AMENDMENT TO THE SENATE AMENDMENTS TO
H.R. 22
OFFERED BY MR. SCHWEIKERT OF ARIZONA

Amend division I to read as follows:

DIVISION I—RE-CHARTERING
THE EXPORT–IMPORT BANK

SEC. 90001. SHORT TITLE.
This division may be cited as the “Re-Chartering the Export–Import Bank Act of 2015”.

SEC. 90002. RE-CHARTERING.
(a) RE-CHARTERING.—Not later than the end of the 60-day period beginning on the date of enactment of this Act, the Secretary of the Treasury shall re-charter the Export-Import Bank of the United States (hereinafter referred to as the “Bank”) as a national banking association incorporated in the District of Columbia.
(b) PRIVATIZATION.—
(1) IN GENERAL.—As soon as practicable after the re-chartering date and the completion of the initial audits required under section 90004(d), the Secretary shall privatize the Bank through the sale of equity stock in the Bank.
(2) LIMITATION ON OWNERSHIP.—If the Secretary privatizes the Bank through a public offering, no person may, directly or indirectly, acquire or hold securities representing more than 10 percent of the total voting power of all outstanding securities of the Bank before the end of such public offering.

c) TRANSFER OF FUNDS.—Upon the re-chartering date, the personnel, property, assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Export-Import Bank of the United States shall be transferred to the re-chartered Bank and available for use without fiscal year limitation.

d) CONSULTATION.—In carrying out this section, the Secretary of the Treasury shall consult with the Comptroller of the Currency and such other Federal departments or agencies as the Secretary determines appropriate.

SEC. 90003. BANK BOARD.

(a) BOARD OF DIRECTORS.—There shall be a Board of Directors of the Bank, whose members shall—

(1) be United States citizens;

(2) except for the initial Board, be elected by shareholders by a majority vote; and
(3) serve on the board for a term of 5 years.

(b) Authority of the Board.—The Board shall be responsible for the general management of the Bank and shall have the same authority, privileges, and responsibilities as the board of directors of a private corporation incorporated in the District of Columbia.

(e) Appointment of First Two Boards.—

(1) Initial Board.—The Secretary of the Treasury shall appoint the initial Board of the Bank upon the re-chartering date.

(2) Second Board.—As soon as practicable after the completion of the privatization of the Bank, the second Board of Governors shall be elected by shareholders by a majority vote.

SEC. 90004. AUDITS OF THE BANK; REPORTS.

(a) Independent Audits.—The Bank shall—

(1) prepare the financial statements of the Bank in accordance with generally accepted accounting principles; and

(2) have such statements audited annually by an independent certified public accountant, in accordance with generally accepted auditing standards.

(b) GAO Audits.—

(1) In General.—The Comptroller General of the United States may audit the financial state-
ments of the Bank and may review any independent audit prepared under subsection (a).

(2) Availability of Information.—All Books, accounts, financial records, reports, files, papers and other property belonging to or in use by the Bank and its independent auditor that the Comptroller General considers necessary to the performance of any audit or review under this subsection shall be made available to the Comptroller General.

(3) Reimbursement.—The Bank shall reimburse the Comptroller General for the cost of auditing any financial statement under paragraph (1), as such cost is determined by the Comptroller General.

(c) Annual Report.—Not later than the end of the 150-day period following the end of each fiscal year of the Bank, the Bank shall issue a report to the President and the Congress containing—

(1) a description of the financial position of the Bank at the end of such fiscal year;

(2) a general description of the Bank’s operations;

(3) a summary of the Bank’s operating and financial performance;
(4) whether or not the Bank paid dividends during such fiscal year;

(5) copies of the independent audit reports prepared under subsection (a);

(6) information that an issuer is required to report under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a)), regardless of whether the Bank would otherwise be required to report such information; and

(7) an identification and assessment of any impairment of capital or the ability of the Bank to comply with the requirements of this Act or any other laws or regulations.

(d) INITIAL AUDITS.—The initial independent audit under subsection (a) and Comptroller General audit under subsection (b) shall commence as soon as practicable after the date of the enactment of this Act.

(e) TERMINATION OF REQUIREMENTS.—This section shall cease to have any force or effect after the date on which the Bank no longer has any outstanding loan or loan guarantee of the Bank that is backed by the full faith and credit of the United States.

SEC. 90005. TRANSITION PROVISIONS.

(a) FEDERAL GUARANTEE.—
(1) **END OF AUTHORITY.**—On and after the date of the enactment of this Act, neither the Export-Import Bank of the United States nor the re-chartered Bank may make any loan or loan guarantee backed by the full faith and credit of the United States.

(2) **TREATMENT OF CERTAIN PAYMENTS.**—

(A) **Payments Received After the First 4 Years.**—Any payment to the Bank received after the end of the 4-year period beginning on the re-chartering date with respect to a loan or loan guarantee backed by the full faith and credit of the United States shall be promptly paid to the Secretary of the Treasury for deposit in the general fund.

(B) **Repayment of Amounts Received During the First 4 Years.**—Not later than the end of the 10-year period beginning on the re-chartering date, the Bank shall pay to Secretary of the Treasury, for deposit in the general fund, an amount equal to all payments received by the Bank during the 4-year period beginning on the re-chartering date with respect to a loan or loan guarantee backed by the full faith and credit of the United States.
(b) **BOARD PREPARATION.**—Upon the date of the enactment of this Act, the Board of Directors of the Export-Import Bank of the United States shall begin preparation for the transition to the initial Board of Directors of the re-chartered Bank.

(c) **TREATMENT OF INDIVIDUALS EMPLOYED PRIOR TO RE-CHARTERING.**—With respect to individuals employed by the Export-Import Bank of the United States before the re-chartering date—

(1) the compensation, benefits, and other terms and conditions of employment in effect for such individuals immediately prior to the re-charting date shall continue to apply to officers and employees of the Bank unless changed by the Board of Directors;

(2) any existing collective bargaining agreement in place on the re-chartering date shall continue in effect; and

(3) such individuals shall transfer to a new retirement system put in place by the Bank.

**SEC. 90006. CONFORMING AMENDMENTS.**

Effective as of the re-chartering date, the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended—

(1) in section 2—

(A) in subsection (a)—
(i) in paragraph (1)—

(I) by striking “The Bank shall be entitled to the use of the United States mails in the same manner and upon the same conditions as the executive departments of the Government. The Bank is authorized to publish or arrange for the publications of any documents, reports, contracts, or other material necessary in connection with or in furtherance of its objects and purposes without regard to the provisions of section 501 of title 44, United States Code, whenever the Bank determines that publication in accordance with the provisions of such section would not be practicable. Subject to regulations which the Bank shall issue pursuant to section 553 of title 5, United States Code, the Bank may impose and collect reasonable fees to cover the costs of conferences and seminars sponsored by, and publications provided by, the Bank, and may accept reimbursement for travel
and subsistence expenses incurred by a director, officer, or employee of the Bank, in accordance with subchapter I of chapter 57 of title 5, United States Code. Amounts received under the preceding sentence shall be credited to the fund which initially paid for such activities and shall be offset against the expenses of the Bank for such activities.”; and

(II) by striking “Net earnings of the Bank after reasonable provision for possible losses shall be used for payment of dividends on capital stock. Any such dividends shall be deposited into the Treasury as miscellaneous receipts.”;

(ii) in paragraph (2), by amending subparagraph (A) to read as follows:

“(A) provides medium-term financing where necessary to be fully competitive in amounts up to 85 percent of the total cost of the exports involved; and”; and

(iii) by striking paragraph (3);

(B) in subsection (b)—
(i) in paragraph (1)—

(I) in subparagraph (B)—

(aa) by striking “It is also the policy of the United States that the Bank in the exercise of its functions should supplement and encourage, and not compete with, private capital; that the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990; that the” and inserting “The”; and

(bb) by striking “Only in cases where the President, after consultation with the Committee on Financial Services of the
House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, determines that such action would be in the national interest where such action would clearly and importantly advance United States policy in such areas as international terrorism (including, when relevant, a foreign nation’s lack of cooperation in efforts to eradicate terrorism), nuclear proliferation, the enforcement 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, environmental protection and human rights (such as are provided in the Universal Declaration of Human Rights adopted by the United Nations General Assembly on December 10, 1948) (in-
cluding child labor), should the Export-Import Bank deny applications for credit for nonfinancial or noncommercial considerations. Each such determination shall be delivered in writing to the President of the Bank, shall state that the determination is made pursuant to this section, and shall specify the applications or categories of applications for credit which should be denied by the Bank in furtherance of the national interest.”; and

(II) by striking subparagraphs (C), (D), (E), (G), (H), (I), and (K);

(ii) by striking paragraphs (2), (3), (7), (8), (9), (11), (12), and (13); and

(iii) in paragraph (6), strike subparagraphs (A), (H), and (I);

(C) in subsection (c)—

(i) in paragraph (3), by striking subparagraph (B);

(D) by striking subsections (d) and (e); and
(E) in subsection (h)(2), by amending sub-
paragraph (B) to read as follows:

“(B) information may be obtained with re-
spect to the status of any such application.”;

(2) in section 3—

(A) by striking subsections (a), (d), (f),
(g), (h), (i), and (j);

(B) by amending subsection (b) to read as
follows:

“(b) PRESIDENT AND FIRST VICE PRESIDENT.—

There shall be a President of the Bank who shall be ap-
pointed by the Board of Directors and with the advice of
the majority shareholders, who shall serve as chief execu-
tive officer of the bank. There shall be a First Vice Presi-
dent of the Bank who shall be appointed by the Board
of directors with the advice and consent of the majority
shareholders, who shall serve as President of the Bank
during absence or disability of or in the event of a vacancy
in the office of the President of the Bank, and who shall
at other times perform such functions as the President
of the Bank may from time to time prescribe.”;

(C) in subsection (e)—

(i) by striking paragraphs (1), (2),
(3), and (10); and
(ii) in paragraph (8), by striking sub-
paragraphs (A) and (B); and

(D) in subsection (e)(2), strike “Adminis-
tration” and insert “Bank”;

(3) by striking sections 4, 5, 6, 7, 8, 8A, 9, 10,
11, 12, and 14;

(4) by amending section 13 to read as follows:

“SEC. 13. COOPERATION ON EXPORT FINANCING PRO-
GRAMS.

“The Bank shall, subject to appropriate memoranda
of understanding, provide complete and current informa-
tion on all of its programs and financing practices to State
and local export financing organizations that indicate a
desire to participate in export promotion.”; and

(5) in section 15(a), by striking “If such trans-
parency indicates that market windows are
disadvantaging United States exporters, the United
States should seek negotiations for multilateral dis-
ciplines and transparency within the OECD Export
Credit Arrangement.”.

SEC. 90007. RE-CHARTERING DATE DEFINED.

For purposes of this division, the term “re-chartering
date” means the date on which the Export-Import Bank
of the United States is re-chartered pursuant to section 90002(a).