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**United States Senate**  
COMMITTEE ON BANKING, HOUSING, AND  
URBAN AFFAIRS  
WASHINGTON, DC 20510-6075

March 9, 2022

The Honorable Reta Jo Lewis  
President and Chair  
Export-Import Bank of the United States  
811 Vermont Avenue, NW  
Washington, DC 20571

Dear Chair Lewis:

I write to raise concerns and request information about the Export-Import Bank of the United States' ("EXIM") Domestic Financing Program—a new proposal that would improperly expand the reach of the bank.

Last year, the Biden administration tasked EXIM with developing a program to purportedly create or expand manufacturing facilities and infrastructure projects in the United States.<sup>1</sup> In response, EXIM issued a vague notice in the Federal Register two days before Christmas about the potential parameters of this program, giving the public less than one month to provide initial feedback. Shortly thereafter and just 15 days following your confirmation by the Senate, you announced that EXIM's Board of Directors ("Board") would vote this spring on whether to adopt this new Domestic Financing Program.<sup>2</sup> Meanwhile, the bank has not published a comprehensive framework for this unprecedented program, nor has it subjected such a framework to a robust public notice-and-comment rulemaking process.<sup>3</sup>

Prior to your announcement, my staff received a briefing from EXIM on the proposal. I was troubled to learn that the new Domestic Financing Program would provide taxpayer support to domestic manufacturing facilities and infrastructure projects so long as there is an expectation that some arbitrary portion of goods produced will be exported. This requirement can even be satisfied by indirect exports. That is, an EXIM-financed manufacturer does not actually have to export anything, so long as its customers do. This is worse than mission creep. It subverts Congressional intent and strains EXIM's statutory mandate to such an extent to make it meaningless. There is no reason for EXIM to provide domestic financing. The United States has the largest and most highly developed market economy in the world; promising businesses have

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<sup>1</sup> The White House, *Building Resilient Supply Chains, Revitalizing American Manufacturing, and Fostering Broad-Based Growth, 100-Day Reviews under Executive Order 14017* (June 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/06/100-day-supply-chain-review-report.pdf>.

<sup>2</sup> Export-Import Bank of the United States, *Statement from Export-Import Bank of the United States President and Chair Reta Jo Lewis on the One Year Anniversary of President Biden's Supply Chain Executive Order* (Feb. 24, 2022), <https://www.exim.gov/news/statement-export-import-bank-united-states-president-and-chair-reta-jo-lewis-one-year>.

<sup>3</sup> Federal Register, *Potential Parameters of Export-Import Bank Financing for Domestic Projects* (Dec. 23, 2021), <https://www.regulations.gov/document/EIB-2021-0007-0001>.

unrivaled access to capital on competitive terms. Just like with all of EXIM's other programs—and perhaps more so—EXIM could only win domestic financing business if it finances bad deals that the private sector refuses to underwrite, or if it underprices the risk associated with those deals, putting taxpayers needlessly at risk.

Even if a Domestic Financing Program were within the scope of EXIM's statutory mandate—which it is not—it is clear that this proposal has not been well developed and would benefit from a robust public notice-and-comment rulemaking process. Moreover, it is critical that all stakeholders, especially the Senate Banking Committee, which has oversight responsibility over EXIM, be given a better understanding of this proposal prior to a Board vote on it. Accordingly, I request that you do not present this proposal for Board consideration without first publishing a comprehensive framework for a Domestic Financing Program and receiving public comments on it. I also request that you provide written responses to the following questions no later than the close of business on March 23, 2022:

1. EXIM's brief notice in the Federal Register explicitly states that this program would provide "financing with no direct export component."<sup>4</sup> Please explain how "financing with no direct export component" fits within EXIM's existing authority.
2. During EXIM's recent briefing to my staff, the bank's General Counsel indicated that EXIM's authority to establish a Domestic Financing Program flows from the statute that outlines the bank's powers and functions.<sup>5</sup> EXIM's General Counsel went so far as to claim that any project with any direct or indirect export component, no matter how small, could qualify for EXIM support. Do you agree with that characterization of EXIM's authority? Please answer yes or no. If yes, please explain if any limits exist on EXIM's authority to finance non-export based domestic manufacturing.
3. Given the significant impact this program may have on EXIM's current operations (for instance, EXIM may support financing of up to \$20 billion for a single project), can you explain why EXIM did not subject this program to a robust notice-and-comment rulemaking process?
4. If financing under this program will be contingent upon the number of jobs supported, how will EXIM ensure the projections provided by the borrower are accurate?
5. As EXIM requires for official export financing, will the Board also have to approve domestic transactions above a certain amount? If so, what is the amount?<sup>6</sup>

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<sup>4</sup> *Id.*

<sup>5</sup> 12 U.S.C. § 635(a).

<sup>6</sup> 12 U.S.C. § 635(a)(2)(A); *see also* EXIM's Individual Delegated Authority Resolution dated May 30, 2019 (the "IDA Resolution").

6. How will EXIM monitor ongoing compliance of these transactions to ensure the borrower meets the export requirement? How can EXIM ensure the accuracy of the borrower's post-authorization reporting requirements?
7. What are the specific penalties if the borrower fails to comply with the export requirement?
8. EXIM's recommended modifications to the proposal, which were shared with my staff, include reporting to the Board detailed employment information about projects, such as wages and union membership. If this information is not required to finance projects, how will EXIM use this data?
9. Do you expect EXIM to require additional resources to operate this program? If so, please provide an estimate.
10. Has EXIM discussed internally or with the White House the possibility of seeking funding from Congress for this program?
11. What steps will EXIM take to ensure that individual domestic transactions will not be influenced by political pressures?
12. Please provide the data EXIM has collected to determine there is a lack of domestic financing available that warrants this program.
13. List all stakeholders outside of EXIM with whom the bank has discussed this program on or after December 23, 2021.

If you have any questions, please contact Nicole Christus on my staff at (202) 224-7391. Thank you for your prompt attention to this matter.

Sincerely,



Pat Toomey  
Ranking Member

cc: The Honorable Sherrod Brown, Chairman, Senate Committee on Banking, Housing, and Urban affairs