



OFFICIAL POLICY ET-2016-01

Public and Confidential Financial Disclosure Reporting

Source:	Office of Ethics	Version:	NEW
Approved:	 Lisa V. Terry	Effective:	Dec 2016
Title:	Senior Vice President and Chief Ethics Officer	Review:	Dec 2017

1 POLICY

1.1 Purpose

The purpose of this document is to set forth written policies and procedures governing public and confidential financial disclosure reporting and review processes at the Export-Import Bank.

1.2 Background

The Export-Import Bank of the United States ("the Bank") is required by the Ethics in Government Act of 1978, as amended, 5 U.S.C. App. 4, §402(d)(1) ("the Act") to have established written procedures determining how the agency is to collect, review, evaluate, and, if applicable, make publicly available, financial disclosure statements filed by any of its officers or employees.

1.3 Policy Statement

High-level officials at the Bank are required to report certain financial interests publicly to ensure that every citizen can have confidence in the integrity of the Bank and the Federal Government. It is equally important, in order to guarantee efficient and honest operations, that other, less senior employees, whose duties involve the exercise of significant discretion in certain sensitive areas, report their financial interests and outside business activities to facilitate review of possible conflicts of interest. As such, these financial disclosure reports assist the Bank in administering its ethics program and counseling its employees.

2 AUTHORITY

2.1 Authority

The public and confidential financial disclosure reporting requirements for certain senior officers and employees in the Executive branch are set forth in the Ethics in Government Act of 1978, as amended, 5 U.S.C. App. 4, §101 *et. seq.*; 5 C.F.R. Part 2634; and the Stop Trading on Congressional Knowledge Act, P.L. 112-105, S. 2038, 126 Stat. 291, enacted April 4, 2012, as amended.

2.2 Review Cycle for this policy will be annually or subsequent to change in legislation, whichever occurs first.

2.3 Review History

Date	Changes
12/2016	<ul style="list-style-type: none"> • New Policy Established

3 DEFINITIONS

- 3.1 "Act" means the Ethics in Government Act of 1978, as amended.
- 3.2 "DAEO" means the Designated Agency Ethics Official (and "ADAEO" means Alternative Designated Agency Ethics Official). The DAEO may delegate any responsibility under these procedures to the ADAEO, an Ex-Im Bank ethics attorney, or other qualified designee.
- 3.3 "Ethics Staff" includes those employees of the Office of Ethics, as well as the Administrative Law Group, Office of the General Counsel (including both ethics attorneys and administrative staff), as designated by the DAEO.
- 3.4 "FDOnline" is the electronic filing system used at the Bank for submission and review of all public and confidential financial disclosure reports, except as otherwise noted in this Policy. FDOnline is maintained by the Department of Commerce's National Technical Information Service agency.
- 3.5 "Integrity" is an electronic financial disclosure system created by the U.S. Office of Government Ethics.
- 3.6 "Report" means the OGE Form 278 (or OGE Form 278e), "Public Financial Disclosure Report;" the OGE Form 278-T, "Periodic Financial Disclosure Report;" the OGE Form 450, "Confidential Financial Disclosure Report;" and the OGE Form 450-A, "Confidential Certificate of No New Interests."
- 3.7 "Regulations" mean those regulations promulgated by the OGE at 5 C.F.R. Part 2634, requiring the submission of OGE 278 or OGE 450 financial disclosure reports by certain employees of the Executive branch.
- 3.8 "Filer" means any employee required by the Bank to file a public or confidential report.
- 3.9 "Covered" refers to an employee or position defined based on one or more of the criteria in section 4.2 of this Policy.

4 SCOPE AND APPLICATION

- 4.1 This Policy applies to all covered employees determined to require filing an OGE 278 or OGE 450 financial disclosure report, as set forth in this Policy.
- 4.2 Covered Employees Required to File Financial Disclosure Reports
- 4.2.1 The following employees are required to file public financial disclosure OGE 278 reports:
- 4.2.1.1. Presidential nominees to positions requiring the advice and consent of the Senate;
- 4.2.1.2. Each officer or employee whose position is classified above GS-15 of the General Schedule, or the rate of basic pay for which is fixed, other than under the General Schedule, at a rate equal to or greater than 120% of the

minimum rate of basic pay for GS-15 of the General Schedule; and/or,

4.2.1.3. Any employee not otherwise described in this section who is in an Executive branch position which is excepted from the competitive service by reason of being of a confidential or policy-making character, unless excluded by OGE.

4.2.2 The following employees are required to file confidential financial disclosure OGE 450 reports:

4.2.2.1. Employees whose positions are classified at or above the GS-11 level;

4.2.2.2. Employees whose job duties involve access to confidential or sensitive information and create the potential for conflicts of interest, appearance of favoritism, or loss of impartiality; and/or,

4.2.2.3. Employees who engage in (or supervise someone who engages in) work activity described in section 4.2.2.2 of this Policy by exercising significant judgment in decision-making, approvals, recommendations, investigations, and advising within the Bank.

4.2.2.4. Exemptions. Non-supervisory employees who would otherwise be covered by section 4.2.2 may be exempted from filing if, in the discretion of the Chief Ethics Officer, such employees do not have duties which require them to exercise significant judgment in decisions or actions which will have a direct and substantial economic effect on the interests of any non-Federal entity. The Chief Ethics Officer is responsible for maintaining records on exemptions made in accordance with this subsection.

- 5 RESPONSIBILITY
- 5.1 The DAEO (or ADAEO or other designee) is responsible for enforcement and oversight of the Bank's financial disclosure reporting.
 - 5.2 The Ethics Staff is responsible for collecting, reviewing, and making publicly available financial disclosure reports filed by the Bank's officers and employees, where applicable.
 - 5.3 The Division of Human Capital is responsible for promptly providing ongoing, updated information to the DAEO and Ethics Staff regarding employee statuses (such as: onboardings, separations, retirements, promotions, and salary conversions to pay scales outside the GS Schedule) for purposes of determining employees' financial disclosure reporting requirements.
 - 5.4 All Covered Employees are responsible for ensuring they comply with their respective financial disclosure reporting requirements as instructed by the DAEO and Ethics Staff.
- 6 PROCEDURES
- 6.1 **Creating a FDOonline Account.** Based upon information received from the Division of Human Capital, Ethics Staff will contact new covered employees in order to provide them online account access to the

FDOonline electronic filing system.

6.2 Determining List of Filers

6.2.1 Annual Filer List. No later than February 1 each year, the Chief Human Capital Officer will provide updated information for all Ex-Im Bank employees indicating most recent position title, salary information (including pay plan, grade, step, total salary amount), and whether appointed under Schedule C authority. This information will be submitted to the DAEO or his or her designee to determine the list of covered employees required to file annual OGE 278 Public Financial Disclosure Reports and OGE 450 Confidential Financial Disclosure Reports.

6.2.2 Updates to Filer List. The Division of Human Capital will promptly notify the DAEO or his or her designee when:

6.2.2.1. A new officer or employee, not previously covered by the reporting requirements, enters into Federal service at the Bank in a covered position; or

6.2.2.2. An incumbent officer or employee, not previously covered by the reporting requirements, enters into a covered position or rate of pay; or

6.2.2.3. A covered officer or employee leaves Federal service.

6.3 Required Reporting Information. The information required for the OGE 278 and OGE 450 is set forth in detail at 5 C.F.R. Part 2634 and the instructions accompanying those respective forms, which are available on FDOonline.

6.4 New Entrant and Termination Reports. Upon entrance on duty or termination of a covered employee, Ethics Staff will ensure that the employee is informed of his or her responsibility for completing these forms via FDOonline in sufficient time for the employee to meet relevant filing obligations and deadlines set forth in section 6.7 of this Policy.

6.5 Distribution of Annual Reports

6.5.1 OGE 278 Annual Reports. No later than March 15 each calendar year, the DAEO or his or her designee will notify each covered employee of the annual public filing requirement and applicable deadline through FDOonline email communications.

6.5.2 OGE 450 Annual Reports. No later than January 15 each calendar year, the DAEO or his or her designee will notify each covered employee of the annual confidential filing requirement and applicable deadline through FDOonline email communications.

6.5.3 Ethics Contacts. The notice will include the names and contact information of the Ethics Staff designated by the DAEO to answer ethics questions.

6.6 Where Reports Must Be Filed. Covered officers and employees shall submit their OGE 278s and OGE 450s electronically using their respective accounts through FDOonline or Integrity, as required.

6.7 Report Filing Deadlines

6.7.1 For Public Financial Disclosure OGE 278 Filers:

- 6.7.1.1. **New Entrant Reports.** Except for Presidential nominees to positions requiring the advice and consent of the Senate, within 30 days following the covered employee's appointment, unless the employee vacated another position subject to the reporting requirement within 30 days prior to assuming the new position.
- 6.7.1.2. **Annual Reports.** By May 15 each year, if the employee served 61 days or more in a covered position during the preceding calendar year.
- 6.7.1.3. **Transaction Reports.** Within 30 days of receiving notification of any purchase, sale, or exchange by the filer, the filer's spouse, or dependent child of stocks, bonds, commodity futures, and other securities if the amount of the transaction exceeded \$1,000, but not later than 45 days after the transaction occurred.
- 6.7.1.4. **Termination Reports.** Up to 15 days before termination date, provided that filers agree to update these reports in the event that there are changes to reportable information before or on their termination dates. Within 30 days of termination of employment, if the employee served 61 days or more in a calendar year and has not accepted another covered position within 30 days thereafter. Termination and annual reports may be combined where applicable, upon approval by the DAEO or his or her designee.
- 6.7.1.5. **PAS Official Reports.** In the case of Presidential nominees to positions requiring the advice and consent of the Senate, a report must be filed no later than five days after the President transmits the nomination to the Senate.

6.7.2 For Confidential Financial Disclosure OGE 450 Filers

- 6.7.2.1. **New Entrant Filers.** Not later than 30 days after assuming a new, covered position or office.
- 6.7.2.2. **Annual Filers.** By February 15 of each year if the employee served 61 days or more in a covered position (including in an acting capacity) during the preceding calendar year.
- 6.7.2.3. **Filing Exceptions.** The OGE 450 filing requirements in this section do not apply where the employee:
 - 6.7.2.3.1. Has left Government service prior to the due date for the report;
 - 6.7.2.3.2. Has, within 30 days prior to assuming his or her covered position, left another position or office which also required a OGE 450 report and he or she previously satisfied the reporting requirements applicable to that former position, provided that a

copy of the report is provided to the DAEO or his or her designee; or

6.7.2.3.3. Is not reasonably expected to perform the duties of an office or position for more than 60 days in the following 12-month period (i.e., is serving in a temporary appointment or in an acting capacity), as determined by the DAEO or his or her designee. If the employee actually performs the duties of such position for more than 60 days in the 12-month period, then a confidential financial disclosure report must be filed within 15 calendar days after the 60th day of such service in the position.

6.8 **Extensions of Time to File.** Employees required to file OGE 278s or OGE 450s may request an extension of the applicable filing deadlines set forth in section 6.6. The DAEO (or ADAEO or other designee) may, for good cause shown, grant to any public filer or class thereof an extension of time for filing, not exceeding 30 days. The requesting employee shall set forth in writing specific reasons why such additional extension of time is necessary. Approvals or denials of such requests will also be provided in writing. Such records shall be maintained as part of the employee's official report file in FDOOnline.

6.9 **Late Filing Fees**

6.9.1 Any OGE 278 filer must remit a late filing fee of \$200 to the DAEO or his or her designee, payable to the U.S. Treasury, if his or her OGE 278 report is filed more than 30 days after the later of:

6.8.1.1 The filing deadline, or

6.8.1.2 The last day of any filing extension period granted pursuant to section 6.7, above.

6.9.2 The DAEO, or his or her designee, may waive the late filing fee if he or she determines that the delay in filing was caused by extraordinary circumstances, including the agency's failure to notify a new entrant, first-time annual filer, or termination filer of the requirement to file the public financial disclosure report, which made the delay reasonably necessary.

6.9.3 Any request for a waiver of the late filing fee must be made in writing and submitted to the DAEO or his or her designee, with any supporting documentation.

6.10 **Review Process for Reports**

6.10.1 **Initial Review**

6.10.1.1. Except as provided in these procedures, financial disclosure review should be performed no later than 60 days from the date of receipt of the report.

6.10.1.2. Each financial disclosure report will be reviewed by Ethics Staff to determine if: (1) it has been completed in accordance with instructions on the form and the requirements of 5 C.F.R. Part 2634, and (2) whether the

report discloses the existence of any conflict of interest.

6.10.1.3. In the course of the review, the reviewing Ethics Staff may require additional information, which must be promptly provided by the reporting employee. If it is determined that a report has not been completed in a manner consistent with its instructions, the reviewing Ethics Staff may request the filer to make the required changes to the report through FDOonline.

6.10.2 Certification. After completion of review, the reviewing Ethics Staff will sign and date the report, certifying that based on the information submitted, the report discloses no conflict of interest under applicable laws and regulations.

6.11 Remedial Action. In the event the reviewing Ethics Staff concludes that a financial disclosure report discloses a conflict of interest or is not in compliance with the Act, the reviewing Ethics Staff will offer the reporting employee, in writing, an opportunity for personal consultation and suggest measures to bring the report into compliance. Remedial action should be completed within 90 days from the date the employee was notified.

6.12 Transmittal of Certain Public Financial Disclosure OGE 278 Reports to the Office of Government Ethics

6.12.1 Nominees. In the case of Presidential nominees to positions requiring the advice and consent of the Senate, a Public Financial Disclosure report shall be filed with the DAEO within five days of transmittal by the President to the Senate of the employee's nomination. The DAEO shall immediately review and certify the report, if appropriate. Within three working days, the report and an opinion letter shall be transmitted to the Office of Government Ethics (OGE) for further review and certification.

6.12.2 Presidential Appointees and the DAEO. Following certification of the OGE 278s by the DAEO (the ADAEO in the case of the DAEO's OGE 278), the annual and termination reports of Presidential appointees and the DAEO shall be forwarded to OGE for further review and certification.

6.12.3 Use of *Integrity* system by Certain OGE 278 Filers. Beginning in January 2016, OGE will require the use of its *Integrity* electronic filing system to collect OGE 278 reports of those Senate-confirmed appointees whose reports are submitted to OGE under 5 U.S.C. app. § 103, as well as the report for the DAEO, whose report is also submitted to OGE.

6.13 Recordkeeping and Custody

6.13.1 General Requirements. OGE 278s and OGE 450s submitted by covered employees will be maintained electronically in FDOonline with restricted access provided only to the DAEO and other designated Ethics Staff.

6.13.2 Records Retention Period. OGE 278s and OGE 450s will be retained for six years from the date of filing, except that OGE 450s older than six years must also be retained until any

corresponding 450As are eligible for destruction. Both OGE 278s and OGE 450s must be retained for longer period, as necessary, if related to an ongoing investigation.

6.13.3 Public Disclosure of OGE 278 Reports

6.13.3.1. Requests for Disclosure. Any Public Financial Disclosure Report will be made available to any member of the public in accordance with the Act, upon written request submitted to the DAEO or his or her designee. The requested report will be made available as soon as practicable. The agency may require a reasonable fee to recover the direct cost of reproduction or mailing of a public report, excluding the salary of any employee involved.

6.13.3.2. Availability. The DAEO or his or her designee will make the report available for public inspection within 30 days after certification of the report.

6.13.3.3. Requester's Certification. Each requester must certify, in writing, that the requester is aware of the provisions of the Act against unlawful uses of the reports, and the penalties for such uses.

6.13.3.4. Record of Disclosure. The DAEO, or his or her designee, will maintain a record of the disclosure of any report under this Policy. This record will identify the particular report(s) disclosed, the date of the request, and the name and address of the requester, if available.

6.13.3.5. Notification to Filer. Any employee whose OGE 278 is provided under this section to a requester will be notified accordingly by the DAEO or his or her designee.