116TH CONGRESS
1ST SESSION

H. R. 3407

To strengthen the competitiveness of the United States, to modernize and reform the United States Export Finance Agency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. Waters (for herself and Mr. McHenry) introduced the following bill; which was referred to the Committee on ____________________________

A BILL

To strengthen the competitiveness of the United States, to modernize and reform the United States Export Finance Agency, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “United States Export Finance Agency Act of 2019”.

SEC. 2. TABLE OF CONTENTS.

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TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Miscellaneous updates relating to the United States Export Finance Agency.
Sec. 402. Prohibition on financing for certain aviation-related vehicles.

1 SEC. 3. FINDINGS.

2 The Congress finds as follows:

3 (1) The Export-Import Bank of the United States (EXIM)—the official export credit agency of the United States—is designed to help create and
support U.S. jobs by providing American exporters
with the financing tools necessary to compete in the
global markets.

(2) Over its 85-year history, under both Repub-

clican and Democratic administrations, the Export-

Import Bank of the United States has been reau-

thorized 17 times with large bipartisan majorities in

Congress.

(3) Over the last 10 years, the Export-Import

Bank of the United States has financed more than

$186,000,000,000 in authorizations supporting more

than $255,000,000,000 in United States exports

and supported 1,600,000 United States jobs in all

50 states; in fiscal year 2018, EXIM authorized

$3,300,000,000 in financing and supported an esti-
mated 33,000 United States jobs.

(4) By its charter, it is the policy of the United

States that the Export-Import Bank of the United

States should not compete with the private sector,

but rather to fill export financing gaps through its

insurance, loan guarantee, and direct lending pro-

grams when the private sector is unable or unwilling
to do so.

(5) With more than 100 export credit agencies
globally, the Export-Import Bank of the United
States, if appropriately utilized, can level the playing field to ensure that United States companies will not lose out on a sale of United States exports because of financing terms offered by foreign governments.

(6) In fiscal year 2018, 90.5 percent of the Export-Import Bank of the United States’ authorizations directly supported small businesses, including 315 small businesses that used the Export-Import Bank of the United States for the first time.

(7) In fiscal year 2014, when the Export-Import Bank of the United States was last fully operational, EXIM authorized $751,000,000 to support minority- and women-owned business exports.

(8) In fiscal year 2018, the Export-Import Bank of the United States approved $451,400,000 in support of minority- or woman-owned businesses, which accounted for 21 percent of total small business authorizations.

(9) The charter of the Export-Import Bank of the United States requires the Bank to lend only if there exists reasonable assurance that it will be repaid, and Congress subjects EXIM to statutory restrictions and oversight to safeguard its fiscal soundness, limit mismanagement, and prevent corruption.
EXIM was last reauthorized in December 2015, and its charter expires September 30, 2019. Despite bicameral support for the Bank’s reauthorization in 2015, the Senate did not confirm the directors of EXIM until May 2019. As a result, the Bank did not have a quorum and could not approve transactions over $10,000,000.

SEC. 4. RENAMING OF THE EXPORT-IMPORT BANK OF THE UNITED STATES.

(a) In General.—The Export-Import Bank of the United States is hereby redesignated as the United States Export Finance Agency.

(b) References.—Any reference to the Export-Import Bank of the United States in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of the enactment of this Act shall be considered to refer and apply to the United States Export Finance Agency.

TITLE I—PROMOTING UNITED STATES LEADERSHIP AND INNOVATION

SEC. 101. AUTHORIZATION PERIOD.

Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking “2019” and inserting “2026”.

June 21, 2019 (10:29 a.m.)
SEC. 102. AGGREGATE LOAN, GUARANTEE, AND INSURANCE AUTHORITY.

Section 6(a)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)(2)) is amended to read as follows:

“(2) APPLICABLE AMOUNT DEFINED.—In this subsection, the term ‘applicable amount’ means—

“(A) $145,000,000,000 for fiscal year 2020;

“(B) $150,000,000,000 for fiscal year 2021;

“(C) $155,000,000,000 for fiscal year 2022;

“(D) $160,000,000,000 for fiscal year 2023;

“(E) $165,000,000,000 for fiscal year 2024;

“(F) $170,000,000,000 for fiscal year 2025; and

“(G) $175,000,000,000 for fiscal year 2026.”.

SEC. 103. PROGRAM ON CHINA AND TRANSFORMATIONAL EXPORTS.

(a) In General.—Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended by adding at the end the following:
“(l) PROGRAM ON CHINA AND TRANSFORMATIONAL EXPORTS.—

“(1) IN GENERAL.—The Agency 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 competitive 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) 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; and

“(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 Agency 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 per-
cent 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
September 30, 2026. Not later than 4 years
after enactment of this subsection, the Presi-
dent of the Agency shall submit a report to the
Committee on Financial Services of the House
of Representatives and the Committee on Bank-
ing, 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 para-
graph (1)(B) in consultation with the Sec-
retary 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 September 30, 2026.

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

(b) REQUIRED REPORTING.—Section 8 of such Act (12 U.S.C. 635g) is amended by adding at the end the following:

“(l) REPORT ON AUTHORIZATIONS UNDER THE PROGRAM ON CHINA AND TRANSFORMATIONAL EXPORTS.—The Agency shall include in its annual report to Congress under subsection (a) a narrative and financial summary of the authorizations made under the Program on China and Transformational Exports.”.
(c) **Rule of Construction.**—Nothing in section 2(l)(1)(B) of the Export-Import Bank Act of 1945 shall be construed to weaken any export controls affecting critical technologies (as defined in section 721(a)(6)(A) of the Defense Production Act of 1950 (50 U.S.C. 4565(a)(6)(A))).

**SEC. 104. STRENGTHENING SUPPORT FOR U.S. SMALL BUSINESSES.**

(a) **Increasing Small Business Threshold.**—


(1) by striking “25 percent of such authority for each fiscal year” and inserting “25 percent of such authority for each of fiscal years 2020, 2021, and 2022, and 30 percent of such authority for each fiscal year thereafter”; and

(2) by adding at the end the following: “For the purpose of calculating the amounts of authority required under this clause, the Agency shall, with respect to insurance, exclude unutilized authorizations that terminated during the fiscal year.”.

(b) **Small Business Policy.**—Section 2(b)(1)(E)(i)(I) of such Act (12 U.S.C. 635(b)(1)(E)(i)(I)) is amended to read as follows:
“(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 the public about how to export goods using the United States Export Finance Agency.”

SEC. 105. OFFICE OF MINORITY AND WOMEN INCLUSION.

(a) In General.—Section 3(i) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(i)) is amended to read as follows:

“(i) Office of Minority and Women Inclusion.—

“(1) Establishment.—The Agency shall establish an Office of Minority and Women Inclusion which shall be responsible for carrying out this subsection and all matters relating to diversity in management, employment, and business activities in accordance with such standards and requirements as the Director of the Office shall establish.

“(2) Transfer of Responsibilities.—The Agency shall ensure that, to the extent that the responsibilities described in paragraph (1) (or comparable responsibilities) were, as of the date of the
enactment of this subsection, performed by another office of the Agency, the responsibilities shall be transferred to the Office.

“(3) Duties with respect to civil rights laws.—The responsibilities described in paragraph (1) shall not include enforcement of statutes, regulations, or executive orders pertaining to civil rights, except that the Director of the Office shall coordinate with the President of the Agency, or the designee of the President of the Agency, regarding the design and implementation of any remedies resulting from violations of the statutes, regulations, or executive orders.

“(4) Director.—

“(A) In general.—The Director of the Office shall be appointed by, and shall report directly to, the President of the Agency. The position of Director of the Office shall be a career reserved position in the Senior Executive Service, as that position is defined in section 3132 of title 5, United States Code, or an equivalent designation.

“(B) Duties.—The Director shall—

“(i) develop standards for equal employment opportunity and the racial, eth-
nic, and gender diversity of the workforce
and senior management of the Agency;

“(ii) develop standards for increased
participation of minority-owned and
women-owned businesses in the programs
and contracts of the Agency, including
standards for coordinating technical assistance to the businesses; and

“(iii) enhance the outreach activities
of the Agency with respect to, and increase
the total amount of loans, guarantees, and
insurance provided by the Agency to support exports by socially and economically
disadvantaged small business concerns (as
defined in section 8(a)(4) of the Small
Business Act) and small business concerns
owned by women.

“(C) OTHER DUTIES.—The Director shall
advise the President of the Agency on the impact of the policies of the Agency on minority-owned and women-owned businesses.

“(5) INCLUSION IN ALL LEVELS OF BUSINESS
ACTIVITIES.—

“(A) CONTRACTS.—The Director of the
Office shall develop and implement standards
and procedures to ensure, to the maximum ex-
tent possible, the inclusion and utilization of
minorities (as defined in section 1204(c) of the
Financial Institutions Reform, Recovery, and
note)) and women, and minority- and women-
owned businesses (as such terms are defined in
section 21A(r)(4) of the Federal Home Loan
Bank Act (12 U.S.C. 1441a(r)(4)) in all busi-
ness and activities of the Agency at all levels,
including in procurement, insurance, and all
types of contracts. The processes established by
the Agency for review and evaluation for con-
tract proposals and to hire service providers
shall include a component that gives consider-
ation to the diversity of the applicant.

“(B) APPLICABILITY.—This subsection
shall apply to all contracts for services of any
kind, including all contracts for all business and
activities of the Agency, at all levels.

“(C) OUTREACH.—The Agency shall estab-
lish a minority outreach program to ensure the
inclusion (to the maximum extent possible) in
contracts entered into by the enterprises of mi-
norities and women and businesses owned by
minorities and women, including financial institutions, investment banking firms, underwriters, accountants, brokers, and providers of legal services.

“(6) DIVERSITY IN AGENCY WORKFORCE.—The Agency shall take affirmative steps to seek diversity in its workforce at all levels of the Agency consistent with the demographic diversity of the United States, in a manner consistent with applicable law, including—

“(A) to the extent the Agency engages in recruitment efforts to fill vacancies—

“(i) recruiting at historically Black colleges and universities, Hispanic-serving institutions, women’s colleges, and colleges that typically serve majority minority populations; and

“(ii) recruiting at job fairs in urban communities, and placing employment advertisements in newspapers and magazines oriented toward women and people of color;

“(B) partnering with organizations that are focused on developing opportunities for minorities and women to place talented young mi-
norities and women in industry internships, summer employment, and full-time positions; and

“(C) by use of any other mass media communications that the Director of the Office determines necessary.”.

(b) INCLUSION IN ANNUAL REPORT.—Section 8 of such Act (12 U.S.C. 635g), as amended by section 103(b) of this Act, is amended by adding at the end the following:

“(m) OFFICE OF MINORITY AND WOMEN INCLUSION.—The Agency shall include in its annual report to the Congress under subsection (a) a report from the Office of Minority and Women Inclusion regarding the actions taken by the Agency and the Office pursuant to section 3(i), which shall include—

“(1) a statement of the total amounts paid by the Agency to contractors since the most recent report under this subsection;

“(2) the percentage of the amounts described in paragraph (1) that were paid to contractors as described in section 3(i)(5)(A);

“(3) the successes achieved and challenges faced by the Agency in operating minority and women outreach programs;
“(4) the challenges the Agency may face in hiring qualified minority and women employees and contracting with qualified minority-owned and women-owned businesses; and

“(5) any other information, findings, conclusions, and recommendations for legislative or Agency action, as the Director of the Office deems appropriate.”.

SEC. 106. SUPPORT FOR UNITED STATES TERRITORIES.

(a) Creation of the Office of Territorial Exporting.—Section 3 of the Export-Import Bank Act of 1945 (12 U.S.C. 635a) is amended by adding at the end the following:

“(n) Office of Territorial Exporting.—The President of the Agency shall establish an Office of Territorial Exporting, and shall hire such staff as may be necessary, including at least 1 staffer responsible for liaising with Puerto Rico, to perform the functions of the Office, which shall be to promote the export of goods and services from the territories, conduct outreach, education, and disseminate information concerning export opportunities and the availability of Agency support for such activities, and to increase the total amount of loans, guarantees, and insurance provided by the Agency benefitting the territories.

In this Act, the term ‘territory’ means the Commonwealth
of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.”.

(b) **Annual Report.—** Section 8 of such Act (12 U.S.C. 635g), as amended by sections 103(b) and 105(b) of this Act, is amended by adding at the end the following:

“(n) **Report on Activities in the Territories.**—The Agency shall include in its annual report to Congress under subsection (a) a report on the steps taken by the Agency in the period covered by the report to increase—

“(1) awareness of the Agency and its services in the territories; and

“(2) the provision of Agency support to export businesses in the territories.”.

**SEC. 107. Promoting Renewable Energy Exports.**

(a) **Office of Financing for Renewable Energy, Energy Efficiency and Energy Storage Exports.**—Section 2(b)(1)(C) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(C)) is amended to read as follows:

“(C) **Office of Financing for Renewable Energy, Energy Efficiency and Energy Storage.**—The President of the Agency shall establish an office whose functions shall be to promote the export of goods
and services to be used in the development, production, and distribution of renewable energy resources, and energy efficiency and energy storage technologies, and disseminate information concerning export opportunities and the availability of Agency support for such activities, to increase the total amount of loans, guarantees, and insurance provided by the Agency to support exports related to renewable energy, energy efficiency, and energy storage.”

(b) Financing for Renewable Energy, Energy Efficiency, and Energy Storage Technologies.—Section 2(b)(1)(K) of such Act (12 U.S.C. 635(b)(1)(K)) is amended by inserting “, energy efficiency and energy storage. It shall be a goal of the Agency 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 and energy storage technology exports” before the period.

(c) Annual Report.—Section 8 of such Act (12 U.S.C. 635g), as amended by sections 103(b), 105(b), and 106(b) of this Act, is amended by adding at the end the following:

STORAGE.—A description of the activities of the Agency with respect to enhancing outreach and financing renewable energy, energy efficiency, and energy storage projects undertaken under section 2(b)(1)(K); an assessment of its success and failure in meeting the goal set out in section 2(b)(1)(K); where applicable, the specific measures the Agency will take in the upcoming year to make progress towards meeting the goal outlined in section 2(b)(1)(K), including expanded outreach, product improvements, and related actions; and an analysis comparing the level of support extended by the Agency for renewable energy, energy efficiency and energy storage projects with the level of support so extended for the preceding fiscal year.”.

(d) SENSE OF THE CONGRESS REGARDING AGENCY ACCOUNTABILITY.—It is the sense of the Congress that—

(1) the Board of Directors of the United States Export Finance Agency (in this section referred to as the “Agency”)) should, after a public consultation process, establish a formal, transparent, and independent accountability mechanism to review, investigate, offer independent dispute resolution to resolve, and publicly report on allegations by affected parties of any failure of the Agency to follow its own policies and procedures with regard to the environmental and social effects of projects, and on situa-
tions where the Agency is alleged to have failed in ensuring the borrower is fulfilling its obligations in financing agreements with respect to the policies and procedures;

(2) the accountability mechanism should be able to provide advice to management on policies, procedures, guidelines, resources, and systems established to ensure adequate review and monitoring of the environmental and social effects of projects;

(3) in carrying out its mandate, the confidentiality of sensitive business information should be respected, as appropriate, and, in consultation with affected parties, project sponsors, Agency management, and other relevant parties, a flexible process should be followed aimed primarily at correcting project failures and achieving better results on the ground;

(4) the accountability mechanism should be independent of the line operations of management, and report its findings and recommendations directly to the Board of Directors of the Agency and annually to the Congress;

(5) the annual report of the Agency should include a detailed accounting of the activities of the accountability mechanism for the year covered by
the report and the remedial actions taken by the 
Agency in response to the findings of the account-
ability mechanism;

(6) in coordination with the accountability 
mechanism, the Agency and relevant parties should 
engage in proactive outreach to communities af-
fected or potentially affected by Agency financing 
and activities to provide information on the existence 
and availability of the accountability mechanism;

(7) the President of the Agency should, subject 
to the approval of the Board of Directors of the 
Agency, through an open and competitive process, 
including solicitation of input from relevant stake-
holders, appoint a director of the accountability 
mechanism, who would be responsible for the day-to-
day operations of the mechanism, and a panel of not 
less than 3 experts, including the director, who 
would also serve as chair of the panel; and

(8) Agency employees should be ineligible to 
serve as the accountability mechanism chair or on 
the panel of experts until at least 5 years have 
elapsed from their time of employment at the Agen-
cy, and should be barred from future employment at 
the Agency after their tenure with the accountability 
mechanism.
SEC. 108. ALTERNATIVE PROCEDURES DURING QUORUM LAPSE.

(a) IN GENERAL.—Section 3(c)(6) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(c)(6)) is amended—

(1) by inserting “(A)” after “(6)”; and

(2) by adding at the end the following:

“(B)(i) If a quorum of the Board of Directors has not been in place for 90 consecutive days during the term of a President, a temporary Board, consisting of the following members, shall act in the stead of the Board of Directors:

“(I) The United States Trade Representative, who shall serve as Chairperson of the Temporary Board.

“(II) The Secretary of the Treasury.

“(III) The Secretary of Commerce.

“(IV) The members of the Board of Directors.

“(ii) A member described in subclause (I), (II), or (III) of clause (i) may delegate the authority of the member to vote on whether to authorize a transaction, whose value does not exceed $100,000,000, to—

“(I) if the member is in United States Trade Representative, the Deputy United States Trade Representative; or
“(II) if the member is referred to in such subclause (II) or (III), the Deputy Secretary of the department referred to in the subclause.

“(iii) If the temporary Board consists only of members of 1 political party, the President of the United States shall, to the extent practicable, appoint to the temporary Board a qualified member of a different political party who occupies a position requiring nomination by the President, by and with the advice and consent of the Senate.

“(iv) The temporary Board may approve transactions over $25,000,000 only by a unanimous vote of the temporary Board, and may not change or amend Agency policies, procedures, bylaws, or guidelines.

“(v) The temporary Board shall expire at the end of the term of the President in office at the time the temporary Board was constituted.

“(vi) With respect to a transaction that equals or exceeds $100,000,000, the Chairperson of the Temporary Board shall ensure that the Agency complies with section 2(b)(3).”.

(b) SUNSET.—The amendments made by subsection (a) shall have no force or effect after the 7-year period that begins with the date of the enactment of this Act.
SEC. 109. INFORMATION TECHNOLOGY SYSTEMS.

Section 3(j) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(j)) is amended—

(1) in paragraph (1), by striking all that precedes subparagraph (A) and inserting the following:

“(1) IN GENERAL.—Subject to paragraphs (3) and (4), the Agency may use an amount equal to 1.25 percent of the surplus of the Agency during fiscal years 2020 through 2026 to—”; and

(2) by striking paragraph (3) and inserting the following:

“(3) LIMITATION.—The aggregate of the amounts used in accordance with paragraph (1) for fiscal years 2020 through 2026 shall not exceed $28,000,000.”.

SEC. 110. ADMINISTRATIVELY DETERMINED PAY.

Section 3 of the Export-Import Bank Act of 1945 (12 U.S.C. 635a), as amended by the preceding provisions of this Act, is amended by adding at the end the following:

“(o) COMPENSATION OF EMPLOYEES.—

“(1) RATES OF PAY.—Subject to paragraph (2), the Board of Directors of the Agency, consistent with standards established by the Director of the Office of Minority and Women Inclusion, may set and adjust rates of basic pay for employees and new hires of the Agency without regard to the provisions
of chapter 51 and subchapter III of chapter 53 of
title 5, United States Code, except that no employee
of the Agency may receive a rate of basic pay that
exceeds the rate for level III of the Executive Sched-
ule under section 5313 of such title.

“(2) LIMITATIONS.—The Board of Directors of
the Agency may not apply paragraph (1) to more
than 35 employees at any point in time. Nothing in
paragraph (1) may be construed to apply to any po-
sition of a confidential or policy-determining char-
acter that is excepted from the competitive service
under section 3302 of title 5, United States Code,
(pursuant to section C of subpart C of part 213 of
title 5 of the Code of Federal Regulations) or to any
position that would otherwise be subject to section
5311 or 5376 of title 5, United States Code.”.

SEC. 111. SURVEY ON BLOCKCHAIN USE IN THE OPER-
ATIONS OF UNITED STATES EXPORTERS.

Within 360 days after the date of the enactment of
this Act, and annually thereafter for the succeeding 5
years, the President of the United States Export Finance
Agency shall submit to the Committee on Financial Serv-
ices of the House of Representatives and the Committee
on Banking, Housing, and Urban Affairs of the Senate
a written report that includes the following:
(1) A survey of United States exporters benefitting from Agency support regarding the use of blockchain in their operations, including their management of supply chains, contracts, and payments.

(2) An assessment of the effects of blockchain on reliability, transparency, and security in the operations.

(3) Any policy recommendations to improve the development, use, and security of blockchain in the operations of United States exporters.

**TITLE II—IMPROVING AGENCY OPERATIONS AND ENHANCING TRANSPARENCY AND ACCOUNTABILITY**

**SEC. 201. ANNUAL TESTIMONY.**

The Export-Import Bank Act of 1945 (12 U.S.C. 635–635i-9) is amended by inserting after section 8A the following:

“SEC. 8B. ANNUAL TESTIMONY.

“For each fiscal year through fiscal year 2026, after submitting the annual report to Congress under section 8(a) for the fiscal year, the President of the United States Export Finance Agency shall, on request, appear before the Committee on Financial Services of the House of Rep-
resentatives and the Committee on Banking, Housing, and Urban Affairs of the Senate to present testimony on—

“(1) the activities of the Agency in the fiscal year covered by the report, particularly activities pursuant to the Project on China and Transformational Exports;

“(2) the actions taken by Agency management to strengthen the ability of the Agency to comply with all statutory requirements, and with Agency policies and procedures, including policies and procedures relating to anti-fraud controls, underwriting standards, and additionality;

“(3) the results of the most recent Federal Employee Viewpoint Survey or other comparable research on staff perspectives at the Agency;

“(4) the status of Agency efforts in the preceding fiscal year to meaningfully address recommendations proposed by the Inspector General, United States Export Finance Agency; and

“(5) outreach efforts to increase small business awareness and use of the Agency, including efforts undertaken pursuant to section 3(i).”.
SEC. 202. INDEPENDENT AUDIT OF REGIONAL EXPORT FINANCE CENTERS.

(a) AUDIT.—The Inspector General of the United States Export Finance Agency shall conduct an audit of the operation of the Regional Export Finance Centers of the Agency, including a review of—

(1) whether the metrics used by the Office of Small Business to evaluate regional office employees adhere to guidance issued by the United States Office of Personnel Management and the Civil Service Reform Act;

(2) whether metrics used by the Office of Small Business to evaluate regional office employees are sufficiently tailored to performance requirements;

(3) whether metrics have unintended consequences in the use of Agency programs; and

(4) metrics are aligned with the requirements of section 2(b)(1)(E)(v) of the Export-Import Bank Act of 1945.

(b) REPORT.—Not later than 180 days after the audit required by subsection (a) is completed, the Agency shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a written report detailing the Agency’s plan to address deficiencies outlined in the audit.
SEC. 203. RISK MANAGEMENT COMMITTEE.

(a) In General.—Section 3(m) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(m)) is amended to read as follows:

“(m) RISK MANAGEMENT COMMITTEE.—

“(1) Membership; Chair.—There shall be a Risk Management Committee consisting of the Directors of the Agency other than the Chairman or the Vice Chairman. The Chairman of the Board of Directors of the Agency shall designate a member of the Risk Management Committee to serve as chair of the Risk Management Committee. If, because of 1 or more vacancies in the offices of the Directors other than the Chairman or the Vice Chairman, the Risk Management Committee would have only 1 or 2 members, the General Counsel shall also serve as a member of the Risk Management Committee, but shall not serve as chair. If the Chairman and the Vice Chairman are the only Directors in office, the Risk Management Committee shall consist of the Chairman and the General Counsel, and the General Counsel shall serve as chair.

“(2) Duties.—The Risk Management Committee shall report to the Board of Directors, and shall be responsible for providing assistance to the Board in—
“(A) fulfilling the accounting and reporting responsibilities of the Board;

“(B) determining that the Agency has adequate administrative and financial controls;

“(C) reviewing the financial statements prepared by management for distribution to the Congress and the public;

“(D) providing direction over the internal audit function and the independent accountants;

“(E) overseeing, in conjunction with the Office of the Chief Financial Officer of the Agency—

“(i) periodic stress testing on the entire Agency portfolio, reflecting different market, industry, and macroeconomic scenarios, and consistent with best practices of commercial and multilateral development banks; and

“(ii) the monitoring of industry, geographic, and obligor exposure levels; and

“(F) reviewing all required reports on the default rate of the Agency before submission to Congress under section 8(g).
“(3) QUORUM.—2 members of the Risk Management Committee shall constitute a quorum.”.

(b) CONFORMING REPEAL.—Section 51006 of the Fixing America’s Surface Transportation Act (129 Stat. 1766; Public Law 104–94) is hereby repealed.

SEC. 204. ENSURING AGENCY COMPLIANCE WITH ADDITIONALITY REQUIREMENTS.

(a) WRITTEN DOCUMENTATION REQUIREMENTS.—Not later than 180 days after the date of the enactment of this Act, the Board of Directors of the United States Export Finance Agency shall, with respect to an authorization in connection with a transaction equal to or in excess of $25,000,000—

(1) adopt and implement policies and procedures to ensure that the Agency includes written documentation of the determination and verification of additionality in its records, including—

(A) a description of attempts by relevant parties to a transaction to obtain private-sector financing;

(B) an explanation of how the level of Agency financing responds to limitations in the availability or terms of private capital; and

(C) an assessment, to the extent practicable, of the availability and terms of com-
peting financing by a foreign export credit agency;

(2) consult with the Chief Information Officer and the Inspector General of the Agency to implement appropriate recordkeeping practices for the written documentation, as well as for any other documentation required by Agency policies and procedures; and

(3) submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a written report that includes a copy of the policies and procedures of the Agency regarding additionality, and an explanation of how the Agency uses the determination and verification of additionality to evaluate applications for support assistance.

(b) GAO Reviews of Agency Policies and Procedures for Additionality Determination and Verification.—In each of calendar years 2020, 2022, and 2024, and 2026, the Comptroller General of the United States shall review the policies and procedures of the United States Export Finance Agency relating to how the Agency makes a judgment that a transaction is unlikely to proceed without support from the Agency, and
the documentation supporting such a judgment, and submit the result of the review to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, along with any recommendations to strengthen Agency policies and processes to determine additionality and prevent the Agency from competing with private capital, as described in section 2(b)(1)(B) of the Export-Import Bank Act of 1945.

(c) Additional Information Required to Be Provided to Congress Before Approving Certain Support.—Section 2(b)(3)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(3)(B)) is amended by inserting “, a determination by the Agency as to whether financing by the Agency fully meets the additionality policies of the Agency, and a non-confidential summary of the facts and conclusions reached in a detailed economic impact analysis or similar study conducted pursuant to subsection (e)(7)” before the period.

SEC. 205. REINSURANCE PROGRAM.

Section 51008 of the Fixing America’s Surface Transportation Act (12 U.S.C. 635 note) is amended—

(1) in the section heading, by striking “PILOT”;

(2) in subsection (a), by striking “pilot”; and
(3) by striking subsections (c) through (e) and inserting the following:

“(c) FACTORS FOR CONSIDERATION IN REINSURANCE POOLS.—In implementing this section, the Agency shall, with respect to a reinsurance pool, pursue appropriate objectives to reduce risk and costs to the Agency, including by the following, to the extent practicable:

“(1) Ensuring a reasonable diversification of risks.

“(2) Including larger exposures where the possibility of default raises overall portfolio risk for the Agency.

“(3) Excluding transactions from the pool that are covered by first-loss protection.

“(4) Excluding transactions from the pool that are collateralized at a rate greater than standard market practice.

“(5) Diversifying reinsurance pools by industry and other appropriate factors.

“(6) Exploring different time periods of coverage.

“(7) Exploring both excess of loss structures on a per-borrower as well as an aggregate basis.

“(d) BIENNIAL REPORTS.—Not later than 1 year after the date of the enactment of this subsection, and
every 2 years thereafter through 2026, the Agency shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a written report that contains an assessment of the use of the program carried out under subsection (a) since the most recent report under this subsection.

"(e) Rule of Construction.—Nothing in this section shall be construed to limit any authority of the Agency described in section 2(a)(1) of the Export-Import Bank Act of 1945."

SEC. 206. REPORT ON NEW AGENCY POLICIES, PROCEDURES, AND BYLAWS.

Not later than 90 days after the date of the enactment of this Act, the President of the United States Export Finance Agency shall transmit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a copy of all policies, procedures, and bylaws of the Agency approved by the Board of Directors of the Agency that are in effect on such date of enactment. Within 30 days after the Board of Directors of the United States Export Finance Agency adopts or amends such a policy, procedure, or bylaw, the President of the Agency shall transmit a copy of the adopted or amended policy,
procedure, or bylaw to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

SEC. 207. REPORT ON TRAVEL PRACTICES OF AGENCY EMPLOYEES.

Not later than 180 days after the date of the enactment of this Act, and annually thereafter for the succeeding 7 years, the President of the United States Export Finance Agency shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a written report that provides details on authorized travel by Agency officers and employees in the preceding year, including the following:

(1) Travel start date and end date.
(2) Destination or destinations.
(3) The department and division employing the traveler.
(4) Obligated travel costs.
(5) Class of travel.
(6) The amount of any reimbursed travel costs or other forms of sponsorship.
SEC. 208. REPORT ON STEPS TAKEN TO CORRECT DEFICIENCIES RELATED TO INFORMATION SECURITY.

Not later than 180 days after the date of the enactment of this Act, the President of the United States Export Finance Agency shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a written report on the steps the Agency is taking to correct the deficiencies in policies, procedures, and programs identified in the Independent Audit of the United States Export Finance Agency’s Information Security Program Effectiveness for Fiscal Year 2018 (OIG–AR–19–03).

SEC. 209. ADDITIONAL REQUIREMENTS INVOLVING CERTAIN TRANSACTIONS.

(a) In General.—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)(A) If the outstanding loans, guarantees, and insurance authorized by the Agency in association with a United States exporter or a United States lender equals or exceeds the prescribed amount at any point in a fiscal year, the President of the Agency shall transmit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and
Urban Affairs of the Senate a detailed description of policies and practices by the United States exporter or United States lender, as the case may be, regarding—

“(i) diversity in management, employment, and business activities, including data pertaining to—

“(I) equal employment opportunity and the racial, ethnic, and gender diversity of the workforce and senior management;

“(II) outreach programs to hire qualified women and minority employees and contract with qualified minority-owned and women-owned businesses;

“(III) the participation of women-owned and minority-owned businesses in procurement and contracting, including as suppliers and subcontractors; and

“(IV) developments with respect to this clause, including job creation for women and minority employees, suppliers, and contractors, resulting from the policies and practices described in this subparagraph during the preceding year; and

“(ii) outreach efforts to small businesses during the preceding year, including efforts that—
“(I) raise awareness of small business procurement and contracting opportunities;

“(II) educate small businesses involved in procurement and contracting on the objectives and activities of the Agency, with the purpose of expanding direct small business exports financed by the Agency; and

“(III) developments resulting from the outreach efforts described in this clause during the preceding year, including the number of small businesses contracted with and the number of jobs created, as well as any other benefits to the communities of the exporter, lender, or related small businesses, as the case may be.

“(B) On authorization of financing that equals or exceeds $100,000,000 during the fiscal year involving the exporter or lender described in subparagraph (A), the President of the Agency shall transmit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that includes—

“(i) an economic impact analysis or similar study of the transaction performed by the Agency, in a manner consistent with the procedures described in subsection (e)(7), which shall include consider-
ation of the views of the public and interested parties and an assessment of adverse effects on United States employment, if any, that may result from Agency financing involving a foreign competitor of a United States entity; and

“(ii) an assessment of how the Agency determined the need for financing of the transaction, including—

“(I) a description of attempts by relevant parties to the transaction to obtain private-sector financing, including a description of the written documentation of the attempts, or an explanation for the lack of any such attempt; and

“(II)(aa) an explanation of why private-sector financing is not available or not economically viable for the transaction; or

“(bb) a certification that the Agency received sufficient information to conclude that financing is necessary to counter official export credit provided by a foreign government for a similar transaction involving the same foreign obligor.

“(C) In this paragraph, the term ‘prescribed amount’ means an amount equal to 20 percent of the outstanding
loans, guarantees, and insurance of the Agency, as calculated on the 1st day of the fiscal year.’’.

(b) Section 8 of such Act (12 U.S.C. 635g), as amended by title I of this Act, is amended by adding at the end the following:

“(p) ADDITION TO ANNUAL REPORT.—The Agency shall include in its annual report to the Congress under subsection (a) information on the 10 United States exporters benefitting from the highest level of Agency support and 10 foreign obligors utilizing the highest level of Agency support during the reporting period, including the share of total authorizations by value, and the industry or industrial sector, connected with each such exporter and obligor.”.

SEC. 210. ANTI-FRAUD REFORMS.

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

(1) in subsection (f), by striking the period and inserting: “, and shall deny an application for assistance if—

“(1) the Agency has substantial credible evidence that the end user, borrower, lender, or exporter has committed an act of fraud or corruption in connection with the application; or

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“(2) 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 Agency made in the preceding 5 years. The Agency may proceed with an application described under paragraph (1) or (2) of this subsection only if an end user, borrower, lender, or exporter can be fully excluded from the transaction.”; and

(2) in subsection (i), by striking “should require” and inserting “shall require”.

TITLE III—FOREIGN POLICY CONSIDERATIONS

SEC. 301. CHINESE GOVERNMENT-OWNED ENTERPRISES.

(a) In General.—Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635), as amended by section 103(a) of this Act, is amended by adding at the end the following:

“(m) Restriction on Financing for Entities Owned or Controlled by the Chinese Government.—

“(1) In General.—An authorization approved by the Board of Directors after the effective date of this subsection may not take effect if a loan, guarantee, or insurance is approved for the benefit of any foreign entity that is at least 25 percent owned,
directly or indirectly, by the government of the People's Republic of China, unless the United States Trade Representative, in consultation with appropriate Federal agencies, completes a due diligence review and certifies the financing, in accordance with paragraph (3), in 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. For the purposes of identifying whether a foreign entity is at least 25 percent owned, directly or indirectly, by the government of the People's Republic of China, the Board of Directors may rely on any of the following:

“(A) Information required of or provided by a party to the transaction.

“(B) Any information provided to the Agency by a Federal department or agency.

“(2) Limitation on financing of local costs.—The Agency may not approve financing for a transaction if more than 15 percent of local costs with respect to the transaction that are incurred in the People's Republic of China would be covered by the financing.

“(3) Due diligence review and report.—For the purposes of the report described in para-
paragraph (1), the United States Trade Representative shall present the findings of the due diligence review, but may not provide the certification referred to in paragraph (1), if—

“(A) the foreign entity provides goods, services, or other material or financial support in connection with any of the following policies and operations of the government of the People’s Republic of China:

“(i) Any military or intelligence operations.

“(ii) Activities pursuant to the Belt and Road Initiative (or any successor or comparable activity of that government);

“(iii) The abuse of human rights, including the restriction of freedom of expression and the mistreatment of ethnic or religious minorities in China.

“(iv) Any other policy or operation that, in the determination of the President, may threaten the national interest of the United States;

“(B) the United States Trade Representative finds that the transaction would not pro-
vide a meaningful net economic benefit for the United States;

“(C) the foreign entity knowingly engages in the theft of United States intellectual property or the illicit transfer of technology from a United States person;

“(D) the transaction described in paragraph (1) involves the export of critical technologies (as defined under section 721(a)(6) of the Defense Production Act of 1950) to the foreign entity; or

“(E) the leadership of the foreign entity engages in a significant act or acts of corruption or money laundering, or has committed a violation 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.

“(4) TIMING AND FORM OF REPORT.—The report described in paragraph (3) shall be submitted not later than 45 days after approval by the Board of Directors, except that the United States Trade Representative may extend the required time in which to submit the report by one 15-day period on notifying the Committee on Financial Services of the
House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that the extension is necessary. The report described in paragraph (3) shall be submitted in unclassified form but may contain a classified annex.

“(5) PROCEDURES FOR CHINESE GOVERNMENT-CONTROLLED ENTITIES.—The requirements of paragraph (1) shall apply to any foreign entity, notwithstanding the level of ownership by the government of the People’s Republic of China, if the Agency has reason to believe that the foreign entity is controlled by the government of the People’s Republic of China.

“(6) EXEMPTION.—Paragraphs (1) and (2) shall not apply to the following if—

“(A) financing would enable exports directly by United States small business concerns; or

“(B) financing is required for the export of humanitarian goods or services, including life-saving, rescue, and medical equipment (such as ambulances, firefighting vehicles, hospital supplies, and medical devices).

“(7) PRESIDENTIAL WAIVER.—The President may waive any requirement of paragraph (1) or (2)
for up to 1 year at a time, on reporting in writing
to the Committee on Financial Services of the House
of Representative and the Committee on Banking,
Housing, and Urban Affairs of the Senate that the
waiver is essential to the national interest of the
United States, with a detailed explanation of the
reasons therefor.”.

(b) SUNSET.—The amendment made by subsection
(a) shall have no force or effect on and after the earlier
of—

(1) the date that is 30 days after the Secretary
of the Treasury submits a report to the Committee
on Financial Services of the House of Representa-
tives and the Committee on Banking, Housing, and
Urban Affairs of the Senate certifying that the Peo-
ple's Republic of China is in substantial compliance
with—

(A) the financial terms and conditions of
the Arrangement on Officially Supported Ex-
port Credits of the Organization for Economic
Cooperation and Development; and

(B) the rules and principles of the Paris
Club; or

(2) the date that is 30 days after the President
of the United States Export Finance Agency reports
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 Board of Directors of the Agency has voted in favor of terminating the requirement for a certification in section 2(m)(1) of the Export-Import Bank Act of 1945, except that the Board of Directors may not hold such a vote before the date that is 5 years after the date of the enactment of this Act.

SEC. 302. INTERNATIONAL NEGOTIATIONS ON EXPORT SUBSIDIES.

(a) IN GENERAL.—Section 11(a)(1) of the Export-Import Bank Reauthorization Act of 2012 (12 U.S.C. 635a–5(a)(1)) is amended by striking “with possible goal of eliminating, before the date that is 10 years after December 4, 2015,” and inserting “with the goal of eliminating, before the date that is 10 years after the date of the enactment of the United States Export Finance Agency Act of 2019”.

(b) PROGRESS REPORT.—Section 11(e) of such Act (12 U.S.C. 635a–5(e)) is amended by striking “2019” and inserting “2026”.

(e) CONDUCT OF NEGOTIATIONS.—Section 11 of such Act (12 U.S.C. 635a-5) is amended—
(1) in each of subsections (a) and (d), by striking “The President” and inserting “Not less frequently than twice per calendar year, the Secretary of the Treasury, in consultation with the President of the United States Export Finance Agency and the United States Trade Representative,”; and

(2) in each of subsections (b), (c), and (e), by striking “President” each place it appears and inserting “Secretary of the Treasury”.

SEC. 303. PROHIBITION ON FINANCING FOR EXPORTS INVOLVING STATE SPONSORS OF TERRORISM.

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

(1) in the paragraph heading, by inserting after “MARXIST-LENINIST COUNTRIES” the following: “AND STATE SPONSORS OF TERRORISM”; and

(2) in subparagraph (A), by inserting after “Marxist-Leninist country” each place it appears “or a state sponsor of terrorism”.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. MISCELLANEOUS UPDATES RELATING TO THE UNITED STATES EXPORT FINANCE AGENCY.

(a) Section 2(a)(3) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(a)(3)) is amended—
(1) by adding “and” at the end of subpara-
paragraph (B);

(2) by striking “; and” at the end of subpara-
paragraph (C) and inserting a period; and

(3) by striking subparagraph (D).

(b) Section 2(b)(1)(H) of such Act (12 U.S.C.
635(b)(1)(H)) is amended in each of clauses (ii) and (iii)
by striking “including” and all that follows and inserting
“including United States allies and partners eligible for
assistance from the International Bank for Reconstruction
and Development and the International Development As-
sociation.”.

e) Section 2(b)(1)(I) of such Act (12 U.S.C.
635(b)(1)(I)) is amended by striking the 2nd sentence.

d) Section 2(b)(3)(A)(iii) of such Act (12 U.S.C.
635(b)(3)(A)(iii)) is amended by inserting “, the United
States exporter,” before “and”.

e) Section 2(b)(3)(B) of such Act (12 U.S.C.
635(b)(3)(B)) is amended by inserting “a description, to
the extent practicable, of any private financing, used or
unused, available for the transaction, to the extent
known,” before “the amount”.

(f) Section 3(d)(1)(B) of such Act (12 U.S.C.
635a(d)(1)(B)) is amended by inserting “high tech-
ology,” before “and”.

(g) Section 3(j)(2)(B)(ii) of such Act (12 U.S.C. 635a(j)(2)(B)(ii)) is amended—

(1) by inserting “, interest, and claim” before “expenses”; and

(2) by inserting “including broker commissions” before the period.

(h) Section 8(b)(3) of such Act (12 U.S.C. 635g(b)(3)) is amended—

(1) by striking “Committee on Small Business” the 1st place it appears and inserting “Committees on Banking, Housing, and Urban Affairs and on Small Business”; and

(2) by striking “Committee on Small Business” the 2nd place it appears and inserting “Committees on Financial Services and on Small Business”.

(i)(1) Section 8 of such Act (12 U.S.C. 635g), as amended by the preceding provisions of this Act, is amend-
ed—

(A) by striking subsection (e) and redesignating subsections (d) through (o) as subsections (e) through (p), respectively; and

(B) in paragraph (2) of subsection (e) (as so redesignated by subparagraph (A) of this para-
graph), by striking “(e)” and inserting “(d)”. 
(2) Section 6(a)(3) of such Act (12 U.S.C. 635e(a)(3)) is amended by striking “8(g)(1)” each place it appears and inserting “8(f)(1)”.

(j) Section 10(b)(4) of such Act (12 U.S.C. 635i–3(b)(4)) is amended by striking “may” and inserting “shall, on request”.

SEC. 402. PROHIBITION ON FINANCING FOR CERTAIN AVIATION-RELATED VEHICLES.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)), as amended by section 209(a) of this Act, is amended by adding at the end the following:

“(15) PROHIBITION ON FINANCING FOR CERTAIN AVIATION-RELATED VEHICLES.—The Board of Directors of the Agency may not give approval to a transaction involving an aviation-related vehicle during any period in which the Federal Government has prohibited its operation.”.