



Inquiry into the Export Finance and Insurance Corporation Amendment (Support for Infrastructure Financing) Bill 2019

Export Finance and Insurance Corporation (Efic)
submission to the Senate Standing Committee on
Foreign Affairs, Defence and Trade (Committee)

6 March 2019



Australian Government

Efic

Finance for
Australian
Exporters



1. Introduction

- 1.1 Efic thanks Senators for the opportunity to make a submission to the Committee in relation to its examination of the Export Finance and Insurance Corporation Amendment (Support for Infrastructure Financing) Bill 2019 (Bill).
- 1.2 Efic supports the Bill and has the demonstrated capability and technical expertise to deliver on the Bill's objectives.

2. About Efic

- 2.1 Efic is the Australian Government's export credit agency. Efic operates on a commercial basis and supports Australian exporters, their customers and Australian companies investing overseas where the private market is unable or unwilling to provide financial support.
- 2.2 Most advanced countries worldwide have government-mandated export credit agencies (ECAs). Their purpose is to support and enable export trade. Generally, ECAs provide government-backed finance solutions to businesses to help them grow exports and invest overseas. Each agency is given a mandate by its government outlining the nature and scope of the support they are able to provide.
- 2.3 Efic's mandate specifically allows it to assist exporters with finance solutions, including:
 - Loans: to support export contracts, or to overseas buyers of Australian goods and services;
 - Bonds: to help Australian companies with their obligations under overseas contracts;
 - Guarantees: to financiers of overseas buyers of Australian goods and services or to an Australian exporter's bank; and
 - Insurance: to protect Australian exporters against the possibility of non-payment due to certain commercial and political risks.
- 2.4 Efic delivers its support in one of two ways – through its Commercial Account and/or the National Interest Account.
 - Commercial Account: On the Commercial Account, Efic carries all risks as a corporate Commonwealth entity. The Efic Board is responsible for setting the strategy, risk appetite and risk tolerances. Efic retains all margins and fees and bears all risks and losses.



- National Interest Account: Efic can refer applications to the Minister for Trade, Tourism and Investment (Minister) for consideration for support under the National Interest Account. This referral might be made due to the transaction's risk profile, size or repayment term or it might be as a result of Efic's significant existing exposures to the country of export. The Commonwealth receives all income on National Interest Account transactions and bears all risks and losses.
- 2.5 Efic currently has \$2.1 billion of exposures spanning 44 countries on its Commercial Account. It has delivered a profit in each of the last 20 years, including through the Global Financial Crisis. It has an historical write-off of less than 1 percent on exposures on its Commercial Account.
- 2.6 Efic also manages \$600 million of exposures relating to the National Interest Account, including exposures under the USD3 billion Defence Export Facility.
- 2.7 Efic has a strong track record of supporting infrastructure and large projects in the region and around the globe. It has a dedicated Corporate, Sovereign and Project Finance team focused on providing such support. Examples of projects and transactions Efic has supported are provided in **Annexure 1**.
- 2.8 Efic is a national organisation with an on-the-ground presence across Australia. It is headquartered in Sydney and has employees located in Austrade's interstate offices in Adelaide, Brisbane, Melbourne and Perth. Efic's Victorian and Queensland offices support exporters in Tasmania and the Northern Territory respectively.
- 2.9 Efic was established under *the Export Finance and Insurance Corporation Act 1991* (Efic Act) and is defined as a corporate Commonwealth entity under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). Efic is governed by an independent Board which is responsible for managing the affairs of the organisation.
- 2.10 Efic is part of the Department of Foreign Affairs and Trade (DFAT) portfolio of agencies, and reports through to the Minister. While Efic (in its modern form) was established by the Efic Act, its broad functions have been performed under various statutory frameworks since 1957.

3. Efic's evolving role

- 3.1 Since 1991, Efic's core functions have been to:
- facilitate and encourage Australian export trade by providing insurance and financial services to persons involved in such trade;
 - encourage banks and other financial institutions carrying on business in Australia to finance, or assist in financing, exports; and
 - provide information and advice about finance and insurance to support Australian export trade.



3.2 In recent years, the Government has made a series of adjustments to Efic’s mandate to enable Efic to support a wider range of Australian exporters and to empower Efic to assist other Government bodies by providing services in relation to financial arrangements and agreements. A history of recent (and proposed) Efic legislative amendments and mandate changes is provided in **Annexure 2**.

4. Changes to the Efic Act

4.1 The proposals foreshadowed in the Bill are consistent with the successful (and ongoing) utilisation of Efic’s specialist financing capabilities to support broader Government policy objectives.

4.2 The Bill introduces three main changes to the Efic Act as follows:

- a new overseas infrastructure financing power based on Australian benefit;
- an additional \$1 billion of callable capital; and
- the ability for Efic to conduct its operations under the name “Export Finance Australia”.

4.3 These changes are designed to complement and enhance Efic’s mandate rather than replace it. As such, the Bill does not override any existing Efic Act provisions or safeguards, including in relation to Efic’s strong focus on supporting small and medium sized enterprises engaged in exporting.

5. New overseas infrastructure financing power

5.1 Efic’s ability to assist in financing infrastructure projects is limited by certain narrowly drafted and inconsistent eligibility “tests” in the Efic Act. These tests require Efic to satisfy specific Australian participation requirements before it can provide certain types of finance.

5.2 Such narrow tests do not easily enable the provision of finance for infrastructure projects that offer longer term commercial benefits to Australia or are not centred on immediate or near-term commercial participation by Australian companies.

5.3 To overcome this limitation, the Bill includes a provision granting Efic a new power to finance overseas infrastructure projects based on an Australian benefit test. This test will enable Efic to finance viable infrastructure projects, provided they result in beneficial outcomes for Australia and there is a need for Efic involvement.



- 5.4 Under the Australian benefit test, Efic can more deeply engage in sectors such as telecommunication and power, which deliver both short and long-term benefits to Australian business. For example, improved regional internet connectivity in the Pacific will benefit Australia over the longer-term by:
- reducing the cost of doing business;
 - encouraging greater economic integration; and
 - promoting Australian exports to and investment in the region.
- 5.5 Other potential beneficial outcomes can include:
- supporting future employment in Australia through using or sourcing Australian workers, products or services;
 - supporting export sectors important to Australia;
 - facilitating access of Australian businesses to new markets;
 - crowding in of Australian equity and finance institutions; and
 - encouraging future Australian participation in project supply chains.
- 5.6 The proposed changes have the secondary benefit of ensuring that Efic can better work with financing partners, including private banks, ECAs and bilateral and multilateral development financing agencies (such as the Asian Development Bank and World Bank's International Financial Corporation (IFC)). Efic has already had a number of discussions with potential financial partners on how we could work together to finance infrastructure in the region.

6. Increasing Efic's callable capital by \$1 billion

- 6.1 Under Efic's Ministerial Statement of Expectations, Efic is required to be guided by the Australian Prudential Regulation Authority (APRA) in managing risk. The Efic Board, in following APRA's guidance, generally applies an upper limit of 25 per cent of Efic's capital, for country, sector and non-bank counterparty exposures.
- 6.2 Efic's current capital base is approximately \$675 million. This is comprised of circa \$475 million of cash and \$200 million of "callable capital".



- 6.3 Efic's callable capital is an amount specified in the Efic Act that the Government will make available to Efic in the event that Efic is (for whatever reason) unable to meet its expected losses or liabilities. It is a requirement under the Efic Act, that in calculating the total capital of Efic, amounts specified as callable capital be included in that capital calculation.
- 6.4 An increase in Efic's callable capital would allow for an overall percentage increase in the amount that Efic can lend to any one particular exposure, based on current APRA prudential guidance.
- 6.5 Increasing Efic's callable capital by \$1 billion would therefore allow the Efic Board to establish higher individual, or country exposure limits. With a total capital base of \$1,675 million, Efic's upper financing limit for individual or country exposures could reach a more impactful maximum of \$420 million (approx.), compared with the current upper limit of between \$160 to \$170 million.
- 6.6 Efic is already approaching the upper limit for country exposures to certain countries (Papua New Guinea and Sri Lanka) under its existing capital base.
- 6.7 The additional capital will also enable the Efic Board to set individual maximum exposure limits that are more in line with other ECAs within the region. Efic's current lending capacity is low compared to our counterparts. On a per agency basis, Efic's experience is that export credit financing in the range of USD300 to USD500 million is commonly required for infrastructure projects.
- 6.8 Increasing Efic's callable capital will not increase the existing \$6.5 billion Commonwealth maximum liability related to Efic activities on its Commercial Account. This is set by the Export Finance and Insurance Corporation Regulations 1991 (Efic Regulations). As at 31 December 2018, the Government's contingent liabilities related to Efic's Commercial Account was \$2.1 billion.
- 6.9 Callable capital would only be required if Efic had expected losses in excess of its cash capital holdings (currently circa \$475 million).
- 6.10 Efic mitigates risk of loss by:
- ensuring that risk is capped below maximum allowable thresholds and spread across multiple exposures;
 - charging interest rates that reflect underlying commercial risks; and
 - provisioning against risk exposures.
- 6.11 As such, the increase in Efic's maximum exposure limits will not be applied uniformly. The Board lending limits will still be graded depending on the commercial viability of projects and the creditworthiness and suitability of risk counterparties.



7. No changes to Efic's current risk controls or strict due diligence requirements

7.1 If the Bill is passed, Efic will continue to manage the Commercial Account in accordance with APRA guidelines. It will continue to charge interest premiums that reflect the underlying risks and cover its administrative costs. It will also adhere to its existing Board delegation which requires the Efic Board to approve all transactions in excess of \$50 million.

7.2 Efic will also continue to conduct transactional due diligence which covers both the construction and operation of infrastructure, even in circumstances where Efic is only providing a construction linked facility. This due diligence includes consideration of the:

- purpose and aims of the infrastructure;
- financial capacity of the project sponsor*;
- technical capacity of the project sponsor*; and
- environmental and social impacts of the infrastructure construction and operations.

*Project sponsor in this regard refers to the entities that are responsible for the infrastructure design, construction and operations of the relevant infrastructure project.

7.3 When lending to a sovereign, or a borrower linked to the sovereign, Efic will continue to assess a country's capacity and ability to repay an Efic facility as part of its normal credit and country risk assessment processes. This includes:

- conducting an analysis of both its public debt and external debt positions to ensure that debt sustainability is maintained; and
- adhering to the OECD Recommendation on Sustainable Lending Practices and Officially Supported Export Credits.

7.4 Efic will also continue to apply its existing *Policy for environmental and social review of transactions* (Policy). The Policy confirms that Efic:

- is bound by the OECD Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence; and
- applies the Equator Principles, a globally recognised benchmark used by many financial institutions to manage environmental and social risk in projects.

7.5 The Policy also uses the IFC environmental and social performance standards as its benchmark. The IFC Performance Standards were selected as Efic's usual benchmark as they are a widely used and understood global standard. However, where a higher benchmarking standard is applicable to a particular transaction, Efic applies that higher standard.



7.6 A copy of Efic's *Policy for environmental and social review of transactions* is available on Efic's website at: <https://www.efic.gov.au/our-organisation/our-corporate-responsibility/transactions/environmental-and-social-review/policy/>

8. New trading name "Export Finance Australia"

8.1 The Bill provides for Efic to conduct its operations under the name "Export Finance Australia". The new name better clarifies who Efic is and its focus. This will benefit exporters and other stakeholders and require less investment to grow brand awareness and understanding. The new name would also help ensure that Australia's financing efforts are more easily recognised in domestic and international markets.

8.2 There are a number of brand studies that highlight the strong equity associated with the Australian brand name internationally. The proposed name takes advantage of this, coupled with the affinity Australians feel for their national brand.

9. Changes in the context of global ECA activity

9.1 The increase in callable capital is consistent with recent changes at other ECAs and bilateral financing agencies, as governments look to increase their financing activities in support of their trade and foreign policy objectives. For example:

- The UK Export Finance's maximum lending capacity per country was doubled from GBP2.5 billion to GBP5 billion in 2016.
- Canada's ECA, Export Development Canada, was given an additional CAD350 million of capital and a broader mandate in 2009 to support actual exports and create future export opportunities. EDC has a circa CAD110 billion financing portfolio.
- In 2018 the US Congress approved the Better Utilization of Investments Lending to Development (BUILD) Act. This Act transforms the US Overseas Private Investment Corporation (OPIC) into a new development financing corporation (US Development Finance Corporation (USDFC)) with a USD60 billion funding limit.
- The Japanese export credit agencies, Japan Bank for International Cooperation (JBIC) and Nippon Export and Investment Insurance (NEXI), have a Government imposed target of supporting USD200 billion of overseas infrastructure projects between 2015-2020. JBIC provided approximately USD20 billion of medium to long-term financing in 2017.

9.2 In late 2018, Efic, in conjunction with DFAT, signed partnership agreements with JBIC, NEXI and OPIC. The purpose of these agreements is to provide a cooperative framework to better support the financing of regional infrastructure. The Bill will enable Efic to provide a more credible and meaningful contribution to this partnership.



10. Efic's support for the Australian Infrastructure Financing Facility for the Pacific

10.1 On 21 November 2018, Efic received a direction from the Minister instructing Efic to:

- assist DFAT in the establishment of the Australian Infrastructure Financing Facility for the Pacific (AIFFP); and
- upon establishment of the AIFFP, assist DFAT in the administration and operation of the AIFFP.

10.2 Under relevant provisions in the Efic Act, Efic has the ability to assist Government entities by providing services in relation to financial arrangements and agreements. Such services must be provided on a fee for service basis only and not come at the expense of Efic's core business functions. Efic has the capability to provide such assistance to DFAT and the AIFFP.

10.3 Efic has a recent history of successfully supporting other Commonwealth entities. Entities currently supported by Efic under arrangements similar to those proposed for supporting AIFFP, include the Northern Australia Infrastructure Facility, the National Housing Finance and Investment Corporation and the Indigenous Entrepreneurs Capital Scheme, as well as their respective Departments (primarily during the set-up phase of entity operations).

10.4 Efic's mandate and the AIFFP mandate are complementary. It is Efic's view that projects that are commercially viable will be more suited to be financed on Efic's Commercial Account, while projects that require different forms of financing, including grants, may be better financed by AIFFP.

10.5 Efic's involvement in providing operational advice and support to the AIFFP will enhance the effective and efficient operation of both entities.

11. Conclusion

11.1 Efic is supportive of the Bill and has the demonstrated capability and expertise to:

- deliver on the proposed mandate change;
- support partnering in regional infrastructure financing with DFAT, JBIC, NEXI and OPIC; and
- provide operational support to the AIFFP.



Annexure 1: Projects and transactions Efic has supported

Project Name	Date	Value	Project Description
Mina Justa - Copper Project	2018	USD50 million	<p>The Mina Justa copper mine in Peru is expected to begin operating in 2020, targeting a production rate of around 100,000 tonnes of copper per year. As part of an international consortium, Efic provided a USD50 million loan to the project.</p> <p>The construction and production of this mine will include Australian content valued at over USD70 million, ensuring a considerable benefit to Australian SMEs.</p>
CCB Envico Pty Ltd – Water Infrastructure	2015 - 2019	\$14.5 million	<p>For years, Efic has been supporting CCB Envico, a company specialising in the design, construction and commissioning of facilities for Government and private industry, with a particular focus on the Asia Pacific Region.</p> <p>Efic's most recent support has included providing finance for the upgrade of water supply and sanitation infrastructure in Ebeye Island in the Marshall Islands and providing performance bonds to support seawall projects in Kiribati.</p>
Oyu Tolgoi – Copper Project	2015	USD150 million	<p>Oyu Tolgoi is the largest single investment in Mongolia's history, expected to boost GDP by over 30 per cent when fully operational.</p> <p>As part of a syndicate involving other international credit agencies and commercial lenders, Efic provided a USD150 million loan to the project.</p> <p>More than 380 Australian SMEs have already been involved in the initial development phase (with contracts worth more than USD147 million).</p>
Escondida – Copper Project	2014	USD100 million	<p>The Escondida mine is the world's largest copper producer, located in Northern Chile. Efic provided a USD100 million loan to the project, which was predicated on substantial Australian involvement in the project.</p> <p>In all, over 80 Australian companies were involved in various stages throughout the project, which saw considerable benefits flow through to Australia.</p>



Project Name	Date	Value	Project Description
Aspen Medical Pty Ltd - Health Infrastructure	2012	<i>\$18.8 million (€11.4 million)</i>	<p>Aspen Medical is a global provider of healthcare equipment and was subcontracted by a Dutch multinational group to build a 900-bed hospital in Hambantota, Sri Lanka.</p> <p>Efic provided a €11.4 million reinsurance arrangement, which was instrumental in the success of Aspen Medical's bid to supply equipment and associated medical design and infrastructure for the hospital.</p>
Outotec Pty Ltd – Water Infrastructure	2010	<i>\$125 million (USD105 million)</i>	<p>Sri Lanka's National Water Supply and Drainage Board launched a scheme in 1999 to provide secure, quality piped drinking water to previously unserved communities in the Ampara District.</p> <p>Efic provided ANZ Bank with a USD105 million guarantee on behalf of the Sri Lankan Government, which gave them the financing necessary to complete the third phase of this important national water supply project.</p>
PNG LNG – LNG Project	2009	<i>USD300 million (USD100 million on Commercial Account, USD250 million on NIA)</i>	<p>The ExxonMobil-led liquefied natural gas project in the Southern Highlands of Papua New Guinea is the world's largest project finance transaction.</p> <p>Efic provided a USD350 million loan to the project, joining a syndicate of international export credit agencies and commercial lenders to support Australian exporters.</p> <p>Efic's participation helped Australian exporters pursue and secure supply chain contracts for the construction phase of the project.</p>
Manila North Tollways Corporation – Transport Infrastructure	2002	<i>\$107 million</i>	<p>In collaboration with the Asian Development Bank (ADB) and several other international export credit agencies, Efic participated in a financing arrangement for the North Luzon Expressway Rehabilitation and Expansion Project.</p> <p>Efic's \$107 million facility contributed to the syndicated financing arranged by the ADB, which was essential in enabling the upgrade of a key section of Manila's highway infrastructure.</p>



Annexure 2: Recent (and proposed) Efic legislative amendments and mandate changes

Recent changes

Date	Instrument / report	Summary	Description of change to Efic's operations and services
21 November 2018	Direction from the Minister (section 9 Efic Act)	Provision of support to AIFFP.	Efic received a direction from the Minister under provisions related to the operation of Efic, instructing Efic to: <ul style="list-style-type: none"> assist DFAT in the establishment of the AIFFP; and upon the establishment of the AIFFP, assist DFAT in the administration and operation of the AIFFP.
8 May 2018	Directions from the Minister (section 9 Efic Act)	Provision of support to NHFIC and to the Indigenous Entrepreneurs Capital Scheme.	Efic received directions from the Minister for Trade, Tourism and Investment instructing Efic to: <ul style="list-style-type: none"> assist the Treasury in establishing and administering NHFIC and on its establishment, to assist NHFIC in its administration and operations; and assist the Department of the Prime Minister and Cabinet in establishing and managing the pilot Indigenous Entrepreneurs Capital Scheme.
15 January 2018	Direction from the Minister (section 26 Efic Act)	Establishment of the USD3 billion Defence Export Facility.	Efic received a direction from the Minister, under provisions related to the provision of finance by Efic under its National Interest Account (Part 5 of the Efic Act). This directs Efic to refer certain applications for financial support of Australian defence exports to the Minister for consideration for support on the National Interest Account up to an aggregate of USD3 billion over 10 years.
15 September 2017	<i>Export Finance and Insurance Corporation (Support of Commonwealth Entities) Act 2017</i> (Cth)	Establishment of Efic's power to support other Commonwealth entities. Establishment of new lending powers for tourism, online businesses, exporters of intellectual property and businesses undertaking overseas direct investment.	Amendment to the Efic Act to enable Efic to, among other things: <ul style="list-style-type: none"> enter into arrangements, similar to those with the NAIF, with other Commonwealth entities as directed by the Minister. The amendment allows Efic to assist in the operation and administration of Commonwealth financing programs where there is no connection to exports, subject to the approval of the Minister; and lend directly to a broader range of small and medium sized businesses, including tourism operators, online businesses, exporters of intellectual property and businesses engaged in overseas direct investment.



Date	Instrument / report	Summary	Description of change to Efic's operations and services
7 September 2017	Statement of Expectations	Allowing Efic to support domestic resources projects.	Statement of Expectations issued by the Minister to allow Efic to provide financial assistance for domestic resources projects, and associated infrastructure, that support resources exports.
4 May 2016	<i>Northern Australia Infrastructure Facility (Consequential Amendments) Act 2016 (Cth)</i>	Broadening Efic's power to support NAIF.	Amendment to the Efic Act to, among other things: <ul style="list-style-type: none"> • enable Efic to work outside its remit and assist the NAIF with financial arrangements for the construction of economic infrastructure in northern Australia; and • allow Efic to play an active role in providing specific support to the NAIF and to State and Territory governments in relation to NAIF-related activities.
18 June 2015	Directions from the Minister (section 61A and section 63A Efic Act)	<p>Requiring payment of debt neutrality charge on Efic's cost of borrowing.</p> <p>Requiring payment of tax to Commonwealth and NSW.</p>	<p>Efic received a direction under provisions concerning payment of debt neutrality charges, to pay a debt neutrality charge of 10 basis points on its cost of borrowing. The charge applies to new borrowings on all portfolios and existing debt that is rolled over or refinanced.</p> <p>Efic also received a direction to pay certain tax equivalent payments to the Commonwealth and State of NSW.</p>
19 March 2015	<i>Export Finance and Insurance Corporation Amendment (Direct Lending and Other Measures) Act 2015 (Cth)</i>	Broadening Efic's lending power.	Amendment to the Efic Act to, among other things: <ul style="list-style-type: none"> • remove the restriction on Efic to only lend to support the export of capital goods, allowing it to lend in relation to the export of all kinds of goods; and • remove Efic's exemption from the application of competitive neutrality policy, while maintaining its market gap mandate.
13 November 2014	Statement of Expectations	<p>Focusing Efic's support on SMEs.</p> <p>Removing Efic's ability to support domestic resources projects.</p>	<p>Statement of Expectations by the Minister to amend the previous Statement of Expectations and to direct Efic to, among other things:</p> <ul style="list-style-type: none"> • have a greater focus on supporting small and medium size enterprise exporters, which has led Efic to develop new products and undertake a larger number of smaller transactions; and • cease supporting resources projects and associated infrastructure projects in Australia.



Date	Instrument / report	Summary	Description of change to Efic's operations and services
30 March 2013	<i>Export Finance and Insurance Corporation Amendment (Finance) Act 2013 (Cth)</i>	<p>Directing Efic's payment of future special dividends.</p> <p>Provision of new Ministerial power to increase Efic's callable capital.</p>	<p>Amendment to the Efic Act to, among other things:</p> <ul style="list-style-type: none"> • direct Efic to pay a special dividend in line with the budgetary measures in 2012-2013; • direct payment of future special dividends by Efic; and • create a new power for the Minister to prescribe through a legislative instrument an increase in Efic's callable capital should it be necessary to assist Efic to meet future prudential requirements.

Proposed changes

Date	Instrument / Report	Summary	Description
Second half of 2006	DFAT review of Efic	<p>Bipartisan support to:</p> <ul style="list-style-type: none"> • simplify the Efic Act; and • introduce new "national benefits" test. 	<p>Review conducted by DFAT on Efic's operations and services (2006 Efic Review). The review recommended, among other things:</p> <ul style="list-style-type: none"> • appropriate sections of the Efic Act be redrafted to both simplify the application of the legislation and to enable Efic to expand its services; and • a "national benefits" test be introduced to better assist small to medium-sized exporters. <p>Although there was bipartisan support for legislation to implement the recommendations of the 2006 Efic Review and endorsement of the recommendations by the Mortimer Review of Defence Procurement and Sustainment in September 2008, no legislation was introduced into Parliament.</p>