

## Export-Import Bank of the U.S.

## § 407.2

### § 407.1 Purpose, scope and definitions.

(a) Consistent with the principles that: (1) The public is entitled to the fullest practicable information regarding the decision-making processes of the Federal Government, and (2) the rights of individuals and the ability of the Export-Import Bank of the United States to carry out its statutory responsibilities should be protected, this part is promulgated pursuant to the directive of section (g) of the Government in the Sunshine Act, 5 U.S.C. 552b(g), and specifically implements sections (b) through (f) of said Act, 5 U.S.C. 552b (b) through (f).

(b) The term *meeting* means any meeting of the Board of Directors of Eximbank at which a quorum is present or any meeting of the Executive Committee of the Board of Directors where deliberations of the Board of Directors or the Executive Committee determine or result in the joint conduct or disposition of official Eximbank business.

(c) The term *regularly scheduled meeting* means meetings of the Board of Directors or the Executive Committee which are held at 9:00 a.m. on Thursday of each week.

(d) The term *General Counsel* means the General Counsel and his or her designees.

[42 FR 12417, Mar. 4, 1977, as amended at 47 FR 12136, Mar. 22, 1982; 49 FR 41237, Oct. 22, 1984]

### § 407.2 Closing meetings.

(a) Except where Eximbank finds that the public interest requires otherwise, a meeting, or any portion thereof, may be closed to the public, where the Board of Directors or the Executive Committee determines that such meetings, or any portion thereof, or information pertaining to such meeting, or any portion thereof, is likely to:

(1) Disclose matters that are: (i) Specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of Eximbank or any other agency;

(3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of title 5 U.S.C.), provided that such statute: (i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would:

(i) Interfere with enforcement proceedings,

(ii) Deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Constitute an unwarranted invasion of personal privacy,

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source,

(v) Disclose investigative techniques and procedures, or

(vi) Endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would:

(i) In the case of an agency which regulates currencies, securities, commodities, or financial institutions, be

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likely to: (A) Lead to significant financial speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or

(ii) In the case of Eximbank or any other agency, be likely to significantly frustrate implementation of a proposed agency action;

except that paragraph (a)(9)(ii) of this section shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) Specifically concern Eximbank's issuance of a subpoena, or Eximbank's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration.

(b) Inasmuch as opening any regularly scheduled meeting, or any portion thereof, to public observation will be likely to result in the disclosure of the kind of information set forth in paragraph (a) (4), (8), (9)(i) or (a)(10) of this section, or any combination thereof, of paragraph (a) of this section, the Board of Directors expects to close all regularly scheduled meetings to the public.

(c) Any other meeting of Eximbank, or any portion thereof, will be open to public observation except where the Board of Directors determines that such meeting, or any portion thereof, is likely to disclose information of the kind set forth in any paragraph of § 407.2(a). In the event that the Board of Directors closes such meeting, or any portion thereof, by virtue of paragraph (a)(4), (8), (9)(i)(A) or (a)(10) of this section, or any combination thereof, the procedure set forth in § 407.3 below will apply, and in the event that the Board of Directors closes such meeting, or any portion thereof, by virtue of any of the remaining paragraphs of § 407.2(a), or any combination thereof, the procedures set forth in § 407.4 will apply.

#### § 407.3 Procedures applicable to regularly scheduled meetings.

(a) *Announcements.* Regularly scheduled meetings of the Board of Directors or the Executive Committee will be

held at 9:00 a.m. every Thursday in the Board Room (Room 1141) of the Bank's headquarters. In the event that a regularly scheduled meeting is rescheduled, public announcement of the time, date and place of such meeting will be made at the earliest practicable time in the form of a notice posted in the Office of the Secretary. An agenda setting forth the subject matter of each regularly scheduled meeting will be made available in the Office of the Secretary (Room 935), telephone number (202) (566-8871) at the earliest practicable time, *Provided*, That individual items may be added to or deleted from any agenda at any time. Inquiries from the public regarding any regularly scheduled meeting shall be directed to the Office of the Secretary.

(b) *Voting.* At the beginning of each regularly scheduled meeting, the Board of Directors or the Executive Committee will vote by recorded vote on whether to close such meeting. No proxy vote will be permitted. A record of such vote indicating the vote of each Director will be posted in the Office of the Secretary immediately following the conclusion of such meeting.

[42 FR 12417, Mar. 4, 1977, as amended at 47 FR 12136, Mar. 22, 1982; 49 FR 9560, Mar. 14, 1984; 49 FR 41237, Oct. 22, 1984; 50 FR 8606, Mar. 4, 1985]

#### § 407.4 Procedures applicable to other meetings.

(a) *Amendments.* (1) For every meeting which is to be open to public observation or which is to be closed pursuant to any paragraph of § 407.2(a) other than paragraphs (a) (4), (8), (9)(i) or (10), or any combination thereof, public announcement will be made at least one week before the meeting of the time, place, and the agenda setting forth the subject matter of such meeting, and whether the meeting, or any portion thereof, is to be open or closed to the public.

(2) Inquiries from the public regarding any such meeting shall be directed to the Office of the Secretary.

(3) The one-week period for the announcement required by paragraph (a)(1) of this section may be reduced if the Board of Directors or the Executive Committee determines by a recorded vote that Eximbank business requires