

Memorandum

To: Shagufta Ahmed
Clearance Officer
Office of Management and Budget

From: Faisal B. Siddiqui
Assistant General Counsel for Administration
Export Import Bank of the United States

Subject: Emergency Clearance Request
Form EIB 10-01 – Questionnaire Regarding Activities Related
to the Islamic Republic of Iran
OMB 3048-XXXX

Date: March 10, 2010

A. Background

The Export-Import Bank of the United States (“Ex-Im Bank”) is the official export credit agency of the United States. Its mission is to create and sustain U.S. jobs by financing U.S. exports through direct loans, guarantees, insurance and working capital credit. The Consolidated Appropriations Act of 2010 (P.L. 111-117) (“the Act”), enacted December 16, 2009 provides for Ex-Im Bank’s FY2010 budget authorization. As part of the U.S. government’s efforts to strengthen sanctions against Iran, the Act contains language prohibiting Ex-Im Bank from:

Authoriz[ing] any new guarantee, insurance, or extension of credit for any project controlled by an energy producer or refiner that continues to: (A) provide Iran with significant refined petroleum resources; (B) materially contribute to Iran’s capability to import refined petroleum resources; or (C) allow Iran to maintain or expand, in any material respect, its domestic production of refined petroleum resources, including any assistance in refinery construction, modernization, or repair.

See Sec. 7043 of the Act.

The Act is effectively immediately and applies to all authorizations Ex-Im Bank may make with FY2010 funds.

B. The Questionnaire

To ensure compliance with the Act, Ex-Im Bank developed the attached Questionnaire to be completed by any borrower, guarantor, sponsor, purchaser or end-user in a proposed Ex-Im Bank transaction. The purpose of the Questionnaire is to solicit information from potential Ex-Im Bank participants to ensure they are not a prohibited energy producer or refiner (or affiliated with the same) under the Act.

Collection of the information sought in the Questionnaire is essential to Ex-Im Bank's mission: to finance U.S. exports in a manner consistent with Congressional intent. Furthermore, if Ex-Im Bank cannot collect the information required by the Questionnaire it cannot ensure compliance with the Act. Use of the Questionnaire is critical to Ex-Im Bank's due diligence efforts to ensure it is not conducting business with prohibited parties.

The Iran sanctions language in the Act was unexpected: Ex-Im Bank has never been subject to a similar requirement in its annual budget authorizations or its organic statute at 12 U.S.C. § 635 et al. The Iran sanctions language is unprecedented and requires major effort on part of the Bank to ensure compliance with the spirit and letter of the Act.

C. Request

Ex-Im Bank is requesting an emergency clearance due to the fact that the Act was made effective immediately upon its passage on December 16, 2009. As such, Ex-Im Bank was immediately made subject to the Iran sanctions restrictions and was required to take urgent action to ensure compliance. The attached Questionnaire is a central part of Ex-Im Bank's effort to immediately fulfill the Act's requirements.

We request OMB review the attached Questionnaire and provide Ex-Im Bank an emergency clearance approval within 15 days of receipt of this request. We have sent a notice for publication to the Federal Register requesting comments from the public. This notice will be published on Monday, March 15, 2010. This notice provides the public 10 days to send comments to OMB.

We understand that this emergency clearance approval is for 180 days and we are commencing the normal clearance process immediately. If you have any questions please contact Faisal Siddiqui, at 202-565-3435 or Faisal.Siddiqui@exim.gov.