

**AMENDMENT TO THE SENATE AMENDMENTS TO  
H.R. 22  
OFFERED BY MR. ISSA OF CALIFORNIA**

Page 1032, after line 4, insert the following:

1 **TITLE XCVI—IMPROVING TRANS-**  
2 **PARENCY OF THE EXPORT-IM-**  
3 **PORT BANK OF THE UNITED**  
4 **STATES**

5 **SEC. 96001. REVIEW OF BANK PRODUCT PRICING AND**  
6 **CREDIT STANDARDS TO AVOID CROWDING**  
7 **OUT OF PRIVATE EXPORT FINANCE.**

8 Section 8 of the Export-Import Bank Act of 1945  
9 (12 U.S.C. 635g) is amended by adding at the end the  
10 following:

11 “(1) REPORTS ON PRIVATE EXPORT FINANCING AND  
12 BANK PRICING AND CREDIT STANDARDS.—

13 “(1) PRIVATE EXPORT FINANCING.—The Board  
14 of Governors of the Federal Reserve System shall  
15 issue a semiannual report to the Congress on the  
16 terms and conditions (including interest rates, matu-  
17 rities, and credit standards) that apply in the provi-  
18 sion of export finance by private financial institu-  
19 tions.

1           “(2) BANK PRICING AND CREDIT STAND-  
2           ARDS.—The Bank shall issue an annual report to  
3           the Congress on the steps taken by the Bank to ad-  
4           just the pricing of products offered, and the credit  
5           standards used, by the Bank to avoid crowding out  
6           private export finance.”.

7   **SEC. 96002. PROHIBITED COUNTRIES.**

8           Section 8 of the Export-Import Bank Act of 1945  
9           (12 U.S.C. 635g), as amended by section 96001 of this  
10          Act, is amended by adding at the end the following:

11          “(m) RECOMMENDATIONS REGARDING PROHIBITED  
12          COUNTRIES.—The Board of Directors of the Bank, in  
13          consultation with Congress, the President, and the Sec-  
14          retary of State, shall develop recommendations annually  
15          regarding the countries with whom and in which the Bank  
16          should not be doing business, and the Bank shall include  
17          the recommendations in its annual report to the Congress  
18          under subsection (a).”.

19   **SEC. 96003. EMPLOYEE CERTIFICATION AND FINANCIAL**  
20                           **DISCLOSURE.**

21          Section 3(e) of the Export-Import Bank Act of 1945  
22          (12 U.S.C. 635a(e)) is amended by adding at the end the  
23          following:

24                           “(3) ETHICS.—

25   “(A) CODE OF ETHICS.—

1           “(i) IN GENERAL.—The Chief Ethics  
2           Officer shall draft a Code of Ethics that  
3           sets out strict and definite standards of of-  
4           ficial conduct for all Bank directors, offi-  
5           cers, and employees, which Code shall in-  
6           clude a policy that prohibits conflicts of in-  
7           terest, as described in paragraph (1) of  
8           this subsection, and other policies, prohibi-  
9           tions, and restrictions that the Chief Eth-  
10          ics Officer deems appropriate.

11          “(ii) CONSIDERATIONS.—In drafting  
12          the Code of Ethics, the Chief Ethics Offi-  
13          cer shall consider the Principles of Ethical  
14          Conduct for Government Officers and Em-  
15          ployee set forth in Executive Order 12731  
16          (Oct. 17, 1990).

17          “(iii) CONSISTENCY WITH ETHICS IN  
18          GOVERNMENT ACT OF 1978.—The Chief  
19          Ethics Officer shall ensure that the Code  
20          of Ethics is consistent with the Ethics in  
21          Government Act of 1978 and the regula-  
22          tions promulgated under such Act.

23          “(iv) EFFECTIVENESS; AMEND-  
24          MENT.—The Code of Ethics (and an  
25          amendment to the Code) shall take effect

1 on approval by the Board. The Code of  
2 Ethics may be amended only on the rec-  
3 ommendation of the Chief Ethics Officer.

4 “(v) ANNUAL EMPLOYEE CERTIFI-  
5 CATIONS.—The Board, in consultation with  
6 the Chief Ethics Officer, shall implement a  
7 policy that requires all Bank directors, of-  
8 ficers, and employees to certify annually  
9 that they have read, understand, and com-  
10 plied with and will continue to comply with  
11 the Code of Ethics. The annual certifi-  
12 cations shall contain a statement that noti-  
13 fies the signatory that section 1001 of title  
14 18, United States Code, applies to the cer-  
15 tification.

16 “(B) FINANCIAL DISCLOSURE.—

17 “(i) IN GENERAL.—Within 180 days  
18 after the date of the enactment of this  
19 paragraph, the Board, in consultation with  
20 the Chief Ethics Officer, shall prepare a fi-  
21 nancial disclosure form for Covered Indi-  
22 viduals, which form shall—

23 “(I) require information about  
24 assets, income, debts, and any other  
25 financial information that the Board

1           deems appropriate for ensuring that a  
2           Covered Individual is in compliance  
3           with the Code of Ethics established  
4           under subparagraph (A); and

5                   “(II) be no less extensive than fi-  
6           nancial reports required to be filed  
7           under title I of the Ethics in Govern-  
8           ment Act of 1978 and the regulations  
9           promulgated under such Act.

10                   “(ii) FINANCIAL REPORTING POL-  
11           ICY.—The Board, in consultation with the  
12           Chief Ethics Officer, shall implement a  
13           policy that—

14                   “(I) requires each Covered Indi-  
15           vidual and the spouse of the Covered  
16           Individual to annually complete the fi-  
17           nancial disclosure form and submit  
18           the completed form to the General  
19           Counsel or his or her designee for re-  
20           view; and

21                   “(II) allows any Covered Indi-  
22           vidual who is required to file financial  
23           reports under title I of the Ethics in  
24           Government Act of 1978 or any other  
25           Federal law to file the financial re-

1                   ports under such title or other law in  
2                   lieu of the financial disclosure form  
3                   described in this subparagraph, but  
4                   the Board may require those who do  
5                   so to supplement the financial report  
6                   with all information required to be  
7                   disclosed under this subparagraph.

8                   “(iii) COVERED INDIVIDUAL DE-  
9                   FINED.—In this subparagraph, the term  
10                  ‘Covered Individual’ means any Bank di-  
11                  rector, officer, employee, or contractor with  
12                  the ability to affect any Bank decision re-  
13                  lating to financing, funding, insuring, or  
14                  otherwise providing backing to any com-  
15                  pany or project.

16                  “(iv) AVAILABILITY OF COMPLETED  
17                  FINANCIAL DISCLOSURE FORMS.—

18                  “(I) IN GENERAL.—The Bank  
19                  shall make completed financial disclo-  
20                  sure forms available to the Office of  
21                  Inspector General for the Bank.

22                  “(II) PROHIBITIONS.—A com-  
23                  pleted financial disclosure form shall  
24                  not be made available—

1                   “(aa) to another Bank direc-  
2                   tor, officer, employee, attorney,  
3                   or agent, except as necessary to  
4                   ensure compliance of a Covered  
5                   Individual with this subpara-  
6                   graph, the Code of Ethics, or any  
7                   applicable law; or

8                   “(bb) to the public.

9                   “(C) RULE OF INTERPRETATION.—Noth-  
10                  ing in this paragraph shall supersede, modify,  
11                  change, or otherwise affect any requirement,  
12                  procedure, or restriction applicable to a Bank  
13                  employee, officer, or director under the Ethics  
14                  in Government Act of 1978 that applies in ad-  
15                  dition to the requirements, procedures, and re-  
16                  strictions applicable to a Bank employee, offi-  
17                  cer, or director under this paragraph.”.

18 **SEC. 96004. PARALLEL GAAP REPORTING.**

19                  Section 8 of the Export-Import Bank Act of 1945  
20                  (12 U.S.C. 635g), as amended by sections 96001 and  
21                  96002 of this Act, is amended by adding at the end the  
22                  following:

23                  “(n) PARALLEL GAAP REPORTING.—With any re-  
24                  port issued by the Bank to the Congress or any committee  
25                  of the Congress that contains accounting information that

1 is not prepared using generally accepted accounting prin-  
2 ciples, the Bank shall issue a 2nd report providing the  
3 same accounting information prepared using generally ac-  
4 cepted accounting principles.”.

5 **SEC. 96005. MAKING THE BANK THE LENDER OF LAST RE-**  
6 **SORT FOR LOANS, ATTEMPTING PRIVATE FI-**  
7 **NANCING FIRST.**

8 Section 2 of the Export-Import Bank Act of 1945  
9 (12 U.S.C. 635) is amended by adding at the end the fol-  
10 lowing:

11 “(1) APPLICANTS FOR BANK ASSISTANCE REQUIRED  
12 TO DEMONSTRATE INABILITY TO OBTAIN CREDIT ELSE-  
13 WHERE.—The Bank shall not guarantee, insure, or extend  
14 credit, or participate in an extension of credit in connec-  
15 tion with a transaction, to a privately owned foreign appli-  
16 cant, other than a financial institution, unless the appli-  
17 cant demonstrates to the Bank that—

18 “(1) the applicant has sought, and has been un-  
19 able to obtain, competitive financing for the trans-  
20 action without any support from the Overseas Pri-  
21 vate Investment Corporation or the Small Business  
22 Administration; or

23 “(2) financing from a foreign export credit  
24 agency is available to the applicant to support com-  
25 parable foreign goods and services competing with



1 the United States exports that would be financed by  
2 the Bank through the application.”.

3 **SEC. 96006. AUDIT COMMITTEE.**

4 Section 3(c) of the Export-Import Bank Act of 1945  
5 (12 U.S.C. 635a(c)) is amended by redesignating para-  
6 graph (10) as paragraph (11) and inserting after para-  
7 graph (9) the following:

8 “(10) AUDIT COMMITTEE.—

9 “(A) MEMBERSHIP.—

10 “(i) IN GENERAL.—In addition to such  
11 other duties as they may be appointed to per-  
12 form under subparagraph (5), the directors who  
13 are neither Chairman nor Vice Chairman of the  
14 Board shall constitute the Audit Committee of  
15 the Board.

16 “(ii) SPECIAL RULE.—If that there is only  
17 1 director who is neither Chairman nor Vice  
18 Chairman of the Board, the Chief Risk Officer  
19 of the Bank shall be a temporary member of  
20 the Audit Committee until a 2nd Bank director  
21 who is neither Chairman nor Vice Chairman of  
22 the Board is appointed to the Board.

23 “(B) DUTIES.—

24 “(i) Within 1 year after the date of the en-  
25 actment of this paragraph, the Audit Com-

1           mittee shall develop and implement a program  
2           to audit, on a regular and routine basis, the  
3           loan, guarantee, insurance, and credit programs  
4           of the Bank.

5                   “(ii) The Audit Committee shall—

6                           “(I) provide assistance to the Board  
7                           in fulfilling the accounting and reporting  
8                           responsibilities of the Board;

9                           “(II) evaluate whether the Bank has  
10                          adequate administrative and financial con-  
11                          trols;

12                          “(III) review the financial statements  
13                          prepared by management for distribution  
14                          to the Congress and the public; and

15                          “(IV) provide direction over the inter-  
16                          nal audit function and the independent ac-  
17                          countants of the Bank.

18                   “(C) REPORTS.—The Audit Committee shall re-  
19                   port to the Board regularly on its activities but may  
20                   act independently of the Chairman and Vice Chair-  
21                   man.

22                   “(D) PROCEDURAL RULES.—

23                           “(i) QUORUM.—2 members shall constitute  
24                           a quorum of the Audit Committee.

1                   “(ii) ACTION ONLY BY MAJORITY VOTE.—  
2                   The Audit Committee may act only by majority  
3                   vote.”.

4 **SEC. 96007. REPORT ON PRIVATIZING THE BANK.**

5                   Within 270 days after the date of the enactment of  
6 this Act, the President, in consultation with the Advisory  
7 Committee of the Bank, the Comptroller of the Currency,  
8 and the Governors of the Federal Reserve Board, shall  
9 submit to the Committees on Appropriations and Finan-  
10 cial Services of the House of Representatives and the  
11 Committees on Appropriations and Banking, Housing,  
12 and Urban Affairs of the Senate a report on the programs  
13 of the Bank that may be fully or partially privatized,  
14 which report shall—

15                   (1) consider, but not be limited to, the estab-  
16 lishment of a public-private partnership to create a  
17 market window, as allowed under Section 15 of the  
18 Export-Import Bank Act of 1945, to compete  
19 against similar foreign-supported market windows to  
20 maximize private-sector participation;

21                   (2) include an evaluation of whether the admin-  
22 istration of the insurance and working-capital pro-  
23 grams of the Bank could be partially or completely  
24 privatized; and

1           (3) include an analysis of the current regulatory  
2           restrictions related to capital-allocation requirements  
3           for pre-export working capital and cross-border lend-  
4           ing in amounts exceeding \$25,000,000.

5 **SEC. 96008. INDEPENDENT AUDIT OF BANK PORTFOLIO.**

6           (a) **AUDIT.**—The Inspector General of the Export-  
7           Import Bank of the United States shall conduct an audit  
8           of the portfolio risk management procedures of the Bank,  
9           including a review of the implementation by the Bank of  
10          the duties assigned to the Chief Risk Officer under the  
11          Export-Import Bank Act of 1945.

12          (b) **REPORT.**—Not later than 1 year after the ap-  
13          pointment of the Chief Risk Officer of the Export-Import  
14          Bank of the United States, the Inspector General shall sub-  
15          mit to the Committee on Financial Services of the House  
16          of Representatives and the Committee on Banking, Hous-  
17          ing, and Urban Affairs of the Senate a written report con-  
18          taining all findings and determinations made in carrying  
19          out subsection (a).

1 **TITLE XCVII—IMPROVING THE**  
2 **ACCOUNTABILITY OF THE EX-**  
3 **PORT-IMPORT BANK OF THE**  
4 **UNITED STATES**

5 **SEC. 97001. EARNINGS RETENTION.**

6 Section 2(a)(1) of the Export-Import Bank Act of  
7 1945 (12 U.S.C. 635(a)(1)) is amended by striking “Net  
8 earnings of the Bank after reasonable provision for pos-  
9 sible losses shall be used for payment of dividends on cap-  
10 ital stock.” and inserting “The Bank shall retain not less  
11 than 30 percent of total net earnings as a provision for  
12 possible losses. Notwithstanding the previous sentence,  
13 during any period when the aggregate of such retained  
14 earnings is less than 10 percent of the applicable amount  
15 (as defined under section 6(a)(2)), the Bank shall retain  
16 not less than 80 percent of total net earning as a provision  
17 for possible losses. Net earnings that are not retained as  
18 a provision for possible losses shall be used for payment  
19 of dividends on capital stock.”.

20 **SEC. 97002. OFFICE OF THE PRESIDENT AND TERM LIMITS.**

21 Section 3 of the Export-Import Bank Act of 1945  
22 (12 U.S.C. 635a) is amended—

23 (1) in subsection (b), by inserting “who shall be  
24 chosen from among those individuals with at least

1 15 years of banking experience,” before “and who  
2 shall serve as chief executive”; and

3 (2) in subsection (c)(8)(A)—

4 (A) in clause (iii), by striking “and” at the  
5 end;

6 (B) in clause (iv), by striking the period at  
7 the end and inserting “; and”; and

8 (C) by adding at the end the following:

9 “(v) no person may serve as the President of  
10 the Bank for more than 2 terms.”.

11 **SEC. 97003. REPAYMENT AS PRIORITY.**

12 Section 2(b)(1) of the Export-Import Bank Act of  
13 1945 (12 U.S.C. 635(b)(1)) is amended—

14 (1) in subparagraph (B), by striking “, that  
15 loans, so far as possible consistent with the carrying  
16 out of the purposes of subsection (a) of this section,  
17 shall generally be for specific purposes, and, in the  
18 judgment of the Board of Directors, offer reasonable  
19 assurance of repayment”; and

20 (2) by striking subparagraph (C) and inserting  
21 the following:

22 “(C) The Bank shall conduct all programs  
23 of the Bank in a manner that, in the judgment  
24 of the Board of Directors, offers reasonable as-  
25 surance of repayment and minimizes risk of

1           loss. Loans made by the Bank shall be for spe-  
2           cific purposes.”.

3 **SEC. 97004. LIMITATIONS ON OUTSTANDING LOANS, GUAR-**  
4 **ANTEES, AND INSURANCE.**

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

8           “(2) APPLICABLE AMOUNT.—In paragraph (1),  
9           the term ‘applicable amount’ means  
10          \$130,000,000,000.”.

11 **SEC. 97005. CREDIT RISK.**

12          Section 2(b)(1)(A) of the Export-Import Bank Act  
13 of 1945 (12 U.S.C. 635(b)(1)(A)) is amended by inserting  
14 after “(as defined in section 10(h)(3))” the following: “,  
15 provided that this objective is accomplished in a manner  
16 calculated to minimize financial risk to the Bank”.

17 **TITLE XCVIII—JOB GROWTH**

18 **SEC. 98001. MEDIUM-SIZED ENTERPRISES.**

19          Section 2(b)(1)(F) of the Export-Import Bank Act  
20 of 1945 (12 U.S.C. 635(b)(1)(F)) is amended to read as  
21 follows:

22          “(F) FAIR CONSIDERATION FOR MEDIUM-SIZED EN-  
23 TERPRISES.—In addition to the programs of the Bank to  
24 encourage the participation of small businesses in inter-  
25 national commerce, the policies of the Bank shall give fair

1 consideration to making loans and providing guarantees  
2 for the export of goods and services by medium-sized en-  
3 terprises.”.

4 **SEC. 98002. INFLATION ADJUSTMENT.**

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

7 **“SEC. 12. INFLATION ADJUSTMENT.**

8 “Beginning on the date on which the Bureau of  
9 Labor Statistics of the Department of Labor first pub-  
10 lishes the Consumer Price Index after the date that is 1  
11 year after the date of the enactment of this section, and  
12 annually thereafter, the Bank shall adjust all dollar  
13 amounts specified in this Act by the percentage change  
14 in the Consumer Price Index published on that date from  
15 the Consumer Price Index published the previous year.”.

