

**§ 413.25**

**12 CFR Ch. IV (1–1–05 Edition)**

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**APPENDIX TO PART 413—COVERED TRANSACTIONS**

**AUTHORITY:** Sec. 2455, Pub. L. 103-355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 11738 (3 CFR, 1973 Comp., p. 799); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235).

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**SOURCE:** 68 FR 66544, 66569, 66570, Nov. 26, 2003, unless otherwise noted.

**§ 413.25 How is this part organized?**

(a) This part is subdivided into ten subparts. Each subpart contains information related to a broad topic or specific audience with special responsibilities, as shown in the following table:

In subpart . . .	You will find provisions related to . . .
A .....	general information about this rule.
B .....	the types of Ex-Im Bank transactions that are covered by the Governmentwide nonprocurement suspension and debarment system.
C .....	the responsibilities of persons who participate in covered transactions.
D .....	the responsibilities of Ex-Im Bank officials who are authorized to enter into covered transactions.
E .....	the responsibilities of Federal agencies for the <i>Excluded Parties List System</i> (Disseminated by the General Services Administration).
F .....	the general principles governing suspension, debarment, voluntary exclusion and settlement.
G .....	suspension actions.
H .....	debarment actions.
I .....	definitions of terms used in this part.
J .....	[Reserved]

(b) The following table shows which subparts may be of special interest to you, depending on who you are:

If you are . . .	See subpart(s) . . .
(1) a participant or principal in a nonprocurement transaction.	A, B, C, and I.
(2) a respondent in a suspension action	A, B, F, G and I.
(3) a respondent in a debarment action	A, B, F, H and I.
(4) a suspending official .....	A, B, D, E, F, G and I.
(5) a debarment official .....	A, B, D, E, F, H and I.
(6) a (n) Ex-Im Bank official authorized to enter into a covered transaction.	A, B, D, E and I.
(7) Reserved .....	J.

**§ 413.50 How is this part written?**

(a) This part uses a “plain language” format to make it easier for the general public and business community to use. The section headings and text, often in the form of questions and answers, must be read together.

(b) Pronouns used within this part, such as “I” and “you,” change from subpart to subpart depending on the audience being addressed. The pronoun “we” always is the Ex-Im Bank.

(c) The “Covered Transactions” diagram in the appendix to this part shows the levels or “tiers” at which

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the Ex-Im Bank enforces an exclusion under this part.

### § 413.75 Do terms in this part have special meanings?

This part uses terms throughout the text that have special meaning. Those terms are defined in Subpart I of this part. For example, three important terms are—

(a) *Exclusion or excluded*, which refers only to discretionary actions taken by a suspending or debarment official under this part or the Federal Acquisition Regulation (48 CFR part 9, subpart 9.4);

(b) *Disqualification or disqualified*, which refers to prohibitions under specific statutes, executive orders (other than Executive Order 12549 and Executive Order 12689), or other authorities. Disqualifications frequently are not subject to the discretion of an agency official, may have a different scope than exclusions, or have special conditions that apply to the disqualification; and

(c) *Ineligibility or ineligible*, which generally refers to a person who is either excluded or disqualified.

### Subpart A—General

#### § 413.100 What does this part do?

This part adopts a governmentwide system of debarment and suspension for Ex-Im Bank nonprocurement activities. It also provides for reciprocal exclusion of persons who have been excluded under the Federal Acquisition Regulation, and provides for the consolidated listing of all persons who are excluded, or disqualified by statute, executive order, or other legal authority. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR 1989 Comp., p. 235) and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327).

#### § 413.105 Does this part apply to me?

Portions of this part (see table at § 413.25(b)) apply to you if you are a(n)—

(a) Person who has been, is, or may reasonably be expected to be, a partici-

pant or principal in a covered transaction;

(b) Respondent (a person against whom the Ex-Im Bank has initiated a debarment or suspension action);

(c) Ex-Im Bank debarment or suspending official; or

(d) Ex-Im Bank official who is authorized to enter into covered transactions with non-Federal parties.

#### § 413.110 What is the purpose of the nonprocurement debarment and suspension system?

(a) To protect the public interest, the Federal Government ensures the integrity of Federal programs by conducting business only with responsible persons.

(b) A Federal agency uses the nonprocurement debarment and suspension system to exclude from Federal programs persons who are not presently responsible.

(c) An exclusion is a serious action that a Federal agency may take only to protect the public interest. A Federal agency may not exclude a person or commodity for the purposes of punishment.

#### § 413.115 How does an exclusion restrict a person's involvement in covered transactions?

With the exceptions stated in §§ 413.120, 413.315, and 413.420, a person who is excluded by the Ex-Im Bank or any other Federal agency may not:

(a) Be a participant in a(n) Ex-Im Bank transaction that is a covered transaction under subpart B of this part;

(b) Be a participant in a transaction of any other Federal agency that is a covered transaction under that agency's regulation for debarment and suspension; or

(c) Act as a principal of a person participating in one of those covered transactions.

#### § 413.120 May we grant an exception to let an excluded person participate in a covered transaction?

(a) The Ex-Im Bank agency head or designee may grant an exception permitting an excluded person to participate in a particular covered transaction. If the Ex-Im Bank agency head or designee grants an exception, the exception must be in writing and state