

116TH CONGRESS
2D SESSION

H. R. 8163

To limit support for deals with Chinese state-owned enterprises, to increase the set-aside goal for the Program on China and Transformational Exports, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 4, 2020

Mr. BARR introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To limit support for deals with Chinese state-owned enterprises, to increase the set-aside goal for the Program on China and Transformational Exports, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Countering China
5 Through American Export Competitiveness Act”.

1 **SEC. 2. LIMITATION ON SUPPORT FOR DEALS WITH CHI-**
2 **NESE STATE-OWNED ENTERPRISES.**

3 Section 408 of division I of the Further Consolidated
4 Appropriations Act, 2020 (12 U.S.C. 635 note; Public
5 Law 116–94) is amended to read as follows:

6 **“SEC. 408. LIMITATION ON SUPPORT FOR DEALS WITH CHI-**
7 **NESE STATE-OWNED ENTERPRISES.**

8 “(a) IN GENERAL.—The Export-Import Bank of the
9 United States (in this section referred to as the ‘Bank’)
10 shall not guarantee, insure, or extend (or participate in
11 the extension of) credit for which the end user, lender,
12 or obligor is the government of the People’s Republic of
13 China, except that the Bank may provide a working cap-
14 ital guarantee or export credit insurance to a United
15 States exporter. In the case of such a transaction that in-
16 volves an amount greater than or equal to \$25,000,000,
17 the Bank may provide a working capital guarantee or ex-
18 port credit insurance to a United States exporter with re-
19 spect to such an export if the Bank obtains from the
20 President of the United States, who may consult with the
21 Secretary of State, the Secretary of the Treasury, the Sec-
22 retary of Commerce, the Secretary of Defense, the United
23 States Trade Representative, and the heads of other inter-
24 ested Executive agencies, a determination that the provi-
25 sion of the guarantee or insurance would not violate the
26 national security interests of the United States.

1 “(b) NATIONAL INTEREST REPORT.—

2 “(1) IN GENERAL.—Before providing a working
3 capital guarantee or export credit insurance to a
4 United States exporter in a transaction involving an
5 amount equal to or greater than \$25,000,000, pur-
6 suant to subsection (a), the President of the Bank
7 shall—

8 “(A) report to the Committee on Financial
9 Services of the House of Representatives and
10 the Committee on Banking, Housing, and
11 Urban Affairs of the Senate that the Bank has
12 obtained from the President of the United
13 States and any other relevant department or
14 agency, as deemed appropriate by the President
15 of the United States, a determination that the
16 provision of the guarantee or insurance would
17 not violate the national security interests of the
18 United States;

19 “(B) include a verification from the Bank
20 that the transaction does not violate any export
21 law of the United States; and

22 “(C) include a summary of the transaction
23 and the consultation.

1 “(2) FORM.—The report described in para-
2 graph (1) shall be submitted in unclassified form but
3 may include a classified annex.

4 “(c) DEFINITION OF GOVERNMENT OF THE PEO-
5 PLE’S REPUBLIC OF CHINA.—In this section, the term
6 ‘government of the People’s Republic of China’ means any
7 person that the Bank has reason to believe is—

8 “(1) the state and the government of the Peo-
9 ple’s Republic of China, including any political sub-
10 division, agency, or instrumentality thereof;

11 “(2) any entity controlled, directly or indirectly,
12 by any of the foregoing, including any partnership,
13 association, or other entity in which any of the fore-
14 going owns a 50 percent or greater interest or a con-
15 trolling interest, and any entity which is otherwise
16 controlled by any of the foregoing;

17 “(3) any person that is or has been acting or
18 purporting to act, directly or indirectly, for or on be-
19 half of any of the foregoing; and

20 “(4) any other person that the Secretary of the
21 Treasury has notified the Bank is included in any of
22 the foregoing.”.

1 **SEC. 3. INCREASE IN RESERVE GOAL FOR THE PROGRAM**
2 **ON CHINA AND TRANSFORMATIONAL EX-**
3 **PORTS.**

4 Section 2(l)(3) of the Export-Import Bank Act of
5 1945 (12 U.S.C. 635(l)(3)) is amended in each of sub-
6 paragraphs (A) and (B) by striking “20” and inserting
7 “33”.

8 **SEC. 4. SUSPENSION OF LOAN AUTHORITY UNDER THE**
9 **PROGRAM ON CHINA AND TRANS-**
10 **FORMATIONAL EXPORTS WHILE DEFAULT**
11 **RATE IS EXCESSIVE.**

12 (a) IN GENERAL.—Section 2(l) of the Export-Import
13 Bank Act of 1945 (12 U.S.C. 635(l)) is amended by add-
14 ing at the end the following:

15 “(4) FREEZING OF LOANS UNDER THE PRO-
16 GRAM ON CHINA AND TRANSFORMATIONAL EXPORTS
17 IF DEFAULT RATE FOR LOANS UNDER THAT PRO-
18 GRAM IS 5 PERCENT OR MORE.—If the rate cal-
19 culated under section 8(g)(1) with respect to loans
20 under section 2(l) is 5 percent or more for a quar-
21 ter, the Bank may not exceed the amount of loans
22 under such section that are outstanding on the last
23 day of that quarter until the rate calculated under
24 section 8(g)(1) with respect to loans under such sec-
25 tion is less than 5 percent.”.

1 (b) CONFORMING AMENDMENT.—Section 6(a)(3) of
2 such Act (12 U.S.C. 635e(a)(3)) is amended by adding
3 at the end the following: “If the rate calculated under sec-
4 tion 8(g)(1) with respect to loans under section 2(l) is 2
5 percent or more for a quarter, then loans under section
6 2(l) shall not be taken into account for the quarter for
7 purposes of this paragraph.”.

8 **SEC. 5. ADVISORY COMMITTEE FOR PROGRAM ON CHINA**
9 **AND TRANSFORMATIONAL EXPORTS.**

10 (a) IN GENERAL.—Section 2(b) of the Export-Import
11 Bank Act of 1945 (12 U.S.C. 635(b)) is amended by in-
12 serting after paragraph (12) the following:

13 “(14)(A) The Board of Directors of the Bank shall
14 take prompt measures, consistent with the credit stand-
15 ards otherwise required by law, to promote the expansion
16 of the financial commitments of the Bank in accordance
17 with the Program on China and Transformational Exports
18 under the loan, guarantee, and insurance programs of the
19 Bank.

20 “(B)(i) The Board of Directors shall establish and
21 use an advisory committee to advise the Board of Direc-
22 tors on the development and implementation of policies
23 and programs designed to support the expansion described
24 in subparagraph (A).

1 “(ii) At least 1 member of the advisory committee
2 shall be a member of the U.S.-China Economic and Secu-
3 rity Review Commission.

4 “(iii) The advisory committee shall make rec-
5 ommendations to the Board of Directors on how the Bank
6 can facilitate greater support by United States commercial
7 banks for trade in accordance with the Program on China
8 and Transformational Exports.

9 “(iv) The advisory committee shall terminate on the
10 date on which the authority of the Bank expires under
11 section 7.”.

12 (b) REPORTS TO THE CONGRESS.—Within 6 months
13 after the date of the enactment of this Act, and annually
14 thereafter, the Board of Directors of the Export-Import
15 Bank of the United States shall submit to the Congress
16 a report on the steps that the Board has taken to imple-
17 ment section 2(b)(14)(B) of the Export-Import Bank Act
18 of 1945 (as added by subsection (a) of this section) and
19 any recommendations of the advisory committee estab-
20 lished pursuant to such section 2(b)(14)(B).

1 **SEC. 6. WAIVER OF DOMESTIC CONTENT REQUIREMENTS**
2 **FOR CERTAIN TRANSACTIONS SUBJECT TO**
3 **THE PROGRAM ON CHINA AND TRANS-**
4 **FORMATIONAL EXPORTS.**

5 Section 2(l) of the Export-Import Bank Act of 1945
6 (12 U.S.C. 635(l)), as amended by section 4(a) of this
7 Act, is amended by adding at the end the following:

8 “(5) WAIVER OF DOMESTIC CONTENT REQUIRE-
9 MENTS.—

10 “(A) IN GENERAL.—The Bank may waive
11 some or all of the domestic content require-
12 ments that would otherwise apply to a trans-
13 action described in paragraph (1)(B), if the
14 Bank determines that doing so would be in the
15 national security interest of the United States,
16 and shall establish a process for requesting
17 such a waiver.

18 “(B) REPORTS TO THE CONGRESS.—Not
19 less frequently than twice each year, the Bank
20 shall submit to the Committee on Financial
21 Services of the House of Representatives and
22 the Committee on Banking, Housing, and
23 Urban Affairs of the Senate a report specifying
24 the transactions for which a waiver is provided

1 under subparagraph (A) during the period cov-
2 ered by the report.”.

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