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(Original Signature of Member)

116TH CONGRESS
1ST SESSION

H. R. 4863

To promote the competitiveness of the United States, to reform and reauthorize the United States Export Finance Agency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. WATERS introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To promote the competitiveness of the United States, to reform and reauthorize the United States Export Finance Agency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “United States Export
5 Finance Agency Act of 2019”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

- Sec. 3. Renaming of the Export-Import Bank of the United States.
- Sec. 4. Authorization period.
- Sec. 5. Aggregate loan, guarantee, and insurance authority.
- Sec. 6. Office of Minority and Women Inclusion.
- Sec. 7. Support for United States territories.
- Sec. 8. Alternative procedures during quorum lapse.
- Sec. 9. Strengthening support for U.S. small businesses.
- Sec. 10. Supporting United States exporters and outreach to prospective foreign buyers.
- Sec. 11. Restriction on financing for certain entities.
- Sec. 12. Prohibitions on financing for certain persons involved in sanctionable activities.
- Sec. 13. Promoting renewable energy.
- Sec. 14. Reinsurance program.
- Sec. 15. Information technology systems.
- Sec. 16. Administratively determined pay.

1 **SEC. 3. RENAMING OF THE EXPORT-IMPORT BANK OF THE**
2 **UNITED STATES.**

3 (a) IN GENERAL.—The Export-Import Bank of the
4 United States is hereby redesignated as the United States
5 Export Finance Agency.

6 (b) REFERENCES.—Any reference to the Export-Im-
7 port Bank of the United States in any law, rule, regula-
8 tion, certificate, directive, instruction, or other official
9 paper in force on the date of the enactment of this Act
10 is deemed a reference to the United States Export Finance
11 Agency.

12 **SEC. 4. AUTHORIZATION PERIOD.**

13 Section 7 of the Export-Import Bank Act of 1945
14 (12 U.S.C. 635f) is amended by striking “2019” and in-
15 serting “2029”.

1 **SEC. 5. AGGREGATE LOAN, GUARANTEE, AND INSURANCE**

2 **AUTHORITY.**

3 Section 6(a)(2) of the Export-Import Bank Act of
4 1945 (12 U.S.C. 635e(a)(2)) is amended to read as fol-
5 lows:

6 “(2) APPLICABLE AMOUNT DEFINED.—In this
7 subsection, the term ‘applicable amount’ means—

8 “(A) \$145,000,000,000 for fiscal year
9 2020;

10 “(B) \$150,000,000,000 for fiscal year
11 2021;

12 “(C) \$155,000,000,000 for fiscal year
13 2022;

14 “(D) \$160,000,000,000 for fiscal year
15 2023;

16 “(E) \$165,000,000,000 for fiscal year
17 2024;

18 “(F) \$170,000,000,000 for fiscal year
19 2025; and

20 “(G) \$175,000,000,000 for each of fiscal
21 years 2026 through 2029.”.

22 **SEC. 6. OFFICE OF MINORITY AND WOMEN INCLUSION.**

23 (a) IN GENERAL.—Section 3(i) of the Export-Import
24 Bank Act of 1945 (12 U.S.C. 635a(i)) is amended to read
25 as follows:

1 “(i) OFFICE OF MINORITY AND WOMEN INCLU-
2 SION.—

3 “(1) ESTABLISHMENT.—The Agency shall es-
4 tablish an Office of Minority and Women Inclusion
5 which shall be responsible for carrying out this sub-
6 section and all matters relating to diversity in man-
7 agement, employment, and business activities in ac-
8 cordance with such standards and requirements as
9 the Director of the Office shall establish.

10 “(2) TRANSFER OF RESPONSIBILITIES.—The
11 Agency shall ensure that, to the extent that the re-
12 sponsibilities described in paragraph (1) (or com-
13 parable responsibilities) were, as of the date of the
14 enactment of this subsection, performed by another
15 office of the Agency, the responsibilities shall be
16 transferred to the Office.

17 “(3) DUTIES WITH RESPECT TO CIVIL RIGHTS
18 LAWS.—The responsibilities described in paragraph
19 (1) shall not include enforcement of statutes, regula-
20 tions, or executive orders pertaining to civil rights,
21 except that the Director of the Office shall coordi-
22 nate with the President of the Agency, or the des-
23 ignee of the President of the Agency, regarding the
24 design and implementation of any remedies resulting

1 from violations of the statutes, regulations, or execu-
2 tive orders.

3 “(4) DIRECTOR.—

4 “(A) IN GENERAL.—The Director of the
5 Office shall be appointed by, and shall report
6 directly to, the President of the Agency. The
7 position of Director of the Office shall be a ca-
8 reer reserved position in the Senior Executive
9 Service, as that position is defined in section
10 3132 of title 5, United States Code, or an
11 equivalent designation.

12 “(B) DUTIES.—The Director shall—

13 “(i) develop standards for equal em-
14 ployment opportunity and the racial, eth-
15 nic, and gender diversity of the workforce
16 and senior management of the Agency;

17 “(ii) develop standards for increased
18 participation of minority-owned and
19 women-owned businesses in the programs
20 and contracts of the Agency, including
21 standards for coordinating technical assist-
22 ance to the businesses; and

23 “(iii) enhance the outreach activities
24 of the Agency with respect to, and increase
25 the total amount of loans, guarantees, and

1 insurance provided by the Agency to sup-
2 port exports by socially and economically
3 disadvantaged small business concerns (as
4 defined in section 8(a)(4) of the Small
5 Business Act) and small business concerns
6 owned by women.

7 “(C) OTHER DUTIES.—The Director shall
8 advise the President of the Agency on the im-
9 pact of the policies of the Agency on minority-
10 owned and women-owned businesses.

11 “(5) INCLUSION IN ALL LEVELS OF BUSINESS
12 ACTIVITIES.—

13 “(A) CONTRACTS.—The Director of the
14 Office shall develop and implement standards
15 and procedures to ensure, to the maximum ex-
16 tent possible, the inclusion and utilization of
17 minorities (as defined in section 1204(e) of the
18 Financial Institutions Reform, Recovery, and
19 Enforcement Act of 1989 (12 U.S.C. 1811
20 note)) and women, and minority- and women-
21 owned businesses (as such terms are defined in
22 section 21A(r)(4) of the Federal Home Loan
23 Bank Act (12 U.S.C. 1441a(r)(4)) in all busi-
24 ness and activities of the Agency at all levels,
25 including in procurement, insurance, and all

1 types of contracts. The processes established by
2 the Agency for review and evaluation for con-
3 tract proposals and to hire service providers
4 shall include a component that gives consider-
5 ation to the diversity of the applicant.

6 “(B) APPLICABILITY.—This paragraph
7 shall apply to all contracts for services of any
8 kind, including all contracts for all business and
9 activities of the Agency, at all levels.

10 “(C) OUTREACH.—The Agency shall estab-
11 lish a minority outreach program to ensure the
12 inclusion (to the maximum extent practicable)
13 of contracts entered into with the enterprises of
14 minorities and women and businesses owned by
15 minorities and women, including financial insti-
16 tutions, investment banking firms, under-
17 writers, accountants, brokers, and providers of
18 legal services.

19 “(6) DIVERSITY IN AGENCY WORKFORCE.—The
20 Agency shall take affirmative steps to seek diversity
21 in its workforce at all levels of the Agency consistent
22 with the demographic diversity of the United States,
23 in a manner consistent with applicable law, includ-
24 ing—

1 “(A) to the extent the Agency engages in
2 recruitment efforts to fill vacancies—

3 “(i) recruiting at historically Black
4 colleges and universities, Hispanic-serving
5 institutions, Tribal colleges and univer-
6 sities, women’s colleges, and colleges that
7 typically serve majority minority popu-
8 lations; and

9 “(ii) recruiting at job fairs in urban
10 communities, and placing employment ad-
11 vertisements in print and digital media ori-
12 ented toward women and people of color;

13 “(B) partnering with organizations that
14 are focused on developing opportunities for mi-
15 norities and women to place talented young mi-
16 norities and women in industry internships,
17 summer employment, and full-time positions;
18 and

19 “(C) by use of any other mass media com-
20 munications that the Director of the Office de-
21 termines necessary.”.

22 (b) INCLUSION IN ANNUAL REPORT.—Section 8 of
23 such Act (12 U.S.C. 635g) is amended by adding at the
24 end the following:

1 “(1) OFFICE OF MINORITY AND WOMEN INCLU-
2 SION.—The Agency shall include in its annual report to
3 the Congress under subsection (a) a report from the Office
4 of Minority and Women Inclusion regarding the actions
5 taken by the Agency and the Office pursuant to section
6 3(i), which shall include—

7 “(1) a statement of the total amounts paid by
8 the Agency to contractors since the most recent re-
9 port under this subsection;

10 “(2) the percentage of the amounts described in
11 paragraph (1) that were paid to contractors as de-
12 scribed in section 3(i)(5)(A);

13 “(3) the successes achieved and challenges
14 faced by the Agency in operating minority and
15 women outreach programs;

16 “(4) the challenges the Agency may face in hir-
17 ing qualified minority and women employees and
18 contracting with qualified minority-owned and
19 women-owned businesses; and

20 “(5) any other information, findings, conclu-
21 sions, and recommendations for legislative or Agency
22 action, as the Director of the Office deems appro-
23 priate.”.

1 **SEC. 7. SUPPORT FOR UNITED STATES TERRITORIES.**

2 (a) CREATION OF THE OFFICE OF TERRITORIAL EX-
3 PORTING.—Section 3 of the Export-Import Bank Act of
4 1945 (12 U.S.C. 635a) is amended by adding at the end
5 the following:

6 “(n) OFFICE OF TERRITORIAL EXPORTING.—The
7 President of the Agency shall establish an Office of Terri-
8 torial Exporting, and shall hire such staff as may be nec-
9 essary, including at least 1 staffer responsible for liaising
10 with Puerto Rico, to perform the functions of the Office,
11 which shall be to promote the export of goods and services
12 from the territories, conduct outreach, education, and dis-
13 seminate information concerning export opportunities and
14 the availability of Agency support for such activities, and
15 to increase the total amount of loans, guarantees, and in-
16 surance provided by the Agency benefitting the territories.
17 In this Act, the term ‘territory’ means the Commonwealth
18 of Puerto Rico, the United States Virgin Islands, Guam,
19 the Commonwealth of the Northern Mariana Islands, and
20 American Samoa.”.

21 (b) ANNUAL REPORT.—Section 8 of such Act (12
22 U.S.C. 635g), as amended by section 6(b) of this Act, is
23 amended by adding at the end the following:

24 “(m) REPORT ON ACTIVITIES IN THE TERRI-
25 TORIES.—The Agency shall include in its annual report
26 to Congress under subsection (a) a report on the steps

1 taken by the Agency in the period covered by the report
2 to increase—

3 “(1) awareness of the Agency and its services
4 in the territories; and

5 “(2) the provision of Agency support to export
6 businesses in the territories.”.

7 **SEC. 8. ALTERNATIVE PROCEDURES DURING QUORUM**
8 **LAPSE.**

9 (a) IN GENERAL.—Section 3(c)(6) of the Export-Im-
10 port Bank Act of 1945 (12 U.S.C. 635a(c)(6)) is amend-
11 ed—

12 (1) by inserting “(A)” after “(6)”; and

13 (2) by adding at the end the following:

14 “(B)(i) If there is an insufficient number of directors
15 to constitute a quorum under subparagraph (A) for 90
16 consecutive days during the term of a President of the
17 United States, a temporary Board, consisting of the fol-
18 lowing members, shall act in the stead of the Board of
19 Directors:

20 “(I) The United States Trade Representative,

21 “(II) The Secretary of the Treasury,

22 “(III) The Secretary of Commerce, and

23 “(IV) The members of the Board of Directors.

24 “(ii) If, at a meeting of the temporary Board—

1 “(I) a member referred to in clause (i)(IV) is
2 present, the meeting shall be chaired by such a
3 member, consistent with Agency bylaws; or

4 “(II) no such member is present, the meeting
5 shall be chaired by the United States Trade Rep-
6 resentative.

7 “(iii) A member described in subclause (I), (II), or
8 (III) of clause (i) may delegate the authority of the mem-
9 ber to vote on whether to authorize a transaction, whose
10 value does not exceed \$100,000,000, to—

11 “(I) if the member is the United States Trade
12 Representative, the Deputy United States Trade
13 Representative; or

14 “(II) if the member is referred to in such sub-
15 clause (II) or (III), the Deputy Secretary of the de-
16 partment referred to in the subclause.

17 “(iv) If the temporary Board consists of members of
18 only 1 political party, the President of the United States
19 shall, to the extent practicable, appoint to the temporary
20 Board a qualified member of a different political party
21 who occupies a position requiring nomination by the Presi-
22 dent, by and with the consent of the Senate.

23 “(v) The temporary board may not change or amend
24 Agency policies, procedures, bylaws, or guidelines.

1 businesses about how to export goods using the United
2 States Export Finance Agency.”.

3 (b) OUTREACH.—

4 (1) PLAN.—Within 120 days after the date of
5 the enactment of this Act, the United States Export
6 Finance Agency shall prepare and submit to the
7 Committee on Financial Services of the House of
8 Representatives and the Committee on Banking,
9 Housing, and Urban Affairs of the Senate a com-
10 prehensive outreach plan to ensure that small busi-
11 ness owners are aware of the financing options avail-
12 able to them through the Agency. The plan shall in-
13 clude—

14 (A) input from the Small Business Admin-
15 istration and statewide small business coalitions
16 with operations in rural, urban, and suburban
17 regions;

18 (B) an emphasis on outreach to businesses
19 owned by women, minorities, veterans, and per-
20 sons with disabilities; and

21 (C) a proposed budget for carrying out the
22 plan during fiscal years 2020 through 2029,
23 that provides for the spending of at least
24 \$1,000,000 annually for outreach to small busi-
25 nesses.

1 (2) IMPLEMENTATION.—Section 2(b)(1)(E) of
2 such Act (12 U.S.C. 635(b)(1)(E)) is amended by
3 adding at the end the following:

4 “(xi) After consultation with the Committee on Fi-
5 nancial Services of the House of Representatives and the
6 Committee on Banking, Housing, and Urban Affairs of
7 the Senate, the Agency shall implement the outreach plan
8 referred to in section 9(b)(1) of the United States Export
9 Finance Agency Act of 2019.”.

10 (c) EXCLUSION OF UNUTILIZED INSURANCE AU-
11 THORITY IN CALCULATING SMALL BUSINESS THRESH-
12 OLD.—Section 2(b)(1)(E)(v) of such Act (12 U.S.C.
13 635(b)(1)(E)(v)) is amended by adding at the end the fol-
14 lowing: “In determining the amount required to be made
15 available under this clause, the Agency shall exclude unuti-
16 lized insurance authority.”.

17 (d) INCREASE IN SMALL BUSINESS THRESHOLD.—

18 (1) IN GENERAL.—Section 2(b)(1)(E)(v) of
19 such Act (12 U.S.C. 635(b)(1)(E)(v)) is amended by
20 striking “25” and inserting “30”.

21 (2) EFFECTIVE DATE.—The amendment made
22 by paragraph (1) shall take effect on October 1,
23 2028.

1 **SEC. 10. SUPPORTING UNITED STATES EXPORTERS AND**
2 **OUTREACH TO PROSPECTIVE FOREIGN BUY-**
3 **ERS.**

4 (a) DEEMING RULE UNDER TIED AID CREDIT PRO-
5 GRAM.—Section 10(b)(5)(B)(i)(III) of the Export-Import
6 Bank Act of 1945 (12 U.S.C 635i–3(b)(5)(B)(i)(III)) is
7 amended by adding at the end the following new sentence:
8 “The requirement that there be credible evidence of a his-
9 tory of a foreign export credit agency making offers not
10 subject to the Arrangement is deemed met in the case of
11 exports likely to be supported by official financing from
12 the People’s Republic of China, unless the Secretary of
13 the Treasury has reported to the Committee on Financial
14 Services of the House of Representatives and the Com-
15 mittee on Banking, Housing, and Urban Affairs of the
16 Senate that China is in substantial compliance with the
17 Arrangement.”.

18 (b) COLLABORATION WITH USDA ON EXPORT FI-
19 NANCING PROGRAMS.—Section 13(1)(A) of such Act (12
20 U.S.C. 635i–7(1)(A)) is amended by inserting “, the De-
21 partment of Agriculture,” before “and other Federal agen-
22 cies”.

1 **SEC. 11. RESTRICTION ON FINANCING FOR CERTAIN ENTI-**
2 **TIES.**

3 Section 2 of the Export-Import Bank Act of 1945
4 (12 U.S.C. 635) is amended by adding at the end the fol-
5 lowing:

6 “(m) RESTRICTION ON FINANCING FOR CERTAIN
7 ENTITIES.—

8 “(1) IN GENERAL.—Beginning on the date that
9 is 180 days after the date of the enactment of this
10 subsection, the Board of Directors may not approve
11 a transaction that is subject to approval by the
12 Board with respect to the provision by the Agency
13 of any guarantee, insurance, or extension of credit,
14 or the participation by the Agency in any extension
15 of credit for which the end user, obligor, or lender
16 is described in paragraph (2).

17 “(2) PROHIBITED END USER, OBLIGOR, OR
18 LENDER.—An end user, obligor, or lender is de-
19 scribed in this paragraph if the end user, obligor, or
20 lender is known to the Agency to be:

21 “(A) The People’s Liberation Army of the
22 People’s Republic of China.

23 “(B) The Ministry of State Security of the
24 People’s Republic of China.

25 “(C) Included on the Denied Persons List
26 or the Entity List maintained by the Bureau of

1 Industry and Security of the Department of
2 Commerce.

3 “(D) Included on the Nonproliferation
4 Sanctions list maintained by the Bureau of
5 International Security and Non-Proliferation of
6 the Department of State.

7 “(E) Included on the Arms Export Control
8 Act debarred list maintained by the Directorate
9 of Defense Trade Controls of the Department
10 of State.

11 “(F) Included on the Specially Designated
12 Nationals List, Foreign Sanctions Evaders List,
13 Sectoral Sanctions Identifications List, Pales-
14 tinian Legislative Council List, List of Foreign
15 Financial Institutions Subject to Part 561, or
16 Persons Identified as Blocked solely pursuant
17 to Executive Order 13599 maintained by the
18 Office of Foreign Asset Controls of the Depart-
19 ment of the Treasury.

20 “(G) Any person who has paid a criminal
21 fine or penalty pursuant to a conviction or reso-
22 lution or settlement agreement with the Depart-
23 ment of Justice for a violation of the Foreign
24 Corrupt Practices Act in the preceding 3 years.

1 “(H) A person who, in the preceding 3
2 years, appeared on—

3 “(i) the Section 337 injunction list
4 maintained by the United States Inter-
5 national Trade Commission, if the person
6 is subject to an exclusion order; or

7 “(ii) the Annual Intellectual Property
8 Report to Congress by the Intellectual
9 Property Enforcement Coordinator in the
10 Executive Office of the President, if the
11 person was convicted in any court.

12 “(3) DEFINITIONS.—In this subsection:

13 “(A) PERSON.—The term ‘person’ means
14 an individual or entity.

15 “(B) ENTITY.—The term ‘entity’ means a
16 partnership, association, trust, joint venture,
17 corporation, group, subgroup, or other organi-
18 zation.”.

19 **SEC. 12. PROHIBITIONS ON FINANCING FOR CERTAIN PER-**
20 **SONS INVOLVED IN SANCTIONABLE ACTIVI-**
21 **TIES.**

22 Section 2 of the Export-Import Bank Act of 1945
23 (12 U.S.C. 635), as amended by section 11 of this Act,
24 is amended by adding at the end the following:

1 “(n) PROHIBITIONS ON FINANCING FOR CERTAIN
2 PERSONS INVOLVED IN SANCTIONABLE ACTIVITIES.—

3 “(1) PERSONS NOT PROVIDING CERTIFI-
4 CATION.—

5 “(A) IN GENERAL.—Beginning on the date
6 that is 180 days after the date of the enact-
7 ment of this subsection, the Board of Directors
8 of the Agency may not approve any transaction
9 that is subject to approval by the Board with
10 respect to the provision by the Agency of any
11 guarantee, insurance, or extension of credit, or
12 the participation by the Agency in any exten-
13 sion of credit, to a person in connection with
14 the exportation of any good or service unless
15 the person provides the certification described
16 in subparagraph (B).

17 “(B) CERTIFICATION DESCRIBED.—The
18 certification described in this subparagraph is a
19 certification by a person that neither the person
20 nor any other person owned or controlled by the
21 person engages in any activity in contravention
22 of any law, regulation, decree, order, or other
23 act with force of law of the United States con-
24 cerning—

1 “(i) trade and economic sanctions, in-
2 cluding an embargo;

3 “(ii) the freezing or blocking of assets
4 of designated persons; or

5 “(iii) other restrictions on exports, im-
6 ports, investment, payments, or other
7 transactions targeted at particular persons
8 or countries.

9 “(2) PERSONS SUBJECT TO OFAC-ADMINIS-
10 TERED SANCTION.—

11 “(A) IN GENERAL.—Beginning on the date
12 that is 180 days after the date of the enact-
13 ment of this subsection, the Board of Directors
14 of the Agency may not approve any transaction
15 that is subject to approval by the Board with
16 respect to the provision by the Agency of any
17 guarantee, insurance, or extension of credit, or
18 the participation by the Agency in any exten-
19 sion of credit, in connection with a financing in
20 which a person that is a borrower or controlling
21 sponsor, or a person that is owned or controlled
22 by the borrower or controlling sponsor, is sub-
23 ject to a sanction administered by the Office of
24 Foreign Assets Control of the Department of
25 the Treasury.

1 “(B) CONTROLLING SPONSOR DEFINED.—
2 In subparagraph (A), the term ‘controlling
3 sponsor’ means a person providing controlling
4 direct private equity investment (excluding in-
5 vestments made through publicly held invest-
6 ment funds, publicly held securities, public of-
7 ferings, or similar public market vehicles) in
8 connection with a financing.”.

9 **SEC. 13. PROMOTING RENEWABLE ENERGY.**

10 (a) OFFICE OF FINANCING FOR RENEWABLE EN-
11 ERGY, ENERGY EFFICIENCY AND ENERGY STORAGE EX-
12 PORTS.—Section 2(b)(1)(C) of the Export-Import Bank
13 Act of 1945 (12 U.S.C. 635(b)(1)(C)) is amended to read
14 as follows:

15 “(C) OFFICE OF FINANCING FOR RENEWABLE EN-
16 ERGY, ENERGY EFFICIENCY AND ENERGY STORAGE.—
17 The President of the Agency shall establish an office
18 whose functions shall be to promote the export of goods
19 and services to be used in the development, production,
20 and distribution of renewable energy resources, and energy
21 efficiency and energy storage technologies, and dissemi-
22 nate information concerning export opportunities and the
23 availability of Agency support for such activities, to in-
24 crease the total amount of loans, guarantees, and insur-
25 ance provided by the Agency to support exports related

1 to renewable energy, energy efficiency, and energy stor-
2 age.”.

3 (b) ENVIRONMENTAL POLICY AND PROCEDURES.—
4 Section 11(a) of such Act (12 U.S.C. 635i–5(a)) is amend-
5 ed—

6 (1) in paragraph (1)—

7 (A) in the 2nd sentence, by inserting “, in-
8 cluding to potentially impacted communities in
9 the country in which the activity will be carried
10 out, at least 60 days before the date of the
11 vote,” before “and supplemental”;

12 (B) by inserting after the 2nd sentence the
13 following: “The procedures shall include a re-
14 quirement for an analysis of the environmental
15 and social impacts, including worker impacts
16 and anticipated health impacts and costs, of the
17 proposed activity and of alternatives to the pro-
18 posed activity, including mitigation measures,
19 where appropriate.”; and

20 (C) in the 3rd sentence, by striking “The
21 preceding sentence” and inserting “This para-
22 graph”;

23 (2) by redesignating paragraph (2) as para-
24 graph (3) and inserting after paragraph (1) the fol-
25 lowing:

1 “(2) CONSULTATIONS WITH POTENTIALLY IM-
2 PACTED COMMUNITIES.—In any credit or common
3 terms agreements to which the Agency is a party re-
4 lating to a transaction described in paragraph (1),
5 the Agency shall include a provision to ensure that
6 robust consultations with potentially impacted com-
7 munities in the country in which the activity will be
8 carried out have been and will continue to be carried
9 out throughout the project cycle.”.

10 (c) SENSE OF THE CONGRESS REGARDING AGENCY
11 ACCOUNTABILITY.—It is the sense of the Congress that—

12 (1) the Board of Directors of the United States
13 Export Finance Agency (in this section referred to
14 as the “Agency”) should, after a public consultation
15 process, establish a formal, transparent, and inde-
16 pendent accountability mechanism to review, inves-
17 tigate, offer independent dispute resolution to re-
18 solve, and publicly report on allegations by affected
19 parties of any failure of the Agency to follow its own
20 policies and procedures with regard to the environ-
21 mental and social effects of projects, and on situa-
22 tions where the Agency is alleged to have failed in
23 ensuring the borrower is fulfilling its obligations in
24 financing agreements with respect to the policies and
25 procedures;

1 (2) the accountability mechanism should be able
2 to provide advice to management on policies, proce-
3 dures, guidelines, resources, and systems established
4 to ensure adequate review and monitoring of the en-
5 vironmental and social effects of projects;

6 (3) in carrying out its mandate, the confiden-
7 tiality of sensitive business information should be re-
8 spected, as appropriate, and, in consultation with
9 potentially affected communities, project sponsors,
10 Agency management, and other relevant parties, a
11 flexible process should be followed aimed primarily
12 at correcting project failures and achieving better re-
13 sults on the ground;

14 (4) the accountability mechanism should be
15 independent of the line operations of management,
16 and report its findings and recommendations directly
17 to the Board of Directors of the Agency and annu-
18 ally to the Congress;

19 (5) the annual report of the Agency should in-
20 clude a detailed accounting of the activities of the
21 accountability mechanism for the year covered by
22 the report and the remedial actions taken by the
23 Agency in response to the findings of the account-
24 ability mechanism;

1 (6) in coordination with the accountability
2 mechanism, the Agency and relevant parties should
3 engage in proactive outreach to communities af-
4 fected or potentially affected by Agency financing
5 and activities to provide information on the existence
6 and availability of the accountability mechanism;

7 (7) the President of the Agency should, subject
8 to the approval of the Board of Directors of the
9 Agency, and consistent with applicable law, through
10 an open and competitive process, including sollicita-
11 tion of input from relevant stakeholders, appoint a
12 director of the accountability mechanism, who would
13 be responsible for the day-to-day operations of the
14 mechanism, and a panel of not less than 3 experts,
15 including the director, who would also serve as chair
16 of the panel; and

17 (8) The accountability mechanism director and
18 members of the panel should not have been em-
19 ployed by the Agency within the 5 years preceding
20 their appointment, and should be ineligible from fu-
21 ture employment at the Agency.

22 **SEC. 14. REINSURANCE PROGRAM.**

23 Section 51008 of the Fixing America's Surface
24 Transportation Act (12 U.S.C. 635 note) is amended—

1 (1) in the section heading, by striking
2 **“PILOT”**;

3 (2) in subsection (a), by striking “pilot”;

4 (3) in subsection (b)(1), by striking
5 “\$1,000,000,000” and inserting “\$2,000,000,000”;
6 and

7 (4) by striking subsections (c) through (e) and
8 inserting the following:

9 **“(c) FACTORS FOR CONSIDERATION IN REINSUR-**
10 **ANCE POOLS.—**In implementing this section, the Agency
11 shall, with respect to a reinsurance pool, pursue appro-
12 priate objectives to reduce risk and costs to the Agency,
13 including by the following, to the extent practicable:

14 “(1) Ensuring a reasonable diversification of
15 risks.

16 “(2) Including larger exposures where the pos-
17 sibility of default raises overall portfolio risk for the
18 Agency.

19 “(3) Excluding transactions from the pool that
20 are covered by first-loss protection.

21 “(4) Excluding transactions from the pool that
22 are collateralized at a rate greater than standard
23 market practice.

24 “(5) Diversifying reinsurance pools by industry
25 and other appropriate factors.

1 “(6) Exploring different time periods of cov-
2 erage.

3 “(7) Exploring both excess of loss structures on
4 a per-borrower as well as an aggregate basis.

5 “(d) BIENNIAL REPORTS.—Not later than 1 year
6 after the date of the enactment of this subsection, and
7 every 2 years thereafter through 2029, the Agency shall
8 submit to the Committee on Financial Services of the
9 House of Representatives and the Committee on Banking,
10 Housing, and Urban Affairs of the Senate a written report
11 that contains an assessment of the use of the program
12 carried out under subsection (a) since the most recent re-
13 port under this subsection.

14 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
15 tion shall be construed to limit any authority of the Agen-
16 cy described in section 2(a)(1) of the Export-Import Bank
17 Act of 1945.”.

18 **SEC. 15. INFORMATION TECHNOLOGY SYSTEMS.**

19 Section 3(j) of the Export-Import Bank Act of 1945
20 (12 U.S.C. 635a(j)) is amended—

21 (1) in paragraph (1), by striking all that pre-
22 cedes subparagraph (A) and inserting the following:

23 “(1) IN GENERAL.—Subject to paragraphs (3)
24 and (4), the Agency may use an amount equal to

1 1.25 percent of the surplus of the Agency during fis-
2 cal years 2020 through 2029 to—”; and

3 (2) by striking paragraph (3) and inserting the
4 following:

5 “(3) LIMITATION.—The aggregate of the
6 amounts used in accordance with paragraph (1) for
7 fiscal years 2020 through 2029 shall not exceed
8 \$40,000,000.”.

9 **SEC. 16. ADMINISTRATIVELY DETERMINED PAY.**

10 Section 3 of the Export-Import Bank Act of 1945
11 (12 U.S.C. 635a), as amended by section 7(a) of this Act,
12 is amended by adding at the end the following:

13 “(o) COMPENSATION OF EMPLOYEES.—

14 “(1) RATES OF PAY.—Subject to paragraph
15 (2), the Board of Directors of the Agency, consistent
16 with standards established by the Director of the Of-
17 fice of Minority and Women Inclusion, may set and
18 adjust rates of basic pay for employees and new
19 hires of the Agency without regard to the provisions
20 of chapter 51 and subchapter III of chapter 53 of
21 title 5, United States Code, except that no employee
22 of the Agency may receive a rate of basic pay that
23 exceeds the rate for level III of the Executive Sched-
24 ule under section 5313 of such title.

1 “(2) LIMITATIONS.—The Board of Directors of
2 the Agency may not apply paragraph (1) to more
3 than 35 employees at any point in time. Nothing in
4 paragraph (1) may be construed to apply to any po-
5 sition of a confidential or policy-determining char-
6 acter that is excepted from the competitive service
7 under section 3302 of title 5, United States Code,
8 (pursuant to schedule C of subpart C of part 213 of
9 title 5 of the Code of Federal Regulations) or to any
10 position that would otherwise be subject to section
11 5311 or 5376 of title 5, United States Code.”.