or eliminate export credit subsidies.

(2) Request for legislation

(A) In general

If the President of the United States finds that the amount of direct loan authority or guarantee authority available to the Bank for the fiscal year involved exceeds the amount which will be necessary to carry out the Bank's functions consistent with the availability of qualified applications and limitations imposed by law during such year, the President of the United States shall promptly transmit to the Congress a request for legislation to eliminate the amount of such excess direct loan, loan guarantee, or insurance authority.

(B) Continued availability of authority

The Bank shall continue to make remaining amounts of its authority available for the fiscal year involved, in accordance with its practices and the requirements of this subchapter, unless otherwise directed pursuant to law.

(July 31, 1945, ch. 341, §6, formerly §7, 59 Stat. 529; Oct. 3, 1951, ch. 445, §1(b), 65 Stat. 367; May 21, 1953, ch. 64, §2, 67 Stat. 28; Aug. 9, 1954, ch. 660, §3(b), 68 Stat. 678; Pub. L. 85-424, §1(2), May 22, 1958, 72 Stat. 133; Pub. L. 88-101, §1(b), Aug. 20, 1963, 77 Stat. 128; Pub. L. 90-267, §1(a), (e), Mar. 13, 1968, 82 Stat. 47, 49; Pub. L. 92-126, §1(b)(3), Aug. 17, 1971, 85 Stat. 345; Pub. L. 93-646, §8, Jan. 4, 1975, 88 Stat. 2336; Pub. L. 95-630, title XIX, §§1905, 1914, Nov. 10, 1978, 92 Stat. 3725, 3727; Pub. L. 97-35, title III, §381(a), Aug. 13, 1981, 95 Stat. 431; Pub. L. 98-181, title I [title VI, §§615, 620(d)], Nov. 30, 1983, 97 Stat. 1256, 1261; Pub. L. 99-472, §§13, 17, Oct. 15, 1986, 100 Stat. 1204, 1205; Pub. L. 102-145, §121(1), Oct. 28, 1991, as added Pub. L. 102-266, §102, Apr. 1, 1992, 106 Stat. 95; renumbered §6 and amended Pub. L. 102-429, title I, §§109(b), 121(c)(2), Oct. 21, 1992, 106 Stat. 2193, 2199; Pub. L. 106-569, title XI, §1104(a)(3), Dec. 27, 2000, 114 Stat. 3031; Pub. L. 107-189, §5, June 14, 2002, 116 Stat. 699; Pub. L. 109-438, §9, Dec. 20,

2006, 120 Stat. 3275; Pub. L. 112-122, §3, May 30, 2012, 126 Stat. 350.)

REFERENCES IN TEXT

Section 4(a) of the Export-Import Bank Reauthorization Act of 2012, referred to in subsec. (a)(2)(F)(i)(I), is section 4(a) of Pub. L. 112-122, May 30, 2012, 126 Stat. 351, which is not classified to the Code.

Section 5 of the Export-Import Bank Reauthorization Act of 2012, referred to in subsec. (a)(2)(F)(ii)(II), is section 5 of Pub. L. 112-122, May 30, 2012, 126 Stat. 352, which is not classified to the Code.

PRIOR PROVISIONS

A prior section 6 of act July 31, 1945, ch. 341, was renumbered section 5 and is classified to section 635d of this title.

AMENDMENTS

2012—Subsec. (a)(2)(F). Pub. L. 112-122 added subpar. (F).

2006—Subsec. (a)(2)(E). Pub. L. 109-438 amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: “during fiscal year 2006, \$100,000,000,000.”

2002—Subsec. (a). Pub. L. 107-189 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The Export-Import Bank of the United States shall not have outstanding at any one time loans, guaranties, and insurance in an aggregate amount in excess of \$75,000,000,000. All spending and credit authority provided under this subchapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.”

2000—Subsec. (b)(2), (3). Pub. L. 106-569 redesignated par. (3) as (2) and struck out heading and text of former par. (2). Text read as follows: “Not later than April 15 of each year, the President of the United States shall transmit to the Congress a report on such determination.”

1992—Pub. L. 102-429, §109(b), inserted section catchline, redesignated former subsec. (a)(1) as subsec. (a), inserted subsec. heading, substituted “\$75,000,000,000” for “\$40,000,000,000”, redesignated former subsec. (a)(2) as subsec. (b), redesignated former subpar. (A)(i) as par. (1), former subcls. (I) to (III) as subpars. (A) to (C), respectively, former subpar. (A)(ii) as par. (2), former subpar. (B) as par. (3), and former cls. (i) and (ii) as subpars. (A) and (B), respectively, inserted headings for subsec. (b), pars. (1) to (3), and subpars. (A) and (B) of par. (3), and struck out former subsec. (a)(3) which read as follows: “AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated \$145,259,000 for fiscal year 1987 to cover the subsidy cost of new direct loans obligated by the Bank in that fiscal year. Any amounts appropriated under this paragraph shall be permanent additions to the capital and reserves of the Bank.”

1991—Subsec. (b). Pub. L. 102-145, §121(1), as added by Pub. L. 102-266, struck out subsec. (b) which read as follows: “After January 4, 1975, the Bank shall not approve any loans or financial guarantees, or combination thereof, in connection with exports to the Union of Soviet Socialist Republics in an aggregate amount in excess of \$300,000,000. No such loan or financial guarantee, or combination thereof, shall be for the purchase, lease, or procurement of any product or service for production (including processing and distribution) of fossil fuel energy resources. Not more than \$40,000,000 of such aggregate amount shall be for the purchase, lease, or procurement of any product or service which involves research or exploration of fossil fuel energy resources. The President may establish a limitation in excess of \$300,000,000 if the President determines that such higher limitation is in the national interest and if the President reports such determination to the Congress together with the reasons therefor, including the amount of such proposed increase which would be available for the export of products and services for research, explo-

ration, and production (including processing and distribution) of fossil fuel energy resources in the Union of Soviet Socialist Republics, and if, after the receipt of such report together with the reasons, the Congress adopts a concurrent resolution approving such determination.”

1986—Subsec. (a)(1). Pub. L. 99-472, §17, substituted “All spending and credit authority” for “All spending authority”.

Subsec. (a)(3). Pub. L. 99-472, §13, added par. (3).

1983—Subsec. (a)(2). Pub. L. 98-181, §615, amended par. (2) generally, substituting provisions requiring a Presidential determination, not later than March 31 of each fiscal year, as to whether the authority available to the Bank for such fiscal year will be sufficient to meet the Bank’s needs, requiring the President to transmit to Congress a report on such determination no later than April 15 of each year, and establishing procedures if the direct loan or guarantee authority available exceeds the amount necessary, for provision limiting gross obligations for the principal amount of direct loans authorized by the Bank during fiscal years 1982 and 1983 to \$10,478,000,000, and designating specified amounts thereof for each fiscal year.

Subsec. (b). Pub. L. 98-181, §620(d), substituted “the President” for “he” before “determines that such higher limitation” and “reports such determination”.

1981—Subsec. (a). Pub. L. 97-35 designated existing provisions as par. (1) and added par. (2).

1978—Subsec. (a). Pub. L. 95-630 substituted “\$40,000,000,000” for “\$25,000,000,000” and inserted provision that all spending authority provided under this chapter be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

1975—Subsec. (a). Pub. L. 93-646, §8(1), (2), designated existing provisions as subsec. (a) and substituted “\$25,000,000,000” for “\$20,000,000,000”.

Subsec. (b). Pub. L. 93-646, §8(3), added subsec. (b).

1971—Pub. L. 92-126 substituted “\$20,000,000,000” for “\$13,500,000,000”.

1968—Pub. L. 90-267 changed name of “Export-Import Bank of Washington” to “Export-Import Bank of the United States” and substituted “\$13,500,000,000” for “\$9,000,000,000”.

1963—Pub. L. 88-101 substituted “\$9,000,000,000” for “\$7,000,000,000”.

1958—Pub. L. 85-424 substituted “\$7,000,000,000” for “\$5,000,000,000”.

1954—Act Aug. 9, 1954, substituted “\$5,000,000,000” for “four and one-half times the authorized capital stock of the Bank”.

1953—Act May 21, 1953, substituted “loans, guarantees, and insurance” for “loans and guaranties”.

1951—Act Oct. 3, 1951, substituted “four and one-half” for “three and one-half”.

EFFECTIVE DATE OF 1978 AMENDMENT

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

EFFECTIVE DATE OF 1954 AMENDMENT

For effective date of amendment by act Aug. 9, 1954, see note set out under section 635a of this title.

§ 635f. Termination date of Bank’s functions; exceptions; liquidation

Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes until the close of business on September 30, 2014, 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, en-

dorser, 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.

(July 31, 1945, ch. 341, §7, formerly §8, 59 Stat. 529; June 9, 1947, ch. 101, §3, 61 Stat. 131; Oct. 3, 1951, ch. 445, §1(c), 65 Stat. 367; Pub. L. 85-55, June 17, 1957, 71 Stat. 82; Pub. L. 88-101, §2, Aug. 20, 1963, 77 Stat. 128; Pub. L. 90-267, §1(a), (f), Mar. 13, 1968, 82 Stat. 47, 49; Pub. L. 92-126, §1(b)(4), Aug. 17, 1971, 85 Stat. 345; Pub. L. 93-331, July 4, 1974, 88 Stat. 289; Pub. L. 93-374, Aug. 14, 1974, 88 Stat. 445; Pub. L. 93-425, Sept. 30, 1974, 88 Stat. 1166; Pub. L. 93-450, Oct. 18, 1974, 88 Stat. 1368; Pub. L. 93-646, §9, Jan. 4, 1975, 88 Stat. 2336; Pub. L. 95-143, §4, Oct. 26, 1977, 91 Stat. 1211; Pub. L. 95-407, Sept. 30, 1978, 92 Stat. 882; Pub. L. 95-630, title XIX, §1906, Nov. 10, 1978, 92 Stat. 3725; Pub. L. 98-109, §6, Oct. 1, 1983, 97 Stat. 746; Pub. L. 98-143, Nov. 1, 1983, 97 Stat. 916; Pub. L. 98-181, title I [title VI, §611], Nov. 30, 1983, 97 Stat. 1254; Pub. L. 99-472, §14, Oct. 15, 1986, 100 Stat. 1204; renumbered §7 and amended Pub. L. 102-429, title I, §§102, 121(c)(2), Oct. 21, 1992, 106 Stat. 2187, 2199; Pub. L. 105-46, §122, Sept. 30, 1997, 111 Stat. 1158; Pub. L. 105-121, §2(a), Nov. 26, 1997, 111 Stat. 2528; Pub. L. 107-189, §3, June 14, 2002, 116 Stat. 699; Pub. L. 109-438, §2, Dec. 20, 2006, 120 Stat. 3268; Pub. L. 112-122, §2, May 30, 2012, 126 Stat. 350.)

PRIOR PROVISIONS

A prior section 7 of act July 31, 1945, ch. 341, was renumbered section 6 and is classified to section 635e of this title.

AMENDMENTS

2012—Pub. L. 112-122 substituted “2014” for “2011”.

2006—Pub. L. 109-438 substituted “2011” for “2006”.

2002—Pub. L. 107-189 substituted “September 30, 2006” for “September 30, 2001”.

1997—Pub. L. 105-121 substituted “September 30, 2001” for “September 30, October 23, 1997”.

Pub. L. 105-46 substituted “October 23, 1997” for “1997”.

1992—Pub. L. 102-429, §102, substituted “1997” for “1992”.

1986—Pub. L. 99-472 substituted “September 30, 1992” for “September 30, 1986”.

1983—Pub. L. 98-181 substituted “September 30, 1986” for “November 18, 1983”.

Pub. L. 98-143 substituted “November 18, 1983” for “October 31, 1983”.

Pub. L. 98-109 substituted “October 31, 1983” for “September 30, 1983”.

1978—Pub. L. 95-630 substituted “September 30, 1983” for “December 31, 1978”.

Pub. L. 95-407 substituted “December 31, 1978” for “September 30, 1978”.

1977—Pub. L. 95-143 substituted “September 30, 1978” for “June 30, 1978”.

1975—Pub. L. 93-646 substituted “June 30, 1978” for “November 30, 1974”.

1974—Pub. L. 93-450 substituted “November 30, 1974” for “October 15, 1974”.

Pub. L. 93-425 substituted “October 15, 1974” for “September 30, 1974”.