



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

INSPECTOR GENERAL

Statement of

Michael T. McCarthy
Deputy Inspector General
Export-Import Bank of the United States

before the

United States House of Representatives
Committee on Financial Services

June 3, 2015 at 10:00 am

Good morning, Chairman Hensarling, Ranking Member Waters, and members of the committee.

Thank you for the invitation and opportunity to testify before you about the activities of the Office of Inspector General (OIG) and the programs and operations of the Export-Import Bank.

I. Export-Import Bank and the Office of Inspector General

The Export-Import Bank of the United States (Ex-Im Bank) is the official export-credit agency of the United States. Ex-Im Bank is an independent, self-sustaining executive agency and a wholly-owned U.S. government corporation. Ex-Im Bank's mission is to support jobs in the United States by facilitating the export of U.S. goods and services. Ex-Im Bank provides competitive export financing and ensures a level playing field for U.S. exports in the global marketplace.

The Office of Inspector General, an independent office within Ex-Im Bank, was statutorily created in 2002 and organized in 2007. The mission of the Ex-Im Bank Office of Inspector General is to conduct and supervise audits, investigations, inspections, and evaluations related to agency programs and operations; provide leadership and coordination as well as recommend policies that will promote economy, efficiency, and effectiveness in such programs and operations; and prevent and detect fraud, waste, abuse, and mismanagement.

In the past five years, OIG audits, inspections, and investigations have produced quantifiable cost savings to the Bank and the U.S. Treasury. Based on court-ordered forfeitures, restitution, and repayments directly resulting from OIG investigations of \$255 million, the OIG has returned more than 10 times its total budget since the office was created. Including cost savings from transactions canceled based on OIG referrals of \$47 million and the reduction in medium-term

claims of at least \$80 million annually from FY 2012 onward, the OIG has returned more than 25 times its budget.

II. Semiannual Report to Congress

On May 29, 2015, Ex-Im Bank published the Office of Inspector General Semiannual Report to Congress for October 1, 2014 – March 31, 2015. This report is statutorily required by the Inspector General Act as a means to keep Congress fully and currently informed about problems and deficiencies in agency operations and the progress of corrective action.

In the first half of FY 2015, the Export-Import Bank Office of Inspector General continued its work in advising the management of the Export-Import Bank and the Congress on recommendations for improving Bank operations and detecting, preventing, and prosecuting fraud. As Congress considers reauthorization of the Bank's charter, the goal of our office is to provide timely, accurate, and credible information to aid legislators and Bank officials in making policy decisions.

The **Office of Audits** completed five audits and one risk assessment:

- *Audit of the Export-Import Bank of the United States Fiscal Year 2014 Financial Statements*
(OIG-AR-15-01, November 14, 2014)
- *Fiscal Year 2014 Financial Statement Audit—Management Letter*
(OIG-AR-15-02, January 14, 2015)

Under a contract overseen by the Office of Audits, Deloitte and Touche LLP conducted the independent audit of Export-Import Bank's financial statements for fiscal year 2014 and found (1) the financial statements were fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles; (2) there were no material weaknesses in internal control; and (3) there were no instances of reportable noncompliance with laws and regulations or other matters it tested. The audit identified one significant internal control deficiency which resulted from errors in the BCL rating for one transaction, a formula error on an input form, and incorrect authorization dates. Management concurred with Deloitte and Touche LLP's recommendation to correct the deficiencies.

In addition to the Independent Auditor's report on the FY 2014 Financial Statements, Deloitte and Touche LLP issued a management letter that identified four other deficiencies in Ex-Im Bank's internal control over financial reporting. Deloitte and Touche LLP made recommendations to correct these deficiencies and management concurred with the recommendations.

- *Independent Audit of Export-Import Bank's Information Security Program for Fiscal Year 2014*
(OIG-AR-15-03, February 9, 2015)

Under a contract overseen by the Office of Audits, Cotton & Company LLP performed an audit of Ex-Im Bank's Information Security Program for FY 2014. Cotton & Company determined that overall Ex-Im Bank was in substantial compliance with the Federal Information Security Management Act of 2002 (FISMA). While Ex-Im Bank continues to improve and strengthen its information security program, it is not compliant with all FISMA requirements. The report included three new recommendations and three re-issued recommendations. Management concurred with the recommendations.

- *Audit of Export-Import Bank's Short-Term Multi-Buyer Insurance Program*
(OIG-AR-15-04, March 23, 2015)

We conducted this audit to determine if the internal control environment and activities for Ex-Im Bank's Short-Term Multi-Buyer Insurance program were designed, operated and updated to provide reasonable assurance of (1) compliance with applicable laws and regulations and (2) the efficiency and effectiveness of internal operations for underwriting and issuing insurance policies. We found that Ex-Im Bank's internal control environment and activities for the Short-Term Multi-Buyer insurance program were generally designed, operated and updated to provide reasonable assurance of compliance with applicable laws and regulations. However, based on our review of 23 transactions totaling approximately \$25 million in credit limits, we found that underwriters did not comply with the Bank's policies and procedures for 5 transactions totaling over \$5 million in credit limits. One of these transactions resulted in an unsupported questioned cost of \$118,000. While the remaining 18 transactions met the Bank's credit standards, the underwriting decisions for 15 of these transactions, along with the 5 noncompliant transactions, were not sufficiently documented. The report included 7 recommendations for corrective actions and management concurred with the recommendations.

- *Independent Audit on the Export-Import Bank's Planning and Implementation of the Financial Management System—Next Generation*
(OIG-AR-15-05, March 31, 2015)

Under a contract overseen by the Office of Audits, Cotton & Company LLP (Cotton) performed an audit of the Export-Import Bank's planning and implementation of the Financial Management System—Next Generation (FMS-NG). The audit did not identify any significant issues or major risks that would prevent the implementation of FMS-NG. However, the audit found that improvements could be made with the planning and documentation of the implementation of FMS-NG. Specifically, the audit found that Ex-Im Bank did not develop and maintain comprehensive project plans and supporting documentation to ensure that the migration to FMS-NG fully adhered to established plans and that business operations could continue without significant complications. The report included 7 recommendations and management concurred with the recommendations.

- *Risk Assessment of Export-Import Bank's Purchase and Travel Card Programs* (November 13, 2014)

In accordance with the Government Charge Card Abuse Prevention Act of 2012, we conducted a risk assessment to identify and analyze the risks of illegal, improper, or erroneous use of Ex-Im Bank's purchase and travel cards in order to determine the scope, frequency and number of periodic audits the OIG will conduct. Our risk assessment determined that Ex-Im Bank's risk of illegal, improper, or erroneous use within the purchase and travel card programs was low. Overall, we determined that the purchase and travel card expenditures were immaterial in comparison to Ex-Im Bank's total FY 2013 expenditures; the policies and procedures and internal controls for each program appeared to be sufficient with one exception, and prior recommendations were fully implemented. As a result of our risk assessment, we did not include audits of Ex-Im Bank's purchase and travel card programs in our FY 2015 Annual Audit Plan. Future audit needs for the purchase and travel card programs will be based on the results of our annual risk assessments.

The **Office of Inspections and Evaluations** (OIE) completed an inspection report on two Ex-Im Bank financings in Ghana and continued working on three additional inspection assignments:

- *Report on Ghana Credits: Ridge Hospital Complex AP087225XX & Kumawu-Mampong Water Treatment Works, AP083137XX* (OIG-INS-15-01, March 31, 2015)

The Ghana inspection involved the review of two Ex-Im Bank transactions: the \$155.4 million financing for the renovation of the Ridge Hospital Complex ("Ridge") in Accra, Ghana and the \$23.1 million Tied Aid financing for the rehabilitation and expansion of the Kumawu-Mampong Water Treatment Works project ("Water Works") in Mampong, Ghana. Our inspection found the Ridge hospital transaction to be proceeding on time and on budget with a targeted completion date of March 30, 2017. OIG determined that Ex-Im Bank staff performed an appropriate level of due diligence and monitoring and proactively addressed payment risks through structural enhancements to the transaction. The inspection found that while the Water Works Project is operational and provides treated water to the city of Mampong, water distribution to the 22 surrounding communities of Mampong is intermittent. The project's commercial contract and scope of work did not address existing conditions of voltage irregularities and Ex-Im Bank engineering staff did not identify and address these problems during the design, procurement and construction phases of the project. As a result, the completed project does not meet the full scope of work envisioned in Ex-Im Bank's Board Memorandum, nor the development goals of the Tied Aid financing. The report outlines five recommendations for corrective action. Management agreed with four recommendations and disagreed with one of the recommendations.

The **Office of Investigations** concluded the following actions:

- *Obtained a \$3.8 million settlement in a civil fraud lawsuit*

In March 2015 after a lengthy and complex OI investigation, the U.S. Department of Justice announced that Hencorp Becstone Capital L.C. (Hencorp) agreed to pay \$3.8 million to resolve allegations under the False Claims Act that it made false statements and claims to Ex-Im Bank in order to obtain loan guarantees. The government alleged that a former Hencorp business agent created false documentation and that Hencorp acted recklessly by outsourcing key credit review functions to the agent without adequate supervision or oversight.

- *Investigated criminal fraud cases*

During the reporting period, OI agents worked diligently with the Department of Justice to complete several criminal investigations. Based on OI's efforts, agents obtained three convictions, four indictments, and one criminal information in export finance fraud cases against outside parties who schemed to defraud Ex-Im Bank. OI also closed 18 investigations after concluding all remaining actions and prosecutive results in those cases.

- *Investigated employee integrity matters*

During this reporting period, OI closed two cases involving allegations of misconduct by Ex-Im Bank employees. In one case, OI substantiated allegations that a contractor, contractor employees, and an Ex-Im Bank contracting official engaged in a scheme to overstate the hours worked in the second half of October 2013 in order to compensate contractor employees for hours not worked or billed during the shutdown period. The scheme resulted in the payment of approximately \$19,356 for hours not actually worked. In another case, OI substantiated allegations that an Ex-Im employee had been hired despite a prior felony conviction, and while working at Ex-Im Bank, misused IT resources and engaged in conflicts of interest.

- *Referred information to Ex-Im Bank resulting in administrative actions.*

OI Special Agents work collaboratively to share investigative intelligence with Ex-Im Bank to help identify potential and suspected fraudulent activity within Bank transactions and to protect Bank funds at risk. During this reporting period, OI made 80 referrals of investigative information to OGC concerning potential fraud and funds at risk for enhanced due diligence by Ex-Im Bank. OI agents also conducted training and outreach with various lenders and partners to enhance investigative and financial intelligence sharing.

III. Recent Activities

Since the conclusion of the semiannual reporting period on March 31, 2015, court proceedings have been held resulting from OIG investigations, and the Office of Audits issued one new report.

- *Former Loan Officer at Export-Import Bank Pleads Guilty to Accepting Over \$78,000 in Bribes*

On April 22, 2015, Johnny Gutierrez, a former loan officer at Ex-Im Bank, pleaded guilty to one count of bribery of a public official, for accepting more than \$78,000 in bribes in return for recommending the approval of unqualified loan applications to the bank, among other misconduct.

According to his plea agreement, as an Ex-Im Bank loan officer, Gutierrez was responsible for conducting credit underwriting reviews for companies and lenders submitting financing applications to the Ex-Im Bank.

As part of his guilty plea, Gutierrez admitted that on 19 separate occasions between June 2006 and December 2013, he accepted bribes totaling more than \$78,000 in return for recommending the approval of unqualified loan applications and improperly expediting other applications. Specifically, Gutierrez admitted that he intentionally ignored the fact that one company had previously defaulted in 10 previous transactions guaranteed by the bank, causing the Ex-Im Bank to lose almost \$20 million. Despite these defaults, Gutierrez accepted bribes to continue to recommend the approval of the company's loan applications. Additionally, Gutierrez admitted that he accepted bribes from a financing broker to expedite applications submitted by the broker, and that he privately assisted the broker to improve its applications before submission to the bank. In exchange, Gutierrez was to receive half of the broker's profit on the transactions financed by the bank. Further, Gutierrez disclosed to the broker inside information about financing applications submitted to the Ex-Im Bank, so that the broker could solicit the applicants as clients.

A sentencing hearing is scheduled for July 20, 2015.

- *Mexican National Sentenced to 41 Months in Prison for Executing a \$4 Million Dollar Bank Fraud Scheme*

On May 22, 2015, Julian Martin Gaspar Vazquez (Gaspar), 52, of Mexico was sentenced to forty-one months imprisonment, to be followed by five years of supervised release for executing a \$4 million dollar bank fraud scheme. Gaspar was also ordered to pay \$4,488,000 in restitution. In addition, the Court imposed a \$4 million forfeiture money judgment against Gaspar.

On February 12, 2015, Gaspar pled guilty to one count of bank fraud, in violation of 18 U.S.C. § 1344. According to court documents, Gaspar was the owner of "Ecologia en Tratamientos de Agua, S.A. de C.V." ("ETA"). ETA was a Mexican company in the business of water treatment. In or around March of 2006, Gaspar sought an Ex-Im Bank insured credit line from Espirito Santo Bank, a United States bank located in Miami, Florida. The stated purpose for the credit line was to enable ETA to import United States goods into Mexico.

From September 2009 through February 2010, Gaspar caused Espirito Santo Bank to make four reimbursement disbursements of \$1 million each to ETA. The supporting documents included

false bank records purporting to show payments by ETA to a United States company and false Mexican customs documents purporting to show that United States goods had been exported to Mexico. From in or around March 2010, through in or around August 2010, ETA and Gaspar failed to repay the disbursements when due, and defaulted on the Ex-Im Bank insured loan. As a result, Gaspar caused \$4,488,000 in losses to Ex-Im Bank which had insured the loan that Gaspar fraudulently obtained from Espirito Santo Bank.

- *Audit of Export-Import Bank's Compliance with the Improper Payments Elimination and Recovery Act of 2010 for FY 2014 Reporting*
(OIG-AR-15-06, May 12, 2015)

Improper payments are payments made in the wrong amount, to the wrong entity, or for the wrong reason. They can result from processing errors, a lack of information, or fraud. Each agency's Inspector General is required to perform an annual review of their agency's compliance with improper payments legislation.

The audit found that Ex-Im Bank did not fully comply with the Improper Payments Elimination and Recovery Act of 2010 (IPERA) for FY 2014 reporting. The Bank met five of the six IPERA reporting requirements, but did not conduct a program specific risk assessment for each program or activity as required for compliance.

The Bank developed a process for assessing improper payment risk; however, its assessment did not cover all activities or consider all risk to adequately determine whether the Bank had any programs or activities susceptible to significant improper payments. Specifically, (1) underwriting and approval of Bank transactions including direct and guaranteed loans and insurance were not adequately assessed for improper payments according to the nine minimum risk factors; (2) the risk assessment did not consider claims for transactions with unconditional guarantees – an important risk factor; and (3) Ex-Im Bank's risk assessment questionnaire was not sufficient to support its low risk determination for significant improper payments.

We found Ex-Im Bank's risk assessment for FY 2014 reporting provided limited insight into the actual risk of significant improper payments. As a result, the Bank's improper payment reporting is incomplete and the true risk of significant improper payments is unknown. Although the Bank did not fully comply with IPERA, the OIG recognizes the Bank's efforts to improve its improper payment review process. Specifically, the Bank conducted an interim assessment on authorizations for the FY 2014 reporting cycle. In addition, the Bank plans to include claim payments for transactions with unconditional guarantees and transactions with inappropriate underwriting and approval decisions in the next reporting cycle.

IV. Conclusion

This testimony highlighted some of the challenges facing Ex-Im Bank and the steps that are in process to address issues and improve the operations of the Bank. The OIG will continue to perform its independent oversight role as well as strengthen its efforts in preventing and detecting fraud, waste, and abuse.

Chairman Hensarling, Ranking Member Waters, and members of the committee, thank you once again for the opportunity to testify before you today. I would be pleased to respond to any questions you may have.

Witness Bio

Michael T. McCarthy is the Deputy Inspector General of the Export-Import Bank of the United States and currently leads the Office of Inspector General. He provides overall direction to the teams of auditors, investigators, and inspectors responsible for improving the programs and operations of Ex-Im Bank and preventing and detecting fraud, waste, and abuse.

Mr. McCarthy is a career public servant who has worked in all three branches of government. Before joining Ex-Im Bank, he was a senior executive at the U.S. Department of the Treasury and the Administrative Conference of the United States, and previously served at the U.S. Department of Justice. For the U.S. House of Representatives, Mike served as deputy staff director and general counsel to the Committee on Oversight and Government Reform and as staff director of that panel's Subcommittee on Government Management. He was law clerk to U.S. District Judge Leonie Brinkema (E.D. Va.). Mr. McCarthy graduated with honors from Harvard Law School and received a B.A. from Georgetown University, where he was a Big East All-Academic swimmer. Mike and his wife, Carrie Wilks, have three daughters.