

August 30, 2019

Re: Establishing Additionality Checklist and Guidance for Medium/Long-term Transactions

Introduction

Additionality is defined by the Export-Import Bank of the United States (EXIM) as the existence of reasons why a transaction would not go forward without the Bank's support. Additionality is deemed to exist when EXIM support for an export transaction is due to a) competition from foreign officially supported export credit for a competing foreign good or service, or b) the existence of financing gaps within the private sector caused by regulatory or structural factors.

The Bank's Charter, primarily Section 2(b)(1)(B),¹ is the basis for the aspect of additionality in EXIM operations. While the Charter language does not explicitly state "additionality", it provides broad guidance for EXIM to:

- 1.) "neutralize the effect of such foreign credit on international sales competition" and/or
- 2.) "supplement and encourage, and not compete with, private capital"

Additionally, the Export Trading Company Act of 1982, which established EXIM's working capital guarantee program, explicitly stated that EXIM should only provide working capital guarantees when:

- (1) the private credit market is not providing adequate financing to enable otherwise creditworthy export trading companies or exporters to consummate export transactions; and
- (2) such guarantees would facilitate expansion of exports which would not otherwise occur.

While such language only applies directly to the working capital guarantee program, it provides some additional congressional guidance on how EXIM conceives of additionality.

Historically, the process for establishing and defining additionality had been loosely or erratically codified. In the spirit of EXIM "reform", Bank staff has created a checklist to categorize and track additionality on new Board or medium-term individual delegated authority transactions. This checklist would be an outline of points to be discussed in greater detail in the body of the Board or IDA memo. Moreover, it is intended to streamline processes and add transparency to the operations of EXIM.

Background

EXIM is the official export credit agency of the United States. EXIM is an independent and self-sustaining Executive Branch agency with a mission of supporting American jobs by facilitating the export of U.S. goods and services. When private sector lenders are unable or unwilling to provide financing, EXIM fills in the gap for American businesses by equipping them with the financing tools necessary to compete for global sales. In doing so, the Bank levels the playing field for U.S. goods and services going up against foreign competition in overseas markets, so that American companies can create more good-paying

¹ See Appendix A: Additionality References in EXIM Charter

American jobs; because it is backed by the full faith and credit of the United States, EXIM assumes credit and country risks that the private sector is unable or unwilling to accept. The Bank's charter also requires that EXIM report on the purpose of transactions in its Annual Report and its annual Report to the U.S. Congress on Global Export Credit Competition (Competitiveness Report), both of which can be accessed on EXIM's website: www.exim.gov.

Assessing the purpose of a transaction measures the additionality that EXIM provides, or does not provide, to the U.S. and American exporters. The absence of identified additionality can be the basis for Board denial of EXIM support of a transaction, and it is therefore crucial for the determinants of additionality to be distinguishable and precisely defined.

The concept and definitive meaning of the word "additionality" has varied for the Bank and associated U.S. government agencies over the past several decades, and its usage and applicability has undulated between the utilization of qualitative and quantitative metrics for determination. Employing quantitative metrics has previously proved unsuitable due to the inability to measure and contrast many aspects of additionality in a manner greater than a "Yes or No" binary classification, and no strong basis for a quantitative methodology (e.g., exact percentages or levels of additionality) has ever been conclusively agreed upon. Thus, qualitative measurements of additionality have existed within the Bank as the more appropriate means of measurement and assurance for Charter compliance.

Additionality Checklist and Reference Guidelines

The newly drafted Additionality Checklist solidifies consensus of additionality and aims to provide the following benefits and advantages:

- 1.) Add more transparency to Bank authorizations
- 2.) Help categorize and track data for reporting purposes
- 3.) Assist loan officers in formulating a cohesive additionality rationale
- 4.) Streamline processes and reduce application times
- 5.) Create enhanced clarity for applicants

The checklist is attached as Appendix B: Additionality Checklist, and contains three additionality categories. Category I captures the need for EXIM due to export competition from foreign, officially sponsored, export credit agency(ies). Category II captures the unavailability of commercial financing due to regulatory or structural risk constraints, and Category III contains the following three options as Other/Not-Identified:

- (a) EXIM Bank support for, and participation in, this transaction or project will attract private sector capital to finance the remainder of the same transaction or project.
- (b) The foreign buyer seeks diversification of funding, including dedicated allocation of funding from ECAs.
- (c) The reason why the purpose of EXIM Bank support is not, or cannot be, identified: _____

Category III reasons should normally be used only to supplement the reasons in Categories I and II, and non-identified reasons that do not follow language from the Bank Charter are invalid reasons for EXIM involvement in a transaction.

In supplementation to the Additionality Checklist, Guidance for Loan Officers, attached as Appendix C, shall be utilized in order to further clarify options from the Additionality Checklist. The Guidance for Loan Officers is intended to serve as a guide to the appropriateness of loan officers checking certain boxes of the new Additionality Checklist. It provides both definitions of various categories, as well as potential supporting evidence, and establishes the degree of minimum evidence needed for confirmation of a particular aspect of EXIM additionality.

As the guide states, the potential evidence listed is non-exhaustive, and the determination of EXIM additionality ultimately lies with the Board of Directors or the staff approving the transaction under delegated authority. However, the Guidance for Loan Officers and the Additionality Checklist aim to be helpful tools for Bank staff, as well as American exporters.

Appendix A: Additionality References in EXIM Charter²

The following sections of the Charter are the basis of Additionality and EXIM's reporting requirements on additionality:

Sec. 2(b)(1)(B)

It is further the policy of the United States that loans made by the Bank in all its programs shall bear interest at rates determined by the Board of Directors, consistent with the Bank's mandate to support United States exports at rates and on terms and conditions which are fully competitive with exports of other countries, and consistent with international agreements.

For the purpose of the preceding sentence, rates and terms and conditions need not be identical in all respects to those offered by foreign countries, but should be established so that the effect of such rates, terms, and conditions for all the Bank's programs, including those for small businesses and for medium - term financing, will be to neutralize the effect of such foreign credit on international sales competition. The Bank shall consider its average cost of money as one factor in its determination of interest rates, where such consideration does not impair the Bank's primary function of expanding United States exports through fully competitive financing. [...]. It is also the policy of the United States that the Bank in the exercise of its functions should supplement and encourage, and not compete with, private capital; that the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.]

Sec. 8(h) Categorization of Purpose of Loans and Long-term Guarantees.—

In the annual report of the Bank under subsection (a), the Bank shall categorize each loan and long-term guarantee made by the Bank in the fiscal year covered by the report, and according to the following purposes:

- (1) 'To assume commercial or political risk that exporter or private financial institutions are unwilling or unable to undertake'.
- (2) 'To overcome maturity or other limitations in private sector export financing'.
- (3) 'To meet competition from a foreign, officially sponsored, export credit competition'.
- (4) 'Not identified', and the reason why the purpose is not identified.

Sec. 8A(a)(4) Purpose of All Bank Transactions. –

A description of all Bank transactions which shall be classified according to their principal purpose, such as to correct a market failure or to provide matching support.

² As amended through P.L. 114 - 94, December 4, 2015

Appendix B: Additionality Checklist for Medium/Long-term Transactions

Guidance for Establishing Additionality

The following are possible justifications for EXIM Bank support being additional. More than one reason may apply to a transaction; **check all reasons that apply**. This checklist is a guide to what factors are considered in establishing the additionality of a transaction. A detailed explanation of the reason(s) for EXIM Bank support for the transaction is contained in the body of the board/decision memo.

Main Purpose Guidance:

For the purposes of categorizing the transaction in APS, if any box in category I (competition) is checked, foreign competition is the main purpose. In category II, regulatory (meaning structural) reasons take precedence over non-regulatory reasons if multiple boxes are checked.

Category I: To meet competition from foreign, officially sponsored, export credit agency(ies).

- (a) The exporter faced, is facing, or expects to face competition from one or more foreign companies from an OECD country.
- (b) One or more of the foreign competitors is supported by OECD-compliant financing from their official export credit agency(ies).

Competing ECA(s):

- (c) The exporter faced, is facing, or expects to face competition from one or more foreign companies with government financing support that does not follow OECD Arrangement terms.

Competing Government(s)/agency(ies):

- (d) One or more foreign ECAs is pursuing a similar transaction in an attempt to influence the current and future supply chain for components in the final exported item.

Competing ECA(s):

- (e) ECA support is a pre-requisite for bidding on a project/contract.

Category II: Structural or Risk Constraints: Is commercial financing unavailable due to regulatory or other constraints?

- (a) Bank regulatory requirements constrained one or more elements of commercial financing to the extent that the resulting financing was inadequate or insufficient to facilitate the export sale.

What was the term/rate/structure of commercial financing offered:

- (b) Commercial financing is unavailable due to one or more “non-regulatory” risks, or a combination thereof, and/or other considerations, as identified below.

- (1) Country / Political Risk

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- (2) Credit / Repayment Term
 - (3) Nature of transaction (e.g., nuclear)
 - (4) Other:
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Category III: Other/Not-Identified. Other reasons that could justify EXIM support. Note that these reasons should normally be used only to supplement the reasons in Categories I and II.

- (a) EXIM Bank support for, and participation in, this transaction or project will attract private sector capital to finance the remainder of the same transaction or project.
 - (b) The foreign buyer seeks diversification of funding, including dedicated allocation of funding from ECAs.
 - (c) The reason why the purpose of EXIM Bank support is not, or cannot be, identified:
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Appendix C: Guidance for Loan Officers

Guidance for loan officers in filling out additionality checklist

This document is intended to serve as a guide for when it is appropriate for loan officers to check certain boxes of the new additionality checklist. It provides both definitions of various categories, as well as potential supporting evidence. All supporting evidence should be described in the board/decision memo as well. The potential evidence listed in this guide should not be considered exhaustive.

Category I: To meet competition from foreign, officially-sponsored, export credit agency(ies).

At a minimum, for each major product in the sale, loan officers should establish that qualified foreign technical competition (specifically identified) is readily available and known to buyer, and that the ECA of any competitor would likely be readily available. ECA support being a pre-requisite can offset lack of evidence of foreign financing competition; however, some degree of confirmation of foreign technical competition must still exist.

- (a) **Existence of Foreign Technical Competition:** To establish that there is a foreign alternative to the U.S. export that would reasonably be considered technically capable of replacing the U.S. export, loan officer should obtain:

Minimum Evidence: Exporter or buyer orally confirms.

Ideal Evidence: Written evidence (e.g., bid).

Note: There does not need to be a formal bid process; the foreign alternative being readily available, technically qualified, and known to the buyer is enough.

- (b) **Competition from OECD-compliant official ECA financing:** To establish that the U.S. export faces competition from a foreign competitor backed by an ECA subject to and following the OECD arrangement, loan officer should obtain:

Minimum Evidence: Exporter or buyer orally confirms.

Ideal Evidence: Written evidence or OPAIR confirms with foreign sources.

- (c) **Government financing support that does not follow OECD arrangement terms:** To establish that the U.S. export faces competition from a foreign competitor back by either an ECA not subject to arrangement, or by an ECA providing financing not covered by the arrangement, loan officer should obtain:

Minimum Evidence: Exporter or buyer orally confirms.

Ideal Evidence: Written evidence or OPAIR confirms with foreign sources.

- (d) **Attempting to Influence Supply Chain:** When the U.S. exporter is offered support by a foreign government financing entity on the basis of sourcing more of supply chain from the

foreign country in future transactions. In this case the U.S. export would still go forward but supply chain products are put at risk.

Potential Evidence: Confirmation of foreign ECA to support (either available generally, or actual offer), or quid pro quo evidence (ideal evidence).

- (e) **ECA Support if pre-requisite for bidding:** To establish that the foreign sponsor/buyer requires availability of ECA financing to even bid on project should obtain:

Minimum Evidence: Buyer confirms.

Ideal Evidence: Written evidence (e.g., RFP)

Category II: Structural or Risk Constraints: Is commercial financing unavailable due to regulatory or other constraints

- (a) **Bank regulatory requirements constrained one or more elements of commercial financing:** Post-financial crisis regulations generally preclude commercial financing on terms appropriate to financing need of transaction.

Potential evidence: Evidence is showing gap between terms exporter/buyer says are needed, and the terms (tenor/rate/amount) offered by commercial financing.

The key is establishing that commercial financing is not available on terms needed and demonstrating impact of offered commercial terms on project viability.

- (b) **Commercial Financing is unavailable due to one more “non-regulatory” risks, or a combination thereof:** While there is no specific regulatory driving factor, suitable commercial financing is unavailable from the private sector. Such factors could be country/political risk, credit/repayment term risk, or the fundamental nature of the transaction.

Potential evidence: Identify non-regulatory factors, and explain why commercial financing is unavailable.

The key to either is establishing why risk is beyond commercial financing, but not too risky for an ECA (best way is connecting constraint to non-commercial considerations).

Category III: Other/Not-identified

The category other reasons could justify the additionality of EXIM’s support. Note that these reasons should normally only be used to supplement categories I & II.

- (a) **EXIM Bank support will attract private sector capital:** A small amount of EXIM bank support will attract other private capital that will allow a project/export to go forward, via EXIM’s “halo” effect.

Potential Evidence: Applicant certifies that EXIM support is needed. Statements from private sector that they get comfort from EXIM participation. Evidence that the private capital would withdraw in the absence of EXIM's financing.

- (b) **Foreign Buyer Seeks Diversification of funding, including dedicated allocation of funding from ECAs:** the foreign buyer has typically high capital expenditure each year, and includes ECAs in the sourcing mix.

Potential evidence: Buyer has verified existing lines/relationships with other ECAs. Buyers use of ECA lines rises when credit conditions tighten.

- (c) **Reason the purpose is not identified:** This language comes directly from the Charter. It is unlikely to ever be checked, as it will never be appropriate to do a transaction without an identified reason.