

NO U.S. FINANCING FOR IRAN ACT OF 2023

DECEMBER 19, 2023.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MCHENRY, from the Committee on Financial Services,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 5921]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 5921) to prohibit the Secretary of the Treasury from authorizing certain transactions by a United States financial institution in connection with Iran, to prevent the International Monetary Fund from providing financial assistance to Iran, to codify prohibitions on Export-Import Bank financing for the Government of Iran, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “No U.S. Financing for Iran Act of 2023”.

SEC. 2. PROHIBITION ON AUTHORIZATIONS FOR UNITED STATES FINANCIAL INSTITUTIONS.

The Secretary of the Treasury may not authorize a transaction by a U.S. financial institution (as defined in section 561.309 of title 31, Code of Federal Regulations) in connection with the importation from or exportation to the Islamic Republic of Iran of any goods, services, or technology, other than the sale of agricultural commodities, food, medicine, medical devices, or humanitarian assistance benefitting the civilian population of Iran.

SEC. 3. OPPOSITION TO IMF ASSISTANCE.

The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to—

(1) oppose the provision of financial assistance by the Fund to the Islamic Republic of Iran, and the allocation to the Government of Iran of Special Drawing Rights; and

(2) seek to ensure that member countries of the Fund prohibit the exchange of Special Drawing Rights held by the Government of Iran.

SEC. 4. CODIFICATION OF EXPORT-IMPORT BANK PROHIBITION WITH RESPECT TO IRAN.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by adding at the end the following:

“(14) PROHIBITION ON FINANCING FOR IRAN.—The Bank may not guarantee, insure, or extend (or participate in an extension of) credit in connection with any transaction, with respect to which credit assistance from the Bank is first sought after the effective date of this paragraph, for which a lender or obligor is the Government of Iran or an entity owned or controlled by the Government of Iran.”.

SEC. 5. SUNSET.

This Act and the amendment made by this Act are hereby repealed effective on the earliest of—

(1) the date that is 30 days after the date the President of the United States certifies to the Congress that the Government of Iran—

(A) has ceased providing support for acts of international terrorism; and

(B) is not a jurisdiction of primary money laundering concern, as described under section 5318A of title 31, United States Code; or

(2) 10 years after the date of the enactment of this Act.

PURPOSE AND SUMMARY

Introduced on October 11, 2023, by Representative Bill Huizenga, H.R. 5921, the *No U.S. Financing for Iran Act of 2023*, would prohibit the Secretary of the Department of the Treasury from issuing any licenses authorizing a U.S. financial institution to engage in transactions for trade with Iran, other than food, medicine, or medical devices benefitting Iranian civilians. The legislation would also require the Secretary to oppose International Monetary Fund (IMF) assistance to Iran and to ensure that IMF member companies do not exchange Special Drawing Rights (SDRs) held by Iran. H.R. 5921 would further prohibit the Export-Import Bank from providing assistance involving the Iranian government, or an entity owned or controlled by the government.

BACKGROUND AND NEED FOR LEGISLATION

Iran is subject to a comprehensive array of sanctions, many of which are imposed pursuant to Executive Orders invoking the International Emergency Economic Powers Act (IEEPA). The Department of the Treasury’s (Treasury) Office of Foreign Assets Control (OFAC) may, however, issue licenses authorizing certain transactions between U.S. persons and sanctioned Iranians. Given that Iran is designated as a jurisdiction of primary money laundering concern and a state sponsor of terrorism, H.R. 5921 would prohibit OFAC licenses to protect the U.S. financial system from exposure to the country. This means that relief from IEEPA sanctions would ultimately require approval from Congress. Exceptions regarding agricultural, commodities, food, and medical items for Iranian civilians reflect traditional sanctions exemptions.

H.R. 5921 would also ensure that the Treasury cuts off Iran’s ability to use the IMF as a lender of last resort. This includes a requirement that Treasury oppose allocations and exchanges of SDRs. In 2021, the Biden Administration approved an IMF allocation of SDRs that provided the Iranian government with over \$4 billion in unconditional liquidity. In addition to supplementing

Iran's official reserves, SDRs may be exchanged by Tehran for hard currency (dollars, euros, sterling, yen, and renminbi).

The Export-Import Bank is already prohibited under the Foreign Assistance Act from providing assistance to state sponsors of terrorism such as Iran. H.R. 5921 would ensure that this prohibition could not be lifted unless Iran also ceases to be a jurisdiction of primary money laundering concern.

HEARING

Pursuant to clause 3(c)(6) of rule XIII, the following hearing was used to develop H.R. 5921: The Subcommittee on National Security, Illicit Finance, and International Financial Institutions of the Committee on Financial Services held a hearing on October 25, 2023, titled "How America and Its Allies Can Stop Hamas, Hezbollah, and Iran from Evading Sanctions and Financing Terror."

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on November 14, 2023, and ordered H.R. 5921 to be reported favorably to the House as amended by a recorded vote of 34 ayes to 12 nays (Record vote no. FC-108), a quorum being present. Before the question was called to order the bill favorably reported, the Committee adopted an amendment in the nature of a substitute offered by Mr. Huizenga by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the order to report legislation and amendments thereto. H.R. 5921 was ordered reported favorably to the House as amended by a recorded vote of 34 ayes to 12 nays (Record vote no. FC-108), a quorum being present.

Record vote no. FC- 108

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. McHenry	X	—	—	Ms. Waters	—	X	—
Mr. Hill	X	—	—	Mrs. Velázquez	—	X	—
Mr. Lucas	X	—	—	Mr. Sherman	X	—	—
Mr. Sessions	X	—	—	Mr. Meeks	—	—	—
Mr. Posey	X	—	—	Mr. Scott	X	—	—
Mr. Luetkemeyer	X	—	—	Mr. Lynch	—	—	—
Mr. Huizenga	X	—	—	Mr. Green	—	X	—
Mrs. Wagner	X	—	—	Mr. Cleaver	—	X	—
Mr. Barr	X	—	—	Mr. Himes	—	—	—
Mr. Williams (TX)	X	—	—	Mr. Foster	—	X	—
Mr. Emmer	X	—	—	Mrs. Beatty	—	X	—
Mr. Loudermilk	X	—	—	Mr. Vargas	—	X	—
Mr. Mooney	—	—	—	Mr. Gottheimer	X	—	—
Mr. Davidson	X	—	—	Mr. Gonzalez	X	—	—
Mr. Rose	X	—	—	Mr. Casten	—	X	—
Mr. Steil	X	—	—	Ms. Pressley	—	X	—
Mr. Timmons	X	—	—	Mr. Horsford	—	X	—
Mr. Norman	X	—	—	Ms. Tlaib	—	—	—
Mr. Meuser	X	—	—	Mr. Torres	X	—	—
Mr. Fitzgerald	X	—	—	Ms. Garcia	—	X	—
Mr. Garbarino	—	—	—	Ms. Williams (GA)	—	X	—
Mrs. Kim	X	—	—	Mr. Nickel	X	—	—
Mr. Donalds	X	—	—	Ms. Pettersen	X	—	—
Mr. Flood	X	—	—				
Mr. Lawler	X	—	—				
Mr. Nunn	X	—	—				
Ms. De La Cruz	X	—	—				
Mrs. Houchin	X	—	—				
Mr. Ogles	X	—	—				

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goal of H.R. 5921 is to prohibit the Secretary of the Treasury from issuing any licenses authorizing a U.S. financial institution to engage in transactions for trade with Iran, other than food, medicine, or medical devices benefitting Iranian civilians.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

H.R. 5921, No U.S. Financing for Iran Act of 2023			
As ordered reported by the House Committee on Financial Services on November 14, 2023			
By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	*
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1973.

FEDERAL MANDATES STATEMENT

Pursuant to section 423 of the Unfunded Mandates Reform Act, the Committee adopts as its own the estimate of the Federal mandates prepared by the Director of the Congressional Budget Office.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of the Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This Act may be cited as the “No U.S. Financing for Iran Act of 2023”.

Section 2. Prohibition on authorizations for United States financial institutions

The Secretary of the Treasury is not to authorize a transaction by a U.S. financial institution that is in any way connected to the importation from or exportation to Iran.

Any sales of goods, services, or technology connected to the importation from or exportation to Iran is prohibited, other than those directly benefitting Iranian civilians, such as agricultural commodities, food, medicine, or medical devices.

Section 3. Opposition to International Monetary Fund assistance

The Secretary of the Treasury will instruct the U.S. Executive Director at the International Monetary Fund to do the following:

1. Oppose the financial assistance provision by the Fund to the Islamic Republic of Iran and any allocation of Special Drawing Rights to the Iranian government; and
2. Ensure that other member countries of the Fund prohibit the Iranian government from exchanging its Special Drawing Rights allocation.

Section 4. Codification of Export-Import Bank Prohibition with respect to Iran

Section 4 amends Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C 635(b)) by adding the following stipulation:

- Prohibition on Financing for Iran: The Bank may not guarantee, insure, or extend credit in connection with any

transaction that a lender or obligor is the Government of Iran or an entity owned or controlled by the Government of Iran, with respect to which credit assistance from the Bank is first sought after the effective date of this paragraph.

Section 5. Sunset

This Act and the amendment made by this Act will sunset effective on the earlier of the following two scenarios:

- The date that is 30 days after the date the President of the United States has certified to Congress that the Government of Iran:
 1. No longer provides support for international acts of terrorism; and
 2. Is not considered to be a jurisdiction of primary money laundering concern; or
- 10 years after this Act's enactment date.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

EXPORT-IMPORT BANK ACT OF 1945

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Export-Import Bank Act of 1945."

SEC. 2. (a)(1) There is hereby created a corporation with the name Export-Import Bank of the United States which shall be an agency of the United States of America. The objects and purposes of the Bank shall be to aid in financing and to facilitate exports of goods and services, imports, and the exchange of commodities and services between the United States or any of its territories or insular possessions and any foreign country or the agencies or nationals of any such country, and in so doing to contribute to the employment of United States workers. The Bank's objective in authorizing loans, guarantees, insurance, and credits shall be to contribute to maintaining or increasing employment of United States workers. In connection with and in furtherance of its objects and purposes, the Bank is authorized and empowered to do a general banking business except that of circulation; to receive deposits; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and to guarantee notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to guarantee, insure, co-insure, reinsure against political and credit risks of loss; to purchase, sell, and guarantee securities but not to purchase with its funds any stock in any other corporation except that it may acquire any such stock, through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness to it; to accept bills and drafts drawn upon it; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to

lend money; to perform any act herein authorized in participation with any other person, including any individual, partnership, corporation, or association; to adopt, alter, and use a corporate seal, which shall be judicially noticed; to sue and to be sued, to complain and to defend in any court of competent jurisdiction; to represent itself or to contract for representation in all legal and arbitral proceedings outside the United States; and the enumeration of the foregoing powers shall not be deemed to exclude other powers necessary to the achievement of the objects and purposes of the Bank. The Bank shall be entitled to the use of the United States mails in the same manner and upon the same conditions as the executive departments of the Government. The Bank is authorized to publish or arrange for the publications of any documents, reports, contracts, or other material necessary in connection with or in furtherance of its objects and purposes without regard to the provisions of section 501 of title 44, United States Code, whenever the Bank determines that publication in accordance with the provisions of such section would not be practicable. Subject to regulations which the Bank shall issue pursuant to section 553 of title 5, United States Code, the Bank may impose and collect reasonable fees to cover the costs of conferences and seminars sponsored by, and publications provided by, the Bank, and may accept reimbursement for travel and subsistence expenses incurred by a director, officer, or employee of the Bank, in accordance with subchapter I of chapter 57 of title 5, United States Code. Amounts received under the preceding sentence shall be credited to the fund which initially paid for such activities and shall be offset against the expenses of the Bank for such activities. The Bank is hereby authorized to use all of its assets and all moneys which have been or may thereafter be allocated to or borrowed by it in the exercise of its functions. Net earnings of the Bank after reasonable provision for possible losses shall be used for payment of dividends on capital stock. Any such dividends shall be deposited into the Treasury as miscellaneous receipts.

(2) In order for the Bank to be competitive in all of its financing programs with countries whose exports compete with United States exports, the Bank shall establish a program that—

(A) provides medium-term financing where necessary to be fully competitive—

(i) at rates of interest to the customer which are equal to rates established in international agreements;

(ii) in amounts up to 85 percent of the total cost of the exports involved; and

(iii) with principal amounts of not more than \$25,000,000; and

(B) enables the Bank to cooperate fully with the Secretary of Commerce and the Administrator of the Small Business Administration to develop a program for purposes of disseminating information (using existing private institutions) to small business concerns regarding the medium-term financing provided under this paragraph.

(3) **ENHANCEMENT OF MEDIUM-TERM PROGRAM.**—To enhance the medium-term financing program established pursuant to paragraph (2), the Bank shall establish measures to—

(A) improve the competitiveness of the Bank's medium-term financing and ensure that its medium-term financing is fully competitive with that of other major official export credit agencies;

(B) ease the administrative burdens and procedural and documentary requirements imposed on the users of medium-term financing;

(C) attract the widest possible participation of private financial institutions and other sources of private capital in the medium-term financing of United States exports; and

(D) render the Bank's medium-term financing as supportive of United States exports as is its Direct Loan Program.

(b)(1)(A) It is the policy of the United States to foster expansion of exports of manufactured goods, agricultural products, and other goods and services, thereby contributing to the promotion and maintenance of high levels of employment and real income, a commitment to reinvestment and job creation, and the increased development of the productive resources of the United States. To meet this objective in all its programs, the Export-Import Bank is directed, in the exercise of its functions, to provide guarantees, insurance, and extensions of credit at rates and on terms and other conditions which are fully competitive with the Government-supported rates and terms and other conditions available for the financing of exports of goods and services from the principal countries whose exporters compete with United States exporters, including countries the governments of which are not members of the Arrangement (as defined in section 10(h)(3)). The Bank shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in Government-supported export financing and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce government subsidized export financing.

(B) It is further the policy of the United States that loans made by the Bank in all its programs shall bear interest at rates determined by the Board of Directors, consistent with the Bank's mandate to support United States exports at rates and on terms and conditions which are fully competitive with exports of other countries, and consistent with international agreements. For the purpose of the preceding sentence, rates and terms and conditions need not be identical in all respects to those offered by foreign countries, but should be established so that the effect of such rates, terms, and conditions for all the Bank's programs, including those for small businesses and for medium-term financing, will be to neutralize the effect of such foreign credit on international sales competition. The Bank shall consider its average cost of money as one factor in its determination of interest rates, where such consideration does not impair the Bank's primary function of expanding United States exports through fully competitive financing. The Bank may not impose a credit application fee unless (i) the fee is competitive with the average fee charged by the Bank's primary foreign competitors, and (ii) the borrower or the exporter is given the option of paying the fee at the outset of the loan or over the life of the loan and the present value of the fee determined under either such option is the same amount. It is also the policy of the United States that the Bank in the exercise of its functions should

supplement and encourage, and not compete with, private capital; that the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990; that the Bank shall accord equal opportunity to export agents and managers, independent export firms, export trading companies, and small commercial banks in the formulation and implementation of its programs; that the Bank should give emphasis to assisting new and small business entrants in the agricultural export market, and shall, in cooperation with other relevant Government agencies, including the Commodity Credit Corporation, develop a program of education to increase awareness of export opportunities among small agribusinesses and cooperatives, that loans, so far as possible consistent with the carrying out of the purposes of subsection (a) of this section, shall generally be for specific purposes, and, in the judgment of the Board of Directors, offer reasonable assurance of repayment; and that in authorizing any loan or guarantee, the Board of Directors shall take into account any serious adverse effect of such loan or guarantee on the competitive position of United States industry, the availability of materials which are in short supply in the United States, and employment in the United States, and shall give particular emphasis to the objective of strengthening the competitive position of United States exporters and thereby of expanding total United States exports. Only in cases where the President, after consultation with the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, determines that such action would be in the national interest where such action would clearly and importantly advance United States policy in such areas as international terrorism (including, when relevant, a foreign nation's lack of cooperation in efforts to eradicate terrorism), nuclear proliferation, the enforcement of the Foreign Corrupt Practices Act of 1977, the Arms Export Control Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979, environmental protection and human rights (such as are provided in the Universal Declaration of Human Rights adopted by the United Nations General Assembly on December 10, 1948) (including child labor), should the Export-Import Bank deny applications for credit for nonfinancial or noncommercial considerations. Each such determination shall be delivered in writing to the President of the Bank, shall state that the determination is made pursuant to this section, and shall specify the applications or categories of applications for credit which should be denied by the Bank in furtherance of the national interest.

(C) Consistent with the policy of section 501 of the Nuclear Non-Proliferation Act of 1978 and section 119 of the Foreign Assistance Act of 1961, the Board of Directors shall name an officer of the Bank whose duties shall include advising the President of the Bank on ways or promoting the export of goods and services to be used in the development, production, and distribution of nonnuclear renewable energy resources, disseminating information concerning export opportunities and the availability of Bank support for such

activities, and acting as a liaison between the Bank and the Department of Commerce and other appropriate departments and agencies.

(D) It is further the policy of the United States to foster the delivery of United States services in international commerce. In exercising its powers and functions, the Bank shall give full and equal consideration to making loans and providing guarantees for the export of services (independently, or in conjunction with the export of manufactured goods, equipment, hardware or other capital goods) consistent with the Bank's policy to neutralize foreign subsidized credit competition and to supplement the private capital market.

(E)(i)(I) It is further the policy of the United States to encourage the participation of small business (including women-owned businesses, minority-owned businesses, veteran-owned businesses, businesses owned by persons with disabilities, and businesses in rural areas) and start-up businesses in international commerce, and to educate such businesses about how to export goods using the Bank.

(II) In exercising its authority, the Bank shall develop a program which gives fair consideration to making loans and providing guarantees for the export of goods and services by small businesses.

(ii) It is further the policy of the United States that the Bank shall give due recognition to the policy stated in section 2(a) of the Small Business Act that "the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise".

(iii) In furtherance of this policy, the Board of Directors shall designate an officer of the Bank who—

(I) shall be responsible to the President of the Bank for all matters concerning or affecting small business concerns; and

(II) among other duties, shall be responsible for advising small business concerns of the opportunities for small business concerns in the functions of the Bank, with particular emphasis on conducting outreach and increasing loans to socially and economically disadvantaged small business concerns (as defined in section 8(a)(4) of the Small Business Act), small business concerns (as defined in section 3(a) of the Small Business Act) owned by women, and small business concerns (as defined in section 3(a) of the Small Business Act) employing fewer than 100 employees, and for maintaining liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns.)

(iv) The Director appointed to represent the interests of small business under section 3(c) of this Act shall ensure that the Bank carries out its responsibilities under clauses (ii) and (iii) of this subparagraph and that the Bank's financial and other resources are, to the maximum extent possible, appropriately used for small business needs.

(v) To assure that the purposes of clauses (i) and (ii) of this subparagraph are carried out, the Bank shall make available, from the aggregate loan, guarantee, and insurance authority available to it, an amount to finance exports directly by small business concerns (as defined under section 3 of the Small Business Act) which shall be not less than 25 percent of such authority for each fiscal year. From the amount made available under the preceding sentence, it

shall be a goal of the Bank to increase the amount made available to finance exports directly by small business concerns referred to in section 3(i)(1). For the purpose of calculating the amounts of authority required under this clause, the Bank shall, with respect to insurance, exclude unutilized authorizations that terminated during the fiscal year.

(vi) The Bank shall utilize the amount set-aside pursuant to clause (v) of this subparagraph to offer financing for small business exports on terms which are fully competitive with regard to interest rates and with regard to the portion of financing which may be provided, guaranteed, or insured. Financing under this clause (vi) shall be available without regard to whether financing for the particular transaction was disapproved by any other Federal agency.

(vii)(I) The Bank shall utilize a part of the amount set aside pursuant to clause (v) to provide lines of credit or guarantees to consortia of small or medium size banks, export trading companies, State export finance agencies, export financing cooperatives, small business investment companies (as defined in section 103 of the Small Business Investment Act of 1958), or other financing institutions or entities in order to finance small business exports.

(II) Financing under this clause (vii) shall be made available only where the consortia or the participating institutions agree to undertake processing, servicing, and credit evaluation functions in connection with such financing.

(III) To the maximum extent practicable, the Bank shall delegate to the consortia or other financing institutions or entities the authority to approve financing under this clause (vii).

(IV) In the administration of the program under this clause (vii), the Bank shall provide appropriate technical assistance to participating consortia and may require such consortia periodically to furnish information to the Bank regarding the number and amount of loans made and the creditworthiness of the borrowers.

(viii) In order to assure that the policy stated in clause (i) is carried out, the Bank shall promote small business exports and its small business export financing programs in cooperation with the Secretary of Commerce, the Office of International Trade of the Small Business Administration, and the private sector, particularly small business organizations, State agencies, chambers of commerce, banking organizations, export management companies, export trading companies and private industry.

(ix) The Bank shall provide, through creditworthy trade associations, export trading companies, State export finance companies, export finance cooperatives, and other multiple-exporter organizations, medium-term risk protection coverage for the members and clients of such organizations. Such coverage shall be made available to each such organization under a single risk protection policy covering its members or clients. Nothing in this provision shall be interpreted as limiting the Bank's authority to deny support for specific transactions or to disapprove a request by such an organization to participate in such coverage.

(x) The Bank shall implement technology improvements that are designed to improve small business outreach, including allowing customers to use the Internet to apply for the Bank's small business programs.

(F) Consistent with international agreements, the Bank shall urge the Foreign Credit Insurance Association to provide coverage against 100 per centum of any loss with respect to exports having a value of less than \$100,000.

(G) Participation in or access to long-, medium-, and short-term financing, guarantees, and insurance provided by the Bank shall not be denied solely because the entity seeking participation or access is not a bank or is not a United States person.

(H)(i) It is further the policy of the United States to foster the development of democratic institutions and market economies in countries seeking such development, and to assist the export of high technology items to such countries.

(ii) In exercising its authority, the Bank shall develop a program for providing guarantees and insurance with respect to the export of high technology items to countries making the transition to market based economies, including eligible East European countries (within the meaning of section 3 of the Support For East European Democracy (SEED) Act of 1989).

(iii) As part of the ongoing marketing and outreach efforts of the Bank, the Bank shall, to the maximum extent practicable, inform high technology companies, particularly small business concerns (as such term is defined in section 3 of the Small Business Act), about the programs of the Bank for United States companies interested in exporting high technology goods to countries making the transition to market based economies, including any eligible East European country (within the meaning of section 3 of the Support For East European Democracy (SEED) Act of 1989).

(iv) In carrying out clause (iii), the Bank shall—

(I) work with other agencies involved in export promotion and finance; and

(II) invite State and local governments, trade centers, commercial banks, and other appropriate public and private organizations to serve as intermediaries for the outreach efforts.

(I) The President of the Bank shall undertake efforts to enhance the Bank's capacity to provide information about the Bank's programs to small and rural companies which have not previously participated in the Bank's programs. Not later than 1 year after the date of enactment of this subparagraph, the President of the Bank shall submit to Congress a report on the activities undertaken pursuant to this subparagraph.

(J) The Bank shall implement an electronic system designed to track all pending transactions of the Bank.

(K) The Bank shall promote the export of goods and services related to renewable energy sources, energy efficiency (including battery electric vehicles, batteries for electric vehicles, and electric vehicle charging infrastructure), and energy storage. It shall be a goal of the Bank to ensure that not less than 5 percent of the applicable amount (as defined in section 6(a)(2)) is made available each fiscal year for the financing of renewable energy, energy efficiency (including battery electric vehicles, batteries for electric vehicles, and electric vehicle charging infrastructure), and energy storage technology exports.

(L) The Bank shall require an applicant for assistance from the Bank to disclose whether the applicant has been found by a court of the United States to have violated the Foreign Corrupt Practices

Act of 1977, the Arms Export Control Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979 within the preceding 12 months, and shall maintain, in cooperation with the Department of Justice, for not less than 3 years a record of such applicants so found to have violated any such Act.

(M) Not later than 2 years after the date of the enactment of the Export-Import Bank Reform and Reauthorization Act of 2015, the Bank shall implement policies—

(i) to accept electronic documents with respect to transactions whenever possible, including copies of bills of lading, certifications, and compliance documents, in such manner so as not to undermine any potential civil or criminal enforcement related to the transactions; and

(ii) to accept electronic payments in all of its programs.

(2) PROHIBITION ON AID TO MARXIST-LENINIST COUNTRIES.—

(A) IN GENERAL.—The Bank in the exercise of its functions shall not guarantee, insure, extend credit, or participate in the extension of credit—

(i) in connection with the purchase or lease of any product by a Marxist-Leninist country, or agency or national thereof; or

(ii) in connection with the purchase or lease of any product by any other foreign country, or agency or national thereof, if the product to be purchased or leased by such other country, agency, or national is, to the knowledge of the Bank, principally for use in, or sale or lease to, a Marxist-Leninist country.

(B) MARXIST-LENINIST COUNTRY DEFINED.—

(i) IN GENERAL.—For purposes of this paragraph, the term “Marxist-Leninist country” means any country that maintains a centrally planned economy based on the principles of Marxism-Leninism, or is economically and militarily dependent on any other such country.

(ii) SPECIFIC COUNTRIES DEEMED TO BE MARXIST-LENINIST.—Unless otherwise determined by the President in accordance with subparagraph (C), the following countries are deemed to be Marxist-Leninist countries for purposes of this paragraph:

(I) Democratic People’s Republic of Korea.

(II) Democratic Republic of Afghanistan.

(III) People’s Republic of China.

(IV) Republic of Cuba.

(V) Socialist Republic of Vietnam.

(VI) Tibet.

(C) PRESIDENTIAL DETERMINATION THAT A COUNTRY HAS CEASED TO BE MARXIST-LENINIST.—If the President determines that any country on the list contained in subparagraph (B)(ii) has ceased to be a Marxist-Leninist country (within the definition of such term in subparagraph (B)(i)), such country shall not be treated as a Marxist-Leninist country for purposes of this paragraph after the date of such determination, unless the President subsequently determines that such country has again become a Marxist-Leninist country.

(D) PRESIDENTIAL DETERMINATION RELATING TO FINANCING IN THE NATIONAL INTEREST.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to guarantees, insurance, or extensions of credit by the Bank to a country, agency, or national described in clause (i) or (ii) of subparagraph (A) (in connection with transactions described in such clauses) if the President determines that such guarantees, insurance, or extensions of credit are in the national interest.

(ii) SEPARATE DETERMINATION FOR CERTAIN TRANSACTIONS.—The President shall make a separate determination under clause (i) for each transaction described in clause (i) or (ii) of subparagraph (A) for which the Bank would extend a loan in an amount equal to or greater than \$50,000,000.

(iii) REPORT OF CLAUSE (i) DETERMINATIONS TO CONGRESS.—Any determination by the President under clause (i) shall be reported to the Congress not later than the earlier of—

(I) the end of the 30-day period beginning on the date of such determination; or

(II) the date the Bank takes final action with respect to the first transaction involving the country, agency, or national for which such determination is made after the date of the enactment of the Export-Import Bank Amendments of 1974, unless a report of a determination with respect to such date of enactment.

(iv) REPORT OF CLAUSE (ii) DETERMINATIONS TO CONGRESS.—Any determination by the President under clause (ii) shall be reported to the Congress not later than the earlier of—

(I) the end of the 30-day period beginning on the date of such determination; or

(II) the date the Bank takes final action with respect to the transaction for which such determination is made.

(3) Except as provided by the fourth sentence of this paragraph, no loan or financial guarantee or general guarantee or insurance facility or combination thereof (i) in an amount which equals or exceeds \$100,000,000, or (ii) for the export of technology, fuel, equipment, materials, or goods or services to be used in the construction, alteration, operation, or maintenance of nuclear power, enrichment, reprocessing, research, or heavy water production facilities, shall be finally approved by the Board of Directors of the Bank, unless in each case the Bank has submitted to the Congress with respect to such loan, financial guarantee, or combination thereof, a detailed statement describing and explaining the transaction, at least 25 days of continuous session of the Congress prior to the date of final approval. For the purpose of the preceding sentence, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 25 day period referred to in such sentence. Such statement shall contain—

(A) in the case of a loan or financial guarantee—

(i) a brief description of the purposes of the transaction;

(ii) the identity of the party or parties requesting the loan or financial guarantee;

(iii) the nature of the goods or services to be exported and the use for which the goods or services are to be exported; and

(iv) in the case of a general guarantee or insurance facility—

(I) a description of the nature and purpose of the facility;

(II) the total amount of guarantees or insurance; and

(III) the reasons for the facility and its methods of operation; and

(B) a full explanation of the reasons for Bank financing of the transaction, the amount of the loan to be provided by the Bank, the approximate rate and repayment terms at which such loan will be made available and the approximate amount of the financial guarantee.

If the Bank submits a statement to the Congress under this paragraph and either House of Congress is in an adjournment for a period which continues for at least ten days after the date of submission of the statement, then any such loan or guarantee or combination thereof may, subject to the second sentence of this paragraph, be finally approved by the Board of Directors upon the termination of the twenty-five-day period referred to in the first sentence of this paragraph or upon the termination of a thirty-five-calendar-day period (which commences upon the date of submission of the statement), whichever occurs sooner.

(4)(A) If the Secretary of State determines that—

(i) any country that has agreed to International Atomic Energy Agency nuclear safeguards materially violates, abrogates, or terminates, after October 26, 1977, such safeguards;

(ii) any country that has entered into an agreement for cooperation concerning the civil use of nuclear energy with the United States materially violates, abrogates, or terminates, after October 26, 1977, any guarantee or other undertaking to the United States made in such agreement;

(iii) any country that is not a nuclear-weapon state detonates, after October 26, 1977, a nuclear explosive device;

(iv) any country willfully aids or abets, after June 29, 1994, any non-nuclear-weapon state to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material; or

(v) any person knowingly aids or abets, after the date of enactment of the National Defense Authorization Act for Fiscal Year 1997, any non-nuclear-weapon state to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material,

then the Secretary of State shall submit a report to the appropriate committees of the Congress and to the Board of Directors of the Bank stating such determination and identifying each country or person the Secretary determines has so acted.

(B)(i) If the Secretary of State makes a determination under subparagraph (A)(v) with respect to a foreign person, the Congress urges the Secretary to initiate consultations immediately with the

government with primary jurisdiction over that person with respect to the imposition of the prohibition contained in subparagraph (C).

(ii) In order that consultations with that government may be pursued, the Board of Directors of the Bank shall delay imposition of the prohibition contained in subparagraph (C) for up to 90 days if the Secretary of State requests the Board to make such delay. Following these consultations, the prohibition contained in subparagraph (C) shall apply immediately unless the Secretary determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subparagraph (A)(v). The Board of Directors of the Bank shall delay the imposition of the prohibition contained in subparagraph (C) for up to an additional 90 days if the Secretary requests the Board to make such additional delay and if the Secretary determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(iii) Not later than 90 days after making a determination under subparagraph (A)(v), the Secretary of State shall submit to the appropriate committees of the Congress a report on the status of consultations with the appropriate government under this subparagraph, and the basis for any determination under clause (ii) that such government has taken specific corrective actions.

(C) The Board of Directors of the Bank shall not give approval to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to any country, or to or by any person, identified in the report described in subparagraph (A).

(D) The prohibition in subparagraph (C) shall not apply to approvals to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to a country with respect to which a determination is made under clause (i), (ii), (iii), or (iv) of subparagraph (A) regarding any specific event described in such clause if the President determines and certifies in writing to the Congress not less than 45 days prior to the date of the first approval following the determination that it is in the national interest for the Bank to give such approvals.

(E) The prohibition in subparagraph (C) shall not apply to approvals to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to or by a person with respect to whom a determination is made under clause (v) of subparagraph (A) regarding any specific event described in such clause if—

(i) the Secretary of State determines and certifies to the Congress that the appropriate government has taken the corrective actions described in subparagraph (B)(ii); or

(ii) the President determines and certifies in writing to the Congress not less than 45 days prior to the date of the first approval following the determination that—

(I) reliable information indicates that—

(aa) such person has ceased to aid or abet any non-nuclear-weapon state to acquire any nuclear explosive device or to acquire unsafeguarded special nuclear material; and

(bb) steps have been taken to ensure that the activities described in item (aa) will not resume; or

(II) the prohibition would have a serious adverse effect on vital United States interests.

(F) For purposes of this paragraph:

(i) The term “country” has the meaning given to “foreign state” in section 1603(a) of title 28, United States Code.

(ii) The term “knowingly” is used within the meaning of the term “knowing” in section 104(h)(3) of the Foreign Corrupt Practices Act (15 U.S.C. 78dd–2(h)(3)).

(iii) The term “person” means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity.

(iv) The term “nuclear-weapon state” has the meaning given the term in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968.

(v) The term “non-nuclear-weapon state” has the meaning given the term in section 830(5) of the Nuclear Proliferation Prevention Act of 1994 (Public Law 103–236; 108 Stat. 521).

(vi) The term “nuclear explosive device” has the meaning given the term in section 830(4) of the Nuclear Proliferation Prevention Act of 1994 (Public Law 103–236; 108 Stat. 521).

(vii) The term “unsafeguarded special nuclear material” has the meaning given the term in section 830(8) of the Nuclear Proliferation Prevention Act of 1994.

(5) The Bank shall not guarantee, insure, or extend credit, or participate in the extension of credit in connection with (A) the purchase of any product, technical data, or other information by a national or agency of any nation which engages in armed conflict declared or otherwise, with the Armed Forces of the United States, (B) the purchase by any nation (or national or agency thereof) of any product, technical data, or other information which is to be used principally by or in any such nation described in clause (A), or (C) the purchase of any liquid metal fast breeder nuclear reactor or any nuclear fuel reprocessing facility. The Bank shall not guarantee, insure, or extend credit, or participate in the extension of credit in connection with the purchase of any product, technical data, or other information by a national or agency of any nation if the President determines that any such transaction would be contrary to the national interest.

(6)(A) The Bank shall not guarantee, insure, or extend credit, or participate in an extension of credit in connection with any credit sale of defense articles and defense services to any country.

(B) Subparagraph (A) shall not apply to any sale of defense articles or services if—

(i) the Bank is requested to provide a guarantee or insurance for the sale;

(ii) the President determines that the defense articles or services are being sold primarily for anti-narcotics purposes;

(iii) section 490(e) of the Foreign Assistance Act of 1961 does not apply with respect to the purchasing country; and

(iv) the President determines, in accordance with subparagraph (C), that the sale is in the national interest of the United States; and

(v) the Bank determines that, notwithstanding the provision of a guarantee or insurance for the sale, not more than 5 percent of the guarantee and insurance authority available to the Bank in any fiscal year will be used by the Bank to support the sale of defense articles or services.

(C) In determining whether a sale of defense articles or services would be in the national interest of the United States, the President shall take into account whether the sale would—

(i) be consistent with the anti-narcotics policy of the United States;

(ii) involve the end use of a defense article or service in a major illicit drug producing or major drug-transit country (as defined in section 481(e) of the Foreign Assistance Act of 1961); and

(iii) be made to a country with a democratic form of government.

(D)(i) The Board shall not give approval to guarantee or insure a sale of defense articles or services unless—

(I) the President determines, in accordance with subparagraph (C), that it is in the national interest of the United States for the Bank to provide such guarantee or insurance;

(II) the President determines, after consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, that the purchasing country has complied with all restrictions imposed by the United States on the end use of any defense articles or services for which a guarantee or insurance was provided under subparagraph (B), and has not used any such defense articles or services to engage in a consistent pattern of gross violations of internationally recognized human rights; and

(III) such determinations have been reported to the Speaker and the Committee on Financial Services of the House of Representatives, and to the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, not less than 25 days of continuous session of the Congress before the date of such approval.

(ii) For purposes of clause (i), continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 25-day period referred to in such clause.

(E) The provision of a guarantee or insurance under subparagraph (B) shall be deemed to be the provision of security assistance for purposes of section 502B of the Foreign Assistance Act of 1961 (relating to governments which engage in a consistent pattern of gross violations of internationally recognized human rights).

(F) To the extent that defense articles or services for which a guarantee or insurance is provided under subparagraph (B) are used for a purpose other than anti-narcotics purposes, they may be used only for those purposes for which defense articles and defense services sold under the Arms Export Control Act (relating to the

foreign military sales program) may be used under section 4 of such Act.

(G) As used in subparagraphs (B), (C), (D), and (F), the term "defense articles or services" means articles, services, and related technical data that are designated as defense articles and defense services pursuant to sections 38 and 47(7) of the Arms Export Control Act and listed on the United States Munitions List (part 121 of title 22 of the Code of Federal Regulations).

(H) Once in each calendar quarter, the Bank shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives on all instances in which the Bank, during the reporting quarter, guaranteed, insured, or extended credit or participated in an extension of credit in connection with any credit sale of an article, service, or related technical data described in subparagraph (G) that the Bank determined would not be put to a military use or described in subparagraph (I)(i). Such report shall include a description of each of the transactions and the justification for the Bank's actions.

(I)(i) Subparagraph (A) shall not apply to a transaction involving defense articles or services if—

(I) the Bank determines that—

(aa) the defense articles or services are nonlethal; and

(bb) the primary end use of the defense articles or services will be for civilian purposes; and

(II) at least 15 calendar days before the date on which the Board of Directors of the Bank gives final approval to Bank participation in the transaction, the Bank provides notice of the transaction to the Committees on Financial Services and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate.

(ii) Not more than 10 percent of the loan, guarantee, and insurance authority available to the Bank for a fiscal year may be used by the Bank to support the sale of defense articles or services to which subparagraph (A) does not apply by reason of clause (i) of this subparagraph.

(iii) Not later than September 1 of each fiscal year, the Comptroller General of the United States, in consultation with the Bank, shall submit to the Committees on Financial Services and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate a report on the end uses of any defense articles or services described in clause (i) with respect to which the Bank provided support during the second preceding fiscal year.

(7) In no event shall the Bank have outstanding at any time in excess of 7½ per centum of the limitation imposed by section 7 of this Act for such guarantees, insurance, credits or participation in credits with respect to exports of defense articles and services to countries which, in the judgment of the Board of Directors of the Bank, are less developed.

(8) The Bank shall supplement but not compete with private capital and the programs of the Commodity Credit Corporation to ensure that adequate financing will be made available to assist the export of agricultural commodities, except that, consistent with sec-

tion 2(b)(1)(A) of this Act, the Bank in assisting any such export transactions shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in Government-supported export financing, and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce Government subsidized export financing. In order to carry out the purposes of this subsection, the Bank shall consult with the Secretary of Agriculture and where the Secretary of Agriculture has recommended against Bank financing of the export of a particular agricultural commodity, shall take such recommendation into consideration in determining whether to provide credit or other assistance for any export sale of such commodity, and shall consider the importance of agricultural commodity exports to the United States export market and the Nation's balance of trade in deciding whether or not to provide assistance under this subsection.

(9)(A) The Board of Directors of the Bank shall, in consultation with the Secretary of Commerce and the Trade Promotion Coordinating Committee, take prompt measures, consistent with the credit standards otherwise required by law, to promote the expansion of the Bank's financial commitments in sub-Saharan Africa under the loan, guarantee, and insurance programs of the Bank.

(B)(i) The Board of Directors shall establish and use an advisory committee to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion described in subparagraph (A).

(ii) The advisory committee shall make recommendations to the Board of Directors on how the Bank can facilitate greater support by United States commercial banks for trade with sub-Saharan Africa.

(iii) The advisory committee shall terminate on the date on which the authority of the Bank expires under section 7.

(C) The Bank shall include in the annual report to the Congress submitted under section 8(a) a separate section that contains a report on the efforts of the Bank to—

(i) improve its working relationships with the African Development Bank, the African Export-Import Bank, and other institutions in the region that are relevant to the purposes of subparagraph (A) of this paragraph; and

(ii) coordinate closely with the United States Foreign Service and Foreign Commercial Service, and with the overall strategy of the United States Government for economic engagement with Africa pursuant to the African Growth and Opportunity Act.

(D) Consistent with the requirement that the Bank obtain a reasonable assurance of repayment in connection with each transaction the Bank supports, the Bank shall, in consultation with the entities described in subparagraph (C), seek to qualify a greater number of appropriate African entities for participation in programs of the Bank.

(10)(A) The Bank shall not, without a specific authorization by law, guarantee, insure, or extend credit (or participate in the extension of credit) to—

(i) assist specific countries with balance of payments financing; or

(ii) assist (as the primary purpose of any such guarantee, insurance, or credit) any country in the management of its international indebtedness, other than its outstanding obligations to the Bank.

(B) Nothing contained in subparagraph (A) shall preclude guarantees, insurance, or credit the primary purpose of which is to support United States exports.

(11) PROHIBITION RELATING TO ANGOLA.—The Bank may not guarantee, insure, or extend (or participate in the extension of) credit in connection with any export of any good (other than food or an agricultural commodity) or service to the People's Republic of Angola until the President certifies to the Congress that free and fair elections have been held in Angola in which all participants were afforded free and fair access, and that the government of Angola—

(A) is willing, and is actively seeking, to achieve an equitable political settlement of the conflict in Angola, including free and fair elections, through a mutual cease-fire and a dialogue with the opposition armed forces;

(B) has demonstrated progress in protecting internationally recognized human rights, and particularly in—

(i) ending, through prosecution or other means, involvement of members of the military and security forces in political violence and abuses of internationally recognized human rights;

(ii) vigorously prosecuting persons engaged in political violence who are connected with the government; and

(iii) bringing to justice those responsible for the abduction, torture, and murder of citizens of Angola and citizens of the United States; and

(C) has demonstrated progress in its respect for, and protection of—

(i) the freedom of the press;

(ii) the freedom of speech;

(iii) the freedom of assembly;

(iv) the freedom of association (including the right to organize for political purposes);

(v) internationally recognized worker rights; and

(vi) other attributes of political pluralism and democracy.

The President shall include in each report made pursuant to this paragraph a detailed statement with respect to each of the conditions set forth in this paragraph. This paragraph shall not be construed to impose any requirement with respect to Angola that is more restrictive than any requirement imposed by this section generally on all other countries.

(12) PROHIBITION RELATING TO RUSSIAN TRANSFERS OF CERTAIN MISSILE SYSTEMS.—If the President of the United States determines that the military or Government of the Russian Federation has transferred or delivered to the People's Republic of China an SS-N-22 missile system and that the transfer or delivery represents a significant and imminent threat to the security of the United States, the President of the United States shall notify the Bank of the transfer or delivery as soon as practicable. Upon receipt of the notice and if so directed by the President of the United States, the

Board of Directors of the Bank shall not give approval to guarantee, insure, extend credit, or participate in the extension of credit in connection with the purchase of any good or service by the military or Government of the Russian Federation.

(13) PROHIBITION ON ASSISTANCE TO DEVELOP OR PROMOTE CERTAIN RAILWAY CONNECTIONS AND RAILWAY-RELATED CONNECTIONS.—The Bank shall not guarantee, insure, or extend (or participate in the extension of) credit in connection with the export of any good or service relating to the development or promotion of any railway connection or railway-related connection that does not traverse or connect with Armenia and does traverse or connect Baku, Azerbaijan, Tbilisi, Georgia, and Kars, Turkey.

(14) PROHIBITION ON FINANCING FOR IRAN.—*The Bank may not guarantee, insure, or extend (or participate in an extension of) credit in connection with any transaction, with respect to which credit assistance from the Bank is first sought after the effective date of this paragraph, for which a lender or obligor is the Government of Iran or an entity owned or controlled by the Government of Iran.*

【Section 4 of H.R. 5921 (as reported) amends section 2(b) by adding at the end a new paragraph (14). Section 5 of such bill (as reported), provides for a sunset date to the Act and the amendment made by section 4. Effective on such date, such paragraph (14) (as added) is repealed as follows:】

【(14) PROHIBITION ON FINANCING FOR IRAN.—The Bank may not guarantee, insure, or extend (or participate in an extension of) credit in connection with any transaction, with respect to which credit assistance from the Bank is first sought after the effective date of this paragraph, for which a lender or obligor is the Government of Iran or an entity owned or controlled by the Government of Iran.】

(c)(1) The Bank shall charge fees and premiums commensurate, in the judgment of the Bank, with risks covered in connection with the contractual liability that the Bank incurs for guarantees, insurance, coinsurance, and reinsurance against political and credit risks of loss.

(2) The Bank may issue such guarantees, insurance, coinsurance, and reinsurance to or with exporters, insurance companies, financial institutions, or others, or groups thereof, and where appropriate may employ any of the same to act as its agent in the issuance and servicing of such guarantees, insurance, coinsurance, and reinsurance, and the adjustment of claims arising thereunder.

(3) TRANSFERABILITY OF GUARANTEES.—

(A) IN GENERAL.—With respect to medium-term and long-term obligation insured or guaranteed by the Bank after the date of the enactment of the Export-Import Bank Act Amendments of 1986, the Bank shall authorize the unrestricted transfer of such obligations by the originating lenders or their transferees to other lenders without affecting, limiting, or terminating the guarantee or insurance provided by the Bank.

(B) GUARANTEE COVERAGE.—For the guarantee program provided for in this subsection, the Bank may provide up to 100 percent coverage of the interest and principal if the Board of Directors determines such coverage to be necessary to ensure acceptance of Bank guarantees by financial institutions for any

transaction in any export market in which the Bank is open for business.

(d)(1) In carrying out its responsibilities under this Act, the Bank shall work to ensure that United States companies are afforded an equal and nondiscriminatory opportunity to bid for insurance in connection with transactions assisted by the Bank.

(2) COMPETITIVE OPPORTUNITY FOR INSURANCE COMPANIES.—In the case of any long-term loan or guarantee of not less than \$25,000,000, the Bank shall seek to ensure that United States insurance companies are accorded a fair and open competitive opportunity to provide insurance against risk of loss in connection with any transaction with respect to which such loan or guarantee is provided.

(3) RESPONSIVE ACTIONS.—If the Bank becomes aware that a fair and open competitive opportunity is not accorded to any United States insurance company in a foreign country with respect to which the Bank is considering a loan or guarantee, the Bank—

(A) may approve or deny the loan or guarantee after considering whether such action would be likely to achieve competitive access for United States insurance companies; and

(B) shall forward information regarding any foreign country that denies United States insurance companies a fair and open competitive opportunity to the Secretary of Commerce and to the United States Trade Representative for consideration of a recommendation to the President that access by such country to export credit of the United States should be restricted.

(4) NOTICE OF APPROVAL.—If the Bank approves a loan or guarantee with respect to a foreign country notwithstanding information regarding denial by that foreign country of competitive opportunities for United States insurance companies, the Bank shall include notice of such approval and the reason for such approval in the report on competition in officially supported export credit required under subsection (b)(1)(A).

(5) DEFINITIONS.—For purposes of this section—

(A) the term “United States insurance company”—

(i) includes an individual, partnership, corporation, holding company, or other legal entity which is authorized (or in the case of a holding company, subsidiaries of which are authorized) by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

(ii) includes foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in clause (i); and

(B) the term “fair and open competitive opportunity” means, with respect to the provision of insurance by a United States insurance company, that the company—

(i) has received notice of the opportunity to provide such insurance; and

(ii) has been evaluated for such opportunity on a non-discriminatory basis.

(e) LIMITATION ON ASSISTANCE WHICH ADVERSELY AFFECT THE UNITED STATES.—

(1) IN GENERAL.—The Bank may not extend any direct credit of financial guarantee for establishing or expanding production

of any commodity for export by any country other than the United States, if—

(A) the Bank determines that—

(i) the commodity is likely to be in surplus on world markets at the time the resulting commodity will first be sold; or

(ii) the resulting production capacity is expected to compete with United States production of the same, similar, or competing commodity; and

(B) the Bank determines that the extension of such credit or guarantee will cause substantial injury to United States producers of the same, similar, or competing commodity.

In making the determination under subparagraph (B), the Bank shall determine whether the facility that would benefit from the extension of a credit or guarantee is reasonably likely to produce a commodity in addition to, or other than, the commodity specified in the application and whether the production of the additional commodity may cause substantial injury to United States producers of the same, or a similar or competing, commodity.

(2) OUTSTANDING ORDERS AND PRELIMINARY INJURY DETERMINATIONS.—

(A) ORDERS.—The Bank shall not provide any loan or guarantee to an entity for the resulting production of substantially the same product that is the subject of—

(i) a countervailing duty or antidumping order under title VII of the Tariff Act of 1930; or

(ii) a determination under title II of the Trade Act of 1974.

(B) AFFIRMATIVE DETERMINATION.—Within 60 days after the date of the enactment of this paragraph, the Bank shall establish procedures regarding loans or guarantees provided to any entity that is subject to a preliminary determination of a reasonable indication of material injury to an industry under title VII of the Tariff Act of 1930. The procedures shall help to ensure that these loans and guarantees are likely to not result in a significant increase in imports of substantially the same product covered by the preliminary determination and are likely to not have a significant adverse impact on the domestic industry. The Bank shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the implementation of these procedures.

(C) COMMENT PERIOD.—The Bank shall establish procedures under which the Bank shall notify interested parties and provide a comment period of not less than 14 days (which, on request of any affected party, shall be extended to a period of not more than 30 days) with regard to loans or guarantees reviewed pursuant to subparagraph (B) or (D).

(D) CONSIDERATION OF INVESTIGATIONS UNDER TITLE II OF THE TRADE ACT OF 1974.—In making any determination under paragraph (1) for a transaction involving more than

\$10,000,000, the Bank shall consider investigations under title II of the Trade Act of 1974 that have been initiated at the request of the President of the United States, the United States Trade Representative, the Committee on Finance of the Senate, or the Committee on Ways and Means of the House of Representatives, or by the International Trade Commission on its own motion.

(E) ANTI-CIRCUMVENTION.—The Bank shall not provide a loan or guarantee if the Bank determines that providing the loan or guarantee will facilitate circumvention of an order or determination referred to in subparagraph (A).

(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply in any case where, in the judgment of the Board of Directors of the Bank, the short- and long-term benefits to industry and employment in the United States are likely to outweigh the short- and long-term injury to United States producers and employment of the same, similar, or competing commodity.

(4) DEFINITION.—For purposes of paragraph (1)(B), the extension of any credit or guarantee by the Bank will cause substantial injury if the amount of the capacity for production established, or the amount of the increase in such capacity expanded, by such credit or guarantee equals or exceeds 1 percent of United States production.

(5) DESIGNATION OF SENSITIVE COMMERCIAL SECTORS AND PRODUCTS.—Not later than 120 days after the date of the enactment of this Act, the Bank shall submit a list to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, which designates sensitive commercial sectors and products with respect to which the provision of financing support by the Bank is deemed unlikely by the President of the Bank due to the significant potential for a determination that such financing support would result in an adverse economic impact on the United States. The President of the Bank shall review on an annual basis thereafter the list of sensitive commercial sectors and products and the Bank shall submit an updated list to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of such sectors and products.

(6) FINANCIAL THRESHOLD DETERMINATIONS.—For purposes of determining whether a proposed transaction exceeds a financial threshold under this subsection or under the procedures or rules of the Bank, the Bank shall aggregate the dollar amount of the proposed transaction and the dollar amounts of all loans and guarantees, approved by the Bank in the preceding 24-month period, that involved the same foreign entity and substantially the same product to be produced.

(7) PROCEDURES TO REDUCE ADVERSE EFFECTS OF LOANS AND GUARANTEES ON INDUSTRIES AND EMPLOYMENT IN UNITED STATES.—

(A) CONSIDERATION OF ECONOMIC EFFECTS OF PROPOSED TRANSACTIONS.—If, in making a determination under this paragraph with respect to a loan or guarantee, the Bank conducts a detailed economic impact analysis or similar

study, the analysis or study, as the case may be, shall include consideration of—

- (i) the factors set forth in subparagraphs (A) and (B) of paragraph (1); and
- (ii) the views of the public and interested parties.

(B) NOTICE AND COMMENT REQUIREMENTS.—

(i) IN GENERAL.—If, in making a determination under this subsection with respect to a loan or guarantee, the Bank intends to conduct a detailed economic impact analysis or similar study, the Bank shall publish in the Federal Register a notice of the intent, and provide a period of not less than 14 days (which, on request by any affected party, shall be extended to a period of not more than 30 days) for the submission to the Bank of comments on the economic effects of the provision of the loan or guarantee, including comments on the factors set forth in subparagraphs (A) and (B) of paragraph (1). In addition, the Bank shall seek comments on the economic effects from the Department of Commerce, the Office of Management and Budget, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

(ii) CONTENT OF NOTICE.—The notice shall include appropriate, nonproprietary information about—

- (I) the country to which the goods involved in the transaction will be shipped;
- (II) the type of goods being exported;
- (III) the amount of the loan or guarantee involved;
- (IV) the goods that would be produced as a result of the provision of the loan or guarantee;
- (V) the amount of increased production that will result from the transaction;
- (VI) the potential sales market for the resulting goods; and
- (VII) the value of the transaction.

(iii) PROCEDURE REGARDING MATERIALLY CHANGED APPLICATIONS.—

(I) IN GENERAL.—If a material change is made to an application for a loan or guarantee from the Bank after a notice with respect to the intent described in clause (i) is published under this subparagraph, the Bank shall publish in the Federal Register a revised notice of the intent, and shall provide for a comment period, as provided in clauses (i) and (ii).

(II) MATERIAL CHANGE DEFINED.—As used in subclause (I), the term “material change”, with respect to an application, includes—

- (aa) a change of at least 25 percent in the amount of a loan or guarantee requested in the application; and
- (bb) a change in the principal product to be produced as a result of any transaction that

would be facilitated by the provision of the loan or guarantee.

(C) REQUIREMENT TO ADDRESS VIEWS OF ADVERSELY AFFECTED PERSONS.—Before taking final action on an application for a loan or guarantee to which this section applies, the staff of the Bank shall provide in writing to the Board of Directors the views of any person who submitted comments pursuant to subparagraph (B).

(D) PUBLICATION OF CONCLUSIONS.—Within 30 days after a party affected by a final decision of the Board of Directors with respect to a loan or guarantee makes a written request therefor, the Bank shall provide to the affected party a non-confidential summary of the facts found and conclusions reached in any detailed economic impact analysis or similar study conducted pursuant to subparagraph (B) with respect to the loan or guarantee, that were submitted to the Board of Directors.

(E) MAINTENANCE OF DOCUMENTATION.—The Bank shall maintain documentation relating to economic impact analyses and similar studies conducted under this subsection in a manner consistent with the Standards for Internal Control of the Federal Government issued by the Comptroller General of the United States.

(F) RULE OF INTERPRETATION.—This paragraph shall not be construed to make subchapter II of chapter 5 of title 5, United States Code, applicable to the Bank.

(G) REGULATIONS.—The Bank shall implement such regulations and procedures as may be appropriate to carry out this paragraph.

(f) AUTHORITY TO DENY APPLICATION FOR ASSISTANCE BASED ON FRAUD OR CORRUPTION BY PARTY INVOLVED IN THE TRANSACTION.—In addition to any other authority of the Bank, the Bank may deny an application for assistance with respect to a transaction if the Bank has substantial credible evidence that any party to the transaction or any party involved in the transaction has committed an act of fraud or corruption in connection with the transaction, and shall deny an application for assistance if the end user, borrower, lender, or exporter has been convicted of an act of fraud or corruption in connection with an application for support from the Bank made in the preceding 5 years. The Bank may proceed with an application described in this subsection only if an end user, borrower, lender, or exporter can be fully excluded from the transaction.

(g) PROCESS FOR NOTIFYING APPLICANTS OF APPLICATION STATUS.—The Bank shall establish and adhere to a clearly defined process for—

- (1) acknowledging receipt of applications;
- (2) informing applicants that their applications are complete or, if incomplete or containing a minor defect, of the additional material or changes that, if supplied or made, would make the application eligible for consideration; and
- (3) keeping applicants informed of the status of their applications, including a clear and timely notification of approval or disapproval, and, in the case of disapproval, the reason for disapproval, as appropriate.

(h) RESPONSE TO APPLICATION FOR FINANCING; IMPLEMENTATION OF ONLINE LOAN REQUEST AND TRACKING PROCESS.—

(1) RESPONSE TO APPLICATIONS.—Within 5 days after the Bank receives an application for financing, the Bank shall notify the applicant that the application has been received, and shall include in the notice—

(A) a request for such additional information as may be necessary to make the application complete;

(B) the name of a Bank employee who may be contacted with questions relating to the application; and

(C) a unique identification number which may be used to review the status of the application at a website established by the Bank.

(2) WEBSITE.—Not later than September 1, 2007, the Bank shall exercise the authority granted by subparagraphs (E)(x) and (J) of subsection (b)(1) to establish, and thereafter to maintain, a website through which—

(A) Bank products may be applied for; and

(B) information may be obtained with respect to—

(i) the status of any such application;

(ii) the Small Business Division of the Bank; and

(iii) incentives, preferences, targets, and goals relating to small business concerns (as defined in section 3(a) of the Small Business Act), including small business concerns exporting to Africa.

(i) DUE DILIGENCE STANDARDS FOR LENDER PARTNERS.—The Bank shall set due diligence standards for its lender partners and participants, which should be applied across all programs consistently. To minimize or prevent fraudulent activity, the Bank shall require all delegated lenders to implement “Know your customer practices”.

(j) NON-SUBORDINATION REQUIREMENT.—In entering into financing contracts, the Bank shall seek a creditor status which is not subordinate to that of all other creditors, in order to reduce the risk to, and enhance recoveries for, the Bank.

(k) PROHIBITION ON DISCRIMINATION BASED ON INDUSTRY.—

(1) IN GENERAL.—Except as provided in this Act, the Bank may not—

(A) deny an application for financing based solely on the industry, sector, or business that the application concerns; or

(B) promulgate or implement policies that discriminate against an application based solely on the industry, sector, or business that the application concerns.

(2) APPLICABILITY.—The prohibitions under paragraph (1) apply only to applications for financing by the Bank for projects concerning the exploration, development, production, or export of energy sources and the generation or transmission of electrical power, or combined heat and power, regardless of the energy source involved.

(l) PROGRAM ON CHINA AND TRANSFORMATIONAL EXPORTS.—

(1) IN GENERAL.—The Bank shall establish a Program on China and Transformational Exports to support the extension of loans, guarantees, and insurance, at rates and on terms and other conditions, to the extent practicable, that are fully com-

petitive with rates, terms, and other conditions established by the People's Republic of China or by a covered country, that aim to—

(A) directly neutralize export subsidies for competing goods and services financed by official export credit, tied aid, or blended financing provided by the People's Republic of China or by a covered country; or

(B) advance the comparative leadership of the United States with respect to the People's Republic of China, or support United States innovation, employment, and technological standards, through direct exports in any of the following areas:

- (i) Artificial intelligence.
- (ii) Biotechnology.
- (iii) Biomedical sciences.
- (iv) Wireless communications equipment (including 5G or subsequent wireless technologies).
- (v) Quantum computing.
- (vi) Renewable energy, energy efficiency, and energy storage.
- (vii) Semiconductor and semiconductor machinery manufacturing.
- (viii) Emerging financial technologies, including technologies that facilitate—
 - (I) financial inclusion through increased access to capital and financial services;
 - (II) data security and privacy;
 - (III) payments, the transfer of funds, and associated messaging services; and
 - (IV) efforts to combat money laundering and the financing of terrorism.
- (ix) Water treatment and sanitation, including technologies and infrastructure to reduce contaminants and improve water quality.
- (x) High performance computing.
- (xi) Associated services necessary for use of any of the foregoing exports.

(2) COVERED COUNTRIES.—In this subsection, the term “covered country” means any country that—

(A) the Secretary of the Treasury designates as a covered country in a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Development of the Senate;

(B) is not a participant in the Arrangement on Officially Supported Export Credits of the Organization for Economic Cooperation and Development (in this subsection referred to as the “Arrangement”); and

(C) is not in substantial compliance with the financial terms and conditions of the Arrangement.

(3) FINANCING.—

(A) IN GENERAL.—It shall be a goal of the Bank to reserve not less than 20 percent of the applicable amount (as defined in section 6(a)(2)) for support made pursuant to the Program on China and Transformational Exports.

(B) EXCEPTION.—The Secretary of the Treasury may reduce or eliminate the 20 percent goal in subparagraph (A), on reporting to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that the People's Republic of China is in substantial compliance with—

- (i) the financial terms and conditions of the Arrangement; and
- (ii) the rules and principles of the Paris Club.

(C) SUNSET AND REPORT.—The program established under paragraph (1) shall expire on December 31, 2026. Not later than 4 years after enactment of this subsection, the President of the Bank shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate assessing the following:

- (i) The capacity and demand of United States entities to export goods and services in the areas described in paragraph (1)(B), as assessed in consultation with the Secretary of Commerce.
- (ii) The availability of private-sector financing for exports in the areas.
- (iii) The feasibility and advisability of continuing the goal of subparagraph (A) of this paragraph with respect to paragraph (1)(B) after December 31, 2026.

(D) NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL PROBLEMS.—The National Advisory Council on International Monetary and Financial Problems shall ensure that Bank authorizations pursuant to the Program on China and Transformational Exports are considered or reviewed expeditiously, consistent with the other credit standards required by law.

MINORITY VIEWS

H.R. 5921 hamstring the Export-Import Bank of the United States (EXIM) and puts American small businesses at a disadvantage to foreign competitors when exporting their goods abroad. H.R. 5921 further requires the U.S. representative at the International Monetary Fund (IMF) to oppose all future Special Drawing Rights (SDRs), which have been a critical source of funds for developing countries in crisis.

The Export-Import Bank of the United States (EXIM) is the official export credit agency of the United States. EXIM, like other government entities and all U.S. persons, is prohibited from doing business with the government of Iran and sanctioned persons related to the country. As such, EXIM has robust policies and practices in place to ensure that its funds and activities do not touch sanctioned persons (defined as individuals and entities).¹ Further, all U.S. EXIM participants are required to do the same sanctions compliance (as do all U.S. persons), which generally prohibits them from engaging in transactions that directly or indirectly involve the government of Iran or others sanctioned through America's Iran-focused sanctions regime.²

However, H.R. 5921, according to EXIM, would substantially limit EXIM financing and impose significant burdens on EXIM by dramatically increasing the cost, processing time, and resource burden associated with reviewing every transaction. In addition, the bill would limit the willingness of U.S. exporters, foreign buyers, and other market participants to consider EXIM financing. Specifically, EXIM shared that,

“Under this proposed legislation, EXIM would now have to conduct rigorous due diligence on every single buyer of insured shipments, no matter how small. EXIM and its insurance policyholders would need to expend significant resources to track down and analyze the ownership structures of every party to each of the nearly 2,000 export credit insurance authorizations that the agency processes each year (one insurance policy authorization may require EXIM approval of multiple buyers or transactions throughout the life of the policy; EXIM staff end up processing approximately 8,000–9,000 applications per year associated with these insurance policy authorizations). Many foreign buyers may be unwilling to answer the kinds of detailed questions that would be required to determine whether they or any other entity in their ownership structure are subject to control by the Government of Iran. Furthermore, many small businesses already struggle to conduct their own due diligence on prospective foreign buyers. It would not be feasible

¹ EXIM, *Fact Sheet on Iran Sanctions Certification Requirements*. (May 10, 2022).

² *Id.*

to require them to ascertain full ownership structures even for the smallest export sale, which would dramatically affect EXIM's ability to offer certain insurance products that offer streamlined approval procedures. These burdens would place EXIM and U.S. exporters at a significant disadvantage when trying to compete to win sales in foreign markets.”³

Additionally, the bill effectively requires the U.S. Executive Director of the IMF to oppose provision of any new SDRs to all IMF member countries. SDRs are international reserve assets created by the IMF for the benefit of member states of the IMF. Developing countries can exchange their SDRs with other countries for cash, that can then be used to finance government operations, serving as a critical supplement to their balance sheets. For example, the Biden Administration supported the largest allocation of SDRs in IMF history, \$650 billion during the COVID-19 pandemic, to ensure that developing countries had additional resources without costing the U.S. a penny.⁴

This bill mandates that the U.S. Executive Director to the IMF oppose the provision of SDRs to Iran, but as a result, that would prevent all other countries from receiving any new SDRs. This is because the process of for approving SDR distributions is such that it is not possible to vote to exclude specific member countries from general allocations; it is instead an up or down vote on whether there should be a distribution of SDRs to all member countries or not. The sponsors of the legislation also fail to understand that SDRs, by themselves, are useless unless another country is willing to exchange them into cash. Because Iran is subject to extensive U.S. sanctions, Iran has not been able to exchange any of its SDRs in this century; this is due to the fact that no country would want to violate U.S. sanctions nor sanctions imposed by the United Kingdom, Canada, the European Union, and others. As a result, this bill is not necessary to prevent Iran from being able to access cash thru its SDRs, but would impose significant pain on developing countries around the world.

For these reasons, we oppose H.R. 5921.

Sincerely,

MAXINE WATERS,
*Ranking Member, Committee on
Financial Services.*
NYDIA M. VELÁZQUEZ,
GREGORY W. MEEKS,
STEPHEN F. LYNCH,
EMANUEL CLEAVER II,
JOYCE BEATTY,
SEAN CASTEN,
RASHIDA TLAIB,
AL GREEN,
BILL FOSTER,
JUAN VARGAS,
AYANNA PRESSLEY,
SYLVIA R. GARCIA,

³Email from EXIM staff to Minority Staff, House Financial Services Committee (Nov. 9, 2023).

⁴ IMF, *Special Drawing Rights (SDR)*, (Accessed Dec. 4, 2023).

NIKEMA WILLIAMS,
Members of Congress.

