

TITLE 12 - BANKS AND BANKING
CHAPTER 6A - EXPORT-IMPORT BANK OF THE UNITED STATES
SUBCHAPTER I - GENERAL PROVISIONS

§ 635a–3. Export-Import Bank financing to match foreign financing

(a) Noncompetitive financing; inquiry by Secretary; notification of foreign country and prospective parties to transaction

(1) Upon receipt of information that foreign sales to the United States are being offered involving foreign official export credits which exceed limits under existing standstills, minutes, or practices to which the United States and other major exporting countries have agreed, irrespective of whether these credits are being offered by governments which are signatories to such standstills, minutes, or practices, the Secretary of the Treasury shall immediately conduct an inquiry to determine whether “noncompetitive financing” is being offered. The inquiry, and where appropriate, the determination and authorization to the Export-Import Bank of the United States referred to in this section shall be completed and made within 60 days of the receipt of such information.

(2) If the Secretary determines that such foreign “noncompetitive” financing is being offered, the Secretary shall request the immediate withdrawal of such financing by the foreign official export credit agency involved.

(3) If the offer is not withdrawn or if there is no immediate response to the withdrawal request, the Secretary of the Treasury shall notify the country offering such financing and all parties to the proposed transaction that the Eximbank may be authorized to provide competing United States sellers with financing to match that available through the foreign official export financing entity.

(b) Issuance of authorization to Bank to provide guarantees, insurance, and credits to competing United States sellers

The Secretary of the Treasury shall issue such authorization to the Bank to provide guarantees, insurance, and credits to competing United States sellers, unless the Secretary determines that—

(1) the availability of foreign official noncompetitive financing is not likely to be a significant factor in the sale; or

(2) the foreign noncompetitive financing has been withdrawn.

(c) Provision of financing by Bank pursuant to authorization

Upon receipt of authorization by the Secretary of the Treasury, the Export-Import Bank may provide financing to match that offered by the foreign official export credit entity: Provided, however, That loans, guarantees and insurance provided under this authority shall conform to all provisions of the Export-Import Bank Act of 1945, as amended [12 U.S.C. 635 et seq.].

(Pub. L. 95–630, title XIX, § 1912, Nov. 10, 1978, 92 Stat. 3726; Pub. L. 98–181, title VI, §§ 631, 633, Nov. 30, 1983, 97 Stat. 1262, 1263; Pub. L. 99–472, § 15, Oct. 15, 1986, 100 Stat. 1204.)

References in Text

The Export-Import Bank Act of 1945, as amended, referred to in subsec. (c), is act July 31, 1945, ch. 341, 59 Stat. 526, as amended, which is classified generally to subchapter 1 (§ 635 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 635 of this title and Tables.

Codification

Section was enacted as part of the Export-Import Bank Act Amendments of 1978, and not as part of the Export-Import Bank Act of 1945 which comprises this subchapter.

Amendments

1986—Subsec. (a)(1). Pub. L. 99-472, § 15(b), which directed the insertion of “irrespective of whether these credits are being offered by governments which are signatories to such standstills, minutes, or practices,” after “major export countries have agreed,” was executed by inserting that phrase after “major exporting countries have agreed,” as the probable intent of Congress.

Subsec. (b). Pub. L. 99-472, § 15(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The Secretary of the Treasury shall only issue such authorization to the Bank to provide guarantees, insurance and credits to competing United States sellers, if the Secretary determines that:

“(1) the availability of foreign official noncompetitive financing is likely to be a significant factor in the sale, and

“(2) the foreign noncompetitive financing has not been withdrawn on the date the Bank is authorized to provide competitive financing.”

1983—Subsec. (a)(1). Pub. L. 98-181, § 631(1), inserted provision that the inquiry, and where appropriate, the determination and authorization to the Export-Import Bank of the United States referred to in this section shall be completed and made within 60 days of the receipt of such information.

Subsec. (a)(2). Pub. L. 98-181, § 633(b), substituted “the Secretary shall request” for “he shall request”.

Subsec. (b). Pub. L. 98-181, § 633(a), substituted “if the Secretary determines that” for “if he determines that” in provisions preceding par. (1).

Subsec. (b)(1). Pub. L. 98-181, § 631(2), substituted “significant factor” for “determining factor”.

Effective Date

Section effective Nov. 10, 1978, see section 1917 of Pub. L. 95-630, set out as an Effective Date of 1978 Amendment note under section 635 of this title.