



Insight

Ex-Im Bank: What Happens Now?

GORDON GRAY | JULY 20, 2015

What Happened?

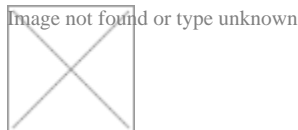
Congress did not renew Export-Import Bank's charter, causing it to lapse on July 1, 2015.

What Does This Mean?

Despite the gleeful celebration of some (see: Heritage Action's Press Release: "We did it!"), the lapse of the Export-Import Bank's charter does not terminate the bank's activities. In fact, the Bank is *required* by law to continue to exercise other functions even in the wake of a lapsed charter, specifically the servicing of loans or guarantees with maturities subsequent to the expiration of the charter and the issuance of debt with maturities subsequent to the charter's expiration.^[1]

Who Does Ex-Im Serve?

The Ex-Im Bank serves both small and large businesses alike. In 2014, Ex-Im made nearly 4,000 authorizations. 89 percent of those (3,347 in total) went to small businesses. These numbers are consistent with the Bank's role over the past 15 years.



What Happens in the Short Term?

This authority to continue servicing loans has been echoed by the Bank's general counsel, who stated although the Bank cannot authorize any new transactions, "All preexisting loans, guarantees, and insurance policies will continue in full force and effect. We will process and close all previously approved transactions, which will also continue in full force and effect according to their terms." ^[2]

What Happens in the Long Term?

Over the longer term the Bank's future is murkier, but its demise is far from a foregone conclusion. The Bank could live off of the funds it earns from its main activities. At present, the Bank has the authority to use up to \$106.3 million for administrative expenses, in addition to funding of \$5.8 million for its Office of Inspector General, and up to \$10 million in carryover authority until September 30, 2018.^[3] These funds principally derive from Bank's activities: such as interest, credit insurance premiums, and other fees charged for activities. The Bank has been making money for the government, and is projected to do so again in FY2016, which could

augur well for future appropriations acts to continue to apportion some of the Bank's collections to fund ongoing operations, even if the charter is not renewed.

What is “Orderly Liquidation”?

Less clear is a process of “orderly liquidation” contemplated in the statute addressing a lapse in the Bank's charter. The statute provides no guidance of the timing or necessity of such liquidation, nor, according to the Congressional Research Service, does existing case law or regulation.^[4] Indeed finding that some of the obligations of the Bank have maturities that run in excess of seven years, it remains possible that the Bank could continue even absent reauthorization into the next decade.^[5]

In Short?

Despite preening from some quarters, the Bank lives on and will continue to service existing export financing commitments, a significant amount of which assists U.S. small businesses.^[6]

^[1] 12 U.S. Code § 635f