

CRS Insights

Ex-Im Bank's General Statutory Authority Expires

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July 1, 2015 (IN10305)

[The Export-Import Bank \(Ex-Im Bank\)](#), a wholly owned federal government corporation, is the official U.S. export credit agency (ECA). It operates under a renewable general statutory charter, the Export-Import Bank Act of 1945, as amended ([12 U.S.C. §635](#) et seq.). Its general statutory authority expired on July 1, 2015. Previously, the FY2015 continuing resolution ([P.L. 113-164](#)) extended its charter for nine months through June 30, 2015.

Ex-Im Bank's mission is to assist in financing and facilitating U.S. exports of goods and services to support U.S. employment. It seeks to provide direct loans, loan guarantees, and export credit insurance to: (1) support exports that the private sector is unwilling or unable to finance alone at commercially viable terms; and/or (2) counter government-backed financing offered by foreign countries through their ECAs. It is demand-driven, providing services based on user interest. The charter, among other things, requires Ex-Im Bank's financing to have a reasonable assurance of repayment and to supplement, not compete with, private capital. Ex-Im Bank reported authorizing \$20.5 billion in financing in FY2014 to support an estimated \$27.5 billion in U.S. exports.

While Congress has renewed Ex-Im Bank's charter many times previously, reauthorization has been actively debated at times (see CRS Report R43671, [Export-Import Bank Reauthorization: Frequently Asked Questions](#)). Proponents contend that Ex-Im Bank supports U.S. exports and jobs by filling in gaps in private sector financing and helping U.S. exporters compete against foreign companies backed by their ECAs. Critics contend that it crowds out private sector activity, picks winners and losers, functions as "corporate welfare," and poses a risk to taxpayers.

The charter's "sunset" provision, [12 U.S.C. §635f](#), generally terminates its functions on the sunset date, but permits it to:

- acquire obligations and liabilities prior to the sunset date that mature after this date;
- issue, prior or subsequent to the sunset date, bonds or other debts that mature after this date; and
- continue as a corporate entity and exercise certain functions for an "orderly liquidation."

In general, [Ex-Im Bank states that](#), under a lapse in its authority, no new loan, guarantee, or insurance commitments can be approved by its Board or under delegated authority, but Ex-Im Bank may continue administering and servicing existing obligations (including disbursements on already-approved final commitments). According to Ex-Im Bank, as of June 24, 2015, it had \$9.1 billion in pending transactions not yet approved. Ex-Im Bank's [Chairman reportedly has said](#) no employee layoffs would occur immediately under the charter's expiration since the agency is funded through FY2015. It is unclear how a prolonged lapse would affect Ex-Im Bank's presently 400-plus employees.

The charter provides little guidance on what an "orderly liquidation" involves. Ex-Im Bank's actions during prior authorization lapses—such as in 1974—may provide some insight into, but do not necessarily dictate, any present wind-down, particularly given the evolution of Ex-Im Bank's legislative context. The resources and time required for a liquidation are unclear, likely varying based on the lapse's length and other factors. Possible considerations include Ex-Im Bank's:

- **Exposure:** In FY2014, Ex-Im Bank's exposure totaled about \$112 billion across its programs. This includes its total authorized outstanding and undisbursed principal balance of loans, guarantees, and insurance.
- **Repayment terms:** Ex-Im Bank's products include long-term financing with repayment terms of over seven years. For example, repayment terms can be up to 14 years for certain [project finance transactions](#), and up to 18 years for certain [renewable energy transactions](#).

Stakeholders and observers disagree on the economic implications of a lapse in Ex-Im Bank's authority. From one perspective, some argue that Ex-Im Bank's inability to extend new commitments could adversely affect [particular U.S. firms](#) or their employees relying on its support when facing difficulty accessing private sector financing at commercially viable terms. The impact also may extend to businesses in Ex-Im Bank users' supply chains, as well as "suppliers to the suppliers." From another perspective, others contend that the sunset could boost export financing by the private sector. They argue that Ex-Im Bank's activities have [opportunity costs](#), drawing capital and labor resources within the economy otherwise available for alternative uses. At the same time, doubts remain over whether a sunset would affect the overall level of U.S. exports and employment. A range of macroeconomic factors affects the overall level of [trade](#), and it may be difficult to determine the precise long-term economic impact of Ex-Im Bank's presence or absence.

In terms of competitiveness, supporters argue that, without Ex-Im Bank, certain U.S. companies may face difficulty competing for export contracts on a "level playing field" with [foreign competitors](#) receiving support from their official ECAs or may choose to source from overseas markets. They argue that Ex-Im Bank's expiration would amount to "[unilateral disarmament](#)," given continued operations by foreign ECAs. Critics argue that its expiration would allow the United States to [lead by example](#) in efforts to eliminate government-backed ECA programs internationally, and to focus on ways they view as more effective to boost U.S. exports, such as tax reform or trade negotiations.

In the 114th Congress, several bills concerning Ex-Im Bank's authority have been introduced, including [S. 819](#), [S. 824](#), [H.R. 597](#), [H.R. 1031](#), and [H.R. 1605](#). Ex-Im Bank's reauthorization has been raised in other legislative debates. For example, reauthorization amendments ([S.Amdt. 1376](#), [S.Amdt. 1377](#), [S.Amdt. 1415](#), and [S.Amdt. 1248](#)) were filed to [H.R. 1314](#). Additionally, a motion to table [S.Amdt. 1986](#), a reauthorization amendment offered to [H.R. 1735](#), failed by a [31-65 vote](#). Later withdrawn, [the amendment was characterized as a "test vote"](#) on bipartisan Senate support for Ex-Im Bank's reauthorization. Some observers say possible congressional action concerning spending authority for the Highway Trust Fund, authorized through July 31, 2015, could be a vehicle for Ex-Im Bank's reauthorization (see CRS Report RL30304, [The Federal Excise Tax on Motor Fuels and the Highway Trust Fund: Current Law and Legislative History](#)). If Congress chooses to reauthorize Ex-Im Bank, considerations may include for how long to renew its authority and under what terms, including any changes to its charter. If Congress allows it to expire permanently, it need not take any action or could pass legislation, for instance, specifying parameters for the orderly liquidation.

For more information, see CRS Report R43671, [Export-Import Bank Reauthorization: Frequently Asked Questions](#), coordinated by Shayerah Ilias Akhtar. David Carpenter assisted with discussion of the sunset's legal aspects.