



Office of Inspector General  
Export-Import Bank *of the* United States

**SEMIANNUAL REPORT TO CONGRESS  
APRIL 1, 2011 TO SEPTEMBER 30, 2011**





**EXPORT-IMPORT BANK**  
*of the UNITED STATES*

OSVALDO L. GRATACÓS  
INSPECTOR GENERAL

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**MESSAGE FROM THE INSPECTOR GENERAL**

The end of this semiannual reporting period constitutes the fourth anniversary of the Export-Import Bank (Ex-Im Bank) Office of Inspector General (OIG). Although the OIG was statutorily created in 2002, an Inspector General (IG) was not officially sworn in until August 2007. As Ex-Im Bank concludes another fiscal year of record growth with over \$32 billion in authorizations, the OIG has also seen record growth of its own: from a staff of 1 in August 2007 to a staff of 13 and a financial impact of over \$243 million. During this reporting period alone, the efforts of our Office of Investigations resulted in six criminal judgments, \$93 million in criminal restitution and special assessments, and \$14 million in cost savings and repayments.

With Ex-Im Bank's record growth, however, comes increased risks and challenges. Starting with this Semiannual Report to Congress, we begin listing major management challenges facing Ex-Im Bank. On May 24 and June 30, 2011, I had the privilege of testifying before Congress on Ex-Im Bank's reauthorization.<sup>1</sup> I focused my remarks on these management challenges, two of which I'll highlight here.

The first management challenge facing Ex-Im Bank is its overstretched human capital. Ex-Im Bank has more than doubled its authorizations in four years, but has not been able to increase its staff to account for such growth. Although productivity has increased, the OIG believes that such human capital limitations may contribute to diminished oversight and due diligence over an expanding portfolio resulting in high default rates down the road. While Ex-Im Bank is constrained by Congressional funding, it should nevertheless review and adjust its staffing levels and in-house expertise to reflect the needs of record growth.

The second management challenge is Ex-Im Bank's Information Technology (IT) infrastructure. The current, decentralized IT infrastructure is not up to the task of providing timely service for Ex-Im Bank's internal and external customers as well as effectively managing, tracking, and assessing its programs, products, and ever increasing portfolio. Significant asset growth over the past five years as well as changes in the composition of its product portfolio make it imperative that Ex-Im Bank invest in a comprehensive, end-to-end IT infrastructure. During this reporting period, we commenced an audit of Ex-Im Bank's IT infrastructure and we expect to issue the audit results and recommendations to management in November 2011 on this critical issue.

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<sup>1</sup> Testimony before the House Committee on Financial Services Subcommittee on International Monetary Policy and Trade is available at <http://www.exim.gov/oig/documents/CongressionalTestimonyMay202011.pdf>. Testimony before the Senate Committee on Banking, Housing, & Urban Affairs Subcommittee on Security & International Trade & Finance is available at <http://www.exim.gov/oig/documents/Statement%20110630%20Web.pdf>.

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Ex-Im Bank's record growth also presents challenges to the OIG. Because we oversee a growing \$80 billion portfolio with limited resources, we are continually challenged to undertake critical audits, evaluations, and inspections in a timely manner and increase our investigative resources to tackle complex, international transactions. Nevertheless, our excellent staff and positive working relationships with Ex-Im Bank management and other agencies, such as the General Accounting Office (GAO), the Department of Justice, and the Department of Homeland Security Immigration and Customs Enforcement, have allowed us to make significant progress. We are presently working with multilateral financial institutions to identify ways to share information and resources in our fight to detect, prevent, and prosecute fraud. We continue to explore ways of collaborating to accomplish our mission given our limited resources.

Ex-Im Bank's record growth over the past three years reflects its crucial role in creating and maintaining jobs in the U.S. by facilitating export financing. The OIG will continue to provide objective and independent recommendations to Ex-Im Bank on ways to improve its programs and operations as well as detect, prevent, and prosecute fraud. Our ultimate goal is to help Ex-Im Bank contribute to a stronger U.S. economy at the least possible cost to the U.S. taxpayer.



Osvaldo L. Gratacós

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# HIGHLIGHTS OF THIS SEMIANNUAL REPORT

The *Inspector General (IG)* testified before House and Senate oversight committees on Ex-Im Bank's Charter reauthorization. The IG's testimony focused on the OIG's operations and the challenges facing Ex-Im Bank as it experiences unprecedented growth.

The *Office of Investigations* capped the reporting period with several accomplishments toward meeting mission objectives of investigating fraud impacting Ex-Im Bank, including:

- six criminal judgments resulting in 245 months imprisonment, 216 months probation, and \$92,985,790 in criminal restitution and special assessments
- seventeen administrative actions stemming from referrals of active investigative information resulting in \$14,308,923 in cost savings and repayments to Ex-Im Bank, two voluntary exclusions, 120 months of debarment and 36 months of suspension
- six criminal informations and indictments against subjects of ongoing investigations
- nine plea agreements entered in court by subjects pursuant to ongoing investigative matters
- forty pieces of investigative information referred to Ex-Im Bank Office of General Counsel concerning potential fraud and funds at risk to support enhanced due diligence efforts in approving, processing, and monitoring export credit loan guarantees and insurance policies

The *Office of Audits* completed one audit during the reporting period on the Working Capital Guarantee (WCG) Delegated Authority (DA) Program. Ex-Im Bank's working capital financing enables U.S. exporters to obtain loans that facilitate the export of goods or services. These working capital loans, made by commercial lenders and backed by Ex-Im Bank's guarantee, provide exporters with the liquidity to accept new business, grow international sales, and compete more effectively in the international marketplace. Because 80 percent of all working capital guarantees are committed under DA, we reviewed the program as a high-risk area of concern.

The Working Capital Finance Division's (WCFD) major priority is the effective management and monitoring of the use of the WCG DA Program. The audit found WCFD generally complied with its policies and procedures to perform an examination of WCG DA lenders and to notify lenders of exceptions identified during examination. We noted, however, that improvements are needed to strengthen follow-up procedures and controls and to maintain DA data.

The *Office of Inspections* issued a review on Ex-Im Bank's Nigerian Banking Facility (NBF). The consolidated facility expedites the processing of short, medium, and long-term Ex-Im Bank financing for the purchase of U.S. goods and services by Nigerian buyers. Due to corruption allegations against managers of two NBF participating banks, the OIG conducted a review to determine whether potential exposure to fraud existed, policies and procedures to establish credit facilities were in place and properly implemented, and requirements were in place to require participating banks to report any corruption investigations to Ex-Im Bank.

The review found that transactions conducted by the two investigated banks and underwritten by Ex-Im Bank under the NBF did not demonstrate any indicia of fraud. However, we found that Ex-Im Bank lacked policies and procedures when it established the Special Delegation Authority (SDA). In addition, the NBF and participating banks were not required to provide certifications or representations to Ex-Im Bank of compliance with U.S. or Nigerian laws including anti-corruption certifications or statements. We made three suggestions to Ex-Im Bank management related to the development of policies and procedures to establish an SDA and credit facilities and the creation of an anti-corruption hotline.

Finally, we reviewed proposed legislation to re-authorize Ex-Im Bank operations through 2015 and began identifying major management challenges facing Ex-Im Bank.

## **OIG Management Initiatives**

During this reporting period, the OIG made significant progress on various initiatives related to its investigations program. On June 10, 2011, the Attorney General granted the OIG authority to exercise law enforcement powers in accordance and compliance with the terms established by the Inspector General Act of 1978 (IG Act), as amended, and the Attorney General Guidelines for Offices of Inspector General with Statutory Law Enforcement Authority. Under section 6(e)(3) of the IG Act (as amended by the Homeland Security Act of 2002), several Offices of Inspectors General were exempt from the requirement of an initial determination of eligibility for law enforcement powers by the Attorney General. As an IG for Ex-Im Bank had not been appointed at that time, the OIG was not exempt and required an initial determination of eligibility from the Attorney General. Previous to the granting of this

authority, the OIG derived its law enforcement authority from a Special Deputation from the U.S. Marshals Service.

In addition, since the majority of OIG investigations are focused on international transactions, the OIG is seeking to partner with international finance organizations to exchange ideas and information on how to effectively work together in preventing and investigating fraud. During this reporting period, the IG met with senior management of the following entities:

- the World Bank Integrity Vice Presidency responsible for investigating allegations of fraud, collusion, and corruption in World Bank projects;
- the World Bank Inspection Panel, which provides a forum for people who believe they may be adversely affected by Bank-financed operations and determines whether the Bank is complying with its own policies and procedures;
- the International Monetary Fund Independent Evaluation Office, which conducts independent and objective evaluations of Fund policies and activities; and
- the Inter-American Development Bank (IDB) Office of Institutional Integrity responsible for investigating allegations of, and taking efforts to prevent, fraud and corruption in IDB Group-financed activities.

The OIG will continue to work with these entities to find ways to collaborate in identifying and preventing fraud in Ex-Im Bank transactions.

## Collaboration with Government Accountability Office

As part of the OIG's ongoing collaboration with the Government Accountability Office (GAO), senior management of both agencies met with Ex-Im Bank management to discuss recommended improvements to economic impact procedures. In September 2007, GAO issued a report, *Export-Import Bank: Improvements Needed in Assessment of Economic Impact* (GAO-07-1071) and in September 2010, the OIG issued a report, *Evaluation Report Relating to Economic Impact Procedures* (OIG-EV-10-03).<sup>1</sup> Both reports identified ways in which economic impact procedures can be revised to increase transparency, make the process more

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<sup>1</sup> The GAO report, *Export-Import Bank: Improvements Needed in Assessment of Economic Impact* (GAO-07-1071) was published on September 12, 2007 and is available at <http://www.gao.gov/new.items/d071071.pdf>. The OIG report, *Evaluation Report Relating to Economic Impact Procedures* (OIG-EV-10-03) was published on September 17, 2010 and is available at [http://www.exim.gov/OIG/documents/EIB\\_Report\\_Final\\_Complete\\_Web.pdf](http://www.exim.gov/OIG/documents/EIB_Report_Final_Complete_Web.pdf).

manageable, and address the accuracy of the methodology. The GAO report also explicitly addressed steps to better implement the intent of Congress.

Ex-Im Bank indicated that they have established a time frame for the review of its economic impact procedures and they expect to complete the review by the end of 2011. The review will include an assessment of Ex-Im Bank's experience since 2001, when the last wholesale review was conducted. The Ex-Im Bank review began in July 2011.

## **Personnel Update**

Alberto Rivera-Fournier joined Ex-Im Bank OIG in July 2011 as Counsel to the IG. In this capacity, he is responsible for providing administrative, management, and professional legal counsel and advice to the IG, senior managers, and staff on a wide range of complex legal, administrative, audit, and investigative issues. Before his appointment at Ex-Im Bank OIG, he was Counsel to the IG at the Government Printing Office. He has also served as an attorney with the Federal Trade Commission, the U.S. Office of Special Counsel, and the Puerto Rico Federal Affairs Administration. Mr. Rivera-Fournier is a graduate of The George Washington University Law School and Wesleyan University.

## **Council of the Inspectors General on Integrity and Efficiency**

The OIG is participating in the Professional Development Committee of the Council of Inspectors General on Integrity and Efficiency (CIGIE). The Professional Development Committee provides educational opportunities for members of the IG community, supports the development of competent personnel, provides opportunities to improve training methods and the development of OIG staff, and establishes training to meet continuing education requirements.

In addition, Senior Inspector Mark Thorum is participating in the CIGIE Inspection and Evaluation Committee, which, among other things, leads the development of protocols for reviewing management issues that cut across departments and agencies, promotes the use of advanced program evaluation techniques, and fosters awareness of evaluation and inspection practice in OIGs.

## Review of Legislation and Regulations

Pursuant to section 4(a)(2) of the IG Act, during this reporting period, we reviewed proposed legislation to reauthorize Ex-Im Bank. The bills, S. 1547 and H.R. 2072, Securing American Jobs Through Exports Act of 2011, would reauthorize Ex-Im Bank operations through 2015. We limited our review to the impact of such legislation on the economy and efficiency of Ex-Im Bank's programs and operations and the prevention and detection of fraud and abuse. In this vein, we believe that both pieces of legislation could have a significant impact on Ex-Im Bank by requiring various reviews and reports on its operations. In particular, the following sections of S. 1547 would require Ex-Im Bank to:

- issue a 5-year strategic plan, including a comprehensive mission statement and general outcome-oriented goals and objectives, with clearly defined milestones (Section 10)
- review its IT infrastructure and report to Congress on how it will modernize and maintain technology infrastructure (Section 11)
- conduct an analysis of any barriers to reaching the Congressional target for renewable energy financing (Section 13)
- conduct an annual survey of exporters, financial institutions, and brokers regarding Ex-Im Bank's customer service during the application and approval process and compare the processing of applications to that of other Export Credit Agencies (ECAs)

In addition, section 12 of S. 1547 would require GAO to conduct a study on the financial position of Ex-Im Bank and the risks it poses for American taxpayers and evaluate, among other things, the effectiveness of its risk management and the adequacy of its loss reserves.

The IG raised the majority of these issues in testimony before the House Committee on Financial Services Subcommittee on International Monetary Policy and Trade on May 24, 2011 and before the Senate Committee on Banking, Housing, and Urban Affairs Subcommittee on Security and International Trade and Finance on June 30, 2011. In addition, the OIG raised these same issues as major management challenges for Ex-Im Bank in this semiannual report or listed them in its current audit or inspection plans for review.

As discussed in the Management Challenges section below, we have urged management to engage in strategic and performance planning to chart a clear course for Ex-Im Bank and determine the effectiveness of its performance.<sup>2</sup> In testimony before Congress, the IG

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<sup>2</sup> Under the GPRA Modernization Act of 2010, Ex-Im Bank is required to develop a strategic plan, an annual performance plan, and an annual performance report.

expressed his view of Ex-Im Bank's ineffective and inefficient IT platform. We are currently working with our contractor, BDO, on an audit of Ex-Im Bank's IT infrastructure. Our audit objective is to provide management with findings and recommendations to improve IT management and provide timely service, effectively manage and track its programs, measure progress, identify transaction patterns, and increase productivity. We expect to issue the audit's findings and recommendations during the upcoming reporting period.

We have also listed Ex-Im Bank's risk management and its efforts in reaching its renewable energy mandate as major management challenges. We expect to engage in a review of Ex-Im Bank's risk management during the next reporting period.

Finally, we have listed Ex-Im Bank's customer service as a major management challenge. During this reporting period, the OIG worked with Ex-Im Bank to design a customer survey to seek feedback of its customer service and areas of operational efficiency. We expect to report the survey results during our next reporting period.

Regarding H.R. 2072, we believe that sections 6 and 7, requiring GAO to conduct a study of Ex-Im Bank's method for calculating the effects of its financing on job creation and maintenance and biennial audits of Ex-Im Bank transactions, could have a significant impact on the economy and efficiency of its operations. A review of Ex-Im Bank's method to calculate job creation is important because its main financing objective is to "contribute to maintaining or increasing employment of United States workers." An accurate methodology is crucial to determining the effectiveness of Ex-Im Bank's financing on job creation. Although such a review has been in the OIG's work plan, due to limited resources, we have been unable to commence work.

In addition, biennial audits of a representative sample of Ex-Im Bank transactions to determine compliance with underwriting, due diligence, and content guidelines are important to ensure that financing is being used for its intended purpose in accordance with applicable laws, rules, and regulations. Due to limited resources, we have limited our review to the Medium-Term program. We would note, however, that while such audits are important, we also have plans to review whether Ex-Im Bank has credit underwriting and due diligence policies and rules sufficient to identify and prevent fraudulent transactions.

Finally, both S. 1547 and H.R. 2072 address Ex-Im Bank's domestic content policy. While S. 1547 only requires Ex-Im Bank to review, examine, and evaluate the effectiveness of its domestic content policy, H.R. 2072 requires the establishment of "clear and comprehensive guidelines" on domestic content using a variety of considerations. Requiring Ex-Im Bank to develop comprehensive and clear guidance stating domestic content requirements provides Ex-Im Bank users with a clear understanding of what goods and services qualify for guarantees and insurance coverage and the level of financing. This would allow for more transparency and openness in conducting business with Ex-Im Bank. This guidance should be developed

by determining the level of domestic content coverage provided by other ECAs, input from Ex-Im Bank participants (through Federal Register notices for public comments), and include clear internal policies and procedures for proper implementation by Ex-Im Bank staff.

Of concern, however, is H.R. 2072's requirement under section 5 that the IG conduct a comprehensive evaluation of the impact on exporters and jobs of new or modified domestic content guidelines and recommend how the guidelines could be modified to better facilitate exports. We strongly believe that the scope of this evaluation falls outside the statutory role of the IG of promoting economy and efficiency and detecting and preventing fraud, waste, and abuse in Ex-Im Bank's programs and operations. This requirement would require the IG to, in essence, recommend an appropriate policy on domestic content. We believe such determinations are the prerogative of Congress or Ex-Im Bank. Moreover, given our limited resources, the OIG is not structured or sufficiently funded to produce such a report.

## **Ex-Im Bank Management Challenges**

Beginning in February 2012, under the GPRA Modernization Act of 2010, Ex-Im Bank must, among other requirements, prepare an agency performance plan to establish performance goals and indicators, describe how the goals will be achieved and measured, and describe major management challenges the agency faces along with planned actions to address such challenges. The law defines "major management challenges" as "programs or management functions . . . that have greater vulnerability to waste, fraud, abuse, and mismanagement (such as issues identified by an Inspector General) where failure to perform well could seriously affect the ability of an agency to achieve its mission or goals."

To help Ex-Im Bank prepare the agency performance plan, the OIG has started identifying major management challenges facing Ex-Im Bank. The IG, in testimony to Congress during this reporting period, has discussed the majority of these challenges. We believe that addressing these challenges would provide Ex-Im Bank with a more efficient capability to meet its mission of creating and maintain jobs in the U.S. through export financing. We will review and update these challenges each semiannual reporting period.

**Human Capital** The OIG has noted Ex-Im Bank's low number of underwriters or loan officers relative to the increasing size of its total asset exposure. Over the past five years, Ex-Im Bank has witnessed significant asset growth with total exposure growing to \$78 billion as of FY 2010, with more than \$32 billion in authorizations in FY 2011 alone. Ex-Im Bank has achieved this increase with basically the same staffing level for the past decade. This increase in workload undertaken by the same level of staffing may contribute to diminished customer service, oversight, due diligence, and resulting high default rates. To better serve its customers and provide effective underwriting and oversight, Ex-Im Bank should, within

funding constraints, review and adjust its staffing levels and requisite in-house expertise to reflect the record growth in authorizations and asset portfolio management.

**IT Management** Ex-Im Bank uses an ineffective, inefficient, and fragmented IT platform and infrastructure composed of several systems and databases. These systems and databases do not effectively and accurately interface with each other - compromising data integrity, producing duplicative information, and creating unreliable files. Further, these systems make data mining burdensome and time consuming. This ineffective IT platform compromises the ability of Ex-Im Bank to provide timely service, effectively manage and track its programs, measure progress, identify transaction patterns, and increase productivity. Among the IT issues facing Ex-Im Bank:

- Lack of an end-to-end IT system allowing for seamless management of applications and files, creating a workflow of information within and between different components of Ex-Im Bank, and permitting staff to work on the same files at the same time from the same platform.
- Lack of a centralized and comprehensive participant database that would allow Ex-Im Bank to capture and track all the participants (lenders, buyers, exporters, suppliers, brokers, agents, and others) involved in different transactions at any given moment in time. This weakness prevents Ex-Im Bank and our office from conducting effective forensic analysis to identify possible patterns in transactions.
- Because the IT platforms do not fully meet business and operational needs, Ex-Im Bank divisions and components have created data sub-systems to address the specific needs of that division or component. Some of these sub-systems require manual input of data and do not interface with Ex-Im Bank's main IT infrastructure creating additional data repositories.

The OIG is working with an outside contractor, BDO, to audit the IT function at Ex-Im Bank. We expect to issue the results of this audit during the next reporting period with findings and recommendations to improve IT management.

**Strategic and Performance Planning** Although Ex-Im Bank issued a five-year strategic plan in 2010,<sup>3</sup> it has not developed comprehensive annual performance plans in accordance with the Government and Performance Act of 1993 and Office of Management and Budget guidance.<sup>4</sup> An effective strategic plan describes goals the agency aims to achieve,

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3 Ex-Im Bank's strategic plan can be found at [http://exim.gov/pubs\\_center/ExImBankStrategicPlan2010\\_15.pdf](http://exim.gov/pubs_center/ExImBankStrategicPlan2010_15.pdf)

4 In our last semiannual report, we noted that, on December 2, 2010, Ex-Im Bank OIG issued a memorandum to Ex-Im Bank management requesting clarification on the application of Government Performance and Results Act of 1993 and the Report Consolidations Act of 2000 (RCA), which would allow Ex-Im Bank to consolidate any statutorily required reports into an annual Performance and Accountability Report. On March 16, 2011, Ex-Im Bank's General Counsel replied that commencing in FY 2012, Ex-Im Bank would begin filing an Annual Performance Plan in accordance with the Government Performance and Results Act of 1993.

what actions the agency will take to realize those goals, and how the agency will deal with challenges and risks that may hinder achieving results. An APP enables an agency to have a framework to measure the costs, benefits, results, and outcomes of its products, programs and initiatives. Under the GPRA Modernization Act of 2010, Ex-Im Bank is required to, among other things, produce a strategic plan, an APP, and an annual performance report by February 2012. We believe engaging in this process will help Ex-Im Bank focus its resources, establish clear and measurable goals, and continuously monitor its performance to determine whether, among other things:

- products are achieving the intended results and reaching the intended audience;
- marketing strategy is effective;
- products are similar or more competitive than programs offered by other ECAs;
- products should be altered or eliminated;
- acceptable levels of defaults and claims have been established;
- levels of defaults and claims should be improved; and
- improvements in original implementation strategies are needed.

**Risk Management** Almost three years after the beginning of the financial crisis, the financial world is still undergoing the aftershocks. Volatility in global financial markets is more pronounced. Given Ex-Im Bank’s position as a “lender of last resort”, its authorizations have grown in record numbers to support U.S. exports as private lending has contracted or plateaued. Ex-Im Bank’s significant asset growth over the past five years, however, presents a continual risk management challenge — how to adequately allocate reserves to cover potential losses in its credit portfolio so that taxpayers are not affected by any unforeseen crisis.

The lessons learned from the crisis include the inadequacy of overreliance on historical quantitative market data and the need for more robust scenario analysis and stress testing. Different theories have emerged from the financial crisis to supplement traditional risk management models. In essence, they encourage supplementing quantitative data with contextual qualitative data and the testing of worst case scenarios to determine whether financial institutions have the requisite reserves to withstand exogenous shocks. As Ex-Im Bank moves forward, it should continuously review its risk management strategies to ensure that its risk mitigation and loss reserve allocation policies are updated and reflect lessons learned from the financial crisis.

**Customer Service** Ex-Im Bank has not conducted customer satisfaction surveys on a regular basis. Customer surveys provide valuable insight into customer priorities, perceptions of Ex-Im Bank performance, areas for improvement, and other ECA best practices. For example, some Ex-Im Bank participants have complained in the past about approval times and

process. Reducing the time it takes to approve transactions would allow American exporters to develop better relationships with clients and customers, encourage borrowers and sellers to use Ex-Im Bank, and improve the services Ex-Im Bank provides to its users.

On April 27, 2011, President Obama issued Executive Order 13571 instructing Federal agencies to develop a customer service plan to streamline service delivery and improve customer experience. To this end, we recommend that Ex-Im Bank routinely utilize customer surveys to validate the priorities of its customers and its performance. During this reporting period, the OIG conducted a survey of performance metrics for operational efficiency of other ECAs and worked jointly with Ex-Im Bank to develop a customer survey. We expect to report the results of these surveys during the next reporting period.

**Credit Underwriting and Due Diligence Practices** Currently, Ex-Im Bank uses a decentralized underwriting process and a risk-based due diligence model.<sup>5</sup> Given the lessons learned from incidences of fraud in the Medium-Term program, the surge in the number of transactions, and insufficient credit information and history from borrowers in some regions, it is vital that Ex-Im Bank enhance credit underwriting and due diligence practices in order to better identify and prevent fraudulent transactions.

In July 2010, Ex-Im Bank's Board of Directors issued an Individual Delegated Authority (IDA) resolution authorizing certain individual Ex-Im Bank officers to approve loans, guarantees, and insurance up to \$10 million. Before the IDA, Ex-Im Bank approved these transactions through a Credit Committee composed of members from different programs. The IDA resolution decentralized underwriting and decision making authority to each business unit. However, absent strong policies and procedures, decentralized underwriting and due diligence practices may cause inconsistent criteria to be applied in different programs. Ex-Im Bank needs to develop effective policies, procedures, and compliance practices to ensure the IDA works effectively. Some of these policies should address the following:

- uniform credit and underwriting standards to be used by all Ex-Im Bank credit officers
- frequent use of security interest and sporadic inspections in order to better mitigate risks in programs and regions where defaults and fraud experience has been high

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5 Under a risk-based model, the scope and depth of due diligence performed on a transaction varies depending on the perceived risk based on a variety of factors, such as the size of the transaction, country of import, nature of goods, and experience with the transaction participants.

- use of financial statements in programs where defaults and fraud experience is high, in particular independently audited financial statements in regions where Ex-Im Bank has limited or unfavorable lending experience

In the same vein, Ex-Im Bank should require lender partners and participants to conduct industry standard due diligence on Government guarantees and insurance transactions. One of the patterns our office has observed in our investigations is the lack of due diligence efforts by lenders, specifically the ones who have a history of defaulted transactions. Even though Ex-Im Bank expects such efforts from participating lenders, due diligence is not required in all lender agreements.

The OIG has anecdotal evidence of loan officers in lending institutions expressing that the lender would not devote resources on due diligence efforts when there is a government guarantee and that such efforts are not required by Ex-Im Bank. Although the OIG is not in a position to state that this is a behavior demonstrated by all lenders, we can certainly state that this “moral hazard” issue has been prevalent in fraud cases involving multiple transactions. Effective implementation of “Know Your Customer” practices by lenders could help minimize or prevent fraudulent activity.

**Corporate Governance, Business Processes, and Internal Control Policies and Practices** One of the consistent observations arising out of audits, evaluations, and investigations conducted by the OIG are the weaknesses in governance and internal controls in business operations. Internal policies providing clear guidance to staff and establishing clear roles and authorities are not prevalent at Ex-Im Bank. These areas need to be addressed as part of creating a better corporate governance culture.

For example, during our review of Ex-Im Bank’s Nigerian Credit Facility,<sup>6</sup> we noted that Ex-Im Bank did not have any policies and procedures in place when establishing the facility. In particular, Ex-Im Bank management failed to create policies and procedures that would document and memorialize the steps to be taken to approve credits, factors to be considered when approving credit, factors that would cause denial of credit or the cancellation of the credit lines, and the extent of the due diligence efforts for such transactions and market. Moreover, Ex-Im Bank management did not develop steps outlining how the banks’ credits were going to be renewed, factors affecting the renewals, and reporting of facility activities to the Board of Directors under the Special Delegation Authority granted by the Board. Each OIG audit, evaluation, and inspection will review applicable governance and internal controls and make recommendations to strengthen such controls accordingly.

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<sup>6</sup> *Review of the Export-Import Bank Nigerian Facility*, Special Report (OIG-SR-11-01), June 10, 2011, can be found at [http://exim.gov/oig/documents/TransmittalandReport\\_110607.pdf](http://exim.gov/oig/documents/TransmittalandReport_110607.pdf).

## **Renewable Energy Products and Clean Energy Export Opportunities**

Ex-Im Bank's charter contains a Renewable Energy mandate of ten percent of all the authorizations every year. Although its financing for environmental beneficial exports has increased significantly during the last two years, Ex-Im Bank has not met this mandate yet, mainly because the renewable energy exports have not reached significant numbers (compared with the size of Ex-Im Bank's portfolio).<sup>7</sup> Nonetheless, Ex-Im Bank has taken a proactive approach in developing renewable energy specific products such as Solar Express, as well as reaching out to wind and solar manufacturers.

In July 2010, GAO issued a report on Ex-Im Bank's environmentally beneficial exports.<sup>8</sup> It found that although some of the challenges to reach the target may be outside its control, Ex-Im Bank should develop a clear strategy for meeting the target that is integrated into a broader strategy for Ex-Im Bank. It specifically recommended that Ex-Im Bank improve the tracking, reporting, and planning of its exports strategy to determine the resources required to meet its target. We continue to monitor Ex-Im Bank's progress in this area.

**Small Business Participation** Since the 1980s, Congress and the Executive Branch have prioritized the expansion of exports by small businesses. Since 2002, Ex-Im Bank's charter has imposed a twenty percent small business participation goal of all aggregate authorizations every fiscal year. Ex-Im Bank has exceeded this mandate in the last five fiscal years. However, although it reached an all-time record of \$6 billion in small business export financing in FY 2011, this amount fell short of the required twenty percent of all \$32 billion in financing.

GAO has reported on several aspects of Ex-Im Bank's financing for small business exports. Most recently, GAO reported on the performance standards that Ex-Im Bank established for assessing its small business financing efforts. GAO found that Ex-Im Bank had developed performance standards in most, although not all, of the areas specified by Congress, ranging from providing excellent customer service to increasing outreach.<sup>9</sup> They also found that some measures for monitoring progress against the standards lacked targets and time frames, and that Ex-Im Bank was just beginning to compile and use the small business information it

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7 According to Department of Commerce data, the U.S. exported roughly \$2 billion of manufactured renewable energy goods in 2009. In FY 2011, Ex-Im Bank supported \$720 million in renewable energy financing, up from \$30 million in 2008.

8 *Export-Import Bank, Reaching New Targets for Environmentally Beneficial Exports Presents Major Challenges for Bank*, July 2010, GAO-10-682, is available at <http://www.gao.gov/new.items/d10682.pdf>.

9 *Export-Import Bank: Performance Standards for Small Business Assistance Are in Place but Ex-Im Is in the Early Stages of Measuring Their Effectiveness*, July 2008, GAO-08-915, is available at <http://www.gao.gov/new.items/d08915.pdf>.

was collecting to improve operations. We urge management to finalize its Small Business performance plan and metrics to improve its program operations. We continue to monitor Ex-Im Bank's progress in this area.



# OFFICE OF AUDITS



# SUMMARY OF AUDIT ACTIVITY

The Office of Audits completed the Working Capital Guarantee Delegated Authority Program audit during the six-month period ended September 30, 2011.

At the end of the reporting period, the Office of Audits had three audits in process:

1. Management of Information Technology Infrastructure
2. Ex-Im Bank's Financial Statements for Fiscal Year 2011
3. Fiscal Year 2011 Information Security Program and Practices and Technical Configuration Reviews

## *Audits Issued*

### Working Capital Guarantee Delegated Authority Program (OIG-AR-11-04, July 08, 2011)<sup>10</sup>

The OIG conducted an audit of the Working Capital Guarantee (WCG) Delegated Authority (DA) Program. Ex-Im Bank's working capital financing enables U.S. exporters to obtain loans that facilitate the export of goods or services. These working capital loans, made by commercial lenders and backed by Ex-Im Bank's guarantee, provide exporters with the liquidity to accept new business, grow international sales, and compete more effectively in the international marketplace. We performed this audit because approximately 80 percent of all working capital guarantees are committed under DA, making it a high risk area of concern. The Working Capital Finance Division (WCFD)'s major priority is the effective management and monitoring of the use of the WCG DA Program.

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<sup>10</sup> This report is available online at <http://www.exim.gov/oig/documents/WCGDA%20final%20report%20110708.pdf>.

The objective was to determine whether Ex-Im Bank supplied sufficient oversight of lenders granted DA to approve working capital guarantees. The specific audit objectives were to evaluate: (1) oversight practices used to ensure that lenders comply with Ex-Im program guidelines; (2) timeliness in notifying lenders of identified exceptions; (3) internal controls to ensure examination results are properly managed; and (4) internal controls over lenders to reduce/eliminate claims and to safeguard taxpayer funds.

As of September 30, 2010, there were 45 active DA lenders in the WCG Program with an open loan facilities value of approximately \$1.5 billion. The audit focused on lenders with current facility loans under the WCG DA agreement during fiscal years 2009 and 2010. We selected a sample of 10 lenders out of 45 current WCG DA lenders during this period for our review. We also selected 12 claim files for a limited review to determine whether procedures were followed and appropriate decisions were made.

Our audit found that WCFD generally complied with its policies and procedures to perform an examination of WCG DA lenders. Examinations are scheduled at annual intervals unless more frequent examinations are required. Of the ten lenders reviewed, we found that an examination was generally performed annually by WCFD.

We also found that WCFD generally complied with its policies and procedures to notify lenders of identified exceptions found during examination. Of the ten lenders reviewed, WCFD discussed all findings with lenders' management at the examination exit conference and generally timely sent the lender a notification letter summarizing the examination results.

We identified no trend on the type of waivers lenders requested. Of the 10 lenders sampled, we reviewed 17 loan files and found 62 waivers requested by lenders and approved by WCFD. These 62 waivers generally covered different Ex-Im Bank requirements. We performed this test because lending officers stated that requirements should be reduced because a waiver is frequently needed. Therefore, we reviewed approved waivers to determine if Ex-Im Bank should consider changing a requirement(s) based on the requirement's importance and frequency of a requested waiver.

While WCFD's efforts were positive, we noted that improvements are needed to strengthen follow-up procedures and controls and to maintain DA data. Management concurred with the three recommendations we made to address these findings:

- WCFD Vice President (VP) should develop policy and procedures to (a) ensure that a follow-up is timely performed to verify that the lender had taken the appropriate action on a material exception, (b) closely monitor potential problematic lenders by performing more frequent on-site examinations, (c) take action to alert lenders with repeated material exceptions of possible removal of

their DA from Ex-Im Bank, and (d) establish a performance level to identify an acceptable claim rate against the total authorized facilities from a lender.

- Management implemented recommendation parts (a), (b), and (c) by July 31, 2011. Management plans to implement part (d) by November 1, 2011.
- WCFD VP should maintain a central record to document all examination results on lenders in the WCG DA Program.
  - Management implemented this recommendation by July 31, 2011.
- WCFD VP should maintain vital information to evaluate the WCG DA Program performance.
  - Management plans to implement this recommendation by February 1, 2012.

## Ongoing Audits

### Management of Information Technology Infrastructure

An Independent Public Accountant (IPA), BDO, working under OIG oversight, is conducting an audit of IT infrastructure management. This audit is evaluating whether the IT systems at Ex-Im Bank are able to support Ex-Im Bank's mission effectively and efficiently. The specific audit objectives are to:

- identify key data and procedures used by Ex-Im Bank to process and monitor its loan, guarantee, and insurance products, as well as loan default and guarantee and insurance claims.
- identify interoperability of Ex-Im Bank's four critical IT applications.
- determine whether Ex-Im Bank's IT systems provide useful information to effectively and efficiently process and monitor activity.
- identify effectiveness of applications and systems as they relate to Ex-Im Bank's operating mission.
- identify annual expenditures on IT systems and determine the amounts applied to maintain and improve its systems.

Audit work commenced in April 2011. The OIG anticipates the IPA will issue its audit report in November 2011.

## **Ex-Im Bank's Financial Statements for Fiscal Year 2011**

Deloitte, an IPA working under OIG oversight, is performing an audit of Ex-Im Bank's FY 2011 financial statements. The IPA is also performing audit follow-up work on a significant deficiency in Ex-Im Bank's internal control over financial reporting reported in audit of the *Export-Import Bank of the United States Fiscal Year 2010 Financial Statements* (OIG-AR-11-01, November 15, 2010) and the three recommendations made in the *Fiscal Year 2010 Financial Statement Audit – Management Letter Excerpt* (OIG-AR-11-03E, January 6, 2011).<sup>11</sup>

Audit work commenced in May 2011. The OIG anticipates the IPA will issue its opinion on the FY 2011 financial statements in November 2011.

## **Fiscal Year 2011 Information Security Program and Practices and Technical Configuration Reviews**

The Federal Information Security Management Act (FISMA) requires an annual independent evaluation of U.S. government agency information security programs and practices. The OIG contracted an IPA, Cotton & Company, LLP, to perform the FY 2011 FISMA review of Ex-Im Bank's systems.

The audit includes assessing Ex-Im Bank's progress in developing, documenting, and implementing an agency-wide program to provide security for the information and information systems that support operations and assets of Ex-Im Bank. The audit also includes reviewing Ex-Im Bank's privacy program, the privacy impact assessment process, and performing audit follow-up work on the one recommendation made in the audit report *Fiscal Year 2010 Information Security Program and Practices and Technical Configuration Reviews* (OIG-AR-11-02, December 15, 2010).<sup>12</sup>

Audit work commenced in July 2011. The OIG anticipates the IPA to respond to the Office of Management and Budget reporting requirements on the audit results in November 2011 and issue an audit report in December 2011.

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11 The report of the *Export-Import Bank of the United States Fiscal Year 2010 Financial Statement* (OIG-AR-11-01) can be found at [http://www.exim.gov/oig/documents/FY\\_2010\\_Financial\\_Report.pdf](http://www.exim.gov/oig/documents/FY_2010_Financial_Report.pdf). The report of the *Fiscal Year 2010 Financial Statement Audit – Management Letter Excerpt* (OIG-AR-11-03E) can be found at <http://www.exim.gov/oig/documents/FinancialStatementReport2010.pdf>.

12 The report of the *Fiscal Year 2010 Information Security Program and Practices and Technical Configuration Reviews* (OIG-AR-11-02) can be found at [http://www.exim.gov/oig/documents/FISMA\\_Report\\_2010.pdf](http://www.exim.gov/oig/documents/FISMA_Report_2010.pdf).

## ***Audit Follow-up***

No recommended actions remain open on audits reported in the previous Semiannual Report.



# OFFICE OF INSPECTIONS



# SUMMARY OF INSPECTION ACTIVITY

In late 2010, Ex-Im Bank OIG launched the Office of Inspections with the hire of Mark Thorum as Senior Inspector. This function assesses the efficiency and effectiveness of Ex-Im Bank programs and operations, reviews and evaluates projects, transactions, policies and procedures, and develops recommendations for improving program performance. The Office of Inspections' mission is to provide oversight policy guidance and to conduct objective and independent assessments.

Inspections contribute to sound financial governance in several respects. First, they can help identify program vulnerabilities and improve efficiency. Second, they may provide an early warning system for transactions that may experience difficulties in the future. Finally, inspections can serve as a deterrent for potential fraud as exporters, importers, and local lenders will be subject to additional scrutiny post-closing. This is particularly relevant for transactions consummated in developing countries that may lack a sound regulatory framework or have a prior track record of corruption.

Ex-Im Bank transactions selected for review by the Office of Inspections typically meet one or both of the following criteria: (i) Ex-Im Bank experiences a loss of \$10 million or above; or (ii) OIG receives allegations of fraud that may lead to a loss for Ex-Im Bank from a specific transaction or borrower.

## *Inspections Issued*

On July 8, 2010, Ex-Im Bank received allegations of possible corruption against managers of two Nigerian banks participating in the Ex-Im Bank's Nigerian Banking Facility (NBF) established in 2006 through a Special Delegation Authority (SDA).<sup>13</sup> In addressing these allegations, our office conducted a review to determine whether:

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<sup>13</sup> A SDA is a special vehicle that provides for a blanket internal delegation of authority, after approval by the Board of Directors, for transactions for up to a pre-determined credit limit without the need to take each individual transaction to credit committee.

- potential exposure to fraud existed through actions taken by participating banks investigated by the Nigerian authorities.
- policies and procedures to establish credit facilities existed and were properly implemented.
- participating banks were required to report to Ex-Im Bank any corruption investigations, charges and/or convictions by local authorities, and if so, whether the information was disclosed.

After conducting a review of available documents, including documentation on transactions under the credit facility, and interviews with Ex-Im Bank personnel who participated in the establishment of the credit facility, the OIG noted the following observations:

- Transactions conducted by the two investigated banks and underwritten by Ex-Im Bank under the NBF did not demonstrate any indicia of fraud.
- Ex-Im Bank lacked formal policies and procedures when it established the SDA and credit facility. Ex-Im Bank supervisors provided email guidance to Ex-Im Bank staff stating factors to be considered under due diligence review during the selection of the fourteen participating banks.
- Participating banks were not required to provide certifications or representations to Ex-Im Bank of compliance with U.S. or Nigerian laws, including anti-corruption certifications or statements and there is no indication that the two investigated banks in question informed Ex-Im Bank of any Nigerian based investigation or allegation of corruption involving senior management.

The OIG determined that the underwriting process for the Nigerian participating banks was conducted utilizing commercial industry standards. Although some of the participating banks experienced intervention by the Central Bank of Nigeria (CBN) leading to an industry-wide consolidation of financial institutions, the NBF was not significantly affected by this consolidation. However, Ex-Im Bank management and the Board of Directors eventually removed some of the participating banks from the NBF, including the two investigated banks, due to credit concerns arising out of the CBN intervention. Given the nature of the credit facility, the size of the credit facility, and risk associated with credit transactions in Nigeria, the OIG issued the following suggestions to Ex-Im Bank management:

- Develop policies and procedures clearly defining when a SDA is beneficial to American exporters and to achieving Ex-Im Bank's mission.
- Develop policies and procedures describing how credit facilities would be established and describing the extent of credit analysis and reputation checks to be conducted. Such policies and procedures should clearly state:
  - how to calculate and determine the credit limits to be extended under such facilities;

- the steps to be taken, including credit and reputation factors to be considered, when conducting underwriting of lenders, guarantors, buyers and any other third parties involved in the transactions;
- guidance to Ex-Im Bank credit officers about their ability to request documentation from guarantors and any other third parties relevant to determining the credit ability of such parties and the reputation of the credit facility participants (as it relates to potential fraudulent or corruption activities); and the requirement of statements and certifications of compliance with foreign and domestic laws, including anti-corruption certifications from participating lenders' and guarantors' upper/senior managers (as stated on Ex-Im Bank's Transaction Due Diligence Best Practices).<sup>14</sup> These certifications should be required every time the credit facility is renewed.
- Establish an anti-corruption hotline where allegations of corruption practices can be reported to Ex-Im Bank by project participants or others with information about possible corruption practices in any country. A similar anti-corruption hotline has been established by other U.S. government organizations, such as the Overseas Private Investment Corporation. Any information received through this hotline should be reported immediately to the Office of the General Counsel and shared with the OIG.

## ***Ongoing Inspections and Evaluations***

### **Export Financing and Loan Guarantee for Darussafaka Cemiyeti**

The Office of Inspections is conducting an inspection of a failed, \$40 million transaction to Darussafaka – a Turkish, non-government association. In December 2003, Ex-Im Bank approved a long term loan guarantee in the amount of \$38,065,666 to Darussafaka. The guaranteed lender was Deutsche Bank. Proceeds of the loan were to support the sale of U.S. goods and services for the construction of a luxury retirement community in Urla and an auditorium in Istanbul (both in Turkey).

The inspection's objectives are to:

- develop an explanation of events and causal factors that led to the failure of the project and subsequent payment default by the borrower

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<sup>14</sup> This document can be found at <http://www.exim.gov/pub/pdf/Due-Diligence-Guidelines.pdf>.

- determine what Ex-Im Bank could have done differently from a credit approval and monitoring perspective to mitigate the risk of loss
- examine whether any of the involved parties committed corporate malfeasance and fraud
- research alternatives to extract additional value from the proposed settlement with the borrower
- provide suggestions for future action including possible restructuring options for the failed transaction

We expect to issue the results of this inspection during the next reporting period.

### **Evaluation of Performance Metrics for Operational Efficiency and Customer Service**

This evaluation examines Ex-Im Bank's operational performance with a focus on transaction response times. The evaluation seeks to determine ECAs best practices and to benchmark Ex-Im Bank's performance against these practices. As part of the evaluation, we interviewed Ex-Im Bank management and conducted a survey on performance metrics for operational efficiency. The survey targeted ECA peers with similar operations to Ex-Im Bank. In addition, we are working with Ex-Im Bank to conduct a general customer service survey. We expect to issue the results of the survey and evaluation during the next reporting period.

# OFFICE OF INVESTIGATIONS



# SUMMARY OF INVESTIGATIVE ACTIVITY

During this reporting period, the Office of Investigations (OI) achieved several milestones and accomplishments toward meeting mission objectives of investigating trade finance and export credit fraud impacting Ex-Im Bank. In addition to receiving law enforcement authority under the IG Act by the Attorney General, these actions include:

- six criminal judgments resulting in 245 months imprisonment, 216 months probation, and \$92,985,790 in criminal restitution and special assessments
- seventeen administrative actions stemming from referrals of active investigative information resulting in \$14,308,923 in cost savings and repayments to Ex-Im Bank, 2 voluntary exclusions, 120 months of debarment and 36 months of suspension
- six criminal informations and indictments against subjects of ongoing investigations
- nine plea agreements entered in court by subjects pursuant to ongoing investigative matters
- two arrest warrants and making one arrest based on warrants obtained by Ex-Im Bank OIG Special Agents
- six investigative matters referred to the Department of Justice for prosecutive decision
- forty pieces of investigative information referred to Ex-Im Bank Office of General Counsel concerning potential fraud and funds at risk to support enhanced due diligence efforts in approving, processing, and monitoring export credit loan guarantees and insurance policies

# SUMMARY OF INVESTIGATIONS

The OI evaluates all allegations and information of possible fraud or illegality affecting Ex-Im Bank programs and activities. Such allegations are received from a variety of sources – Ex-Im Bank employees, the Ex-Im Bank Office of General Counsel, participants in Ex-Im Bank transactions, other government agencies, and the Ex-Im Bank OIG hotline. Evaluations that identify reasonable indications of possible fraud or illegality result in an investigation. These investigations are summarized in the table below.

Summary of Investigative Activity During Period	Investigations Totals	No. Of Claims*	Amount Of Claims
Investigations open as of April 1, 2011	37	534	\$348,359,816
Opened during period	8	5	\$2,914,073
Closed during period	(10)	(9)	(\$3,941,293)
Investigations open as of September 30, 2011	35	530	\$347,332,596

\* The number and amount of claims paid subject to investigation. Not all investigations involve claims paid by Ex-Im Bank. Not all claims opened or closed in the period are related to cases opened or closed in the period, but may be related to other active investigations. The referral of a claim to the OIG for investigation does not establish the existence of fraud, and not all claims included in a case under investigation are necessarily fraudulent until proven so by evidence developed in the investigation. The number of claims may vary during the course of an investigation as facts and findings develop.

# SUMMARY OF INVESTIGATIVE RESULTS

The Office of Investigations obtained the following actions during this reporting period.

DESCRIPTION	OIG	JOINT ACTIVITIES*	TOTAL
Matters Referred to the Department of Justice	6	0	6
Arrest Warrants Obtained	2	0	2
Arrests Made	1	0	1
Criminal Indictments, Informations, Complaints	2	4	6
Pleas Entered	2	7	9
Criminal Judgments	2	4	6
Prison Time (months)	109	136	245
Probation (months)	72	144	216
Court Ordered Criminal Fines, Restitution, and Forfeiture	\$12,983,106	\$80,002,684	\$92,985,790
Administrative Actions**	12	5	17
Administrative Cost Savings and Repayments	\$11,675,773	\$2,633,150	\$14,308,923

\* Joint investigations with other law enforcement agencies

\*\* Administrative actions are actions taken by Ex-Im Bank to stop transactions, cancel policies, or protect funds at risk based upon investigative findings.

# INVESTIGATIONS

## ***Loan Guarantee, Export Credit Insurance, Direct Loans***

Two of Ex-Im Bank's key programs – the loan guarantee program and the export credit insurance program - have been particularly susceptible to fraud schemes by foreign borrowers, U.S.-based exporters, and other transaction participants, including deal brokers commonly referred to as “agents” or “finders” who assist in arranging the transactions and shipments. These two programs account for the majority of investigations currently underway. Each program offers different features to Ex-Im Bank customers, but criminal activity exploits certain processes within the programs in order to induce Ex-Im Bank to approve fraudulent loan guarantees or insurance coverage. Investigations also occur in other areas, such as Direct Loans, or in matters having to do with the integrity of Ex-Im Bank programs and processes.

### **Loan Guarantee Program**

Ex-Im Bank assists exporters by guaranteeing term financing from a commercial lender to creditworthy international buyers, both private and public sector, for purchases of U.S. goods and services. Ex-Im Bank's guarantee of a lender's loan to an international buyer is used to finance purchases of U.S. goods and services. Criminals have exploited this program by submitting false financial statements of foreign borrowers in order to induce Ex-Im Bank to provide its guarantee coverage for a loan for which they might otherwise be ineligible or by submitting false documentation to the guaranteed lender and Ex-Im Bank regarding the shipment, nature, or quantity of the U.S. goods allegedly being exported.

Successful investigative efforts within the loan guarantee program during the reporting period include the following:

### Miami Supplier Sentenced for Role in \$1.3 Million Scheme to Defraud the U.S. Export-Import Bank

A Miami, Florida resident was sentenced on September 2, 2011, to 12 months and one day in prison for his role in a scheme to defraud Ex-Im Bank of more than \$1.3 million. The sentencing caps ongoing investigative efforts by the OIG to examine fraudulent exports into South America and elsewhere.

Mardin Varela, 54, a Canadian citizen and lawful permanent resident of the United States, was also sentenced by Judge Reginald Walton in U.S. District Court in Washington, D.C., to three years of supervised release and was ordered to pay \$1,560,186.39 in restitution and \$351,833.90 in forfeiture. Varela pleaded guilty on December 17, 2010, to a criminal information charging him with one count of conspiracy to defraud the United States and to commit mail fraud.

Pursuant to his plea, Varela admitted that he was the President and owner of Nova Medical Systems Corporation, a medical equipment supplier located in Miami, Florida. From approximately March 2006 until approximately May 2007, Varela joined others in a conspiracy to fraudulently obtain a loan intended for the purchase and shipment of medical supplies to a buyer in Colombia. Ex-Im Bank guaranteed that loan. Varela admitted that he and his co-conspirators falsified documents sent to the lending bank and to Ex-Im Bank in order to misappropriate approximately \$1,332,000 in loan proceeds. As part of the conspiracy, Varela and his co-conspirators falsified invoices and shipping records, then purchased and shipped goods that were of different type and quality than those guaranteed by Ex-Im Bank. Varela and the co-conspirators then split the balance of the loan proceeds between themselves. As a result of the fraud, the loan defaulted, and Ex-Im Bank paid the claim to the assignee of the loan, in the amount of \$1,332,081.65.

### Exporter Sentenced for Conspiring to Defraud the U.S. Export-Import Bank of More than \$1 Million

On June 12, 2011, Juan Rios, 57, of El Paso, Texas, was sentenced for his participation in a scheme to defraud Ex-Im Bank of more than \$1 million. Rios was sentenced in U.S. District Court in Washington, DC to three months of time already served in prison, 36 months supervised release, and 6 months home confinement. Rios was also ordered to pay a \$200 special assessment fee and \$1,016,126 in forfeiture. Rios had previously pleaded guilty on October 28, 2009, to a two-count criminal information charging him with conspiracy to defraud Ex-Im Bank and to commit wire fraud. The criminal information also charged a criminal forfeiture against Rios totaling \$1,016,126.26. Rios was arrested on August 20, 2009 in El Paso, Texas, as he crossed the border into the United States.

According to court documents and testimony during sentencing, Rios was the owner of El Paso Precision and Tool Grinding, a company through which Rios acted as a supplier and an exporter in Ex-Im Bank transactions. Between January 2004 and December 2006, Rios and others conspired to prepare and submit fraudulent loan documents, a false commercial invoice, a false packing list, a false exporter's certificate, and false bills of lading purporting that equipment was purchased in the United States and shipped to Mexico.

According to court records, in October 2004, Rios, through his company, received approximately \$985,000 in loan proceeds from the lending bank based on Rios' false representations to the lending bank and Ex-Im Bank. Instead, according to plea documents, it was the purpose of the conspiracy for the co-conspirators and Rios to unlawfully enrich themselves financially by submitting false and fraudulent information to Ex-Im Bank, through the lending bank, to obtain and misappropriate certain loan proceeds. As a result of the fraudulent transaction, the loan defaulted and Ex-Im Bank paid the lending bank's claim for outstanding principal and accrued interest of approximately \$1,016,000 according to court records.

This case was prosecuted by the DOJ Fraud Section. The scheme was discovered by OI agents pursuant to a joint investigation with Internal Revenue Service Office of Criminal Investigation, Washington, Immigration and Customs Enforcement, El Paso, U.S. Postal Inspection Service's Washington Division, and FBI's El Paso Division.

### Three Charged and Subsequently Pleaded Guilty to Criminal Fraud against Ex-Im Bank

During this reporting period, three defendants, involved in separate ongoing cases, were charged by criminal indictment and informations in various judicial districts with various counts of wire fraud, mail fraud, and conspiracy regarding their involvement in Ex-Im Bank fraud schemes. Subsequent to the charges, each defendant pleaded guilty in the respective U.S. District Court in which they were charged. These criminal charges and guilty pleas highlight successful investigative efforts to address loan guarantee fraud in Mexico, South America, and elsewhere. As of the end of this reporting period, the three defendants are awaiting sentencing in federal court and these investigations concerning \$22 million in claims against Ex-Im Bank are continuing.

### Four Pleaded Guilty to Fraudulent Exports to Mexico

During this reporting period, four defendants pleaded guilty to criminal charges in federal court concerning their roles in several fraudulent exports to Mexico resulting in \$29 million in claims against Ex-Im Bank. All of the defendants were arrested and criminally charged last year with crimes against Ex-Im Bank. The guilty pleas cap successful efforts by OIG

Special Agents to detect and investigate a variety of fraud schemes used by the defendants and others to obtain cash loan proceeds from lenders guaranteed by Ex-Im Bank, then keep or send cash to foreign borrowers in Mexico. Once the loan has defaulted, Ex-Im Bank will pay the claim as guaranteed under the program. In these types of investigations, several parties may be involved to help falsify loan applications, create fake export and shipping records, and distribute stolen loan proceeds worldwide. As of the end of this reporting period, the four defendants are awaiting sentencing in federal court and these investigations are continuing.

### **Export Credit Insurance Program**

This program offers protection in the form of several different insurance policy types to U.S. exporters and their lenders against non-payment by foreign buyers due to commercial and political risks. Export credit insurance allows exporters to increase export sales by limiting international repayment risk, offering credit to international buyers, and enabling exporters to access working capital funds. One fraudulent scheme to exploit this program involves the falsification of shipping records to convince Ex-Im Bank that the described goods have been shipped when in fact they have not.

Successful investigative efforts within the export credit insurance program during the reporting period include the following:

#### **Texas Resident Sentenced to 70 Months in Prison for \$17 Million Scheme to Defraud the U.S. Export-Import Bank**

On May 26, 2011, Jose Velasco, an El Paso, Texas resident, was sentenced to 70 months in prison for his role in a scheme to defraud Ex-Im Bank of more than \$17 million. Velasco, 40, was also sentenced by Judge Reginald Walton in U.S. District Court in Washington, D.C., to three years of supervised release and was ordered to pay \$17.9 million in restitution and \$17.9 million in forfeiture. Velasco pleaded guilty on September 24, 2010, to a criminal information charging him with one count of wire fraud and one count of conspiracy to defraud the United States.

According to court documents, Velasco was the owner of Alamo Freight Forwarding, a company located in El Paso that purported to be a freight forwarding company specializing in the export of heavy equipment to Mexico. Velasco admitted that he and others conspired to defraud Ex-Im Bank. From April 2004 through November 2007, Velasco purported to act as a freight forwarder in approximately 13 loan transactions with various lending banks

whose loans were insured or guaranteed by Ex-Im Bank. The transactions involved a total of approximately \$17.9 million. As part of the fraud scheme, Velasco and others prepared and submitted false documents to Ex-Im Bank falsely stating that goods and equipment had been purchased and shipped to buyers in Mexico. Velasco and others prepared false commercial invoices, bills of sale, bills of lading, and false Mexican Customs documents called “Pedimentos.” According to court records, all of the fraudulent loans in which Alamo Freight Forwarding was involved subsequently defaulted, causing Ex-Im Bank to pay claims losses to the lending banks in the amount of \$17.9 million.

### Exporter Sentenced For Conspiring to Defraud the U.S.

#### Export-Import Bank of More than \$23 Million

On April 18, 2011, Ismael Garcia, 50, of Miami, FL, was sentenced for his role in a scheme to defraud Ex-Im Bank of more than \$23 million. The sentencing capped a joint investigation conducted by Homeland Security Investigations, El Paso, Texas, and Ex-Im Bank OIG Special Agents concerning fraudulent loans and exports to borrowers in Mexico and elsewhere.

Garcia was sentenced by Judge Richard W. Roberts in U.S. District Court in Washington, DC, to 51 months imprisonment, 36 months of supervised release, \$17,996,054 in restitution, \$23,084,175 in forfeiture, a \$200 special assessment, and 100 hours of community service upon release. Garcia had previously pleaded guilty on October 19, 2010 to a two-count criminal information charging him with conspiracy to defraud Ex-Im Bank and to commit wire fraud.

According to court documents, Garcia was President of US Trade Industries Inc., an export company in Miami, FL, that purported to be in the business of purchasing United States goods on behalf of foreign clients and shipping those goods overseas. Garcia admitted during his plea hearing that from April 2004 through November 2007, he acted as a purported exporter in approximately 31 loan transactions involving approximately \$23 million in loans from U.S. lending banks that were insured by Ex-Im Bank. Garcia admitted during court proceedings that all of the loans were fraudulent and no goods or machinery of any kind were ever exported as reported to Ex-Im Bank. Garcia personally retained approximately \$1.1 million of these fraudulently obtained loan proceeds for his personal use and benefit. The remaining monies were sent to other co-conspirators and foreign buyers in Mexico, instead of using the money to purchase and export U.S. manufactured goods as intended. According to court records, the loans defaulted, causing Ex-Im Bank to pay nearly \$18 million in losses.

### Florida Resident Sentenced in Scheme to Defraud the U.S. Export-Import Bank of Approximately \$1 Million

On June 27, 2011, Jose L. Quijano of Aventura, FL, was sentenced to 46 months in prison for his role in a scheme to defraud Ex-Im Bank of nearly \$1 million. Quijano, 43, was sentenced in absentia by Judge Adalberto J. Jordan in U.S. District Court in Miami to an additional 36 months of supervised release and was ordered to pay \$956,251 in restitution. Quijano pleaded guilty on February 9, 2011, to a criminal information that charged him with conspiracy to commit wire fraud in connection with a scheme to defraud Ex-Im Bank of \$956,251. Quijano fled from pre-trial release on June 7, 2011 and is currently a fugitive.

According to court documents, Quijano was the owner of Gangaland, USA LLC, an electronics exporting company located in Miami, FL, that purported to be in the business of purchasing and exporting electronic and computer parts to foreign buyers in South America. Quijano admitted that he and others conspired to defraud Ex-Im Bank by devising a scheme to obtain money and property by false and fraudulent pretenses. According to court records, Quijano and others obtained loans guaranteed by Ex-Im Bank and misappropriated the loan proceeds for their own use and benefit.

From 2008 through 2010, Quijano, through his company Gangaland, acted as an exporter in 96 loan transactions insured by Ex-Im Bank and received approximately \$3,637,806 in proceeds. Quijano admitted that he and others falsified financial statements, waybills, purchase orders and bills of lading to falsely represent to various lending banks and Ex-Im Bank the purchase and export of U.S. goods to buyers in South America. According to court records, all of the loans involving Gangaland were fraudulent and no U.S. goods of any kind were shipped to South American buyers. As a result of the fraud the Gangaland loans went into default, causing Ex-Im Bank to pay claims losses to the lending banks in the amount of \$902,450.

### Owner of Miami Company Sentenced to 63 Months in Prison for Scheme to Defraud Ex-Im Bank

On July 18, 2011, the owner of an investment planning company in Miami, FL, was sentenced to 63 months in prison for his role in a scheme to defraud Ex-Im Bank of nearly \$5.2 million. Carlos L. Morano, 51, was sentenced by Judge Cecilia M. Altonaga in U.S. District Court in Miami. In addition to his prison term, Morano was sentenced to three years of supervised release and was ordered to pay \$5.2 million in restitution and \$6.8 million in forfeiture. Morano pleaded guilty on May 6, 2011, to one count of conspiracy to commit wire fraud and one count of wire fraud in connection with a scheme to defraud Ex-Im Bank of approximately \$5.2 million. Morano, a naturalized U.S. Citizen, most recently resided in Buenos Aires,

Argentina, until his arrest on Nov. 8, 2010, in Atlanta, where he arrived after an international flight from Argentina. The warrant for his arrest was obtained by Ex-Im OI Special Agents.

According to court documents, Morano was the owner of CLM Financing and Investments, an investment planning company located in Miami that purported to be in the business of brokering loans and providing financial advice to Florida exporters. During his plea hearing, Morano admitted that he assisted 17 exporters obtain fraudulent loans that were insured by Ex-Im Bank. According to court records, Morano and others misappropriated the loan proceeds for their own use and benefit. From 2007 through 2010, Morano, through his company CLM, charged exporters up to \$35,000 to prepare fraudulent loan applications and financial statements. Morano admitted that he instructed the exporters on how to prepare false purchase orders, invoices, account receivable forms, and bills of lading to falsely represent to various lending banks and Ex-Im Bank the purchase and export of U.S. goods to buyers in South and Central America. Morano often charged the exporters a monthly service fee to continue providing false shipping documents and financial documents that would pass Ex-Im Bank review.

According to court records, all of the loans involving Morano were fraudulent. As a result of the fraud the loans went into default, causing the Ex-Im Bank to pay claims losses to the lending banks in the amount of \$5,219,756.

### Two Defendants Charged in Export Credit Insurance Fraud Investigations

In separate investigations into export credit insurance fraud against Ex-Im Bank, two defendants were charged during the reporting period for their role in the schemes resulting in \$3.5 million in claims. One of the defendants subsequently pleaded guilty to the charge. In these types of schemes, exporters seek and obtain export credit insurance backed by Ex-Im Bank for exporting products abroad. However, instead of shipping the goods, these individuals will then keep or split the cash loan proceeds with foreign parties who then default on the loan. The defendants are awaiting further judicial action and sentencing. The investigations are continuing.

## **Direct Loan Program**

In addition to guaranteeing a loan made by a commercial lender or issuing an insurance policy for exports, Ex-Im Bank has the ability to act directly as the lender under Ex-Im Bank's Direct Loan program. This program may be vulnerable to fraudulent misrepresentations in loan applications or the submission of fraudulent financial statements made in an effort to obtain a loan.

Successful investigative efforts within the Direct Loan program during the reporting period include the following:

### **Effective Collaboration Helps Stop \$10 Million Fraud in Progress Against Ex-Im Bank**

OI Special Agents, Ex-Im Bank staff, and international law enforcement partners collaborated to stop a \$10 million, direct loan fraud in progress against Ex-Im Bank.

The fraud was uncovered when Ex-Im Bank staff reviewed the financial statements submitted as part of a \$10 million, direct loan application by the prospective borrower, an England-based telecommunications services company. Ex-Im Bank staff questioned the authenticity of financial statements and referred the matter to the OIG. The OIG investigation found that an international broker, acting on the borrower's behalf, submitted the loan application to Ex-Im Bank and included financial statements that appeared to have been prepared by an internationally-recognized accounting firm. OI Special Agents coordinated with Corporate Security of the accounting firm in question and law enforcement authorities in Great Britain and determined the financial statements were false. The investigation revealed that the purported borrower was actually a Ukrainian entity operating out of a business-front in Great Britain. OI Special Agents confronted the perpetrators about the fraud leading to the withdrawal of the application.

## Other Investigative Results

### Special Agents Work Collaboratively with Ex-Im Bank to Help Protect Funds at Risk

To the extent permissible and within the confines and limitations of an investigation, Special Agents work collaboratively to share investigative intelligence with Ex-Im Bank Office of General Counsel, Credit and Risk Management Division, and Asset Management Division to help identify potential and suspected fraudulent activity within Ex-Im Bank transactions and to protect taxpayer funds at risk.

During this reporting period, the OIG communicated with Ex-Im Bank management to enhance the monitoring of several existing transactions and due diligence reviews of proposed transactions based on developed investigative leads. We shared active law enforcement intelligence with Ex-Im Bank on several different matters concerning suspected criminal activity by participants involved in active policies or transactions under review. In four separate matters, investigative efforts and OIG coordination with DOJ and Ex-Im Bank helped to facilitate the direct repayment and collection of outstanding debt by responsible parties in amounts totaling \$2,333,459.

In other investigations, agents provided Ex-Im Bank management with active law enforcement intelligence concerning the roles and responsibilities of certain parties engaged in fraudulent activity involving Ex-Im Bank insurance policies. As a result, Ex-Im Bank canceled several insurance policies, Special Buyer Credit Limits, Discretionary Credit Limits, or Enhanced Assignment Authority protecting approximately \$1.7 million of funds at risk.

In another matter, agents shared investigative intelligence with Ex-Im Bank, who then denied six claims totaling \$275,464, due to fraudulent activity by the parties involved.

In other ongoing matters, OIG investigative results were presented to the Office of General Counsel that pursued suspension and debarment efforts against the entities involved in two separate investigations. As a result, one party voluntarily excluded themselves from participating in Ex-Im Bank transactions and the other party was debarred for 10 years.

Additionally, the OIG has made 40 referrals of investigative information to the Ex-Im Bank Office of General Counsel concerning potential fraud and funds at risk for enhanced due diligence by Ex-Im Bank during this reporting period.

These efforts are part of the Office of Investigations' objective to expeditiously protect funds at risk concurrent with ongoing criminal investigations and to enhance Ex-Im Bank's existing capabilities in monitoring, oversight, and civil collection efforts involving transactions in which fraud is uncovered.

### **Outreach — OIG Continues Efforts to Educate the Export Community on Identifying and Reporting Fraud, Waste, and Abuse**

As part of the OIG's mission to prevent and detect fraudulent activity, efforts have been made to meet with and educate stakeholders and other law enforcement partners about the various risks and fraud scenarios most commonly seen in trade finance and export credit fraud cases. In furtherance of that objective, the OIG attended the Annual Bank of American Fraud Forum in Charlotte, NC, on June 14-15, 2011. The OIG was a guest speaker at the forum and presented information on trade finance fraud to conference attendees including members of the banking community, international law enforcement, and financial crime experts.

Additionally, the OIG and the Federal Maritime Commission's South Florida Area Representative met with staff and bank officials of Plus International Bank, Miami, Florida, on June 3, 2011, in order to discuss common fraud schemes often seen in trade finance and international ocean shipping. This effort was in furtherance of collaborative efforts between the OIG, lenders, and other partners involved in the trade finance and export arena.

On May 24-25, 2011, the OIG participated in a Financial Fraud Curriculum review hosted by the Federal Law Enforcement Training Center (FLETC), Glynco, GA, to discuss and recommend improvements or additions to several of FLETC's courses in the Financial Crimes arena. The review team consisted of nearly 25 different OIG agencies and law enforcement organizations. The OIG discussed its role in international trade finance fraud and common scenarios found in these types of cases.

## Hotline Activity

The Ex-Im Bank OIG maintains a hotline to receive reports of fraud, waste, and abuse in Ex-Im Bank programs and operations. Our investigative team evaluates hotline reports and, based on the available evidence, may result in the initiation of an investigation, referral to other law enforcement authorities having jurisdiction, or referral to management for administrative action.

The OIG received five hotline reports during the reporting period. All five were referred for investigation.

Hotline reports can be made by:

- phone at 1-888-OIG-EXIM (1-888-644-3946),
- email to [IGhotline@exim.gov](mailto:IGhotline@exim.gov), or
- mail or delivery service, or in person to:

Ex-Im Bank OIG Hotline  
Office of Inspector General  
811 Vermont Ave. NW  
Washington DC 2057

The OIG will not disclose the identity of a person making a report through the hotline without their consent unless the IG determines such disclosure is unavoidable during the course of an investigation.

# APPENDICES



# APPENDIX A — PEER REVIEW REPORTING

This appendix complies with Section 5(a)(14)-(16) of the IG Act of 1978, as amended.

## ***Peer Review of the Audit Function***

Under generally accepted government auditing standards, OIG audit functions must have an external peer review at least every 3 years. The National Endowment of the Arts OIG commenced a peer review of the Ex-Im Bank OIG audit function during this reporting period and expects to issue the results of the review during the next reporting period.

## ***Peer Review of the Investigative Function***

As of July 2011, Ex-Im Bank OIG derives its law enforcement authority from Section 6(e) of the IG Act of 1978, as amended. As such, the OIG is required to undergo an external peer review process of our investigative function every three years. The next peer review is scheduled for the summer of 2014.

## ***Peer Reviews of other OIGS***

The Ex-Im Bank OIG did not conduct a peer review of any other OIG during this reporting period. It has scheduled a peer review of the audit function of the Consumer Product Safety Commission OIG for the fall of 2013. In addition, it has scheduled a peer review of the investigation function of the Office of Personnel Management OIG for the end of 2012.

# APPENDIX B — IG ACT PROVISIONS REQUIRING REPORTING IN SAR

CITATION	REPORTING REQUIREMENTS	PAGE
Section 4(a)(2)	Review existing and proposed legislation and regulations	9 - 11
Section 5(a)(1)	A description of significant problems, abuses, and deficiencies	11 - 17
Section 5(a)(2)	Recommendations for corrective action with respect to significant problems, abuses, or deficiencies	21 - 23 29 - 31
Section 5(a)(3)	Prior significant recommendation on which corrective action has not been completed	None
Section 5(a)(4)	Matters referred to prosecutive authorities	37
Section 5(a)(5)	A summary of instances in which information was refused	None
Section 5(a)(6)	List of audit reports by subject matter, showing the total dollar value of questioned costs and recommendations that funds be put to better use	None
Section 5(a)(7)	A summary of each particularly significant report	19 - 32
Section 5(a)(8)	Statistical tables showing the total number of audit reports and the total dollar value of questioned costs	None
Section 5(a)(9)	Statistical tables showing the total number of audit reports and the dollar value of recommendations that funds be put to better use period	None
Section 5(a)(10)	A summary of each audit report issued before this reporting period for which no management decision has been made by the end of the reporting period	None
Section 5(a)(11)	A description and explanation of the reasons for any significant revised management decision made during the reporting period	None
Section 5(a)(12)	Information concerning any significant management decision with which the Inspector General is in disagreement	None
Sections 5(a)(14), (15), & (16)	Peer Review conducted and outstanding recommendations	51





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