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EXIM Bank Relief Measures in Response to COVID-19

In response to the economic slowdown caused by the COVID-19 pandemic, the Export–Import Bank of the United States (“EXIM Bank”), the official export credit agency of the United States, has adopted four measures to help U.S. exporters and their suppliers and overseas buyers of U.S. goods and services get access to cash to support their transactions.¹

The EXIM Bank measures should be of particular interest to small- and medium-sized U.S. businesses that export goods or services (especially U.S. exporters of long lead-time manufactured goods), as well as their suppliers and their foreign customers who are encountering difficulty finding commercial sources of financing for their purchases.

The mission of EXIM Bank is to supplement commercial financing in support of the exportation of U.S. goods and services. EXIM Bank products include loans, loan guarantees, and credit insurance. Under normal economic conditions, these products can provide a valuable resource in helping U.S. companies to sell their products overseas. By way of example, consider a small U.S. company bidding to supply an infrastructure project in a developing country. Although the U.S. supplier’s goods and services may be well suited to the endeavor, the project manager in the developing country may lack access to the commercial financing necessary to procure those goods and services. This is where EXIM Bank comes in. EXIM Bank may offer loans to the would-be customer, or it may offer loan guarantees, enabling the customer to access commercial financing on terms that are relatively favorable due to backing by an institution with a strong credit rating. Under present conditions, with global demand plummeting, liquidity low, and access to credit tight, EXIM Bank support may be even more essential.

In response to the COVID-19 crisis, on March 25, EXIM Bank established new programs and expanded existing programs as follows:

1. Established a temporary Bridge Finance Program to help foreign customers of U.S. exporters get short-term financing for purchases of U.S. goods and services.
2. Temporarily expanded the Pre-Export Payment Policy into a new Pre-Delivery/Pre-Export Financing Program to help foreign buyers finance progress payments owed to U.S. manufacturers during the manufacturing process.

3. Broadened the Working Capital Guarantee Program by expanding the categories of assets that exporters can include in their baseline for purposes of determining borrowing level eligibility.
4. Increased access to Supply Chain Financing Guarantee Program by relaxing two conditions on eligibility.

In addition to these measures, EXIM Bank has temporarily modified the terms of its credit insurance products (*i.e.*, products that insure exporters' receivables against non-payment risk). In particular, EXIM Bank has announced that exporters' customers will have a 90-day extension of payment deadlines on debts that come due between February 1, 2020 and June 1, 2020. Additionally, exporters will have a 90-day extension of applicable deadlines for filing claims with EXIM Bank related to non-payment of invoices that come due during that period.

I. Bridge Financing Program

EXIM Bank's new, temporary Bridge Financing Program is intended to address scarce credit in the wake of the COVID-19 pandemic.

The Bridge Financing Program is available to foreign borrowers for an initial period of one year (though that period may be extended). Support under the Program may come in the form of either loan guarantees enabling borrowers to obtain credit from market sources on more favorable terms than otherwise would be available, or direct loans from EXIM Bank itself. Borrowers will have an option to extend support from EXIM Bank at specified points over the course of the applicable loan repayment term.

The Bridge Financing Program took effect on March 25, 2020, subject to the final determination of policies and procedures, and will remain in place through April 30, 2021.

II. Pre-Delivery/Pre-Export Financing Program

Under its Pre-Export Payment Policy, EXIM Bank finances progress payments due to the manufacturer of a good before the good is exported to its overseas purchaser. This policy is helpful to U.S. manufacturers of long lead-time goods. But until the present crisis,

the policy applied only if EXIM Bank was providing medium- or long-term financing to the foreign buyer.

In response to the COVID-19 pandemic, EXIM Bank expanded its Pre-Export Payment Policy by creating a Pre-Delivery/Pre-Export Financing Program. This program expansion is meant to address the anticipated shortage in commercial financing for pre-export payments. Under the expansion, financing for pre-export payments will be available regardless of whether EXIM Bank is providing medium- or long-term financing to a foreign buyer.

The program expansion will support pre-delivery/pre-export payments during the manufacture of capital goods, and it will be available to foreign borrowers for an initial period of one year.

Support under the program expansion will be available in the form of direct loans or loan guarantees. EXIM Bank will assume the credit risk of the foreign buyer. Depending on the facts and circumstances of each individual transaction, EXIM Bank might also provide long-term financing for purchase of the completed capital good, and the EXIM Bank support might be secured or supported by other credit enhancements.

The Pre-Delivery/Pre-Export Financing Program took effect on March 25, 2020, subject to the final determination of policies and procedures, and will remain in place through April 30, 2021.

III. Working Capital Guarantee Program Expansion

EXIM Bank's Working Capital Guarantee Program helps finance the export activities of small- and medium-sized U.S. businesses. The Program guarantees 90% of the principal and accrued interest on a working capital loan facility provided by a commercial lender, thus enabling the borrower to leverage EXIM Bank's creditworthiness. The maximum amount of a loan guaranteed by the Program is based on the borrower's export-related inventory and accounts receivable.

EXIM Bank has made two changes to the Working Capital Guarantee Program to make it more accessible to exporters during the COVID-19 crisis:

- It has temporarily expanded the definition of eligible inventory for purposes of calculating maximum loan amount to include all inventory that **could** be exported, not just inventory expressly allocated for export;² and
- It has expedited the implementation of a reduced fee structure.

These measures took effect on March 25, 2020, subject to the final determination of policies and procedures, and will remain in place through April 30, 2021.

EXIM Bank also considered increasing its guarantee coverage from 90% to 100% of the amount of a loan, but it has not yet made a final determination whether it will do so. It will continue to consider this proposal along with a potential fee increase to cover the additional risk associated with increased coverage.

IV. Supply Chain Financing Guarantee Program

On March 25, 2020, EXIM Bank also announced that it is temporarily expanding its Supply Chain Financing Guarantee Program, which combines a traditional supply chain financing program with EXIM Bank's guarantee to incentivize banks to underwrite weaker credits.

Supply chain financing enables a manufacturer's supplier to sell its accounts receivable (*i.e.*, amounts owed to the supplier by the manufacturer) to a lender to obtain early payment of invoices at a discounted rate. The debtor under the receivable – that is, the manufacturer/buyer from the supplier – then becomes directly liable to the lender that purchased the receivable. EXIM Bank facilitates this relationship by providing guarantees to lenders. The discount on the face amount of a receivable is typically linked to the creditworthiness of the manufacturer. Supply chain financing tends to be attractive to a supplier that would otherwise find liquidity through a working capital loan based on its own creditworthiness (which may be lower than that of the supplier's manufacturer customer), or through factoring firms or other sources of credit that typically charge relatively high interest rates.

EXIM Bank's Supply Chain Financing Guarantee Program as in place prior to the COVID-19 pandemic covers 90% of the liability to the lender under a receivable. However, the program has been used infrequently because of restrictive conditions, including an expectation that 50% of a manufacturer's suppliers will be small businesses and that 50% of the content associated with accounts receivable supported by the program will be export content.

EXIM Bank now has made two changes to make the Supply Chain Financing Guarantee Program more accessible to U.S. suppliers and exporters. In particular, EXIM Bank has:

- temporarily eliminated the target that 50% of the suppliers in the exporter's supply chain be small businesses, and
- temporarily allowed U.S. exporters to be eligible even with respect to sales directly to foreign affiliates (as opposed to requiring that eligible sales be only to unaffiliated foreign buyers).³

These measures took effect on March 25, 2020, subject to the final determination of policies and procedures, and will remain in place through April 30, 2021.

As with guarantees provided through the Working Capital Guarantee Program, EXIM Bank also considered increasing its guarantee coverage in the Supply Chain Financing Program from 90% to 100%, but it has not yet made a final determination whether it will do so. EXIM Bank will continue to consider this proposal along with a potential fee increase.

¹ EXIM Bank's COVID-19 response page is accessible here: <https://www.exim.gov/coronavirus-response>

² EXIM Bank requires the borrower/exporter to make a representation on a monthly borrowing base certificate provided to the lender that the inventory the borrower/exporter is borrowing against could be exported, which will also be verified by periodic field audits.

³ Prior to this change, EXIM Bank did not support transactions where U.S. exporters sold directly to their foreign affiliates who then sold to unaffiliated foreign buyers, because EXIM Bank considered these transactions to be intercompany sales.

If you have questions about your eligibility for any of the EXIM Bank programs summarized in this International Trade Current, or would like more information about Weil's International Arbitration & Trade practice group, please speak to your regular contact at Weil, or to:

Ted Posner (DC)	View Bio	ted.posner@weil.com	+1 202 682 7064
Tim Welch (DC)	View Bio	timothy.welch@weil.com	+1 202 682 7132
Nate Cunningham (DC)	View Bio	nathan.cunningham@weil.com	+1 202 682 7156
Greg Chafuen (DC)	View Bio	greg.chafuen@weil.com	+1 202 682 7006
Glenda Bleiberg (DC)	View Bio	glenda.bleiberg@weil.com	+1 202 682 7016

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