



*Office of Inspector General  
Export-Import Bank  
of the United States*

# **Audit of EXIM's Implementation of Key Provisions of the 2019 Reauthorization Act and Other Priorities**

*September 30, 2022*

*OIG-AR-22-08*

*The Export-Import Bank of the United States (EXIM or agency) is the official export credit agency of the United States (U.S.). EXIM is an independent, self-financing executive agency and a wholly-owned U.S. government corporation. EXIM's mission is to support jobs in the U.S by facilitating the export of U.S. goods and services. EXIM provides competitive export financing and ensures a level playing field for U.S. exports in the global marketplace.*

*The Office of Inspector General (OIG), an independent office within EXIM, was statutorily created in 2002 and organized in 2007. The mission of EXIM OIG is to conduct and supervise audits, investigations, inspections, and evaluations related to agency programs and operations; provide leadership and coordination as well as recommend policies that will promote economy, efficiency, and effectiveness in such programs and operations; and prevent and detect fraud, waste, abuse, and mismanagement.*

*This audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.*



*Office of Inspector General*

To: Reta Jo Lewis, Esq.  
President and Chair of the EXIM Board

From: Jennifer Fain  
Assistant Inspector General for Audits and Evaluations (Acting) 

Subject: Audit of EXIM's Implementation of Key Provisions of the 2019 Reauthorization Act and Other Priorities

Date: September 30, 2022

Attached is the final report on the Audit of EXIM's Implementation of Key Provisions of the 2019 Reauthorization Act. The objective of this audit was to determine the extent to which EXIM has (1) implemented the key provisions of the 2019 Reauthorization Act and (2) improved transparency and accountability.

This report contains one recommendation to ensure that provisions of the 2019 Reauthorization Act are fully implemented. EXIM management concurred with the recommendation (see Appendix B). We consider management's proposed actions to be responsive. The recommendation will be closed upon completion and verification of the completed implementation activities.

We appreciate the courtesies and cooperation extended to us during this audit. If you have any questions or comments regarding the audit report, please contact me at (202) 565-3439 or [jennifer.fain@exim.gov](mailto:jennifer.fain@exim.gov) or Courtney Potter at (202) 565-3976 or [courtney.potter@exim.gov](mailto:courtney.potter@exim.gov). You can obtain additional information about EXIM OIG and the Inspector General Act of 1978 at [www.exim.gov/about/oig](http://www.exim.gov/about/oig).

# EXECUTIVE SUMMARY

Audit of EXIM's Implementation of Key Provisions of the  
2019 Reauthorization Act and Other Priorities  
OIG-AR-22-08, September 30, 2022

## Why We Did This Audit

The Export-Import of the United States' (EXIM) charter, reflects the language of its enabling legislation, the Export-Import Bank of 1945 and its amendments. The charter establishes the agency's programs and operations and imposes a sun-setting provision on EXIM, directing the agency to terminate on a specified date unless and until it is reauthorized.

On December 20, 2019, Congress enacted the Further Consolidated Appropriations Act, 2020, (Pub. L. No. 116-94) which reauthorized EXIM for seven years (expiring December 31, 2026) and amended various provisions of the agency's charter (Division I, Title IV). The 2019 Reauthorization Act contained nine key provisions that restricted, maintained, and/or expanded the agency's operating authority.

We initiated this audit as part of our annual work plan. The objective of this audit was to determine the extent to which EXIM has (1) implemented the key provisions of the 2019 Reauthorization Act and (2) improved transparency and accountability.

## What We Recommend

To continue to address the implementation of Sections 402 and 407 within the scope of the agency's authority and the 2019 Reauthorization Act, we recommend that EXIM develop a plan to increase transactions in support of the congressional-directed allocation targets.

## What We Found

EXIM generally implemented or addressed the nine key provisions outlined in the 2019 Reauthorization Act (the Act). Specifically, we determined that seven provisions were implemented because the agency had addressed the statutory requirements. However, EXIM faced challenges in fully achieving two of the congressionally directed allocations of its total financing authority (i.e., exposure cap), particularly the 20 percent and five percent goals under Sections 402, Program on China and Transformational Exports (CTEP), and 407, Financing for Renewable Energy, Energy Efficiency, and Energy Storage Technologies, respectively.

For Section 402, we found that although EXIM created CTEP and reserved 20 percent (or \$27 billion) of its \$135 billion statutory exposure cap for fiscal years 2020 through 2027, the agency made limited progress in authorizing transactions under the program. Specifically, during the first year of operations in FY 2021, only \$141.3 million was extended in support of CTEP by fiscal year end. This constitutes .0052 percent of the of the \$27 billion available for CTEP transactions.

We also found that EXIM made limited progress in financing transactions relating to Section 407. Specifically, while the agency made available five percent (or \$6.75 billion) of its \$135 billion statutory exposure cap available for renewable transactions, only \$11.7 million or .0017 percent of the \$6.75 billion available for renewable-energy exports was extended as of fiscal year end 2021.

Notwithstanding the challenges presented, we found that EXIM is taking steps to ensure that implementation of the Act continues to advance. Specifically, the agency increased outreach within qualifying transformational export areas, clarified and introduced flexibilities in its policies, and made recommendations to lawmakers in support of additional legislative changes, flexibilities, and updates aimed at increasing the number of transactions specific to Transformational Exports. Specifically, EXIM engaged in discussions surrounding an increase in the agency's default rate from two percent to four percent.

For additional information, contact the Office of Inspector General at (202) 565-3908 or visit [www.exim.gov/about/oig](http://www.exim.gov/about/oig)

## TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	i
TABLE OF CONTENTS.....	ii
LIST OF TABLES.....	iii
INTRODUCTION.....	4
SCOPE AND METHODOLOGY .....	4
BACKGROUND.....	4
AUDIT RESULTS .....	7
Finding: EXIM Experienced Challenges in Implementing Sections of the 2019 Reauthorization Act .....	8
CONCLUSION.....	12
APPENDICES .....	13
Appendix A: Objective, Scope, and Methodology .....	13
Appendix B: Management Comments.....	15
Appendix C: Implementation Status for the 2019 Reauthorization Act.....	17
Appendix D: Distribution List .....	20
ACKNOWLEDGEMENTS.....	21

## LIST OF TABLES

Table 1: Internal Control Components .....	13
Table 2: Implementation Status of Sections 401-409.....	17

## INTRODUCTION

This report presents the results of our audit of the Export-Import Bank of the United States' (EXIM) implementation of the key provisions of the 2019 Reauthorization Act<sup>1</sup> (the Act). We initiated the audit as part of our annual work plan. The objective of this audit was to determine the extent to which EXIM (1) implemented the key provisions of the 2019 Reauthorization Act and (2) improved transparency and accountability. This is the first audit of EXIM's implementation of key provisions of its 2019 reauthorization.<sup>2</sup>

## SCOPE AND METHODOLOGY

To accomplish the audit objective, we reviewed applicable federal laws, regulations, as well as EXIM's applicable policies, procedures, and guidelines. We also interviewed EXIM officials with responsibilities related to implementation of the Act to gain a more thorough understanding of the intent of the key provisions and the required implementation activities.

We also assessed the significance of internal controls necessary to satisfy the audit objective. In particular, we identified and assessed four internal control components (control environment, control activities, information and communication, and monitoring) and their underlying principles.<sup>3</sup> However, because our review was limited to these internal control components and their underlying principles, it may not reflect all internal control deficiencies that may have existed at the time of this audit. For more details on the audit scope and methodology, see Appendix A.

We conducted this performance audit from September 2021 through September 2022 at EXIM headquarters in Washington, D.C. The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## BACKGROUND

Established in 1934, and subsequently made an independent agency of the United States through congressional charter in 1945, EXIM is a wholly owned government corporation with a fundamental mission to finance and facilitate the export of U.S. goods and services, and to contribute to the employment of U.S. workers. EXIM contributes to U.S. economic growth by creating and sustaining thousands of jobs in exporting businesses and their supply chains across the United States. In FY 2021, nearly 90 percent of EXIM's transactions directly supported American small businesses. Since 1992, EXIM generated

---

<sup>1</sup> Further Consolidated Appropriations Act of 2020 (Pub. L. No. 116-94) (Division I, Title VI, Sections 401-409, Export-Import Bank) (Dec. 20, 2019).

<sup>2</sup> In FY 2019, OIG issued a memorandum report on EXIM's Implementation of Key Provisions of the 2015 Reform and Reauthorization Act ([OIG-O-19-01](#), May 23, 2019).

<sup>3</sup> See Standards for Internal Control in the Federal Government, GAO-14-740G (Sep.10, 2014).

more than \$9 billion in revenue for the U.S. Treasury. EXIM exists in its current form under the Export-Impact Bank Act of 1945, which requires periodic reauthorization from Congress to continue operating.

### **2019 Reauthorization Act**

On December 20, 2019, Congress enacted the *Further Consolidated Appropriations Act, 2020*, (Pub. L. No. 116-94) which reauthorized EXIM for seven years (expiring December 31, 2026)<sup>4</sup> and amended various provisions of the charter (Division I, Title IV). The reauthorization contained the following nine key provisions that restricted, maintained, and/or expanded the agency's operating authority:

- **Section 401:** Extends EXIM's authority to operate until December 31, 2026. This section does not make changes to EXIM's authorized exposure level which remains capped at \$135 billion.
- **Section 402:** Directs EXIM to create a Program on China and Transformational Exports to support the extension of financing to the extent practicable, that is fully competitive with financing established by the People's Republic of China (PRC) and by other covered countries as designated by the Secretary of the Treasury. It requires EXIM to establish a goal to reserve no less than 20 percent of the agency's total financing authority for support made pursuant to the program.
- **Section 403:** Changes a policy statement in the charter to highlight the importance of inclusion of minority-owned, women-owned, veteran-owned, persons with disabilities-owned businesses, start-ups in international commerce and rural-owned businesses.
- **Section 404:** Increases EXIM's small business mandate from 25 percent to 30 percent starting January 1, 2021.
- **Section 405:** Requires EXIM to exclude authorized but unutilized insurance when calculating its progress towards the small business mandate.
- **Section 406:** Mandates EXIM to deny any application for financing if certain transaction parties are convicted of defrauding EXIM in connection with an application made within the previous five years.
- **Section 407:** Requires EXIM to establish a goal to ensure that no less than five percent of EXIM's exposure cap is made available each fiscal year for the financing of renewable energy, energy efficiency, and energy storage technology exports.
- **Section 408:** Requires EXIM to report to Congress before authorizing a loan or a guarantee for more than \$25 million, when the end-user, lender, or obligor is the Government of China. The report must provide information about EXIM's consultation with the Department of State to assess any risks posed by an entity or a transaction with respect to the national interest of the United States.

---

<sup>4</sup> *Supra* Note 1.

- **Section 409:** Mandates EXIM to develop alternative procedures to take effect if the Board of Directors (Board) lacks a quorum for a period of 120 days. The procedures implement provisions of the 2019 reauthorization that establish a temporary Board in the case of a protracted lapse in Board quorum.

In response to the 2019 Reauthorization Act, EXIM enacted implementation projects for each of the new provisions (Sections 401-409) coordinated by the Office of Congressional and Intergovernmental Affairs (OCIA). Section 402 (the Program on China and Transformational Exports) is managed by the Chair's Office and the Office of the Program on China and Transformational Exports which was created in accordance with the Act.

### **EXIM Policy Requirements**

In response to the new statutory requirements, EXIM's Office of General Counsel (OGC) issued a memorandum titled, "*Counting*" Memorandum re: Sections 402, 404, and 407 (May 21, 2020). The memorandum documented OGC's legal interpretation of sections 402, 404 and 407 of the 2019 reauthorization legislation. The purpose of the OGC memorandum was:

"... to provide an analysis as to whether the percentage allocations set forth in [] sections [402, 404 and 407] are an absolute set aside solely for such use or are instead a requirement to seek to achieve such allocation."

OGC's analysis concluded that: "Sections 404 (Increase in Small Business Threshold), 407 (Financing for Renewable Energy, Energy Efficiency, and Energy Storage Technologies), and 402 (Program on China and Transformational Exports) of the Export-Import Bank Extension (the 'Reauthorization') each reference **a percentage of EXIM's exposure cap** to be allocated to the relevant program under each respective section. However, the language used with respect to such percentage varies slightly from section to section. OGC has reviewed each section and, as further discussed below, interprets the percentage allocation in each of the sections as creating a mandate pursuant to which EXIM **shall seek to achieve such allocation**, rather than set aside authority solely for use under the applicable program notwithstanding a lack of demand for that program and existence of applications for transactions outside of such program." (Emphasis added).

We neither adopts nor affirms EXIM OGC's memorandum. The propriety or accuracy of EXIM's legal interpretation of the referenced statutory provisions is not within the scope of this audit. Instead, we included OGC's memorandum to identify EXIM's stated position and to demonstrate how the agency implemented this interpretation.

### EXIM's Transformational Export Areas Content Policy

The China and Transformational Exports Program (CTEP) is responsible for explaining how it considers individual transactions eligible for EXIM financing within specific transformational export areas (TEA). The following ten congressionally-mandated areas/sectors were identified to advance U.S. comparative leadership with the PRC or other covered countries:

1. Artificial intelligence
2. Biotechnology

3. Biomedical sciences
4. Wireless communications equipment (including 5G or subsequent wireless technologies)
5. Quantum computing
6. Renewable energy, energy efficiency, and energy storage
7. Semiconductor and semiconductor machinery manufacturing
8. Emerging financial technologies
9. Water treatment and sanitation
10. High-performance computing

In December 2020, EXIM’s Board unanimously voted to establish a narrowly tailored content policy specific to transactions that are applicable to the defined TEAs.<sup>5</sup> By the summer of 2021, EXIM established the current sector definitions, as well as the decision framework CTEP uses in determining whether a specific direct export transaction may be eligible to be considered under a TEA.

Under this policy, projects or procurements may qualify for maximum EXIM financing, allowed by program type, if the proposed transaction meets a 51 percent U.S. content threshold. The policy also allows EXIM to approve financing for transactions that do not meet the 51 percent threshold if they involve one or more of the 10 statutorily defined sectors above and meet certain other requirements. These requirements are premised on an assumption that the value of the export largely consists of equipment or services that meet certain criteria related to the identified sector, or the foreign buyer of the export will use the export to meet certain criteria related to the identified sector.

## **AUDIT RESULTS**

EXIM generally implemented or addressed the nine key provisions outlined in the 2019 Reauthorization Act. Specifically, the OIG determined that seven provisions were implemented because the agency addressed the statutory requirements.<sup>6</sup> Implementation activities included the creation of new programs and policies, as well as updating policies and procedures that were already in place. These activities allowed businesses the opportunity to take advantage of EXIM’s offerings in support of their advancement. The following are three examples of the provisions of the Act that we determined were implemented, and the actions taken by EXIM:

---

<sup>5</sup> See <https://www.exim.gov/news/exim-board-unanimously-approves-historic-policy-support-exporters-competing-peoples-republic>.

<sup>6</sup> “Implemented” means that EXIM has taken action to put into operation the statutory requirements. However, because the scope of this initial review was to identify what actions EXIM has taken (not the propriety of those actions), we take no position as to whether on the appropriateness of EXIM’s implementation was appropriate approach. See Appendix C for a summary of each of the nine key provisions and their associated implementation status.

- Section 403 emphasized the inclusion of small business (including women owned, minority-owned, veteran-owned, businesses owned by persons with disabilities, and rural businesses) and start-up businesses in international commerce through a change in a policy statement in the agency’s charter. EXIM updated all applications to request demographic information as well as business category information. The agency also entered into a data sharing agreement with the Department of Commerce’s Minority Business Development Agency to increase outreach and assistance to the added business groups.
- Section 405 required EXIM to exclude authorized, but unutilized export credit insurance policies when calculating the small business threshold. To address concerns that the unutilized policies had a disproportionate effect on the agency’s reported share of small business financing, EXIM developed and implemented procedures to exclude all authorized, but unutilized insurance policies from the calculation.
- Section 408 required the agency to report to Congress before authorizing a loan or guarantee for more than \$25 million if there is ownership or control by the Government of China, including a requirement for consultation with the Department of State. EXIM developed and approved procedures requiring the agency to consult with the Department of State regarding potential national security risks posed by a transaction in its report to Congress if there is ownership or control by the Government of China as defined in Section 408.

Despite progress in implementing the key provisions of the Act, EXIM faced challenges in achieving some of the congressionally directed goals for the allocation of its total financing authority or exposure cap,<sup>7</sup> particularly the 20 percent and five percent target floors established by Sections 402 and 407, respectively.

### **Finding: EXIM Experienced Challenges in Implementing Sections of the 2019 Reauthorization Act**

Although EXIM made progress in implementing the requirements of the 2019 Reauthorization Act, we found that EXIM experienced challenges in fully implementing sections of the Act. Specifically, the agency made limited progress in authorizing transactions for the congressionally directed allocations of its statutory exposure cap, particularly the 20 percent and five percent goals under Sections 402, Program on China and Transformational Exports, and 407, Financing for Renewable Energy, Energy Efficiency, and Energy Storage Technologies, respectively. As described below, the limited progress in authorizing transactions under the two sections of the Act occurred because of (1) EXIM’s officials concerns over the current default rate approaching the statutory two percent default cap, and (2) inflexibility and limitations of the agency’s current policies (e.g., content). The agency also cited other causal factors such as lack of domestic manufacturing in certain sectors and inflexibility in the financing terms EXIM can offer. EXIM’s inability to

---

<sup>7</sup> EXIM’s exposure cap is the “applicable amount” as defined by Section 6(a)(2) of EXIM’s charter. This amount is capped at \$135 billion for fiscal years 2020 through 2027. This is also referred to as EXIM’s total financing authority.

authorize transactions for the target allocations of its exposure cap may jeopardize the agency's ability to advance comparative leadership with respect to competition with the PRC or other covered countries, and support U.S. innovation, employment, and technological standards.

#### **Section 402: Program on China and Transformational Exports**

We found that EXIM made limited progress authorizing transactions for the allocation goal related to CTEP. During the program's first year of operation in FY 2021, although EXIM reserved 20 percent (or 27 billion of its \$135 billion total financing authority for fiscal years 2020 through 2027, only \$141.3 million was extended in support of the program by fiscal year end.<sup>8</sup> This amount constitutes .0052 percent of the \$27 billion available for CTEP transactions.

Section 402 mandates that EXIM establish CTEP 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 PRC or by other covered countries (as designated by the Secretary of the Treasury).<sup>9</sup> The program's purpose is to: (1) directly neutralize export subsidies for competing goods and services financed by official export credit, tied aid, or blended financing provided by the PRC or by other covered countries; (2) advance the comparative leadership of the U.S. with respect to the PRC; and (3) support U.S. innovation, employment, and technological standards through direct exports in the 10 transformational export areas (TEA or the sectors) designated by Congress.<sup>10</sup> Additionally, the reauthorization legislation charges EXIM with a goal of reserving no less than 20 percent of its total financing authority for support of the program (i.e., \$27 billion out of a total \$135 billion).

To meet the mandate, EXIM developed a narrowly tailored U.S. content policy, specific to CTEP, with the intent of creating a path for U.S. exporters in the 10 sectors to utilize EXIM support. The policy determines which projects or procurements involving TEA would qualify for EXIM financing. For example, under the policy, if the proposed transaction meets a 51 percent U.S. content threshold, EXIM may support up to 85 percent of the value of all eligible goods and services in the U.S. export contract. In addition to the TEA content policy, EXIM also made changes to the applications used by exporters seeking financing—these changes assisted the agency in more easily identifying transactions that may be eligible for CTEP financing.

At the time of the audit, the agency continued to explore ways to enhance the flexibility of its content policy, without the flexibility of which the actual financial support available can be hindered. According to EXIM program leadership, the implementation of Section 402 remains ongoing. EXIM officials also stated that changes to the statutory default rate cap were necessary to meet the goal and made recommendations to lawmakers in support of additional legislative changes, flexibilities, and updates aimed at increasing the number of transactions specific to Transformational Exports. Specifically, EXIM engaged in

---

<sup>8</sup> Ibid.

<sup>9</sup> The U.S. Secretary of the Treasury had not designated other countries as of the date of this report.

<sup>10</sup> See pp. 6-7 of this report for a list of the 10 congressionally mandated TEAs.

discussions surrounding an increase in the agency’s default rate from two percent to four percent.

### **Section 407: Financing for Renewable Energy, Energy Efficiency, and Energy Storage Technologies**

We also found that EXIM had made limited progress in authorizing transactions for the congressionally directed allocation of its exposure cap for transactions related to renewable energy, energy efficiency, and energy storage technologies. Section 407 requires EXIM to set a goal to ensure that not less than five percent of EXIM’s total financing authority<sup>11</sup> is made available each fiscal year for the financing of renewable energy, energy efficiency, and energy storage technology exports. This target floor would equate to \$6.75 billion out of a total of \$135 billion. To meet this goal, EXIM created a working group to aid EXIM in becoming a more competitive lending option, revised its TEA Content Policy to attract more eligible exports, and increased outreach initiatives to small businesses in the renewable energy space to solicit their interest.

While EXIM made five percent of the exposure cap available, only \$11.7 million or .0017 percent of the \$6.75 billion available for renewable-energy exports were extended as of fiscal year end 2021. According to EXIM, the implementation of Section 407 is an ongoing effort to improve market competitiveness for renewable energy transactions. EXIM officials attributed the agency’s difficulties achieving the exposure cap goal to limitations associated with EXIM policies (e.g., content) and its authorization (e.g., the default rate). EXIM officials also cited the lack of domestic manufacturing for renewable energy exports and limitations on the financing terms EXIM can offer (i.e., other government agencies offer better terms) as causal factors.

In summary, EXIM made limited progress in authorizing transactions for the congressionally directed target allocations of its exposure cap, particularly the 20 percent and five percent goals under Sections 402 and 407, respectively. This occurred, in part, because of EXIM officials’ concerns over the current default rate approaching the statutory two percent default cap, and (2) inflexibility and limitations of the agency’s current policies. The factors contributing to EXIM’s inability to achieve the congressionally directed target allocations are described in greater detail below. Failure to achieve the allocations, was also attributed to other factors such as lack of manufacturing and the flexibility in terms of available financing.

*EXIM’s Default Rate Restricting Implementation.* According to EXIM officials, the current default rate,<sup>12</sup> which was 1.068 percent in March 2022, is approaching the statutory threshold of two percent. As such, the agency is employing additional safeguards to ensure that this threshold is not met or exceeded. These safeguards resulted in a decreased risk appetite for transactions that would qualify under both Sections 402 and 407. This decreased risk appetite resulted in a decrease in transactions; thus, directly effecting

---

<sup>11</sup> *Supra* n. 7.

<sup>12</sup> The default rate reflects a “total amount of required payments that are overdue” claims paid on guarantees and insurance transactions plus loans past due) divided by a “total amount of financing involved” (disbursements).

EXIM's ability to fully implements Sections 402 and 407. At the time of this audit, we were conducting a separate review of EXIM's default rate management practices.

*EXIM's Content and TEA Policies Restricting Implementation.* In addition, EXIM officials cited inflexibility and the limitations of current policies for content and the scope of TEA as constraints on the agency's ability to achieve the congressional target allocations. In conjunction, the specific percentage requirements for U.S. manufactured exports set in the agency's current foreign content policy<sup>13</sup> and the limits by product type and services based on the TEA specific categories can exclude EXIM financing support because a product or service may lack qualifying factors under one or both policies.

To illustrate, if advanced medical equipment is developed to treat a medical condition and total U.S. content of the product is only 20 percent, EXIM may not be able to support the product due to the inflexibility of the Content Policy. The policy requires a minimum 51 percent of U.S. content within the manufactured product. Although the advanced medical equipment qualifies under Section 402 as a biomedical product which is considered TEA, it would not meet the U.S. content requirements making it ineligible for EXIM support unless the additional factors were met.

*Other Causal Factors.* Specific to Section 402, EXIM officials also cited the lack of domestic manufacturing of renewable energy exports which, along with limitations on the financing terms EXIM can offer, affects demand for EXIM products.

As a result, EXIM's inability to authorize more transactions for the congressional target allocations of its exposure cap, particularly under Sections 402 and 407 of the 2019 Reauthorization Act, may jeopardize the agency's ability to advance comparative leadership with respect to the PRC or other covered countries, and support U.S. innovation, employment, and technological standards.

## **RECOMMENDATION**

---

To continue to address the implementation of Sections 402 and 407 as described above within the scope of the agency's authority and the 2019 Reauthorization Act, we recommend that EXIM:

1. Develop a plan to increase transactions in support of congressional-directed target allocations.

### **Management Comments:**

EXIM concurs with the recommendation and will develop new plans and enhance existing plans to further advance EXIM's financing efforts under Reauthorization Act Section 402 and Section 407.

### **OIG Response:**

Management's proposed actions are responsive to the recommendation. Therefore, this recommendation is considered resolved and will be closed upon completion and verification of the completed implementation activities.

---

<sup>13</sup> EXIM Policy Handbook, Foreign Content, March 2019.

## CONCLUSION

Through our audit, we found that EXIM is taking steps to ensure that implementation of the 2019 Reauthorization Act continues to advance, despite the challenges presented by some of the provisions, such as Sections 402 and 407. Specifically, EXIM increased outreach within qualifying transformational export areas, clarified and introduced flexibilities in the agency's policies, and had discussions with lawmakers about potential legislative changes aimed at increasing the number of transactions specific to Transformational Exports. While recognizing EXIM's actions to date and continued efforts to bring awareness and opportunity to exporters of Transformational Exports, we made one recommendation that addresses the challenges present in the sections identified as ongoing.

## APPENDICES

### Appendix A: Objective, Scope, and Methodology

The objective of this audit was to determine the extent to which EXIM (1) implemented the key provisions of the 2019 Reauthorization Act and (2) improved transparency and accountability. To accomplish the audit objective, we employed a combination of qualitative and quantitative techniques, including documentation reviews.

1. Researched and assessed laws, regulations, guidelines, policies, and procedures applicable to implementation of the 2019 Reauthorization Act:
  - *Further Consolidated Appropriations Act of 2020 (Public 116-94)*
  - *EXIM’s Charter (12 U.S.C. § 635, et seq.)*
  - *OGC “Counting Memo” Re: Section 402, 404, and 407*
  - *CTEP TEA Definitions and Eligibility Policy*
  - *CTEP TEA Content Policy, December 2020*
  - *EXIM Policy Handbook, Foreign Content, March 2019*
2. Interviewed EXIM management and staff in the Office of Congressional and Intergovernmental Affairs (OCIA), Office of the Program on China and Transformational Exports, and additional staff with program responsibilities to gain an understanding of EXIM’s implementation of the 2019 Reauthorization Act.
3. Reviewed plans/policies/procedures for each section of the 2019 Reauthorization Act for adherence with prescribed internal/external criteria.

In planning and performing the audit, we obtained an understanding of internal controls to the extent necessary to satisfy the audit objective. We assessed the five internal control components and identified the following internal control components and underlying principles significant to the audit objective:<sup>14</sup>

Table 1: Internal Control Components	
Components	Underlying Principles
Control Environment	<ol style="list-style-type: none"> <li>1. The oversight body and management should demonstrate a commitment to integrity and ethical values.</li> <li>2. The oversight body should oversee the entity’s internal control system.</li> </ol>

<sup>14</sup> *Supra* note 3. The federal internal control standards are organized into five components (control environment, risk assessment, control activities, information and communication, and monitoring) and 17 related principles (requirements).

Table 1: Internal Control Components	
Components	Underlying Principles
	5. Management should evaluate performance and hold individuals accountable for their internal control responsibilities.
Control Activities	12. Management should implement control activities through policies.
Information and Communication	13. Management should use quality information to achieve the entity’s objectives. 14. Management should internally communicate the necessary quality information to achieve the entity’s objectives. 15. Management should externally communicate the necessary quality information to achieve the entity’s objectives.
Monitoring	16. Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.

We performed our audit work from September 2021 through September 2022 at EXIM headquarters in Washington, D.C. The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## Appendix B: Management Comments



Helping American Businesses Win the Future

**DATE:** September 27, 2022

**TO:** The Honorable Parisa Salehi, Inspector General, Office of Inspector General

**THROUGH:** Mary Jean Buhler, Senior Vice President, and Chief Financial Officer

**FROM:** Adam Martinez, Senior Vice President, and Chief Management Officer **ADAM MARTINEZ**

**SUBJECT:** Audit of EXIM’s Implementation of Key Provisions of the 2019 Reauthorization Act and Other Priorities (OIG-AR-22-08)

Digitally signed by  
ADAM MARTINEZ  
Date: 2022.09.27  
11:48:48 -04'00'

Dear Ms. Salehi,

Thank you for providing the Export-Import Bank of the United States (“EXIM” or “EXIM Bank”) management with the Office of Inspector General’s (“OIG”) *Independent Audit of EXIM’s Implementation of Key Provisions of the 2019 Reauthorization Act and Other Priorities*, OIG-AR-22-08, dated September 22, 2022 (the “Report”).

EXIM appreciates the work conducted by the OIG staff in evaluating *EXIM’s Implementation of Key Provisions of the 2019 Reauthorization Act and Other Priorities*. EXIM is pleased that the OIG has recognized that EXIM “generally implemented or addressed the nine key provisions outlined in the 2019 Reauthorization Act” and found that “EXIM is taking steps to ensure that implementation of the 2019 Reauthorization Act continues to advance despite challenges presented by some of the provisions.”

Finally, EXIM notes that the OIG provided draft reports for multiple engagements, including this one, to the agency between September 13-15, 2022. EXIM takes OIG reports and findings very seriously and worked diligently to provide technical feedback and input on an expedited basis even as staff are also engaged in significant work related to the end of the fiscal year. Despite these challenges, EXIM has sought to provide timely and complete responses to all management recommendations in order to allow the OIG to issue reports by September 30, 2022.

Consistent with the plain language of the Charter provisions, EXIM has implemented Section 402 by reserving “not less than” 20 percent of the Bank’s exposure cap. Since its 2019 reauthorization, EXIM has had \$27 billion (20 percent of the statutory exposure cap of \$135 billion) available for China and Transformational Exports (CTEP) transactions consistent with the goal in the Charter. In addition, EXIM has implemented Section 407 to “make available not less than” five percent of the statutory exposure cap. EXIM has had \$6.75 billion (5 percent of the statutory exposure cap)

available for renewable energy, energy efficiency, and energy storage transactions as is the goal in the Charter pursuant to the 2019 reauthorization.

With regard to these specific exposure areas, the report mistakenly suggests that EXIM has an obligation to fully authorize and disburse the exposure authority that is, in fact, to be held in reserve or made available for qualifying transactions. EXIM has made significant efforts to identify, due diligence, structure and process transactions for these initiatives in accordance with its existing statutory constraints and as a demand driven financing institution.

The OIG has made one recommendation in this report to advance EXIM reauthorization provisions implementation efforts.

**Recommendation:**

To continue to address the implementation of Sections 402 and 407 as described above within the scope of the agency's authority and the 2019 Reauthorization Act, we recommend that EXIM:

1. Develop a plan to increase transactions in support of congressional-directed target allocations.

**Management Response:** EXIM concurs with the recommendation and will develop new plans and enhance existing plans to further advance EXIM financing efforts under Reauthorization Act Section 402 and Section 407.

CC:

Reta Jo Lewis, Chair and President  
Rebecca Webb, Senior Vice President and Chief of Staff  
Hazeen Ashby, Senior Vice President and Deputy Chief of Staff  
Christopher Day, Senior Vice President, Office of Congressional and Intergovernmental Affairs  
Kenneth Tinsley, Senior Vice President and Chief Risk Officer  
James Burrows, Senior Vice President and Acting Chief Banking Officer  
Jonathon Feigelson, Senior Vice President and General Counsel  
James Cruse, Senior Vice President, Office of Policy Analysis and International Relations  
Inci Tonguch-Murray, Senior Vice President, and Deputy Chief Financial Officer

## Appendix C: Implementation Status for the 2019 Reauthorization Act<sup>15</sup>

Table 2: Implementation Status of Sections 401-409				
Section	Description	Status of Implementation	OIG Analysis	Status After Review
<b>Section 401</b>	Extends EXIM’s authority to operate until December 31, 2026. This section does not make changes to EXIM’s authorized exposure level which remains capped at \$135 billion.	Implemented <sup>16</sup>	Contains language that extends the authorization period until December 31, 2026, but does not modify the exposure cap of \$135 billion	Implemented
<b>Section 402</b>	Directs EXIM to create 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 applicable, that are fully competitive with rates, terms and other conditions established by the People’s Republic of China and by other covered countries as designated by the Secretary of the Treasury. Requires EXIM to establish a goal to reserve no less than 20 percent of the agency’s total financing authority for support made pursuant to the program.	Ongoing	EXIM created the program on China and Transformational Exports which aims at improving U.S competition against China and other countries as designated, to block them from achieving global economic dominance.	Ongoing
<b>Section 403</b>	Changed a policy statement in the charter to highlight the importance of inclusion of minority-owned, women-owned, veteran-owned, persons with disabilities-owned businesses, start-ups in international commerce, and rural-owned businesses.	Implemented	Changes were made to the policy statement – these changes included providing financial support to more minority-owned businesses. The changes also include the addition of definitions, and creation of new business processes in support of the Section.	Implemented

<sup>15</sup> Implementation status as of August 1, 2022.

<sup>16</sup> “Implemented” means that EXIM took action to put into operation the statutory requirements. However, because the scope of this review was to identify what actions EXIM took (not the propriety of those actions), we take no position on the appropriateness of EXIM’s implementation approach.

<b>Table 2: Implementation Status of Sections 401-409</b>				
<b>Section</b>	<b>Description</b>	<b>Status of Implementation</b>	<b>OIG Analysis</b>	<b>Status After Review</b>
<b>Section 404</b>	Mandates that EXIM shall make available no less than 30 percent of financing for small businesses starting January 1, 2021.	Implemented	EXIM achieved an increase in small business financing authorizations; approximately 28 percent of EXIM’s authorizations were awarded to small businesses in FY2021.	Implemented
<b>Section 405</b>	Requires EXIM to exclude authorized, but unutilized insurance when calculating its progress towards the small business mandate.	Implemented	Section 405 Team created procedures to ensure all authorized, but unutilized insurance is excluded as per the mandate.	Implemented
<b>Section 406</b>	Mandates EXIM to deny any application for financing if certain transaction parties are convicted of defrauding EXIM within the previous five years.	Implemented	Section 406 team created the Convicted Parties List. The list provides names of individuals and associated companies convicted of defrauding EXIM.  Team added procedures that requires parties to check the convicted parties list and with EXIM to ensure that a risky individual cannot participate in a transaction.	Implemented
<b>Section 407</b>	Requires EXIM to set a goal to ensure that no less than 5 percent of EXIM’s exposure cap is made available each fiscal year for the financing of renewable energy, energy efficiency, and energy storage technology exports.	Ongoing	Created a working group to aid EXIM in becoming a more competitive lending option, revised its TEA Content Policy to attract more eligible exports, and increased outreach initiatives to small businesses in the renewable energy space to solicit their interest.	Ongoing
<b>Section 408</b>	Requires EXIM to report to Congress before authorizing a loan or a guarantee for more than \$25 million when the end-user, lender, or obligor is the Government of China. The report must provide information about EXIM’s consultation with the Department of State regarding potential national security risks posed by the transaction.	Implemented	EXIM developed and approved procedures to consult with the Department of State to report to Congress if there is ownership or control by the Government of China as defined in the section.	Implemented

Table 2: Implementation Status of Sections 401-409				
Section	Description	Status of Implementation	OIG Analysis	Status After Review
<b>Section 409</b>	Mandates EXIM to develop alternative procedures to take effect, in the event that the Board lacks a quorum for a period of 120 days.	Implemented	<p>Team created a scenario calculator to assist EXIM’s senior officers in managing timing constraints and determine options available during an imminent or potential loss of a quorum.</p> <p>The standard operating procedures discuss EXIM’s recommendations for higher management on how to engage with other agencies and the White House if there is not enough board of directors, including procedures for the appointment of a temporary board.</p>	Implemented

## **Appendix D: Distribution List**

Rebecca Webb, Chief of Staff

Hazeen Ashby, Deputy Chief of Staff and Whitehouse Liaison

Adam Martinez, Senior Vice President and Chief Management Officer

Kenneth Tinsley, Senior Vice President and Chief Risk Officer

Jonathan Feigelson, General Counsel

Mary Jean Buhler, Chief Financial Officer

Inci Tonguch-Murray, Senior Vice President and Deputy Chief Financial Officer

Gloria Steremberg, Director, Internal Controls and Compliance

Parisa Salehi, Inspector General, OIG

Courtney Potter, Deputy AIG for Audits and Evaluations, OIG

Jaquone Miller, Program Manager, OIG

Amanda Myers, Senior Counsel OIG

## **ACKNOWLEDGEMENTS**

This report was prepared by the Office of Audits and Evaluations, OIG for EXIM. Several individuals contributed to this report including Leah Garrison-Elder, Jahnae McCoy, Claudia Munoz, Jaquone Miller, Courtney Potter, and Jennifer Fain.

**Office of Inspector General**  
**Export-Import Bank *of the* United States**  
**811 Vermont Avenue, NW**  
**Washington, DC 20571**  
**202-565-3908**  
**[www.exim.gov/about/oig](http://www.exim.gov/about/oig)**

