

§ 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 defined

In this subsection, the term “applicable amount”, for each of fiscal years 2015 through 2019, means \$135,000,000,000.

(3) Freezing of lending cap if default rate is 2 percent or more

If the rate calculated under section 635g(g)(1) of this title is 2 percent or more for a quarter, the Bank may not exceed the amount of loans, guarantees, and insurance outstanding on the last day of that quarter until the rate calculated under section 635g(g)(1) of this title is less than 2 percent.

(4) 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; Pub. L. 114–94, div. E, title LI, §§ 51001, 51002(a), Dec. 4, 2015, 129 Stat. 1763.)

AMENDMENT OF SECTION

Pub. L. 114–94, div. E, title LI, § 51002, Dec. 4, 2015, 129 Stat. 1763, provided that, effective on the date that is one year after Dec. 4, 2015, this section is amended:

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

“(b) Reserve requirement

“The Bank shall build to and hold in reserve, to protect against future losses, an amount that is not less than 5 percent of the aggregate amount of disbursed and outstanding loans, guarantees, and insurance of the Bank.”

See 2015 Amendment note below.

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

2015—Subsec. (a)(2) to (4). Pub. L. 114–94, § 51001, added pars. (2) and (3), redesignated former par. (3) as (4), and struck out former par. (2) which defined the term “applicable amount”.

Subsecs. (b), (c). Pub. L. 114–94, § 51002(a), added subsec. (b) and redesignated former subsec. (b) as (c).

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, exploration, 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, 1958, 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 2015 AMENDMENT

Pub. L. 114-94, div. E, title LI, §51002(b), Dec. 4, 2015, 129 Stat. 1763, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date that is one year after the date of the enactment of this Act [Dec. 4, 2015].”

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, 2019, 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, endorser, 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.