Testimony of Diane Katz
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Subcommittee on Economic Growth, Job Creation and Regulatory Affairs
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Chairman Jordan, Ranking Member Cartwright, and Members of the Subcommittee, thank you for inviting me to testify this morning. My name is Diane Katz. I am a Research Fellow in Regulatory Policy at The Heritage Foundation. The views expressed in this testimony are my own, and should not be construed as representing any official position of The Heritage Foundation.

The charter of the Export-Import Bank (Ex-Im), last authorized in 2012, expires on September 30. Proponents of renewal assert that the bank sustains American jobs, fills gaps in export financing, and levels the playing field against similar subsidies provided by foreign governments. However, there is abundant evidence to the contrary.[1] The academic literature is virtually unanimous in finding that subsidies, in general, and export subsidies, in particular, are detrimental to the economy.[2]

The Export-Import Bank's Office of Inspector General (OIG) and the Government Accountability Office have repeatedly documented mismanagement and dysfunction within Ex-Im, including insufficient policies and procedures to guard against waste, fraud, and abuse."[3] This pattern of carelessness with taxpayer dollars is evident in a multitude of criminal cases involving bank operations, as detailed below.

Background

The Export-Import Bank of the United States was incorporated in 1934 by President Franklin D. Roosevelt to finance trade with the Soviet Union. Congress later constituted the bank as an independent agency under the Export–Import Bank Act of 1945. Its authorization, last extended in 2012, will expire on September 30.

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[1] For details, see Diane Katz, U.S. Export–Import Bank: Corporate Welfare on the Backs of Taxpayers, Heritage Foundation Issue Brief No. 4198, April 11, 2014, http://www.heritage.org/research/reports/2014/04/us-exportimport-bank-corporate-welfare-on-the-backs-of-taxpayers ; Diane Katz, The Export–Import Bank: A Government Outfit Mired in Mismanagement, Heritage Foundation Issue Brief No. 4208, April 29, 2014, http://www.heritage.org/research/reports/2014/04/the-exportimport-bank-a-government-outfit-mired-in-mismanagement; Diane Katz, Export–Import Bank: Cronyism Threatens American Jobs, Heritage Foundation Issue Brief No. 4231, June 02, 2014, http://thf_media.s3.amazonaws.com/2014/pdf/IB4231.pdf; and, Veronique de Rugy, Mercatus Center at George Mason University, http://mercatus.org/export-import-bank .

[2] Salim Furth, The Export-Import Bank: What the Scholarship Says, Heritage Foundation Backgrounder No. 2934 (forthcoming).

[3] Export-Import Bank, Office of the Inspector General, Semiannual Report to Congress: April 1, 2013 to September 30, 2013, http://www.exim.gov/oig/upload/OIG_Report_FA13_508.pdf

The bank provides loans and loan guarantees as well as capital and credit insurance to facilitate U.S. exports.[4] The financing is backed by the "full faith and credit" of the U.S. government, which means taxpayers are responsible for losses that bank reserves fail to cover.

The 2012 Reauthorization Act set Ex-Im's exposure limit at $120 billion in 2012, with additional increases to $130 billion in 2013 and $140 billion in 2014. Last year, the bank authorized a total of $27.3 billion in financing, bringing the bank's lending portfolio to $113.8 billion. Officials report that Ex-Im's exposure remains within statutory limits. However, the Government Accountability Office, in a recent report, documented "weaknesses" in Ex-Im's forecasting, and concluded that "Ex-Im Bank's forecast of exposure could be higher than the exposure limit set by Congress for 2014."[5]

U.S. exports topped $2.3 trillion in 2013, the fourth straight year of record levels.[6] The Ex-Im bank financed just 1.6 percent of total exports last year.[7] The fact that more than 98 percent of exports do not rely on Ex-Im subsidies indicates that there is no shortage of private investment to finance trade.[8]

Very large corporations are the primary beneficiaries of Ex-Im financing. Just10 companies profited from 75 percent of Ex-Im subsidies in FY2013.[9] These major beneficiaries include Boeing (market cap of $91 billion); General Electric (valued at $267 billion); Bechtel (2013 revenues of: $39.4 billion); and Caterpillar (with 2013 sales and revenues: of $55 billion).

A Record of Fraud and Corruption

Advocates of the Export–Import Bank claim that its taxpayer-subsidized financing is a safe—and lucrative—investment for taxpayers.[10] However, the bank's Office of Inspector General and Government Accountability Office (GAO) have repeatedly documented transgressions in bank operations, including inadequate due diligence and insufficient risk management.

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[4] The bank provides foreign firms, both state-controlled and privately held, with loans and other forms of credit to purchase U.S. exports.
[5] Government Accountability Office, Export-Import Bank: Additional Analysis and Information Could Better Inform Congress on Exposure, Risk, and Resources, May 30, 2013, www.gao.gov/products/GAO-13-620
[6] U.S. Dept. of Commerce, U.S. Exports Reach $2.3 Trillion in 2013, Set New Record for Fourth Straight Year, Feb. 6, 2014, http://www.commerce.gov/news/press-releases/2014/02/06/us-exports-reach-23-trillion-2013-set-new-record-fourth-straight-year
[7] Veronique de Rugy, There Are Better Ways to Help US Exporters Compete Abroad Than the Ex-Im Bank, Mercatus Center at George Mason University, July 2, 2014, http://mercatus.org/publication/there-are-better-ways-help-us-exporters-compete-abroad-ex-im-bank
[8] Veronique de Rugy, There Are Better Ways to Help US Exporters Compete Abroad Than the Ex-Im Bank, Mercatus Center at George Mason University, July 2, 2014, http://mercatus.org/publication/there-are-better-ways-help-us-exporters-compete-abroad-ex-im-bank
[9] Veronique de Rugy, The Biggest Beneficiaries of the Ex-Im Bank, Mercatus Center of George Mason University, http://mercatus.org/sites/default/files/derugy-exim-exporters-final.pdf
[10] Written testimony of Fred P. Hochberg, President and Chairman, Export-Import Bank of the United States, before the Senate Committee on Banking, Housing and Urban Affairs, January 28, 2014, http://www.banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=35cd28bf-9349-43ce-829f-92d7f3971a6f

Serious procedural failures increase the likelihood of fraud and corruption. In a 2013 review of direct loans, the Office of Inspector General identified noncompliance with basic Federal and agency policies.[11] According to the report,

> (B)ank personnel fail to document applicants' eligibility and application requirements and disregard mandatory checks on applicants' character and financial integrity. Also, loan officers did not always perform or document performance of required tasks intended to ensure (1) borrower eligibility and compliance with Ex-Im Bank credit policies and standards, (2) completeness of loan applications, (3) collection and maintenance of all required documents, and (4) that comprehensive Character, Reputational and Transaction Integrity (CRTI) due diligence reviews were completed and documented prior to loan approval. These conditions occurred in part as a result of inadequate record-keeping and reliance on institutional knowledge instead of policies and procedures.

In testimony last month before the House Committee on Financial Services, Inspector General Osvaldo Luis Gratacós stated that bank management has consistently failed to establish internal controls over business operations, noting that "clear guidance to staff and establishing clear roles and authorities have not been prevalent at Ex-Im Bank."[12]

Such operational shortcomings have worsened as bank financing has surged. Ex-Im Bank's portfolio has increased by 94 percent since 2008 (from $58.4 billion in FY2008 to $113.8 billion in FY 2013). As noted by the inspector general, "This rapid growth in Ex-Im Bank's total portfolio exposure raises concerns as to Ex-Im's ability to manage and monitor this significant portfolio growth."[13]

Failures in management and monitoring are evident in dozens of cases of fraud and other wrongdoing. Based on a review of OIG data, The Heritage Foundation documented 124 investigations initiated between October 2007 and March 2014, as well as 792 separate claims[14] involving more than a half-billion dollars. There also have been 74 administrative actions[15] since

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[11] Export-Import Bank Office of Inspector General, Export-Import Bank's Management of Direct Loans and Related Challenges,, September 26, 2013, http://www.exim.gov/oig/upload/OIG-Final-Report-Audit-of-Ex-Im-Bank-s-Management-of-Direct-Loans-and-Related-Challenges-09-26-13-2.pdf

[12] Statement of Honorable Osvaldo Luis Gratacós Inspector General Export-Import Bank of the United States before the United States House of Representatives Committee on Financial Services June 25, 2014, http://exim.gov/oig/reports/upload/Gratacos-Written-Statement-House-Financial-Services-Committee-June-2014-Final.pdf

[13] Statement of Honorable Osvaldo Luis Gratacós Inspector General Export-Import Bank of the United States before the United States House of Representatives Committee on Financial Services June 25, 2014, http://exim.gov/oig/reports/upload/Gratacos-Written-Statement-House-Financial-Services-Committee-June-2014-Final.pdf

[14] Not all claims opened or closed in the period are related to cases opened or closed in the period, but may be related to other active investigations. The referral of a claim to the OIG for investigation does not establish the existence of fraud and not all claims included in a case under investigation are necessarily fraudulent until proven so.

[15] Administrative actions are responses by Ex-Im Bank to stop transactions, cancel policies, or protect funds at risk based upon investigative findings.

April 2009, in which bank officials were forced to act internally on the basis of investigations by the Office of Inspector General.

A lack of due diligence was explicitly cited by the OIG in its review of the bank's $3 billion financing of a liquefied natural gas project in Papua, New Guinea, sponsored by ExxonMobil and other major energy firms.[16] The inspector general was unable to validate some $577 million in costs financed by the Bank, noting that "the overall level of character, reputational and integrity due diligence conducted for this transaction could have been more comprehensive … It did not fully vet the … relevant persons and entities connected with the project." Transparency International currently ranks Papua New Guinea as 144 on a scale of 177 in its Corruption Perceptions index (with 177 being the most corrupt).[17]

Similar lapses were noted in the bank's $420 million financing of a copper-cobalt-zinc mine in Mexico, which defaulted within months of receiving the loan.[18] According to the OIG, project vulnerabilities "were not sufficiently addressed in Ex-Im Bank's due diligence efforts, nor sufficiently evaluated in the internal documents submitted to the Board of Directors for consideration."[19]

In a number of criminal cases,[20] the bank has engaged in multiple transactions with an individual or company before discovering that taxpayers were being defrauded. For example:

- From 2008 through 2010, Jose L. Quijano, through Gangaland USA, LLC, acted as an exporter in ***96 loan transactions*** insured by the Ex-Im Bank and received approximately ***$3.6 million*** in proceeds. Quijano admitted that he and others falsified financial statements, waybills, purchase orders, and bills of lading to falsely represent that purchases and the exporting of U.S. goods were for buyers in South America. All of the loans involving Gangaland were fraudulent and no U.S. goods of any kind were shipped to South American buyers.

- From 2003 through 2009, Guillermo O. Mondino assisted foreign buyers to create fraudulent loan applications, financial statements, purchase orders, invoices, and bills of lading to falsely represent the purchase and export of U.S. goods to buyers in South and Central America. After receiving more than ***$24 million in Ex-Im Bank insured loan proceeds***, Mondino diverted about $6.4 million of the loan proceeds.

- Between April 2004 and November 2007, Ismael Garcia acted as a purported exporter in at least ***31 fraudulent transactions*** involving $23 million in loans insured by Ex-Im Bank. Garcia retained some $1.1 million of the proceeds, and sent the balance to co-conspirators

[16] Export-Import Bank Office of Inspector General, Report on the PNG LNG Project Financing, June 18, 2014, http://www.exim.gov/oig/reports/upload/PNG-LNG-INSPECTION-REPORT-508-Final-Redacted.pdf
[17] Transparency International, http://www.transparency.org/
[18] The bank subsequently restructured the loan.
[19] Export-Import Bank Office of Inspector General, Report on Minera y Metalurica del Boleo S.A., September 30, 2013, http://www.exim.gov/oig/upload/REDACTED-Report-on-Minera-y-Metalurica-del-Boleo-SA-Report-Final-OIG-INS-13-01-130930.pdf
[20] All cases were excerpted from semiannual reports of the Office of Inspector General.

and foreign buyers in Mexico. Ex-Im Bank paid out nearly ***$18 million in losses*** on the defaulted loans.

- From April 2004 through November 2007, Jose Velasco and others prepared and submitted false commercial invoices, bills of sale, and bills of lading for goods purportedly purchased and shipped using the proceeds of ***13 Ex-Im loan guarantees***. The bank subsequently paid ***$17.9 million in claims*** on the defaulted loans.

- Between 2004 and 2009, Luis E. Moy acted as the exporter in ***11 fraudulent Ex-Im Bank insured or guaranteed loans totaling $11.2 million***. Moy and others conspired to make false statements about the purchase of U.S. manufactured equipment, supplied false invoices, and falsified other records to fraudulently represent to the lending bank and Ex-Im Bank the purchase and export of U.S. goods to various buyers in Mexico.

- Leopoldo Parra and others defrauded Ex-Im Bank by engaging in 18 fraudulent and fictitious loans. Parra and his co-conspirators submitted false documents stating that U.S. goods had been purchased by and shipped to various buyers in Mexico. Parra retained for his own personal use and benefit approximately ***$809,007***.

Mismanagement of Risk

Fraud and corruption are not the only risks to taxpayers related to Ex-Im dealings. Financing exports entails financial and political risks, including changes in interest rates, currency fluctuations, political unrest, and international conflicts. With hundreds of millions of taxpayer dollars at stake, one might reasonably assume that Ex–Im applies rigorous risk analysis to its lending. But according to the inspector general, "Ex–Im Bank lacks a systematic approach to identify, measure, price and reserve for its portfolio risk."[21]

The Government Accountability Office also reported that the bank appears to be relying on inappropriate risk modeling that could produce inaccurate estimates of both subsidy costs and potential losses.[22]

The bank does assign a risk rating to each transaction. However, it does not assess the relationships between all the various risks in its portfolio. For example, aircraft transactions account for nearly half of the balance sheet exposure, but each new airline transaction is assigned a risk rate in a vacuum—failing to account for the bank's inordinate investment in that single sector of the economy.[23] The lack of thorough analysis is particularly problematic for taxpayers

[21] Export-Import Bank Office of Inspector General, Report on Portfolio Risk and Loss Reserve Allocation Policies, Sept. 28, 2012, http://exim.gov/oig/upload/Final-20Report-20Complete-20Portfolio-20Risk-20120928-1.pdf
[22] Mathew J. Scire, U.S. Government Accountability Office, "Recent Growth Underscores Need for Improved Risk Management and Reporting," testimony before the Committee on Financial Services, U.S. House of Representatives, June 13, 2013.
[23] Export-Import Bank Office of Inspector General, Report on Portfolio Risk and Loss Reserve Allocation Policies, Sept. 28, 2012, http://exim.gov/oig/upload/Final-20Report-20Complete-20Portfolio-20Risk-20120928-1.pdf

because Ex–Im financing is heavily concentrated in two geographic regions (Asia and Latin America) and three economic sectors (airlines, oil and gas, and power).[24]

Ex–Im also does not analyze the risk of the "sub-portfolios" mandated by Congress—which include small business, sub-Saharan Africa, and renewable energy—although their performance likely differs from the overall portfolio.

Without accurate risk assessments, the bank cannot determine the appropriate level of capital reserves that are prudent. A future shortfall could provoke a bailout.

Hidden Losses

Congress and taxpayers have been told repeatedly that Ex-Im returns surplus revenue to the U.S. Treasury.[25] However, the non-partisan Congressional Budget Office reports that if the bank followed more accurate accounting, its ledger would show a cost to taxpayers of $200 million/year, or $2 billion over 10 years.[26] That is because the bank calculates its future revenue from loan repayments based on interest rates tied to Treasury securities. But unlike private banks, which follow much stricter accounting rules, Ex–Im does not adjust the amount of anticipated revenue for changes in the market that could actually reduce future repayments.

The difference between the accounting method used by Ex–Im and the more accurate method applied by the CBO in its report involves factoring for the risk of defaults related to the bank's generous financing. The bank calculates its future revenue from loan repayments based on interest rates tied to Treasury securities. But unlike private banks, Ex–Im does not adjust the amount of anticipated revenue for changes in the market that will reduce future repayments.

Ex–Im has incurred losses, too, accumulating a deficit of $5.3 billion in the 1980s.[27] The losses largely resulted from the bank paying higher interest for the money it borrowed to finance new deals than it was earning from the borrowers it previously financed. Bank officials compounded the problem by overstating revenue—i.e., reporting delinquent interest payments as income (to be collected in the future). By late 1984, problem loans tripled as a percentage of the bank's retained earnings.[28]

This practice, which artificially increases the appearance of "profit," is no small matter. As noted by the Congressional Budget Office, "That appearance creates a budgetary incentive to expand

[24] Export-Import Bank, Annual Report 2013, April 2014, http://exim.gov/about/library/reports/annualreports/2013/annual-report-2013.pdf

[25] Written testimony of Fred P. Hochberg, President and Chairman, Export-Import Bank of the United States, before the Senate Committee on Banking, Housing and Urban Affairs, January 28, 2014, http://www.banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=35cd28bf-9349-43ce-829f-92d7f3971a6f

[26] Congressional Budget Office, Fair-Value Estimates of the Cost of Selected Federal Credit Programs for 2015 to 2024, May 2014, http://www.cbo.gov/sites/default/files/cbofiles/attachments/45383-FairValue.pdf

[27] U.S. General Accounting Office, Export-Import Bank's 1989 and 1988 Financial Statements, June 1990, http://gao.gov/assets/220/212761.pdf

[28] U.S. General Accounting Office, Export-Import Bank's 1989 and 1988 Financial Statements, June 1990, http://gao.gov/assets/220/212761.pdf

the programs beyond the scale that would be chosen if the budget reflected their costs at market value."[29] It also means that the bank's accounting methods could lead Congress to act in ways lawmakers might not otherwise if they knew the actual state of Ex–Im finances.

Ignoring Effects on Domestic Firms

Ex-Im officials also are skirting the bank's charter requirement for determining the potential effects of export subsidies on domestic firms. A review by the inspector general found that the bank did not address directly several elements of economic impact contemplated by the Charter, omitted relevant data and analysis beyond that considered necessary to support the staff's recommendation, did not state the limitations and qualifications of the data, assumptions, estimates, methods and analysis, did not fully address the sensitivity of the staff's conclusions to possible changes in assumptions and estimates that could be reasonably anticipated.[30]

Indeed, none of the Ex–Im personnel interviewed by the IG's office possessed professional training or expertise related to economic impact analysis.[31] Moreover, the bank does not consider the impact of any finance deal involving less than $10 million, which excludes some 80 percent of Ex–Im transactions.

All of this means that bank officials dole out billions of taxpayer dollars to foreign firms without a meaningful consideration of the impacts on American workers and the businesses that employ them.

Many industries are subject to booms and busts. Neither one typically results from a single cause but instead is a product of myriad factors, including changes in demand, currency fluctuations, and innovation. But government policy can dampen gains and exacerbate losses, which is the case with export subsidies. Ex–Im financing of coal mining in Colombia, copper excavation in Mexico, and airplanes for India has been identified as contributing to losses among domestic firms.[32]

The following Ex–Im deals have been cited by lawmakers and industry experts as examples of just some of the billions of dollars in taxpayer subsidies that put domestic firms at a competitive disadvantage:

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[29] Congressional Budget Office, Fair-Value Accounting for Federal Credit Programs, March 2012, http://www.cbo.gov/sites/default/files/cbofiles/attachments/03-05-FairValue_Brief.pdf
[30] Export–Import Bank of the United States, Office of Inspector General, Evaluation Report Relating to Economic Impact Procedures, September 17, 2010, http://www.exim.gov/oig/upload/EIB_Report_Final_Complete_Web.pdf
[31] Export–Import Bank of the United States, Office of Inspector General, Evaluation Report Relating to Economic Impact Procedures, September 17, 2010, http://www.exim.gov/oig/upload/EIB_Report_Final_Complete_Web.pdf
[32] Export–Import Bank of the United States, Office of Inspector General, Evaluation Report Relating to Economic Impact Procedures, September 17, 2010, http://www.exim.gov/oig/upload/EIB_Report_Final_Complete_Web.pdf

- Australia's Roy Hill mine ($694 million). The mine's expected output (over the life of the financing) is expected to displace nearly $600 million worth of U.S. iron ore exports and cause a reduction of some $1.2 billion in U.S. domestic sales.[33]

- South Africa's Kusile Coal power plant ($805 million); India's Sasan coal power plant and mine ($917 million). Notwithstanding the Obama Administration's war on coal,[34] Ex–Im has been a generous source of public financing for coal projects abroad.[35] These and other projects have exacerbated a 70 percent decline in coal prices since 2008.[36]

- Mongolia's Oyu Tolgoi copper mine ($500 million). The copper from this open-pit and underground mine competes with excavations in Arizona, Utah, New Mexico, Nevada, and Montana just as global refined copper production is expected to exceed demand by more than 390,000 metric tons this year.[37]

- Papua New Guinea's Liquid Natural Gas Project ($3 billion). Despite regulatory challenges faced by U.S. producers of liquid natural gas, Ex–Im approved $3 billion in financing for development of gas fields, on-shore and off-shore pipelines extending 400 miles, a gas liquefaction plant, and marine export facilities.

- Air India ($3.4 billion). The financing will guarantee the purchase of 27 Boeing aircraft intended for international service, including U.S. destinations. According to the Air Line Pilots Association, Air India will enjoy rates and terms that are not available to U.S. airlines, giving it a cost advantage of about $2 million per airplane. Surplus seat capacity resulting from Ex–Im airline subsidies—totaling about $50 billion between 2005 and 2011—has resulted in the loss of approximately 7,500 U.S. jobs.[38]

Conclusion

As detailed herein, government authorities have documented a variety of problems with bank operations, including mismanagement, dysfunction, fraud and corruption. Such problems invariably arise when government assumes a function far beyond its proper purview. Despite promises to improve operations, bank officials continue to neglect due diligence, underestimate

[33] Senators Amy Klobuchar (D–MN), Al Franken (D–MN), Carl Levin (D–MI), and Debbie Stabenow (D–MI), letter to Export–Import Bank chairman Fred Hochberg, July 12, 2013, https://www.franken.senate.gov/?p=press_release&id=2505

[34] Nicholas D. Loris, "War on Coal: A House Bill to Stop the Regulatory Assault," Heritage Foundation Issue Brief No. 3733, September 19, 2012, http://www.heritage.org/Research/Reports/2012/09/War-on-Coal-A-House-Bill-to-Stop-the-Regulatory-Assault

[35] In 2013, the bank authorized $633.6 million in financing related to four new fossil-fuel power plants.

[36] Thomson Reuters, "Thermal Coal Prices to Drop Further on Oversupply, Weak Demand," March 20, 2014, http://uk.reuters.com/article/2014/03/20/energy-coal-prices-idUKL6N0MH30Y20140320

[37] Press release, "Copper Market Forecast 2013–2014," International Copper Study Group, October 2013, http://www.icsg.org/index.php/press-releases/finish/113-forecast-press-release/1605-2013-10-icsg-forecast-press-release

[38] Air Line Pilots Association, "Leveling the Playing Field for U.S. Airlines and Their Employees," http://www.alpa.org/publications/ALPA_White_Paper_Leveling_the_Playing_Field_June_2012/ALPA_White_Paper_Leveling_the_Playing_Field_June_2012.html

costs, misstate losses, and exaggerate benefits. These failures are important to acknowledge as Congress considers whether to reauthorize the bank or allow its charter to expire.

However, even if the bank were managed expertly, there would be no justification for reauthorization. There is simply no shortage of private financing for exports, as is evidenced by record levels of U.S. trade. Instead, Congress should reduce corporate tax rates and regulatory burdens to benefit *all* American businesses.