[DISCUSSION DRAFT]

112TH CONGRESS
1ST SESSION

H. R. _____

To reauthorize the Export-Import Bank of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GARY G. MILLER of California introduced the following bill; which was referred to the Committee on ____________________________

A BILL

To reauthorize the Export-Import Bank of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Securing American Jobs Through Exports Act of 2011".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS; STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) Export sales by United States companies are critical to national economic growth.

(2) Increased demand for United States exports in emerging markets will help small and large companies maintain and create United States jobs.

(3) The Export-Import Bank contributes to a stronger national economy by financing the export of United States goods and services in markets where private capital is limited or unavailable.

(4) The Export-Import Bank of the United States does not compete with private sector lenders.

(5) The Export-Import Bank of the United States supports United States exports to 175 countries.

(6) A large percentage of global growth will be centered in markets served by the Export-Import Bank of the United States, and the Bank will be critical to helping United States companies compete for these opportunities.

(7) Through its support for exports, in fiscal year 2010 the Export-Import Bank of the United States supported 227,000 American jobs at over 3,300 companies.

(8) The Export-Import Bank of the United States helps to level the playing field for United States exporters by matching the financing that other governments provide to their exporters.

(9) All the leading exporting nations have official export credit agencies that are used actively to support their exporters.

(10) Through its loan products and loan guarantees, the Export-Import Bank of the United States supports the promotion and maintenance of high levels of employment and real income and increased development of the productive resources of the United States.

(11) The Export-Import Bank of the United States requires reasonable assurance of repayment for the transactions it authorizes, and the Bank closely monitors credit and other risks in its portfolio. The Bank prices transactions based on its risk assessment of the exporters and/or buyers.

(12) Since 1934, the default rate for all long- medium- and short-term loans made by the Export-Import Bank of the United States is 1.5 percent.

(13) The Export-Import Bank of the United States has been a self-sustaining institution since fiscal year 2008, and all surpluses of the Bank are remitted to the United States Treasury. From fiscal years 2008 through 2010, the Bank generated a surplus of $551,000,000.

(14) In fiscal year 2010, the Export-Import Bank of the United States provided a record $5,000,000,000 directly supporting United States small business exporters through 3,091 transactions, representing 20 percent of the total value of the Bank's authorizations and nearly 88 percent of the total number of the Bank's authorizations.

(b) STATEMENT OF PURPOSE.—The purpose of this Act is to reauthorize the activities and operations of the Export-Import Bank of the United States to ensure that the Bank provides financing that is competitive with the financing provided by foreign export credit agencies to enable United States companies to contribute to a stronger national economy by maintaining or increasing the employment of workers in the United States through the export of goods and services.

SEC. 3. EXTENSION OF AUTHORITY.

Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "2011" and inserting "2015".

SEC. 4. LIMITATIONS ON OUTSTANDING LOANS, GUARANTEES, AND INSURANCE.

Section 6(a)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)(2)) is amended—

(1) in subparagraph (D), by striking "and";

(2) in subparagraph (E), by striking the comma at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(F) during fiscal year 2012, $120,000,000,000;

"(G) during fiscal year 2013, $140,000,000,000; and

"(H) during fiscal year 2014 and each fiscal year thereafter, $160,000,000,000.".

SEC. 5. CONTENT GUIDELINES FOR THE PROVISION OF BANK FINANCING.

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

"(i) CONTENT GUIDELINES FOR THE PROVISION OF FINANCING.—

"(1) IN GENERAL.—The Bank shall, after notice and comment, establish clear and comprehensive guidelines with respect to the content of the goods and services involved in a transaction for which the Bank will provide financing, which shall be aimed at ensuring that the Bank enables companies with operations in the United States to maintain and create jobs in the United States and contribute to a stronger national economy through the export of their goods and services.

"(2) REQUIRED CONSIDERATIONS.—In establishing the guidelines, the Bank shall take into account such considerations as the Bank deems relevant to meet the purposes described in paragraph (1), including the following:

"(A) The needs of different industry sectors to obtain financing from the Bank for exporting their products or services in order to create and maintain jobs in the United States.

"(B) The ability of companies with operations in the United States to compete effectively for export opportunities that will create and maintain jobs in the United States, particularly with respect to the Bank's content requirements and co-financing arrangements.

"(C) The totality of support, including financing and subsidies, extended by export credit agencies to exporters of goods and services as well as key differences in, and types of trade-offs among, and national trade promotion strategies of OECD member countries, and such differences, trade-offs, and strategies of, non-OECD member countries.

"(D) Recommendations from the advisory committee established under section 3(d), including any dissenting views.

"(E) Any findings or recommendations of the Government Accountability Office pertaining to the ability of the Bank to provide financing that is competitive with the financing provided by foreign export credit agencies to enable companies with operations in the United States to contribute to a stronger United States economy by maintaining or increasing the employment of workers in the United States through the export of goods and services.

"(F) The effects of the guidelines on the United States operations of manufacturing companies and service companies, and on the United States manufacturing base.

"(G) The effect of changes to current Bank content requirements on the incentive for companies with operations in the United States to maintain or increase the employment of workers in the United States.

"(3) SEPARATE GUIDELINES.—

"(A) The Bank [shall] establish separate guidelines under this subsection for services and for goods.

"(B) The Bank may establish separate guidelines under this subsection for small business concerns (as defined in section 3(a) of the Small Business Act).

"(C) The Bank may continue separate guidelines under this subsection with respect to the provision of different types of financing.

"(4) FLEXIBILITY.—The Bank may allow, on a case-by-case basis, the reduction of the content requirement that would otherwise apply under the guidelines, if the company shows and the Bank verifies that a particular part for a good involved in the proposed transaction is not available in the United States.

"[(5) PARITY IN FINANCING.—If the content involved in a proposed transaction for which a company with operations in the United States seeks financing from the Bank meets all applicable requirements under the guidelines, and the company meets such requirements as the Bank has established, the Bank shall provide financing for the proposed transaction in an amount equal to the maximum amount for which the company is eligible.]

"(6) BAN ON MODIFYING PRODUCTS TO OBTAIN FINANCING.—In determining whether to provide financing for a proposed transaction, the Bank shall seek to ensure that the domestic content of a good has not been reduced solely in order to meet the guidelines.

"(7) PROCEDURAL PROVISIONS.—Within 60 days after the date of the enactment of this Act, the Bank shall publish a notice with respect to the issuance or modification of guidelines under this subsection. Within 60 days after the end of the public comment period otherwise required by law with respect to the issuance or modification of the guidelines, the Bank shall submit to the Congress, for its review, the guidelines in proposed final form. At the end of the 30-day period that begins with the date the proposed final guidelines are so submitted, the proposed final guidelines shall be considered a final agency action for all purposes and shall take effect and be implemented immediately.

"(8) TERM.—Every 2 years, the Bank shall review and, as appropriate, modify the guidelines, subject to paragraph (7).

"(9) AUDITS.—The Comptroller General of the United States, in consultation with Inspector General of the Bank, shall audit Bank transactions to ensure that Bank underwriting, policies, due diligence, and content guidelines are met by applicants who receive Bank support.

"(10) REPORT TO CONGRESS.—Within 1 year after the implementation of new or modified guidelines under this subsection, the Inspector General of the Bank shall submit to the Congress a report evaluating the guidelines, which shall include—

"(A) a discussion of the considerations required to be taken into account in establishing the guidelines, a comparison of how the guidelines reflect each consideration, and a description of the extent to which the guidelines enabled companies with operations in the United States who submitted an application for financing from the Bank to maintain and create jobs in the United States and contribute to a stronger national economy through the export of their goods and services;

"(B) a description of the effect of the guidelines on the number of domestic jobs to be supported, the kinds of domestic jobs to be supported, including their duration and geographic location, and the existence and nature of any transfers of technology or production; and

"(C) recommendations for how the guidelines could be modified to better enable companies with operations in the United States to maintain and create jobs in the United States and contribute to a stronger national economy through the export of their goods and services.".

SEC. 6. DEVELOPMENT OF INFORMATION TECHNOLOGY INVESTMENT PLAN.

The Export-Import Bank of the United States shall develop a comprehensive plan to submit to Congress regarding investment in information technology systems that will enhance the operational capacity and risk management capabilities of the Bank to better enable the Bank to increase exports and grow jobs while protecting the taxpayer. The plan shall—

(1) seek to remedy any of the operational weakness and risk management vulnerabilities of the Bank which are the result of the information technology system of the Bank;

(2) identify how to remedy data fragmentation, enhance information flow throughout the Bank, and manage data across the Bank;

(3) detail the costs of the activities described in paragraphs (1) and (2) and how the costs should be allocated; and

(4) detail how such an investment will enhance the operational capacity and risk management capabilities of the Bank to better enable the Bank to increase exports and grow jobs while protecting the taxpayer.

SEC. 7. ACTIONS REQUIRED WHEN DEFAULT RATES ON BANK FINANCING ARE HIGH.

Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635g) is amended by adding at the end the following:

"(g) MONITORING OF DEFAULT RATES ON BANK FINANCING; REPORTS ON HIGH DEFAULT RATES.—

"(1) MONITORING OF DEFAULT RATES.—Not less frequently than every 60 days, the Bank shall calculate the rate at which the entities to which the

Bank has provided short-, medium-, or long-term financing are in default on a payment obligation under the financing, by dividing the total amount of the required payments that are overdue by the total amount of the financing involved.

"(2) REPORTS.—Within 45 days after a rate calculated under paragraph (1) equals or exceeds 2 percent, the Bank shall submit to the Congress a written report that explains the circumstances that have caused the default rate to equal or exceed 2 percent, and includes a plan to reduce the default rate to less than 2 percent.".

SEC. 8. SUB-SAHARAN AFRICA ADVISORY COMMITTEE.

Section 2(b)(9)(B)(iii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)(B)(iii)) is amended by striking "2011" and inserting "2015".

SEC. 9. EXTENSION OF AUTHORITY TO PROVIDE FINANCING FOR THE EXPORT OF NONLETHAL DEFENSE ARTICLES OR SERVICES THE PRIMARY END USE OF WHICH WILL BE FOR CIVILIAN PURPOSES.

Section 1(c) of Public Law 103–428 (12 U.S.C. 635 note; 108 Stat. 4376) is amended by striking "2011" and inserting "2015".

SEC. 10. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on October 1, 2011.