

EXIM Bank reauthorization: When will it happen and what reforms will be included?

24 July 2019

On 30 September 2019 the congressional authorization for the Export-Import Bank of the United States (bank) is set to expire. If Congress fails to reauthorize the bank before then, the bank can continue to service its existing obligations; however, no new loan, guarantee, or insurance commitments can be approved. The last lapse occurred from 1 July to 3 December 2015, but ended when reauthorization was added to the must pass, Fixing America's Surface Transportation Act (P.L. 114-94).

Today neither the U.S. House Committee on Financial Services nor the U.S. Senate Committee on Banking, Housing, and Urban Affairs has moved a bill that would reauthorize the bank. In late June, U.S. House Committee on Financial Services Chairwoman Maxine Waters (D-CA) and the Committee's ranking member Patrick McHenry (R-NC) had a bipartisan deal that was supposed to sail through the House Committee. However, at the last second, enough Democratic committee members balked at the agreement and the chairwoman pulled the bill from consideration.

The Waters-McHenry reauthorization deal would have extended the reauthorization of the bank through 2026, while also gradually raising the bank's portfolio cap to US\$175 billion from US\$135 billion. The bill would have renamed the bank, the "United States Export Finance Agency," and offered alternative procedures to approve large deals (US\$25 million – US\$100 million) after a 90-day quorum lapse at the bank's board of directors.

Also under the deal, the bank would have attempted to address concerns of Congress, regarding the Chinese government, by establishing the "Program on China and Transformational Exports" and restricting the access that state-owned and state-controlled Chinese businesses have to the bank's export credit products. The new program would aim to neutralize the effect of the Chinese government's export credit efforts by requiring at least 20 percent of the bank's export credit products to advance key U.S. industries such as artificial intelligence, 5G, and quantum computing. The agreement also included reforms intended to enhance lending to minority-owned businesses, small businesses, businesses in the green energy market, and businesses that would help boost exports from U.S. territories.

The Democratic members of the U.S. House Committee on Financial Services that are opposed to the Waters-McHenry reauthorization deal have cited the following concerns, but not all members opposed to the bill agreed with each concern. First, the deal did not promote green energy enough and didn't prohibit the bank from participating in deals benefiting fossil fuel power plants.

Second, the bank's new lending cap was too small to meet future demand. Third, restrictions on Chinese deals were not fine-tuned enough to allow for the bank to use export credit to facilitate trade with benign Chinese companies.

Ranking member McHenry is emphatic that limiting export credit to Chinese government-controlled business is vital to American national security so reconciling the difference between those that support and those who are opposed to the Waters-McHenry reauthorization deal, based at least partially on that provision, may be difficult. However, it's not impossible and there is precedent for members of this Committee, even those that are in disagreement now, to work together in a bipartisan manner on issues related to China. It was just last year that a deal was struck on reform of the Committee on Foreign Investment in the United States (CFIUS) that focused on thwarting the ability of bad actors in foreign countries from controlling U.S. companies that own technology and other resources that are regarded as critical to U.S. national security.

When considering the chances of the bank receiving reauthorization from Congress, it is important to remember that in May of this year a supermajority of U.S. senators confirmed three new members to the bank's board. This was after years of gridlock that stymied the ability of the board of directors at the bank to reach quorum and approve export credit deals worth US\$10 million or more. In addition to this major Senate victory for the bank, the Trump administration strongly supports the bank as part of its efforts to bolster trade and economic growth. Additionally, it must not be forgotten that Chairwoman Waters and ranking member McHenry remain committed to their desire to get reauthorization for the bank done. Due to all of these positive factors the bank will be reauthorized; however, predicting exactly when it will be reauthorized is more difficult.

The congressional calendar may help us determine the timing of the bank's reauthorization though. The summer congressional district work period starts 29 July for the House and 5 August for the Senate, unless they are delayed, and the district work period for both Chambers is not scheduled to end until 9 September. Also, while there are signs of progress, Congress and the White House are currently busy negotiating an increase in the government's borrowing limit and new spending levels. As a result, Congress will fail to reauthorize the bank prior to the start of the district work period, unless it is wrapped up into the debt limit/spending deal. If reauthorization fails to make it in to the debt limit spending deal, then the bank's authorization will likely lapse because Congress will only have three weeks in September, while in session, to reauthorize the bank before the 30 September deadline. Additionally, if Congress can't get the bank's reauthorization into a must-pass vehicle like the debt limit/spending deal, then they probably can't reconcile their differences over the bank in a mere three weeks. Thus, the bank will continue to operate in a limited capacity, but probably will not receive congressional authorization until near the end of the calendar year. By then Congress will have had enough time to work out their differences and pass a bipartisan reauthorization of the bank.

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