

# TERRORISM, MISSILES AND CORRUPTION: THE RISKS OF ECONOMIC ENGAGEMENT WITH IRAN

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## HEARING BEFORE THE COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES ONE HUNDRED FOURTEENTH CONGRESS SECOND SESSION

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## **TERRORISM, MISSILES AND CORRUPTION: THE RISKS OF ECONOMIC ENGAGEMENT WITH IRAN**

**THURSDAY, MAY 12, 2016**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, DC.*

The committee met, pursuant to notice, at 10:07 a.m., in room 2172 Rayburn House Office Building, Hon. Edward Royce (chairman of the committee) presiding.

Chairman ROYCE. This hearing will come to order. When the Obama administration was strong-arming Senate Democrats to save its Iran deal, many promises were made. Central to the White House storyline was the President's claim that sanctions on Iran for terrorism, sanctions on Iran for human rights and ballistic missiles "will continue to be fully enforced."

As many will recall, Treasury Secretary Lew said unequivocally that "Iranian banks will not be able to clear U.S. dollars through New York, hold correspondent account relationships with U.S. financial institutions, or enter into financing agreements or arrangements with U.S. banks." He testified, and I quote, "Iran, in other words, will continue to be denied access to the world's largest financial and commercial market."

But unfortunately, the administration's words have not matched its actions. The administration has meekly responded to Iran's provocative acts—thanks in part to the weak U.N. Security Council language it agreed to on ballistic missiles. And just one Iranian has been sanctioned for human rights abuses since negotiations began. Just one.

Indeed, last month, a top Treasury official publically proclaimed that non-nuclear sanctions would undermine the Iran agreement. That is the opposite of what the committee was told. If Iran objects, the administration bends over backwards to accommodate. Effectively, the Supreme Leader now holds the veto pen over future Congressional action.

Iran will keep pushing until the Obama administration stops rolling over. Congressional pressure may have knocked the administration off their plans—for now—to allow Iran access to the U.S. dollar, which is the world's top currency, but the administration refuses to rule out a future move. And in the meantime, it is actively working other angles to push new investment into the Iranian economy.

Secretary Kerry is in Europe this week taking the odd step of reassuring foreign firms that Iran is, in his words, “open for business.” Other administration officials go so far as to say that Iranian economic growth is in our national security interest. That is a tough case to make when you consider that Iran’s Islamic Revolutionary Guard Corps has been labeled Iran’s “most powerful economic actor,” and it was labeled so by the U.S. Treasury Department. That is the terrorist IRGC that they are talking about. The Iranian Revolutionary Guard Corps is Iran’s “most powerful economic actor,” according to our Treasury Department.

The reality though is that the administration’s pep talks to international companies to spur investment in Tehran will be viewed skeptically. For investment is like a rope. It can’t be pushed into a country that is corrupt, that holds international businessmen hostage, that launches missiles marked “Israel must be wiped out.” Rather it is pulled into countries that are transparent, that respect contracts, and don’t threaten their neighbors. Banks want maximum certainty. And that just won’t be found in a country that ranks 130 of 168 on Transparency International’s corruption index.

And as we will hear today, a CEO’s understanding of their company’s reputational risk is more powerful than any sanction Congress could write. An international banker doesn’t want to end up on the wrong side of a transaction which unwittingly funnels money to Iran’s ballistic missile program. And the designation of the entire territory of Iran as a “primary money laundering concern”—and that is the way we designate it—means just that: Any financial transaction with Iran risks supporting the regime’s ongoing illicit activities.

Many of the restrictions left on Iran are intended to protect our financial markets from such abuse. The international organization charged with countering money laundering worldwide declared this year that it is “exceptionally concerned about Iran’s failure to address the risk of terrorist financing and the serious threat this poses to the integrity of the international financial system.”

That is why my legislation to prohibit the administration from allowing the U.S. dollar to be used to facilitate trade transactions with Iran and which upholds Iran’s designation as a “primary money laundering concern” is so key.

Iran is still the world’s leading state sponsor of terrorism. Until it stops funding terror, until it stops the illicit weapons program, it should be treated like the global menace it is.

I now turn to the ranking member for any opening comments he may have on our hearing today.

Mr. ENGEL. Well, thank you very much, Mr. Chairman. Thank you for calling this hearing. And to our witnesses, welcome to the Foreign Affairs Committee. We value your time and your expertise, especially as the implications of the Iran deal begin to unfold.

I was chuckling this morning that it occurs to me there’s a lot of Iran expertise on Capitol Hill today. We have a Presidential candidate up here meeting with the Speaker who told AIPAC about the Iran deal, “I have studied this issue in great detail. I would say actually greater by far than anybody else.” So perhaps he should be one of our witnesses, but I would rather have all of you, the three of you today, instead.

When the details of the agreement were reached last year, it appeared that when sanctions were lifted the Iranians would receive a windfall to the tune of tens of billions of dollars. Last month, Secretary Kerry said that Iran has only come into about \$3 billion as a result of sanctions relief. Now, I am not losing sleep because Iran can't get its hands on huge sums of money, but it is worth asking now that the deal is going forward, why is Iran seeing just a trickle instead of a surge?

The explanation, as I understand it, couldn't be less of a surprise. Banks don't want to do business with Iran. They understand the risks. They see the same patterns of dangerous behavior that the rest of the world has seen for years—an illegal ballistic missile program, support for terrorist groups, human rights abuses, corruption and money laundering.

So it is no wonder that the Financial Action Task Force, what we call FATF, continues to designate Iran as a high risk jurisdiction. Just like Iran's leaders, Iran's financial institutions don't play by the same rules as the rest of the world. As a result, international businesses and financial firms want nothing to do with Iran.

So what does this mean for the deal? I certainly don't think we should be making any concessions to Iran beyond the scope of what is in the deal. As you know, I voted against the deal. In my view, it is reasonable for the United States to clarify what is against our law and what is not, what kind of business transactions are now in bounds, and what kind of activity might run afoul of other laws and sanctions.

But we have lived up to our end of the bargain. I didn't like the deal, but I have no doubt that we will keep our word. At the end of the day, if Iran's leaders are unhappy with the reluctance of the global business community to play ball, they have no one to blame but themselves. If Iran wants to shed its pariah status, it needs to abandon the activities that led it to isolation in the first place. Stop supporting terrorism. Stop suppressing the human rights of the Iranian people. Stop building ballistic missiles.

Incidentally, that is where our focus should be as well, continuing to hold Iran's feet to the fire in all of these areas. And I know the chairman and I have had many discussions and we will hold Iran's feet to the fire.

Secretary Kerry told this committee last summer, "We will not violate the JCPOA if we use our authorities to impose sanctions on Iran for terrorism, human rights, missiles, or any other non-nuclear reason. And the JCPOA does not provide Iran any relief from U.S. sanctions under any of these, of those authorities or other authorities." That is a quote from Secretary Kerry.

So when we see ballistic missiles with the words "Israel must be wiped out" etched on the side in Hebrew from the Iranians, when tens of millions of dollars go to Hamas to rebuild its network of terror tunnels, when thousands of rockets end up in Hezbollah's hands, when Iran continues to prop up the Assad regime, Shia militias in Iraq and Houthi fighters in Yemen, when we intercept ship after ship carrying Iranian weapons, we need to consider whether we are putting those existing authorities to their best use.

I look forward to hearing from our witnesses today about what more we can be doing to compel Iran to change course away from all these harmful and destabilizing actions. I look forward to your testimony. Thank you, Mr. Chairman.

Chairman ROYCE. Thank you, Mr. Engel.

We have a distinguished panel before us this morning. Mr. Mark Dubowitz is the executive director of the Foundation for Defense of Democracies where he leads projects on Iran on sanctions and non-proliferation. He is the author of 15 studies examining economic sanctions, and we welcome him back to the committee here this morning.

Mr. Juan Zarate is the chairman and co-founder of the Financial Integrity Network. Previously, Mr. Zarate served as the Deputy Assistant to the President and Deputy National Security Advisor for Combating Terrorism. From Orange County, California, Mr. Zarate was also the first ever Assistant Secretary of the Treasury for Terrorist Financing and Financial Crimes. Welcome again.

Ms. Elizabeth Rosenberg is a senior fellow and director of the Energy, Economics, and Security Program at the Center for a New American Security, and previously Ms. Rosenberg served as a senior advisor at the Treasury Department.

So without objection, the witnesses' full prepared statements will be made part of the record. Members are going to have 5 calendar days to submit any statements or questions or any extraneous material for the record. But what we would encourage is for our witnesses to summarize their remarks. We will start with former Assistant Secretary Zarate and then go to Mr. Dubowitz and then Ms. Rosenberg.

**STATEMENT OF THE HONORABLE JUAN C. ZARATE,  
CHAIRMAN, FINANCIAL INTEGRITY NETWORK**

Mr. ZARATE. Chairman Royce, thank you very much for the invitation to be here and the honor to testify before this distinguished committee. Ranking Member Engel, thank you very much as well. I am honored to be on this panel with two great colleagues and friends, and so we are going to have a jovial panel today. I respect Mark and Liz very much, so thank you very much.

I also want to say, Mr. Chairman, my father and brother are here visiting from Orange County, California, so I am very proud that they are here to see you and to witness this, so thank you very much.

And a final preambulatory statement here, I want to thank you for your leadership and the leadership of this committee, former leadership as well, Congressman Ros-Lehtinen, for issues that don't often receive a lot of attention in the press. Issues like Iran obviously do, but ending conflicts in Africa, worrying about proliferation networks, worrying about arms trafficking networks like those run by Viktor Bout are all things that you have worried about for years and we have worked on together, and I want to thank you for that commitment and the work of this committee. It has been serious and important.

Chairman ROYCE. Thank you for your work in helping put Viktor Bout behind bars.

Mr. ZARATE. Thank you, sir. I appreciate that.



Well, let me now summarize some of the points of my testimony. As this committee may be aware, when the JCPOA was being debated and when I testified before the Senate I expressed deep concerns and reservations about the structure, demands, and effects of the nuclear deal on U.S. interests especially in anticipation and the likelihood of increased belligerence and adventurism from Iran. And as we know and we have witnessed, this belligerence has continued and been amplified.

Iran has conducted repeated ballistic missile tests in violation of U.N. sanctions and promises further launches. Qasam Soleimani, the Iranian general, head of the Quds Force, traveled twice to Moscow, at least, in contravention of international travel bans to coordinate military cooperation with the Russian Government.

Iran remains the leading state sponsor of terror and has continued its direct support to terrorist proxies throughout the world from Hezbollah to Iraqi Shiite militias to the Houthi rebels in Yemen. Iran has deployed shock troops to Syria to fight for, die, and defend the Assad regime, with reports of thousands on the ground. Iran has continued to engage in human rights abuses internally. It continues to detain two Iranian American citizens, and Robert Levinson missing from Kish Island since March 2007 remains missing and unaccounted for. And on January 12, 2016, we witnessed the Iranian naval forces arresting 10 American sailors at gunpoint and broadcasting the video of their detention in order to humiliate them and the U.S. Navy.

Unfortunately these actions are not surprising and they will continue. But more importantly, the nature of the regime, its control of the economy, its willingness to use the financial system to pursue all its goals, internally and externally, has not changed either. The Iranian system is corrupt, lacks transparency at all levels, and is centrally controlled by the regime. This along with the uncertainty of how the JCPOA, the nuclear deal, will unfold creates enormous risk for legitimate international actors and companies considering doing business in or with Iran.

This in part explains why there hasn't been a wave legitimate Western businesses investing aggressively or operating directly in Iran. The risks are real and they are significant and they are under consideration, especially when the IRGC remains in control of vast swaths of the Iranian economy, when the banks have been misused to finance terror and support the regime's causes, when the clerical regime controls bonyads worth billions of dollars raising issues of kleptocracy and corruption.

And there is no sign that the Iranians will stop using the financial system for illicit purposes. In fact, the U.S. Government and international bodies like the FATF have declared the Iranian system's Central Bank as primary money laundering concerns and reason to have high risk and posture toward their activities.

So this complicated risk environment has dissuaded most legitimate companies from doing business. There is the risk of existing sanctions, secondary sanctions, remaining EU and U.N. sanctions, the potential for enforcement not just by the U.S. Treasury but by other authorities. Also, the fundamental fact that there are financial risks that in 2016 are important for financial institutions and businesses to take into consideration. We are no longer simply wor-

ried about sanctions risk in Iran. We are worried about other illicit financing risks.

And certainly it appears that Iran has made it its business and its strategy to force the United States and Europe to help rehabilitate itself in the international system. This is something that we predicted. Something I testified to, something we had anticipated they would do and they have.

But the U.S. shouldn't fall into this trap. We shouldn't be in a position of rehabilitating Iran. We shouldn't be sending delegations around the world to explain how it is that we can do business in Iran legitimately. We should not be undercutting our authority by telling European businesses that they need not listen to the regulatory policy or other actions of U.S. Treasury or regulatory officials, quite the opposite. We should be reinforcing the effect and reach and suasion of our authorities around the world.

And certainly we shouldn't be giving Iran the accommodation and the ability to use dollars in offshore clearing accounts. Facilities that would give them something that certainly was not negotiated in the deal but would also give them the benefit of international trade and access to dollars. Certainly, not when this remains the leading state sponsor of terror and, under Section 311 of PATRIOT Act, a primary money laundering concern.

Mr. Chairman, I also think we shouldn't diminish our ability to use targeted unwinding as this negotiation unfolds to benefit our strategic interests. For example, with respect to the Iranian banks, as opposed to simply plugging them back into the global system, we should have a system of strictly monitoring what is happening in those banks so that we have a monitored re-entry into the financial system allowing us both to monitor what is happening in those banks, but also giving reassurance to the financial system that we understand what is happening in and through those institutions.

Finally, Mr. Chairman, I think the current state of affairs reveals that there were some faulty assumptions about where we were with the deal. The fact that our power was waning in terms of the ability to use financial suasion and tools of exclusion, that is not right. The fact that the deal would bring diplomatic unity, a reward for good behavior, that is not happening. The fact that the JCPOA would open channels for discussions with Iran about these other activities, that is not happening.

In short, Mr. Chairman, the aversion to the risks of doing business in and with Iran will continue especially if Iran demonstrates an unwillingness to stop its provocative and dangerous activities. Iran will not be in a position to join the international community completely if it does not demonstrate clearly that it can engage as a trusted and transparent actor in the financial system.

The onus to prove this should be on Iran's shoulders. Any complaints about access to capital markets or investment should be posed to the clerical regime. Iran has to decide whether it will abide by international standards, norms and obligations, and we shouldn't give them a free pass. Absent this, it will remain risky business to do business in or with Iran. Thank you, Mr. Chairman.

[The prepared statement of Mr. Zarate follows:]



FINANCIAL INTEGRITY  
NETWORK

**The Honorable Juan C. Zarate**

Chairman and Co-Founder  
Financial Integrity Network

Former Deputy Assistant to the President and  
Deputy National Security Advisor for Combatting Terrorism

Former Assistant Secretary of the Treasury  
for Terrorist Financing and Financial Crimes

Testimony before the  
**House Committee on Foreign Affairs**

**Terrorism, Missiles and Corruption:**  
*The Risks of Economic Engagement with Iran*

May 12, 2016

Juan Zarate  
Financial Integrity Network

May 12, 2016

Chairman Royce, Ranking Member Engel, and distinguished members of the House Committee on Foreign Affairs, I am honored to be with you today to discuss the risks of economic engagement with Iran, particularly in light of its ongoing support for terrorism, ballistic missile activities, and illicit financing and corruption. As implementation of the Joint Comprehensive Plan of Action (JCPOA) unfolds, this is an important moment for the United States to examine Iranian activity around the globe soberly and determine how best to proceed with the agreement and against the Iranian threat.

When the JCPOA was being debated, I expressed deep concerns and reservations about the structure, demands, and effects of the nuclear deal on U.S. interests, especially in anticipation of increased Iranian belligerence and adventurism. In detailed testimony before both the Senate Foreign Relations Committee and the Senate Banking Committee last year, I explained that the JCPOA was fundamentally flawed, in part because it would empower and enrich the regime and ultimately constrain our ability to use the most effective financial and economic tools of isolation to counter dangerous Iranian behavior.

With strategic patience, Iran can march toward a weaponized program with greater capabilities, breakout capacity, and more economic resources, resilience, and connectivity to the global oil markets and commercial system. Even if Iran complies with all elements of this deal, Tehran will end up with an unfettered opportunity to break out and weaponize its nuclear program, overtly or covertly, along with an ability to arm itself and its allies more openly and aggressively. The end state of the agreement takes us far afield from the declared goal of successive administrations at the start of negotiations.

The structure, processes, and nature of this agreement give Iran the benefit of the doubt that it is pursuing a peaceful program, when the onus should remain with Iran throughout to prove the peaceful nature of its program, as constructed in the prior, relevant UN Security Council Resolutions (UNSCRs).

Ultimately, what we negotiated and promised was reintegration of Iran into the global economic system. The JCPOA sacrifices the ability of the United States to use its financial and economic power and influence to isolate and attack dangerous and problematic Iranian activity – beyond the nuclear program. Beyond simple sanctions relief, we negotiated away one of our most important tools of statecraft – the very financial and economic coercion that helped bring the Iranian regime to the table. Though “non-nuclear” sanctions were supposedly off the table, the spirit and letter of the agreement neuters U.S. ability to leverage one of its most powerful tools – its ability to exclude rogue Iranian actors and activities from the global financial and commercial system.

As I explained last year, promising Iranian reintegration into the global system was not possible unless we were willing to defang our sanctions regime and ignore Iranian behavior; rehabilitate the perception of the Iranian regime ourselves; and take the most effective tools of financial isolation off the table.



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This is a critical point as Iran continues the range of dangerous activities that have been the subject of sanctions and international opprobrium. In the wake of the JCPOA implementation, these activities have included the following:

1. Iran has conducted repeated ballistic missile tests in violation of UN sanctions, including reports from this week that one was launched as recently as April 20, 2016, and promises further launches. A missile launch in March also coincided with Vice President Biden's visit to Israel.
2. Qassem Soleimani, the head of the Iranian Revolutionary Guard Corps' (IRGC) Qods Force, traveled twice to Moscow in contravention of international travel bans to coordinate military cooperation with the Russian government, to include the delivery of the S-300 system to Iran and defense of the Assad regime in Syria.
3. Iran remains the leading state sponsor of terror and has continued its direct support to terrorist proxies throughout the region, to include Hizballah's activities in Lebanon and Syria, as well as Iraqi Shi'ite militias who have been responsible for the deaths of hundreds of Americans and are now deployed in Syria to fight for the Assad regime. This has included support intended to destabilize governments allied with the United States, with Gulf states uncovering and interdicting arms shipments for apparent use in those countries. In recent months, international naval forces have interdicted Iranian arms shipments likely headed to Houthi rebels in Yemen.
4. Iran has deployed troops – regular and from the IRGC – to Syria to fight for and defend the Assad regime, with reports of thousands on the ground. Qassem Soleimani continues to appear at key battlefronts throughout Syria, and the Iranians help funnel Iraqi, Afghani, and Pakistani Shi'ite militias into the battlefield.
5. Iran has continued to engage in human rights abuses and the restriction of democratic norms. In the run up to recent parliamentary elections, Iran disqualified thousands of individuals from running<sup>1</sup> and continues to hold the leaders of the Green Movement under house arrest.
6. Iran detained two Iranian-American citizens, a father and son, in October 2015 and February 2016, and continues to hold them. In addition, Robert Levinson remains missing after disappearing on Kish Island on March 9, 2007.
7. On January 12, 2016, Iranian naval forces arrested American sailors at gunpoint, broadcasting the video of their detention, and subsequently mocking the sailors through a reenactment at a rally commemorating the anniversary of the Iranian Revolution. The Iranians detained the American sailors days before the implementation of the JCPOA, and hours before the President's State of the Union address.

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<sup>1</sup> Sam Wilkin, "Iran excludes most candidates in elite assembly election," January 26, 2016. (<http://www.reuters.com/article/us-iran-election-candidates-idUSKCN0V419V>)



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Much of this activity is not a surprise, but it cannot be dismissed as simply the bad behavior of a recalcitrant IRGC or extremists within the Iranian system. In the Iranian system, these actions are blessed, designed to promote the interests of the regime, and calculated to test the will of the West.

Importantly, the nature of the regime, its control of the economy, and its willingness to use the financial system to pursue all its goals internally and externally has not changed. The Iranian system is corrupt, lacks transparency at all levels, and is centrally controlled by the regime. This – along with the uncertainty of how the JCPOA will unfold – ultimately creates enormous risk for legitimate international actors and companies considering doing business in or with Iran. This explains why there has not been a wave of Western businesses investing aggressively or operating directly in Iran. It further explains why the Iranian leadership continues to complain that the United States has not satisfied its side of the bargain.

#### **Exposing the Risky Nature of the Iranian Regime**

The risks are real for the international business and banking communities, given the nature of the regime, the opacity of its economy, its continued dangerous and threatening activities, and remaining sanctions.

The constriction campaign that brought Iran to the negotiating table was premised on the suspicion of Iran's behavior and use of its financial and commercial system for illicit and dangerous purposes. The U.S. Treasury targeted Iran's banks by using Iran's own conduct – its proliferation activity, support for terrorist groups and Shi'ite militias, and lack of anti-money-laundering controls, as well as the secretive and corrupt nature of the regime itself – as the cornerstone of the campaign. Iran's suite of suspect activities and attempts to avoid international scrutiny spurred the private sector to stop doing business with Iran. No reputable bank has wanted to be caught facilitating Iran's nuclear program or helping it make payments to Hizballah terrorist cells around the world. If they did, they would be caught and sanctioned, with enormous reputational and business consequences. This continues to be the case.

This produced a virtuous cycle of isolation that reduced Iranian access to the international financial system more and more over time. The more the Iranians tried to hide their identities or evade sanctions, the more suspect their transactions would appear and the riskier it would become for banks and other financial institutions to deal with them. Over time, bank accounts, lines of credit, and correspondent accounts were shut down. Iran's own actions to avoid scrutiny and obfuscate transactions led to greater financial constriction.

The Iranians deepened their greatest vulnerability. They blended legitimate business transactions with illicit ones by funneling them through similar conduits. The Iranian regime often tried to hide the nature of its transactions and the identities of the government entities involved. They used front companies, cut-outs, and businessmen to acquire items and goods abroad that were hard to purchase, sanctioned, or tied to their nuclear ambitions or their weapons programs.



At the same time, the Iranian military was taking greater control of the nation's economy. Importantly, the predominant economic player was Iran's IRGC, the elite military and security unit founded in 1979. The IRGC had gained more power and influence over time as the protector and exporter of the revolution and reported directly to the Supreme Leader, Ayatollah Ali Khamenei.

The IRGC – with its vast network – has embedded itself into more industries within Iran, ultimately building what has been called a veritable business empire.<sup>2</sup> The regime and the IRGC's control of "charitable" foundations – known as *bonyads* – with access to billions of dollars of assets in the form of mortgages and business interests for veterans of the Iranian military – served as the baseline of its economic power, along with its ability to construct infrastructure through a corps of engineers. The reach of the IRGC's economic empire now extends to majority stakes in infrastructure companies, shipping and transport, beverage companies, and food and agriculture companies.<sup>3</sup>

In 2006, the IRGC acquired control of the Iranian telecommunications sector, and it began to control more elements of the nation's energy sector, including the development of pipelines and the valuable South Pars oil field. Some estimates note that the IRGC controls between 25 and 40 percent of Iran's gross domestic product (GDP).<sup>4</sup> The IRGC is deeply involved in building Iran's infrastructure, pursuing projects such as deep-water ports and underground facilities important to Iran's defense and economy. These projects and industries give the IRGC political power and access to profits and capital, which has grown over time.

The IRGC intervenes in Iran's economy through three principal channels: The IRGC Cooperative Foundation (its investment arm), the Basij Cooperative Foundation, and Khatam al-Anbiya Construction Headquarters. The Khatam al-Anbiya (KAA), a massive IRGC conglomerate, was designated by the United States as a proliferator of weapons of mass destruction.<sup>5</sup> It is Iran's biggest construction firm and, according to some estimates, "may be its largest company outright, with 135,000 employees and 5,000 subcontracting firms."<sup>6</sup> The value of its current contracts is estimated to be nearly \$50 billion, or about 12% of Iran's gross domestic product.<sup>7</sup> KAA has hundreds of subsidiaries in numerous sectors of Iran's economy

<sup>2</sup> Frederic Wehrey, Jerrold D. Green, Brian Nichiporuk, Alireza Nader, Lydia Hansell, Rasool Nafisi, & S. R. Bohandy, *The Rise of the Pasdaran: Assessing the Domestic Roles of Iran's Islamic Revolutionary Guards Corps* (Washington, DC: RAND Corporation, 2009).

<sup>3</sup> Emanuele Ottolenghi, *The Pasdaran: Inside Iran's Islamic Revolutionary Guard Corps* (Washington, DC: Foundation for Defense of Democracies, 2011), pages 44–45.

<sup>4</sup> *Ibid.*, page 43.

<sup>5</sup> Department of State, Office of the Spokesman, "Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism," October 25, 2007. (<http://2001-2009.state.gov/r/pa/prs/ps/2007/oct/07193.htm>)

<sup>6</sup> Parisa Hafezi & Louis Charbonneau, "Iranian Nuclear Deal Set to Make Hardline Revolutionary Guards Richer," *Reuters*, July 6, 2015. (<http://www.reuters.com/article/2015/07/06/us-iran-nuclear-economy-insight-idUSKCN0PG1XV20150706>); Emanuele Ottolenghi & Saeed Ghasseminejad, "The Nuclear Deal's Impact on Iran's Revolutionary Guards," *Foundation for Defense of Democracies*, July 17, 2015. (<http://www.defenddemocracy.org/media-bit/emaneuele-ottolenghi-the-nuclear-deals-impact-on-irans-revolutionary-guards/>)

<sup>7</sup> Benoît Faucon & Asa Fitch, "Iran's Guards Cloud Western Firms' Entry After Nuclear Deal," *The Wall Street*



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including its nuclear and defense programs, energy, construction, and engineering. The company is also involved in “road-building projects, offshore construction, oil and gas pipelines and water systems.”<sup>8</sup> EU sanctions against the company will be lifted after eight years, whether or not the IAEA concludes that Iran’s nuclear program is peaceful.

These three companies are direct shareholders of almost three hundred known businesses. My colleagues at the Foundation for Defense of Democracies have created a database of these companies and board members and provided it to the U.S. government.<sup>9</sup> As a result of the IRGC’s control of the economy that has grown over time, together with sanctions relief, the risk of regime control over the economy will grow. In addition, the reality and risks of Iranian sanctions evasion, money laundering, the lack of transparency, and other financial crimes – the subject of international concern and U.S. regulatory action against Iran under the USA PATRIOT Act Section 311 – will increase, not decrease over time.

The IRGC is an economic juggernaut, with responsibilities related to the development of weapons of mass destruction, missile systems, and overseas operations. It is deeply involved in the Iranian nuclear program, and its international arm, the Qods Force (IRGC-QF), is responsible for providing support to terrorist proxies and exporting the Iranian Revolution. Between them, the IRGC and its Qods Force are responsible for all the activities – weapons proliferation, terrorist support, and militant activity – for which Iran was sanctioned in the past.

With the IRGC in control of an increasing share of the Iranian economy, including its infrastructure, telecommunications, and oil sector, risks of doing business in and with Iran will increase. The regime will continue to use its control of the economy not only to further enrich itself but also to suppress internal opposition brutally and ensconce its rule. The concerns over human rights abuses and regime kleptocracy will grow.

As I have noted in the past, sanctions relief will increase risks over time, and Iran’s foreign policy will continue to challenge and threaten U.S. interests.

From the U.S. perspective, the blend of IRGC and regime activities created the ultimate vulnerability, particularly the blurred lines between legitimate industry and support for Iran’s nuclear program and terrorist groups. Wire transfers to terrorist groups and front companies flooding money into the coffers of the Revolutionary Guard were actions seen to threaten not only international security but also the integrity of the financial system. The nefarious nature of the activities, tied with the IRGC’s attempts to hide its hand in many of its economic dealings and operations, made Iran’s financial activity inherently suspect. This has not changed.

As part of past efforts to exclude Iran from the financial system, the U.S. Treasury made the argument directly to banks and companies around the world that it was too risky to do business with Iran, since no one really knew who was lurking behind corporate veils, pulling the strings, and accessing bank accounts and funding in Tehran. Would banks be willing to risk its

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*Journal*, July 21, 2015. (<http://www.wsj.com/articles/irans-guards-cloud-western-firms-entry-after-nuclear-deal-1437510830>)

<sup>8</sup> *Ibid.*

<sup>9</sup> Iranian Official Journal, accessed July 20, 2015. (<http://www.gazette.ir/>)





reputation by doing business, even inadvertently, with the IRGC or the Qods Force? Could their compliance officers guarantee that they knew who was behind their Iranian customers and transactions? Was trade with Iran worth the risk of access to American markets and banks?

All of this was amplified by parallel national legislation, UNSCRs, greater scrutiny from authorities around the world, and enforcement actions, led by the United States. The United States created a layered sanctions regime, with overlapping Executive Orders, designations, and eventually legislation, focused on the key elements of the Iranian regime and economy facilitating illicit and dangerous behavior. Each U.S. action spurred private sector and allied responses. The effects of this suspicion and isolation – driven by the private sector’s risk calculus and government actions – had a real world impact.

Iranian banks, including its Central Bank, could no longer access the international financial system; its shipping lines could not traverse ports easily or obtain insurance to operate; and – thanks to congressional and international action – its oil sales and revenues were suspended. Iran had to create workarounds, evasion schemes, and bartering arrangements to continue to do business.

The Central Bank of Iran (CBI) itself has been designated in part because of broader sanctions evasion facilitation on behalf of the Iranian banking system. Treasury issued a finding in November 2011, under Section 311 of the USA PATRIOT Act that Iran, as well as its entire financial sector including the CBI, is a “jurisdiction of primary money laundering concern.”<sup>10</sup> Treasury cited Iran’s “support for terrorism,” “pursuit of weapons of mass destruction,” including its financing of nuclear and ballistic missile programs, and the use of “deceptive financial practices to facilitate illicit conduct and evade sanctions.”<sup>11</sup> The country’s entire financial system posed “illicit finance risks for the global financial system.”<sup>12</sup> Those concerns persist and are not alleviated by the JCPOA or any Iranian nuclear commitments or actions.

The concerns about the integrity of the Iranian financial system are international in nature. The Financial Action Task Force (FATF), the global standard setting and assessment body for anti-money laundering, counter-terrorist financing, and counter-proliferation financing, has labeled Iran – along with North Korea – “a high risk and non-cooperative jurisdiction.” FATF has called on its members to “apply effective counter-measures to protect their financial sectors from money laundering and financing of terrorism (ML/FT) risks emanating from Iran.”<sup>13</sup>

<sup>10</sup> U.S. Department of the Treasury, Press Release, “Finding That the Islamic Republic of Iran is a Jurisdiction of Primary Money Laundering Concern,” November 18, 2011. (<http://www.treasury.gov/press-center/press-releases/Documents/Iran311Finding.pdf>)

<sup>11</sup> Ibid.

<sup>12</sup> U.S. Department of the Treasury, Press Release, “Fact Sheet: New Sanctions on Iran,” November 21, 2011. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1367.aspx>)

<sup>13</sup> The Financial Action Task Force, Public Statement, “FATF Public Statement 19 February 2016,” February 19, 2016. (<http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/public-statement-february-2016.html>)



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As recently as February 19, 2016, FATF issued a statement warning that Iran's "failure to address the risk of terrorist financing" poses a "serious threat ... to the integrity of the international financial system."<sup>14</sup> The international community recognizes that Iran – regardless of the status of its nuclear program – poses a real and serious threat to the integrity of the global financial system.

This financial and economic isolation was premised on the actions and nature of the Iranian regime itself. Since the announcement of the JCPOA, neither has changed. On the contrary, Iran has demonstrated its desire to continue its aggressive activities and support to causes and groups directly antithetical to U.S. interests.

The risks from Iran are real and will increase in an environment of sanctions unwinding under the JCPOA for a variety of reasons.

In the first instance, the unfettered return of funds to the Iranian regime will allow Tehran the flexibility to fund its allies and proxies and flex its muscles in the region. Regardless of amounts available to the regime or percentage used to support terrorist proxies, there will be an infusion of terrorist financing into the global system. The Administration has acknowledged that some of the unfrozen funds will go to support terrorist and militant groups, like Hizballah, HAMAS, Iraqi Shi'ite militias, and the Houthis in Yemen. This is certainly the expectation of Iran's allies. Iran could even use its capital to support the Taliban and al Qaida, with which Iran has maintained a relationship and provided support in the past.

With Iran expanding its reach and presence throughout the Middle East, and IRGC commanders and proxies positioned from the Golan to Yemen, there will be more concern about Iran's misuse of the economy, the benefits of sanctions relief, and the international financial and commercial system for dangerous and illicit activities. This infusion of cash will relieve budgetary constraints for a country that had only an estimated \$20 billion in fully accessible foreign exchange reserves prior to November 2013<sup>15</sup> but was spending at least \$6 billion annually to support Assad.<sup>16</sup>

The regime itself, and its core institutions like the Ministry of Intelligence and the IRGC, will benefit most immediately and deeply. Iran is a theocratic regime that controls the key elements of the economy. The mullahs have used their control of the economy – through *bonyads* and the Supreme Leader's vast financial network, known as Setad or EIKO, and which is worth tens of billions of dollars, to enrich themselves and exert more control over the country.

Despite the notion that the JCPOA resolves all "nuclear-related" concerns, it does not address real concerns over continued Iranian proliferation, to include missile and arms trade. With the allowance for an Iranian nuclear program, infrastructure, and research, the deal will likely

<sup>14</sup> Ibid.

<sup>15</sup> Mark Dubowitz & Rachel Ziemba, "When Will Iran Run Out of Money?," *Foundation for Defense of Democracies & Roubini Global Economics*, October 2, 2013.

<sup>16</sup> Eli Lake, "Iran Spends Billions to Prop Up Assad," *Bloomberg*, June 9, 2015.  
(<http://www.bloombergvew.com/articles/2015-06-09/iran-spends-billions-to-prop-up-assad>)



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increase (not decrease) the risk of proliferation – with potential Iranian trade and exchange with rogue third countries like North Korea.

The dangers, challenges, and risks from Iran on a regional and global scale will only increase over time. In the wake of the JCPOA, Secretary of State Kerry stated that we will need to “push back” against Iran’s provocative and dangerous policies and tactics. CIA Director John Brennan said that the United States will “keep pressure on Iran” and “make sure that it is not able to continue to destabilize a number of the countries in the region.”<sup>17</sup>

Indeed, the United States will need to push back, especially against increasing risks and threats from Iran. To do this, the United States will want to use its financial and economic tools and strategies to make it harder, costlier, and riskier for Iran to threaten the United States and our allies. This will mean devising and deploying aggressive strategies to exclude key elements of the Iranian regime and the IRGC, Qods Force, and Ministry of Intelligence from the global financial and commercial system.

#### **The Risks of Doing Business in Iran**

On January 16, 2016, the United States, the European Union, the United Nations, and other countries unwound a substantial number of sanctions on the Islamic Republic of Iran as part of their obligations under the JCPOA. Most notably, many EU and UN sanctions, as well as many U.S. “secondary” sanctions, will no longer remain in force. “Primary” U.S. sanctions programs barring almost all U.S. persons from doing Iran-linked business remain.<sup>18</sup>

In the wake of Implementation Day and with remaining sanctions and financial crime concerns, important questions exist regarding what doing business in or with Iran now means and how to evaluate and manage such risk.

As Iran attempts to reintegrate into the world economy, many challenges remain for companies considering doing business in the Islamic Republic, with Iranian counterparties, or supporting customers operating in Iran. Dealing with the spectrum of risk – financial crime, regulatory, reputational, and policy – in the Islamic Republic will require that U.S., European, Asian, Middle Eastern, and other firms clearly understand the patchwork of sanctions that will remain in place on the country, as well as many of the systemic issues, such as corruption, impacting various Iranian business sectors. Companies must also factor the risk that sanctions may “snap back” in the medium or long term into their business decisions.

<sup>17</sup> “CIA Director Says US Will Keep Pressure on Iran over Nuclear Capabilities No Matter Outcome of Ongoing Talks,” *Fox News*, March 23, 2015. (<http://www.foxnews.com/politics/2015/03/23/cia-director-says-us-will-keep-pressure-on-iran-over-nuclear-capabilities/>)

<sup>18</sup> Primary sanctions are those that apply directly to (1) the activities of U.S. persons (including persons located in the United States), (2) non-U.S. persons who cause U.S. persons to violate U.S. sanctions regulations, (3) activities taking place within the United States, and (4) transfers of U.S.-regulated goods, services, and technologies. Secondary sanctions apply to non-U.S. persons where the United States lacks jurisdiction to impose primary sanctions. Such sanctions often include privileging a company’s access to U.S. markets on compliance with U.S. sanctions regulations.



The risks are amplified by Iran's long history of sanctions evasion, illicit finance and corruption, and opaque financial and commercial practices. In 2015, Emanuele Ottolenghi produced a report for the Center on Sanctions and Illicit Finance at the Foundation for Defense of Democracies detailing the various illicit and suspicious methods used by the Iranian regime to operate in the global financial and commercial system – including the establishment of sophisticated procurement networks and use of gatekeepers to facilitate financing.

This complicated risk environment has dissuaded most legitimate companies from re-entering and investing in the Iranian economy. While Iranian markets may appear attractive, companies considering transacting with persons in Iran or doing business in Iran are proceeding with caution. The recent parliamentary elections in Iran have not altered this analysis or trajectory fundamentally. Companies considering doing business in Iran or with Iranian persons must contend with at least eight sanctions and financial crimes-related risks:

1. **Primary U.S. Sanctions.** Most U.S. primary sanctions, which broadly prohibit U.S. persons from conducting transactions in Iran, with persons resident in Iran, or with the Government of Iran, will remain in force. These U.S. primary sanctions pose significant risks for any multinational company considering doing business in Iran. U.S. jurisdiction is broad and U.S. regulators can use it to target transactions that may not initially appear to touch U.S. markets or involve U.S. persons.

U.S. jurisdiction applies to all U.S. individuals (including U.S. citizens and permanent resident aliens, wherever located, as well as persons located in the United States) and entities (including any entity located or operating in the United States, organized under the laws of the United States, as well as foreign branches of U.S. entities). Further, the United States may impose penalties (civil or criminal) on any foreign person who *causes* a U.S. person to violate sanctions regulations.<sup>19</sup>

For example, if a Middle Eastern, European, or Asian financial institution conducts transactions on behalf of an Iranian company and the transaction involves a U.S. bank or a correspondent account located in the United States, U.S. regulators will likely have jurisdiction over the transaction and can impose *penalties* on the non-U.S. financial institution. Similarly, if a Middle Eastern exporting company with U.S. offices relies on those offices for back office functions for transactions related to Iran or with an Iranian, the U.S. offices providing back office support will be engaged in the prohibited exportation of services to Iran (and can be subject to OFAC penalties). Where the Middle Eastern entity caused the U.S. offices to provide the services without knowledge of the Iranian nexus, U.S. regulators could impose fines on that Middle Eastern entity for causing the U.S. offices to violate the sanctions.

Even those U.S. companies taking advantage of the new General License H – which permits foreign subsidiaries of U.S. companies to engage in certain activities in Iran – will face significant sanctions-related risks. While these subsidiaries may be allowed to conduct those activities, if the U.S. parent company is involved in any Iran-related

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<sup>19</sup> See 50 U.S.C. § 1705.



business or transactions, it will likely be exposed to U.S. primary sanctions.<sup>20</sup> Multinational companies must build a firewall between U.S. parents and any foreign subsidiary doing business with Iranian persons or in Iran, which may be difficult to effectively do in practice

Because the breadth of U.S. jurisdiction is expansive, companies based in Europe and Asia must be aware that any engagement with Iran may still expose them to remaining U.S. sanctions. Companies, particularly ones operating across borders, have to pay careful attention to whether they may be subject to U.S. jurisdiction, which might pose one of the most pressing regulatory risks that any company considering entering Iranian markets will face.

2. **Remaining U.S. Secondary Sanctions.** Foreign businesses considering doing business in Iran will continue to face the risk of violating remaining “secondary sanctions” on Iran, which prohibit foreign financial institutions and other non-U.S. headquartered companies from doing certain business with Iran. While many of the secondary sanctions imposed since 2010 have been unwound,<sup>21</sup> non-U.S. persons are still at risk for violating remaining U.S. secondary sanctions if they engage in transactions with any one of more than 200 people and entities listed as Specially Designated Nationals (SDNs) including the IRGC and its affiliates.

These restrictions pose additional and significant risks because under U.S. law, entities owned or controlled 50% or more by designated persons – so-called “shadow SDNs” – are by law also considered SDNs. For example, if a foreign financial institution processes transactions on behalf of an entity that is owned or controlled by the IRGC (whether or not that entity is listed on national or international lists of designated parties) it could be subject to U.S. secondary sanctions. This creates significant risk for financial institutions and other companies wishing to do business in Iran, given that the IRGC controls a significant portion of the economy.<sup>22</sup> This risk is further exacerbated by Iranian attempts

<sup>20</sup> Note that U.S. parent companies are permitted to establish policies and procedures that allow these foreign subsidiaries to conduct business in Iran and with Iranian persons, though after the initial decision to re-engage in Iran-related business and the establishment of procedures for doing so, U.S. persons cannot be involved in the activities of their foreign subsidiaries relating to transactions with Iranian persons or in Iran. Similarly, U.S. companies can make their automated computing, accounting, and communications systems available for their subsidiaries conducting permitted activities in Iran. In effect, this permits foreign subsidiaries doing permitted business in Iran to continue to use the same computer systems as their parent companies. Note however that provision does not allow U.S. parents to otherwise be involved in those activities in any way.

<sup>21</sup> Following Implementation Day, non-U.S. entities can now conduct certain transactions with:

- The financial and banking industry in Iran, including maintaining correspondent accounts for non OFAC-designated Iranian financial institutions, the provision of financial messaging services, dealing in the rial and in Iranian sovereign debt, and issuing credit cards for Iranians;
- Insurance-related activities consistent with the JCPOA, including payment of claims to non-U.S. persons;
- The energy industry;
- Shipping, shipbuilding, and port operations;
- Precious and raw/semi-finished metals dealers; and
- The automotive industry, insofar as non-U.S. goods, technology, and services are involved.

<sup>22</sup> Estimates vary on how much of the Iranian economy is controlled by the IRGC, with many analysts suggesting the IRGC controls as much as 35%.



to create a “gold rush” psychology in the marketplace and to muddy the waters regarding what restrictions may apply to specific transactions. We should expect Iranian customers and counterparties to alter ownership interests, names of entities, and ownership structures in an attempt to hide links to designated parties. This would match past practices of sanctions evasion and obfuscation of financial transactions in the past.

Determining whether a customer, partner, or counterparty is owned or controlled by a designated person will be a challenging task, further complicated by the fact that the Office of Foreign Assets Control (OFAC) at the United States Department of the Treasury has provided limited guidance on how companies looking to do business in Iran can determine whether they are inadvertently doing business with the IRGC. OFAC recommends only that “a person considering business in Iran or with Iranian persons conduct due diligence sufficient to ensure that it is not knowingly engaging in transactions with the IRGC or other Iranian or Iran-related persons on the SDN List and keep records documenting that due diligence.” Businesses looking to enter the Iranian market must make their own determinations about what constitutes “sufficient” due diligence without more precise guidance and while the structure of civil and criminal penalties for sanctions violations remains in place.

Further, non-U.S. persons still need to be aware of remaining U.S. export controls. For example, restrictions still apply regarding the facilitation of Iranian acquisition or development of weapons of mass destruction. In addition, transfers of certain potential dual-use materials must be approved via the procurement channel established by the JCPOA. U.S. origin goods, technology, and services also are subject to the Export Administration Regulations, which retain prohibitions on exports and re-exports to Iran.

3. **Remaining EU and UN Sanctions.** While most EU and UN sanctions on Iran have been unwound, a number of important restrictions remain in place.<sup>23</sup> Under EU law, trade restrictions on the sale, export, provision, or servicing of goods deemed to be “internal repression equipment,” or used for “telecommunications surveillance and interception,” remain in place. Likewise, the EU will continue to impose asset freezes and prohibitions

<sup>23</sup> Under EU law, several engagements previously prohibited, including associated services, are now allowed so long as they avoid dealing with listed Iranian persons:

- Financial, banking, and insurance measures involving Iranian entities—including the provision of insurance to Iranian oil and gas shipments—are now permitted by EU law and do not require prior authorization;
- The import, purchase, swap, and transport crude oil and petroleum products, gas, and petrochemical products from Iran, and the export of equipment to Iran for use in the energy industry are now permitted;
- Engagements with the Iranian shipping, shipbuilding, and transport sectors are no longer restricted;
- Trade with Iran involving gold, other precious metals, banknotes, and coinage is now permissible;
- While the sale or transfer of certain graphite and raw/semi-finished metals to any Iranian entity is no longer prohibited, such activity is subject to an authorization regime; and
- While the sale or transfer of Enterprise Resource Planning software to any Iranian entity for use in activities consistent with the JCPOA is no longer prohibited, such activity is subject to an authorization regime.

Like the United States, the EU has also delisted certain entities that are thus no longer subject to its asset freeze, prohibition to make funds available, and visa ban. However, certain financial institutions such as Ansar Bank, Bank Saderat Iran, Bank Saderat PLC, Bank Sepah, Bank Sepah International, and Mehr Bank remain listed by the EU.



on business and trade with individuals and entities designated for committing human rights abuses and restrictions on the trade of certain items related to nuclear proliferation.

UN Security Council Resolutions that imposed sanctions on Iran for its nuclear program were terminated on Implementation Day. Thus, the United Nations no longer imposes limits on providing insurance and reinsurance products to Iranian entities, and no longer prohibits the opening of new Iranian bank branches or subsidiaries outside Iran (nor is there a mirrored prohibition on entities from UN member states doing the same within Iran). However, a UN arms embargo and UN sanctions on Iran's ballistic missile program remain in place. Further, some individuals designated by the UN for participating in nuclear and ballistic missile programs will remain designated.<sup>24</sup> The recent missile tests and Iranian promises for more simply exacerbate the risk that additional sanctions will be applied.

4. **Likely Additional Sanctions.** Businesses interested in entering Iran should be aware that additional designations and sanctions are likely as the United States Congress continues to focus on illicit Iranian behavior and as Iran continues with activities such as ballistic missile testing and the provision of support to terrorist groups. Congress has explored additional sanctions legislation, in particular related to more stringent sanctions tied to the IRGC and its ownership and control interests. Though the administration will resist actions that appear to re-impose lifted sanctions, both the House of Representatives and the Senate appear interested in pursuing legislation that directly or indirectly impacts Iran, including the recent legislation imposing additional sanctions on Hizballah.

The administration has wanted to demonstrate its willingness to sanction non-nuclear Iranian behavior, both to stave off additional congressional action and address Iranian threats to U.S. interests. It has not wanted, however, to impose sanctions or financial measures that would allow Iran to claim that the United States had violated the terms of the JCPOA. Since Implementation Day, the Treasury Department has twice used ballistic missile-related designations – in January 2016, designating 11 entities and individuals involved in procurement on behalf of Iran's ballistic missile program, and then again on March 2016, designating additional parties tied to the missile program. Companies are aware that additional Iranian individuals, companies, and related networks could be designated, effectively requiring an end to any financial or commercial relationship.

This risk increases as Iran engages in activities that spur additional U.S. and possibly EU sanctions. In addition to its support to terrorist groups and the Assad regime, its ballistic missile program, and human rights abuses, there are other risks attendant to doing business with Iran. Iran's link with North Korea, and in particular its cooperation on proliferation and ballistic missile-related issues, increases the likelihood that the United

<sup>24</sup> Pursuant to the terms of United Nations Security Council Resolution (UNSCR) 2231 (2015) (which endorsed the JCPOA), all prior United Nations Security Council Resolutions mandating sanctions on Iran — namely, UNSCR 1696 (2006), 1737 (2007), 1747 (2007), 1803 (2008), 1835 (2008), 1929 (2010), and 2224 (2015) — were formally terminated upon receipt of the IAEA's report verifying that Iran has met its nuclear-related obligations under the JCPOA. Through UNSCR 2231, the UN continues to impose certain restrictions on nuclear, conventional arms, and ballistic missile-related activities involving Iran.



States and the European Union will impose additional sanctions on the Islamic Republic. For example, in late January, France requested the European Union consider imposing additional sanctions on Iran for its continued ballistic missiles activities.

5. ***Iran's Potential Cheating on the JCPOA.*** If the United States or other members of the P5+1 conclude that Iran is cheating on its obligations under the JCPOA, they can snap back many of the sanctions into place. In the context of any potential snapback, OFAC has made clear that there will be no “grandfather” clause for pending transactions, meaning foreign companies doing business in Iran would need to very quickly wind down their operations, potentially at a significant loss. While the Obama Administration will be unlikely to push for a comprehensive snapback of sanctions unless there is a serious, material breach of the JCPOA, Treasury Department officials have made it clear that they have developed more limited snap back mechanisms in the case that Iran pushes the envelope and engages in activities that violate its obligations. Similarly, depending on the outcome of the U.S. presidential election in November 2016, candidates have expressed a desire to re-impose sanctions on Iran. Such action could pose serious risks for foreign companies doing business in the Islamic Republic.
6. ***Sanctions Violations Enforcement Posture.*** The United States Department of the Treasury has indicated it will continue to aggressively enforce regulations remaining in place. For example, acting Under Secretary of the Treasury for Terrorism and Financial Intelligence Adam Szubin noted, following Implementation Day, that “[w]e have consistently made clear that the United States will vigorously press sanctions against Iranian activities outside of the Joint Comprehensive Plan of Action – including those related to Iran’s support for terrorism, regional destabilization, human rights abuses, and ballistic missile program.” Indeed, the day after JCPOA Implementation Day, the U.S. government imposed sanctions on entities and individuals in the Middle East and Asia for supporting Iran’s ballistic missile program. These types of sanctions will be used to help demonstrate to Iran and U.S. allies that the United States remains prepared to use economic measures to enforce existing sanctions. In addition, Iran’s history of using a variety of financial and commercial measures to hide its hand to evade sanctions and the scrutiny of the international community adds additional risk that sanctions may be applied.
7. ***Regulatory Risk from Multiple Enforcement Agencies.*** From a regulatory and enforcement perspective, it is important to note that the Treasury Department and OFAC are not the only arbiters of sanctions violations and requirements. The United States Department of Justice, the Securities and Exchange Commission, state prosecutors, and various New York authorities, such as the Department of Financial Services, will all play a significant role in how existing sanctions regulations and related laws are enforced. Local authorities may elect to take a more aggressive enforcement posture with respect to sanctions violations, which would fall outside of the federal government’s control. Any company considering doing business in Iran or with Iranian individuals or entities will need to pay close attention to the regulatory and enforcement postures taken by these other government agencies.





8. ***Financial Crimes Risks in Iran.*** Though the recent business attention on Iran has understandably focused on sanctions-related issues, banks and businesses must remember that other financial crimes concerns in the Islamic Republic remain pervasive. In particular, the nature of the Iranian economy and the role of the government within the economy present serious risks related to bribery and corruption, money laundering, and illicit financing. Iran ranked 130 of 175 countries in Transparency International's Corruption Perceptions Index as of 2015.

In 2011, the U.S. identified Iran as a state of primary money laundering concern pursuant to Section 311 of the USA PATRIOT Act. The FATF first raised concerns over Iran's lack of a comprehensive anti-money laundering/countering the financing of terrorism (AML/CFT) framework in 2007, and it still urges Iran to meaningfully address AML/CFT deficiencies and will consider urging stronger counter-measures later this year. OFAC also has made it clear that activity inconsistent with a wide range of Executive Orders imposing sanctions on Iran (including for providing support to terrorism, undermining the stability of Yemen, and other behaviors) could still subject U.S. and non-U.S. persons to sanctions. Now, the Iranian government has indicated that it will begin to target "financial corruption," and has sentenced Iranian billionaire Babak Zanjani, who helped the regime evade oil-related sanctions, and two others to death for corruption. Attention on the issue of corruption will now grow, as Iran attempts to do business with the world. Any companies looking to do business in Iran must be acutely aware of serious financial integrity risks beyond those posed by remaining sanctions.

As some of the sanctions on Iran are unwound, many European, Asian, and Middle Eastern companies understandably want to re-engage in the Iranian economy. The risk appetites of companies will likely vary by sector, with large oil, aerospace, auto, infrastructure, and equipment companies likely more willing to enter Iranian markets more quickly and with a higher tolerance for risk. For example, Airbus has already agreed to sell Iran 114 airplanes, and Boeing has obtained a license from OFAC to begin commercial discussions with Iranian airlines.

In contrast, other sectors will have a more conservative risk approach. Shipping insurers have already recommended a greater degree of caution. For example, the London Protection and Indemnity Club, a member of the International Group of Protection and Indemnity Clubs, the main association of global tanker insurers, has recommended shipping insurers not enter contracts or fixtures involving previously sanctioned Iranian trade or entities without performing extensive due diligence. Similarly, financial institutions will be more reluctant to re-enter Iranian markets, given recent enforcement actions targeting their activities and the stricter financial crime compliance environment globally.

A significant challenge will be how such financial institutions respond to pressure from clients with greater risk appetites to provide financial services for activities in Iran. Iran has already complained that European banks have remained reluctant to engage in commercial activity with Iran, and is now asking the IMF to help assuage such concerns with a report slated for release in 2018. Additional pressure and statements from Iranian leadership, including the Iranian Central Bank Governor recently in the United States, are echoing the charge that the United States is not fulfilling its obligations under the "spirit and letter" of the nuclear deal.



The desire in and from Tehran to see the fruits of the nuclear negotiations, especially with more banking activity with the West, will add pressure to those institutions that remain cautious. For example, some financial institutions, including at least one major Japanese bank, have begun processing non-dollarized transactions for clients operating in the Islamic Republic. Importantly, it appears that the Iranians realize that in order to do business legitimately with the West, they must meet the standards demanded in the Western banking world for transparency and accountability. But the Iranians are intent to force the United States and Europe to help them

#### **Keeping the Burden of Persuasion and Reform on Iran**

In implementing the deal, the United States should not fall into the trap of helping Iran rehabilitate itself. Throughout this deal, the onus should remain solely on Iran to alleviate concerns about its activities, lack of transparency, and failure to meet heightened global standards of financial integrity in the banking and commercial worlds. Iran should not get a free pass on the necessary reforms, modernization, and accountability necessary for acceptance as a legitimate actor in the world – diplomatically and economically. This posture should force the Iranians to turn inward to determine how they can meet international expectations, instead of trying to compel the United States and Europe to alter their standards or dictate to the private sector where and with whom they should do business.

Unfortunately in the desire to appear to be complying with the deal, some U.S. actions have created the impression that the United States and European governments have assumed the burden of reintegration of the Iranian economy into the global system. There are some examples worth noting:

1. There have been reports that the United States might offer Iran the ability to access offshore dollar-clearing facilities, to allow for dollar-denominated transactions and ease Iran's ability to trade internationally. Though such a maneuver would not allow Iran direct access to dollar clearing in the United States, it could be structured in a manner to create the same effect. Iranian trade would then be facilitated in a way not contemplated in the JCPOA. The United States should not be offering special exemptions or measures to assist Iran with access to dollars while Iran remains a leading state sponsor of terror, subject to serious sanctions, and designated as a "primary money laundering concern."

In addition, if the United States were to provide Iran with access to U.S. dollars for offshore transactions, then the United States would lose the ability to threaten this access in response to a range of Iranian provocations in the future. In effect, by couching access to the Western financial system and the U.S. dollar as part of the nuclear deal, the United States would no longer be able to cut Iran off from this benefit if it significantly increased its support for terrorism, as Iran would claim that such an attempt at coercion would violate the letter of the nuclear agreement. This would further give away coercive financial leverage without any bargained-for concession by Iran.

2. The U.S. government has been sending delegations around the globe to clarify existing sanctions and obligations and apparently to explain how business with Iran may be



undertaken with the Iranian regime. Though regulatory clarity is important, the United States should not be launching road shows attempting to dampen concerns about the risks of doing business in or with Iran, especially when those risks are increasing. The burden instead should fall on Iran to demonstrate that its activities, policies, and use of its financial and commercial system are legitimate, transparent, and meet international standards. Iran should be concentrating on necessary reforms, hard policy decisions, and its own road shows to prove that it can be trusted as a responsible international player – to governments, the private sector, and the markets. Until then, Iran will be seen as a risky jurisdiction in which to invest and do business. It should not be the responsibility of the United States or Europe to prod businesses and banks to enter the Iranian market.

3. It has been important that the U.S. Treasury and other U.S. government officials have reiterated the commitment to enforcing existing sanctions vigorously and maintaining the ability to use the tools of financial coercion to affect Iranian behavior. These commitments, however, are undercut when the United States modifies its messaging to suggest that our sanctions regime should not constrain or affect the risk calculus of the private sector. Though intended to demonstrate that the United States is upholding its end of the JCPOA bargain, softened language appears to suggest that the United States is already backing away from its willingness to use existing sanctions against Iran. This week, Secretary Kerry noted that European businesses should not use the United States as an excuse not to invest in Iran. European businesses should be encouraged to listen to and account for U.S. regulatory, enforcement, and policy concerns.

The United States cannot alter this commitment to enforce sanctions, weaken its call for heightened global standards for financial integrity, or jump every time Iran complains about its inability to access the global financial system. We cannot mute ourselves or our willingness to use some of our most effective financial and economic tools against dangerous Iranian activity.

The United States cannot be in the position of rehabilitating the Iranian economy. This proves highly problematic and undermines U.S. credibility and power internationally if this is done without concern for the underlying issues that drove its isolation in the first place – proliferation, support for terrorism, and development of weaponry and programs of concern controlled by the IRGC. It is the threat to the international financial system of the illicit and suspect flows of money that is the baseline for Iran's isolation.

#### **Targeted Unwinding**

The United States should also not diminish its ability to use targeted unwinding tools to force Iran to make hard choices about its behavior in the international system. If implementation of the JCPOA is viewed as an ongoing and long-term process, then the United States should be thinking creatively about how to use these targeted unwinding measures to effectuate its strategic goals.

The JCPOA attempts to unwind sanctions tied to the nuclear file, but the unwinding is difficult and complicated given the interconnected nature and effects of such sanctions. In some



instances, the unwinding can be managed. In many other cases, the unwinding schedule and some of the scheduled delistings implicate actors and activities beyond the nuclear file, complicating our ability to easily unwind sanctions and threatening our ability to impose coercive leverage in the case of Iranian malfeasance beyond the nuclear file. The delisting of some key Iranian entities that have facilitated a range of Iranian illicit activities and the cessation of sanctions prohibitions against them, especially terrorism financing, raises serious challenges to U.S. ability to affect Iranian behavior of concern.

There is no question trying to unwind any effective and global sanctions regime is difficult. Unwinding intertwined, conduct-based sanctions for a regime that uses its economy and system for various dangerous and nefarious activities of international security concern is incredibly challenging. But tearing down sanctions bluntly – particularly when pulling down the nuclear sanctions also threatens to pull down U.S. leverage related to issues of missile proliferation and terrorism – without addressing that underlying and related conduct creates real risks and does damage to the ability to use the very same tools against Iranian individuals and entities in the future.

In light of the risks of doing business with Iran, the reintegration of Iranian banks into the global financial system, including via the SWIFT bank messaging system, presents perhaps the most concerning issue. For example, Bank Sepah was designated under U.S. authorities not simply because of its facilitation of the Iranian nuclear program and procurement but also its role in financing arms and missile deals, activities that should remain a concern and are subject to UN sanctions.

The JCPOA explicitly called for the lifting of sanctions on “[s]upply of specialized financial messaging services, including SWIFT, for persons and entities ... including the Central Bank of Iran and Iranian financial institutions.”<sup>25</sup> The European Union lifted SWIFT-related sanctions for the Central Bank of Iran and all Iranian banks<sup>26</sup> originally banned from SWIFT.<sup>27</sup>

By allowing most of the Iranian banks back into the international financial order without dealing with their underlying conduct or controls, the United States and the international community assumed the good faith of the Iranian regime. This has heightened the risk that the Iranian banking system would be used by the regime to finance and facilitate other issues of significant national security concern.

<sup>25</sup> “Joint Comprehensive Plan of Action,” Vienna, July 14, 2015, paragraph 19(iv).

([http://ec.europa.eu/statements-ec/eas/docs/iran\\_agreement/iran\\_joint-comprehensive-plan-of-action\\_en.pdf](http://ec.europa.eu/statements-ec/eas/docs/iran_agreement/iran_joint-comprehensive-plan-of-action_en.pdf))

<sup>26</sup> On Implementation Day, the EU will lift sanctions on the Central Bank of Iran and Bank Mellat, Bank Melli, Bank Refah, Bank Tejarat, Europäische-Iranische Handelsbank (EIH), Export Development Bank of Iran, Future Bank, Onerbank ZAO, Post Bank, and Sina Bank. On Transition Day, the EU will also lift sanctions on Ansar Bank, Bank Saderat, Bank Sepah and Bank Sepah International, and Mehr Bank. See Attachment 1, parts 1 and 2 and Attachment 2, parts 1 and 2. ([http://ec.europa.eu/statements-ec/eas/docs/iran\\_agreement/annex\\_1\\_attachments\\_en.pdf](http://ec.europa.eu/statements-ec/eas/docs/iran_agreement/annex_1_attachments_en.pdf))

<sup>27</sup> The Council of the European Union, “Council Regulation (EU) No 267/2012 of 23 March 2012 Concerning Restrictive Measures against Iran and Repealing Regulation (EU) No 961/2010,” *Official Journal of the European Union*, March 24, 2012. (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1406807228342&uri=CELEX:32012R0267>)



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Instead, we should consider a process of targeted unwinding that meets our strategic goals – and could even provide Iran relief if it is willing to abide by international rules and norms regarding transparency and accountability of its financial system. For Iranian banks, this would mean a stricter, monitored reentry into the financial system, given continued concerns about their facilitation of illicit and dangerous activities by the regime. This could be effectuated through a program – led by the European Union – to create a monitoring system through SWIFT (akin to the Terrorist Financing Tracking Program) to monitor all Iranian cross-border transactions and allow for the tracking and analysis of suspect Iranian banking activities. Instead of the blunt unwinding measure of plugging all Iranian banks (minus a few) back into the global banking messaging system, an aggressive monitoring program could provide a “halfway” house for reintegration of Iranian banks over time while managing the risk of more Iranian money traversing the banking system.

This type of system might actually force the Iranian regime to make some hard choices about not using its banks to facilitate illicit or dangerous activities that would be subject to monitoring and exposure. A system of targeted unwinding could advance the strategic goal that Iran not misuse its economy and financial system to benefit terrorists, proxies, and accelerate its nefarious international ambitions and capabilities. If such a system could prove effective, it might spur responsible reform within Iran as it tries to reintegrate into the global system. This in turn would give global banks and businesses some assurance that the Iranian banking system is maturing and under some degree of scrutiny. Scrutiny over such financial activity and reforms could help alleviate concerns by legitimate banks that they are being exposed to dangerous risk, especially if legitimate and trusted governments agencies (like financial intelligence units) are involved in the monitoring. This, in turn, could blunt Iranian claims that the United States was de facto continuing the imposition of sanctions by scaring Western banks away from doing business in Iran or with businesses interested in doing business in Iran.

The current tension with Iran over the unwinding of sanctions underscores that the implementation of the JCPOA and “negotiations” with Iran will be ongoing. In this regard, we should take full advantage of the leverage we have and devise new mechanisms to ensure we meet our strategic goals.

#### **Faulty Assumptions**

The current state of sanctions unwinding reveals certain misconceptions about the state of play regarding the JCPOA and the position of the United States to strike a better bargain. There are many assumptions articulated at the time that need to be questioned, and there are a few that are clearly incorrect.

At the time of the negotiations, the financial and economic pressure campaign was not faltering, and the United States was not at risk of losing its ability to squeeze and influence Iran in the short term.

The regime and the economy were affected by cascading isolation and falling oil prices. During the period of the negotiations, the pressure was increasing – belying the notion that the United States has been facing a cracking sanctions coalition and system. Quite the opposite was



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occurring. The ayatollahs' concern over the strangulation of the Iranian economy – in concert with lingering fears of the ghosts of the Green Movement – is ultimately what brought them to the negotiating table and launched them on the charm offensive that allowed them to turn the tables on the West. The sanctions pressure was not sustainable for the regime. President Rouhani admitted that these measures threatened to drive Iran into an economic “the Stone Age.”

The regime has needed access to capital, new technologies, and connectivity to the oil markets and the global economy to maintain and sustain their regime. That is what it lost over the past decade. It is what the Iranians negotiated to regain in the JCPOA. This is now the source of Iran's most significant complaint.

There was also never a neat divide between “nuclear” and “non-nuclear” sanctions when the constriction campaign launched in 2005. This campaign was intended to use the illicit, dangerous, and illegitimate nature of Iranian activity as the driver for unplugging Iran from the global financial and commercial system. This is something I tried to articulate in my testimonies before the Senate last year. The “sanctions” were focused on the fact that the Iranians were leveraging their own economy to profit the regime and allow the construction of a suspect nuclear infrastructure and ballistic missiles, support terrorists and militias, strengthen Assad in Syria, engage in financial obfuscation, and perpetrate massive human rights abuses. Other than the nuclear issues, the underlying conduct was not addressed. The resolution of those issues was not on the table during the JCPOA negotiations. Without resolution of those issues, the triggers for financial isolation remain. Thus, we are witnessing the difficulty of unwinding sanctions that have been triggered by underlying Iranian conduct that has yet to change.

Moreover, the JCPOA has not resulted in the diplomatic unity promised or rewards for good behavior. Russia has quickly made its own deals and pacts with Iran – expanding coordination and cooperation in Syria and Iraq and signing deals for weapons systems. The United States has been forced to assuage skeptical allies in the Gulf and Israel and mend diplomatic wounds. European countries are engaging at different levels and pace with Iran, sending mixed messages about what is expected by the international community. With the varied sanctions regimes, American companies are disadvantaged by the commercial opening provided to European companies. Legitimate companies concerned about real and reputational risk sit on the sidelines while less responsible actors dive into the Iranian market. Our closest allies are worried, and the responsible actors are losing market opportunities.

Finally, it is not clear that the JCPOA has opened a channel through which Iran can constructively engage with the international community and address the other serious concerns about their dangerous policies and behavior. On the contrary, Iran appears intent and willing to exacerbate those risks and tensions across the board. The JCPOA may have emboldened the regime to take more aggressive steps, exacerbating concerns among U.S. allies that Iran is being given free rein to expand its influence and threaten their interests.

The Iranians need to decide that they are willing and able to address those issues of concern and change their behavior – to include issues of financial transparency, terrorist financing, and corruption. The Iranians must find tangible ways to demonstrate that necessary reforms are



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possible before they can expect to be treated as legitimate actors in the financial and commercial systems. This is the source of their isolation.

### **Conclusion**

In the short term, the aversion to the risks of doing business in and with Iran will continue, especially if Iran continues to demonstrate an unwillingness to stop its provocative and dangerous activity. More importantly, Iran will not be in a position to join the international community completely, if it does not demonstrate clearly that it can engage as a trusted and transparent actor in the financial system. The onus to prove this should be on Iran's shoulders. Any complaints about lack of access to capital, markets, or investment should be posed to the clerical regime. Iran has to decide whether it will abide by international standards, norms, and obligations. Absent this, it will remain a risky environment in which to do business, no matter how attractive the opportunities.



Chairman ROYCE. Thank you, Mr. Zarate.  
Doctor?

**STATEMENT OF MR. MARK DUBOWITZ, EXECUTIVE DIRECTOR,  
FOUNDATION FOR THE DEFENSE OF DEMOCRACIES**

Mr. DUBOWITZ. Chairman Royce, Ranking Member Engel, members of the committee, on behalf of FDD and its Center on Sanctions and Illicit Finance, thank you very much for inviting me to testify today. And it really is a great honor to be testifying with Juan and with Liz, whose work and whose service to our country I greatly admire.

The nuclear deal with Iran provided Iran with a patient pathway to nuclear weapons capability by placing limited, temporary, and reversible constraints on its nuclear activities. The deal and the interim agreement that preceded it provided Iran with substantial economic relief to avoid an economic crisis and return to a modest recovery path.

Iran's return to oil markets and the lifting of restrictions in Iran's use of some \$100 billion in frozen overseas assets gave the regime badly needed hard currency to settle its outstanding debts, begin to repair its economy, rebuild its foreign exchange reserves, and ease a budgetary crisis which, in turn, freed up funds for the financing of terrorism and missiles.

Iran already has gotten significant economic relief. It avoided an economic collapse. And Ranking Member Engel, I hope we have an opportunity to talk about your comment on the \$3 billion that Secretary Kerry made which, interestingly enough, Glenn Kessler of the Washington Post, yesterday, gave that claim two Pinocchios, so we should discuss why.

Now the nuclear deal did nothing to address Iran's missile development, support for terrorism, regional destabilization, human rights abuses, and all of these things have remained just as problematic or in some cases have actually gotten worse since the JCPOA was reached.

During last summer's congressional review period, the administration pledged that the U.S. would continue to enforce these non-nuclear sanctions and oppose Iran's dangerous activities, and Iran has threatened that if these non-nuclear sanctions are imposed it would walk away from the agreement and snap back its nuclear program, something that I have called the Nuclear Snapback in prior testimony.

Congress should reject this nuclear blackmail. It needs to hold the administration accountable for the commitments that they made to you. Sanctions against Iran's many malign activities are clearly not a violation of the JCPOA as Iran claims, but it is an affirmation of U.S. policy, actually as Secretary Kerry himself has articulated when he said, "We will do everything to oppose Iran's destabilizing policies with every national security tool available."

But it sure doesn't appear that the administration is going to stand behind its own policy. Since the nuclear deal was reached, only nine individuals and nine entities have been added to Treasury's sanctions list for all of Iran's ongoing illicit activities, including missile tests. And the administration has backed away from



using the term “violations” instead of arguing that these tests are now inconsistent with the U.N. Security Council Resolution 2231.

Nor are we likely to see action against human rights abusers. Indeed, when President Rouhani was elected in June 2013, there was a widespread but incorrect assumption that he was a moderate who would hail greater freedoms in Iran. But the regime’s domestic repression has only intensified. Since last summer, the administration has not designated any individuals or entities for human rights abuses, and only one individual and two entities since Rouhani came to power in the summer of 2013.

And now the administration reportedly is considering this new concession that again Iran did not explicitly negotiate as part of the JCPOA. This is direct or indirect access to dollarized transactions. This concession undercuts the effectiveness of our entire non-nuclear sanction strategy, which depends on the private sector’s fear of the risks involved in transacting with Iran. Allowing dollarized transactions aids Iran’s push to legitimize its financial sector without ceasing the underlying terrorism proliferation, missile financing, and related money laundering and sanctions evasion.

The Iran deal turned the regime from a nuclear pariah to a nuclear partner without having it come clean on its decades-long rap sheet of illegal weaponization activities. And it is important to understand that the regime is now seeking to follow the same legitimization strategy with respect to its illicit financial activity and human rights abuses. Iran should not be allowed to gain international acceptance without demonstrable changes in all of its dangerous behavior.

And it is important again to understand that this has to go far beyond a mere exercise in checking the box on technical requirements from the Financial Action Task Force relating to money laundering and terror financing and it has to require fundamental and substantive changes in behavior. As long as Iran, for example, continues to fund Hezbollah, Iran should never be legitimized as a responsible financial actor.

Congress can maintain its leverage by strengthening and implementing non-nuclear sanctions and by considering some of the recommendations from my written testimony which I will summarize very quickly. Number one, we need to protect the integrity of the U.S. dollar from Iranian illicit financial activity. We need to codify existing restrictions, require the administration to report on financial institutions involved in dollarization, and link these prohibitions to the end of terrorism and missile development as well as compensation for victims of Iranian terrorism. There is still \$53 billion in outstanding judgments.

Number two, designate the IRGC in its entirety under EO 13224 as a foreign terrorist organization; number three, impose sanctions on the IRGC as well as sectors of the Iranian economy that are involved in Iran’s ballistic missile development; number four, create an IRGC watch list to identify entities below the threshold for being owned or controlled by sanctioned entities; number five, expand these human rights sanctions to protect the Iranian people. Six, to target corruption not only for money laundering but also as a human rights abuse; and number seven, push back against Iran’s

legitimization campaign at FATF and elsewhere by exposing its threats to the global financial system.

Let me conclude with this. Secretary Lew has argued that sanctions are an effective instrument to address illicit activities but they must be lifted when the illicit behavior changes. This is a very important principle but it misses a crucial detail. Iran has not addressed the underlying behavior that prompted many of the U.S. sanctions in the first place.

Thank you for the opportunity to testify and I look forward to your questions.

[The prepared statement of Mr. Dubowitz follows:]

Congressional Testimony

**Terrorism, Missiles and Corruption**

*The Risks of Economic Engagement with Iran*

Mark Dubowitz  
Executive Director  
Foundation for Defense of Democracies  
FDD's Center on Sanctions and Illicit Finance

**Hearing before the  
House Committee on Foreign Affairs**

Washington, DC  
May 12, 2016



1800 M Street NW • Suite 800, South Tower • Washington, DC 20036

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Chairman Royce, Ranking Member Engel, members of the Committee, on behalf of the Foundation for Defense of Democracies and its Center on Sanctions and Illicit Finance, thank you for the opportunity to testify.

### **EXECUTIVE SUMMARY**

The Joint Comprehensive Plan of Action (JCPOA) provided Iran with a patient pathway to nuclear weapons capability by placing limited, temporary, and reversible constraints on Iran's nuclear activities. The deal (as well as the interim agreement in place during the negotiations) provided Iran with substantial economic relief that helped Iran avoid a severe economic crisis and return to a modest recovery path. The lifting of restrictions on Iran's use of frozen overseas assets of about \$100 billion gave Tehran badly needed hard currency to settle its outstanding debts, begin to repair its economy, build up its diminished foreign exchange reserves, and ease a budgetary crisis, which in turn freed up funds for the financing of terrorism.

The nuclear deal also did nothing to address the full range of Iran's illicit activities, including ballistic missile development, support for terrorism, regional destabilization, and human rights abuses. Indeed, the weakening of missile language in the key UN Security Council Resolution and the lifting of a conventional arms embargo after five years and the missile embargo after eight undermine international efforts to combat Iran's illicit activities.

Simultaneously, Iran's domestic repression intensified with a record number of executions in 2015.<sup>1</sup> When President Rouhani was elected in June 2013, there was a widespread, but incorrect, assumption that he would shepherd in an era of greater freedoms in Iran. Instead, however, domestic repression has intensified. As United Nations Special Rapporteur on the situation of human rights in the Islamic Republic of Iran Dr. Ahmed Shaheed reports, despite a "noticeable change in the tone and tenor of the government's approach to human rights," there has been no "meaningful change on the ground."<sup>2</sup>

As international businesses re-enter the Iranian market, the regime continues to oppress its citizens and deny their basic human rights. The regime seems to hope that the promise of profits will blind the international community to Iran's vast system of domestic repression. As Iranian officials attempt to whitewash their government's actions to gain international legitimacy, it is critical that Congress and the administration continue to monitor the human rights conditions in Iran and use existing human rights-related executive orders and statutes to punish those violating the basic human freedoms of Iran's citizens.

During last summer's congressional review period, Obama administration officials pledged that the United States would continue to enforce non-nuclear sanctions and oppose the full range of Iran's illicit and dangerous activities. While the JCPOA lifts sanctions on Iran's nuclear

<sup>1</sup> UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Press Release, "Zeid calls for an end to executions for drug offences in Iran," April 14, 2016. (<http://shahccdoniran.org/english/human-rights-at-the-united-nations/human-rights-monitoring-mechanisms/high-commissioner-office/zeid-calls-for-an-end-to-executions-for-drug-offences-in-iran/>)

<sup>2</sup> UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, "Press Conference Statement," March 10, 2016. (<http://shahccdoniran.org/english/dr-shahccds-work/press-releases/press-conference-statement-on-10-march-2016/>)

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activities, it does not preclude the United States from using these non-nuclear sanctions – despite statements from Iran that it will view any imposition of sanctions as a violation of the deal and grounds to “snapback” its nuclear program.<sup>3</sup>

Congress should reject that Iranian position – which amounts to a form of nuclear blackmail – and hold the administration accountable for its commitments. Sanctions need to be imposed to target Iran’s support for terrorism, ballistic missile program, support for the Assad regime in Syria and designated Shiite militias in Iraq, and human rights abuses. These steps are not a violation of the JCPOA, but rather an affirmation of the stated U.S. policy to “oppose Iran’s destabilizing policies with every national security tool available.”<sup>4</sup>

Since the JCPOA was reached, the administration has only imposed a handful of new sanctions designations; only nine individuals and nine entities have been added to Treasury’s sanctions list as a result of Iran’s ongoing illicit activities.<sup>5</sup> These designations include ineffectual sanctions targeting Iran’s missile procurement networks. Tehran can easily reconstitute these networks, and therefore the designations do not impose the kind of economic costs that changed the regime’s strategic calculus with respect to its nuclear program. Discussions at the UN Security Council are unlikely to lead to any meaningful response to Iran’s repeated ballistic missile tests.<sup>6</sup> Indeed, the administration has backed away from language of “violations,” instead arguing that these missile activities are “inconsistent” with UN Security Council Resolution 2231.<sup>7</sup>

The administration also has failed to vigorously enforced human rights sanctions against Iran. Indeed, since the JCPOA was concluded last summer, the administration has designated no individuals or entities for human rights abuses. Indeed only one individual and two entities have been sanctioned for human rights violations since Rouhani came to power in the summer of 2013.<sup>8</sup> This is a sharp drop from the 34 individuals and entities designated between 2009 and

<sup>3</sup> Column Lynch, “Iran to United Nations: New Sanctions Could Kill Nuclear Deal,” *Foreign Policy*, July 28, 2015. (<https://foreignpolicy.com/2015/07/28/john-kerry-obama-administration-terrorism-human-rights-iran-to-united-nations-new-sanctions-could-kill-nuclear-deal/>)

<sup>4</sup> John Kerry, “Remarks on Nuclear Agreement With Iran,” *National Constitution Center*, September 2, 2015. (<http://www.state.gov/secretary/remarks/2015/09/246574.htm>)

<sup>5</sup> U.S. Department of the Treasury, Office of Foreign Assets Control, “Counter Terrorism Designations; Non-proliferation Designations,” March 24, 2016. (<https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20160324.aspx>); U.S. Department of the Treasury, Office of Foreign Assets Control, “Non-proliferation Designations,” January 17, 2016. (<https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20160117.aspx>)

<sup>6</sup> Julian Pecquet, “U.S. Looks to Sidestep U.N. on New Iran Sanctions,” *Al-Monitor*, March 29, 2016. (<http://www.usnews.com/news/articles/2016-03-29/us-looks-to-sidestep-united-nations-on-iran-missiles-sanctions>)

<sup>7</sup> Louis Charbonneau, “Exclusive: Iran missile tests were ‘in defiance of’ U.N. resolution - U.S., allies,” *Reuters*, March 30, 2016. (<http://www.reuters.com/article/us-iran-missiles-idUSKCN0WV2HE>)

<sup>8</sup> U.S. Department of the Treasury, Press Release, “Treasury Sanctions Iranian Official for Human Rights Abuses,” May 23, 2014. (<https://www.treasury.gov/press-center/press-releases/Pages/j12411.aspx>); U.S. Department of the Treasury, Press Release, “Treasury Designates Additional Individuals and Entities Under Iran-related Authorities,” December 30, 2014. (<https://www.treasury.gov/press-center/press-releases/Pages/j19731.aspx>)

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2013,<sup>9</sup> itself a relatively dismal record compared to the European Union, which designated 84 individuals and one entity between 2009 and 2015.<sup>10</sup>

Even as the administration's enforcement of non-nuclear sanctions is far less robust than many in Congress expected, the administration reportedly is considering providing a new unilateral concession that Iran did not negotiate as part of the JCPOA: Iranian use of dollarized financial transactions through offshore dollar-clearing, intra-bank book transfers and conversions, or some other kind of mechanism. This concession, a response to threats from Iran's Supreme Leader Ali Khamenei,<sup>11</sup> undercuts the effectiveness of future non-nuclear sanctions, which depend on the private sector's perception of the overwhelming illicit financial risks involved in transactions with Iran. Easing dollarized transaction restrictions also aids an Iranian push to legitimize its financial sector without ceasing the terror, nuclear, and missile financing and related money-laundering and sanctions evasion that violate international norms of responsible financial activities.

Instead, Congress can maintain pressure on the Iranian regime to change its behavior and defend the sanctions architecture by strengthening non-nuclear sanctions and by linking the removal of sanctions to demonstrable changes in the behavior that prompted sanctions in the first place. Specifically, I recommend that Congress consider taking the following steps.

1. Protect the integrity of the U.S. dollar from Iranian illicit finance by codifying existing restrictions, reporting on financial institutions involved in dollarization, and linking the termination of these measures to the end of Iranian support for terrorism and missile development as well as compensation for victims of Iranian terrorism.
2. Strengthen sanctions against the Islamic Revolutionary Guard Corps (IRGC) for its support for terrorism by designating it under Executive Order 13224 or by declaring it to be a Foreign Terrorist Organization. If the administration refuses to designate the IRGC for terrorism, Congress should impose the same penalties provided for under the Executive Order 13224 or FTO designation.
3. Impose sanctions on the IRGC's penetration in sectors of the Iranian economy and on sectors involved in Iran's ballistic missile development, with regular reports on the sectors and Iranian and foreign entities involved. These sectors include metallurgy and mining; chemicals, petrochemicals, and energy; construction; automotive; and electronic, telecommunication, and computer science.

<sup>9</sup> Information available via the U.S. Department of the Treasury's "Sanctions List Search" database, accessed on May 4, 2016 at <https://sanctionssearch.ofac.treas.gov/>.

<sup>10</sup> The Council of the European Union, "Council Regulation No 359/2011 of 12 April 2011," *Official Journal of the European Union*, as amended April 7, 2015. (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02011R0359-20150409>)

<sup>11</sup> Ali Khamenei, "Islamic Republic Has Destroyed Enemy Trenches Inside Iran," *Remarks in the city of Mashhad*, March 20, 2016. (<http://english.khamenei.ir/news/3550/Islamic-Republic-Has-Destroyed-Enemy-Trenches-Inside-Iran>)

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4. Require the administration to report to Congress on Iran's deceptive conduct and illicit activities as well as the role of the IRGC and other rogue actors in Iran's illicit financial networks.
5. Create an IRGC Watch List to identify companies with connections to the IRGC but that do not meet thresholds for designation as owned or controlled by sanctioned entities.
6. Expand designations of companies that are owned or controlled by the IRGC or Iran's Ministry of Defense.
7. Require reporting on transactions with IRGC Watch List companies or joint ventures with IRGC entities.
8. Require Treasury to explain the qualitative and quantitative effects of individual designations against Iranian entities.
9. Expand human rights sanctions against all entities and individuals complicit in Iran's systemic human rights abuses.
10. Target Iranian corruption and kleptocracy for both anti-money laundering and human rights.

In remarks before the Carnegie Endowment for International Peace, Treasury Secretary Jack Lew argued that sanctions are an effective instrument to address illicit activities, but they must be lifted when the illicit behavior changes.<sup>12</sup> This is an important principle, but the commentary surrounding these remarks misses a crucial detail: Iran has not addressed the underlying behavior that prompted many of the U.S. sanctions.

#### **GREEN-LIGHTING THE GREENBACK FOR AN ILLICIT FINANCIAL ACTOR**

While U.S. and European diplomats celebrated the conclusion of the Joint Comprehensive Plan of Action last summer, Iran's Supreme Leader Ali Khamenei and his government saw that deal not as the end of the negotiations, but the beginning. This has become increasingly clear in their criticism of sanctions relief and demand for more.<sup>13</sup>

<sup>12</sup> Jacob Lew, "The Evolution of Sanctions and Lessons for the Future," *Remarks before the Carnegie Endowment for International Peace*, March 30, 2016. (<https://www.treasury.gov/press-center/press-releases/Pages/f10398.aspx>)

<sup>13</sup> Guy Faulconbridge, "Iran calls on U.S. to reassure European banks over trade with Tehran," *Reuters*, February 4, 2016. (<http://www.reuters.com/article/us-iran-britain-trade-idUSKCN0VD2K2>); "Iran's Supreme Leader says U.S. lifted sanctions only on paper," *Reuters*, April 27, 2016. (<http://www.reuters.com/article/us-iran-economy-khamenei-idUSKCN0XQ0RK>); Robin Wright, "Iran's Javad Zarif on the Fraying Nuclear Deal, U.S. Relations, and Holocaust Cartoons," *The New Yorker*, April 25, 2016. (<http://www.newyorker.com/news/news-desk/irans-javad-zarif-on-the-fraying-nuclear-deal-u-s-relations-and-holocaust-cartoons>); Jay Solomon, Asa Fitch, and Benoit Faucon, "Iran's Central Bank Chief Warns Banking-Access Issues Jeopardize Nuclear Deal," *The Wall Street Journal*, April 15, 2016. (<http://www.wsj.com/articles/irans-central-bank-chief-warns-banking-access-issues-jeopardize-nuclear-deal-1460745930#-ZHcJ-dQfzyZaA>)

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Some of this additional sanctions relief will flow to the coffers of terrorist groups and rogue actors. While President Obama claimed that the JCPOA's sanctions relief would not be a "game-changer" for Iran,<sup>14</sup> Supreme Leader Ali Khamenei stated in a speech less than one week after the JCPOA announcement, "We shall not stop supporting our friends in the region: The meek nation of Palestine, the nation and government of Syria ... and the sincere holy warriors of the resistance in Lebanon and Palestine."<sup>15</sup> The infusion of cash and other assets as a result of the JCPOA is relieving budgetary challenges for a country that had only an estimated \$20 billion in fully accessible foreign exchange reserves prior to November 2013<sup>16</sup> but was spending at least \$6 billion annually to support Assad.<sup>17</sup>

In January 2016, Secretary of State John Kerry admitted that Iran would use some of the funds from sanctions relief to aid its nefarious activities and support terrorism. Referring to the previously frozen assets to which Iran now has access, he noted, "Some of it will end up in the hands of the IRGC or other entities, some of which are labeled terrorists."<sup>18</sup>

Even against this backdrop, Iran is pressing for additional concessions. Supreme Leader Ali Khamenei has argued that the United States has "removed the sanctions in paper only" and blames the U.S. for the fact that global banks are keeping Iran at arm's length.<sup>19</sup> Foreign financial institutions rightly assess that there are too many counter-party risks from Iran's continuing illicit financial activities and are hesitant about re-engaging with Iran.<sup>20</sup>

#### *Assess to the Dollar and Dollarized Transactions*

Iran wants direct – or, at a minimum, indirect – access to the U.S. dollar because the dollar is the preferred currency for global trade. The overwhelming majority, 87 percent,<sup>21</sup> of international trade is conducted in U.S. dollars; 43 percent of international financial transactions are denominated in dollars;<sup>22</sup> and more than 60 percent of total allocated global foreign exchange

<sup>14</sup> Barack Obama, Press Briefing, "Press Conference by the President," *The White House*, July 15, 2015. (<https://www.whitehouse.gov/the-press-office/2015/07/15/press-conference-president>)

<sup>15</sup> "Iran Press Review 20 July," *Foundation for Defense of Democracies*, July 20, 2015. (<http://www.defenddemocracy.org/iran-press-review-20-july>)

<sup>16</sup> Mark Dubowitz and Rachel Ziemba, "When Will Iran Run Out of Money?" *Foundation for Defense of Democracies and Roubini Global Economics*, October 2, 2013. ([http://www.defenddemocracy.org/content/uploads/documents/Iran\\_Report\\_Final\\_2.pdf](http://www.defenddemocracy.org/content/uploads/documents/Iran_Report_Final_2.pdf))

<sup>17</sup> Eli Lake, "Iran Spends Billions to Prop Up Assad," *Bloomberg*, June 9, 2015.

(<http://www.bloombergview.com/articles/2015-06-09/iran-spends-billions-to-prop-up-assad>)

<sup>18</sup> Elise Labott, "John Kerry: Some sanctions relief money for Iran will go to terrorism," *CNN*, January 21, 2016.

(<http://www.cnn.com/2016/01/21/politics/john-kerry-money-iran-sanctions-terrorism/>)

<sup>19</sup> Aresu Egbali and Margherita Stancati, "Iran's Supreme Leader Says Sanctions Still Affecting Country's Economy," *The Wall Street Journal*, March 20, 2016. (<http://www.wsj.com/articles/irans-supreme-leader-says-sanctions-still-affecting-countrys-economy-1458502695>)

<sup>20</sup> Annie Fixler, "Global Banks Wrestle with Iran's Return," *Foundation for Defense of Democracies*, February 12, 2016. (<http://www.defenddemocracy.org/media-hit/annie-fixler-global-banks-wrestle-with-irans-return/>)

<sup>21</sup> John Mauldin, "China's Renminbi Is Well on Its Way to Becoming a Global Reserve Currency," *Business Insider*, September 29, 2013. (<http://www.businessinsider.com/renminbi-soon-to-be-a-reserve-currency-2013-9>)

<sup>22</sup> Greg Ip, "U.S. Influence Hinges on Future of Dollar, Yuan," *The Wall Street Journal*, April 15, 2015. (<http://www.wsj.com/articles/u-s-influence-hinges-on-future-of-dollar-yuan-1429120648>)



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reserves are denominated in U.S. dollars.<sup>23</sup> However, beginning in 2008, Iran began demanding crude oil payments in euros and yen.<sup>24</sup> Nothing is prohibiting Iran from doing this now.

In 2008, Treasury banned Iran's last access point to the U.S. financial system by prohibiting what are referred to as "U-turn" transactions, which are transactions between a foreign bank and an Iranian bank that briefly transit the U.S. financial system in order to dollarize the transaction.<sup>25</sup> At the time, Treasury's Office of Foreign Assets Control noted that the purpose of the action was "to further protect the U.S. financial system from the threat of illicit finance posed by Iran and its banks."<sup>26</sup>

Since that time, Iran's illicit financial activities have continued. In November 2011, Treasury issued a finding under Section 311 of the USA PATRIOT Act that Iran (and its entire financial sector, including its central bank) was a "jurisdiction of primary money laundering concern."<sup>27</sup> Treasury cited Iran's "support for terrorism," "pursuit of weapons of mass destruction" – including its financing of nuclear and ballistic missile programs – and the use of "deceptive financial practices to facilitate illicit conduct and evade sanctions."<sup>28</sup> The entire country's financial system posed "illicit finance risks for the global financial system."<sup>29</sup>

Despite Iran's ongoing illicit financial activities, the Obama administration appears ready to comply with Tehran's demands for more relief. News reports indicate that Washington is examining deal sweeteners to encourage greater foreign investment in Iran. Specially, the administration reportedly is looking for ways to dollarize Iranian transactions.<sup>30</sup> This is intended to encourage large European and other banks to return to business with Iran and help alleviate their concerns about the legal risks associated with engaging with a country still under U.S. sanctions for money laundering, terrorism and missile proliferation, and human rights abuses.<sup>31</sup>

<sup>23</sup> "Currency Composition of Official Foreign Exchange Reserves (COFER)," *International Monetary Fund*, March 31, 2016. (<http://data.imf.org/?sk=E6A5F467-C14B-4AA8-9F6D-5A09EC4E62A4>)

<sup>24</sup> "Iran Ends Oil Transactions In U.S. Dollars," *Associated Press*, April 30, 2008. (<http://www.cbsnews.com/news/iran-ends-oil-transactions-in-us-dollars/>)

<sup>25</sup> U.S. Department of the Treasury, Press Release, "Fact Sheet: Treasury Strengthens Preventive Measures Against Iran," November 6, 2008. (<https://www.treasury.gov/press-center/press-releases/Pages/tp1258.aspx>)

<sup>26</sup> U.S. Department of the Treasury, Office of Foreign Assets Control, "Iranian Transactions Regulations," *Federal Register*, November 10, 2008. (<https://www.gpo.gov/fdsys/pkg/FR-2008-11-10/pdf/E8-26642.pdf>)

<sup>27</sup> U.S. Department of the Treasury, Press Release, "Finding That the Islamic Republic of Iran is a Jurisdiction of Primary Money Laundering Concern," November 18, 2011. (<http://www.treasury.gov/press-center/press-releases/Documents/iran311Finding.pdf>)

<sup>28</sup> U.S. Department of the Treasury, Press Release, "Finding That the Islamic Republic of Iran is a Jurisdiction of Primary Money Laundering Concern," November 18, 2011. (<http://www.treasury.gov/press-center/press-releases/Documents/iran311Finding.pdf>)

<sup>29</sup> U.S. Department of the Treasury, Press Release, "Fact Sheet: New Sanctions on Iran," November 21, 2011. (<http://www.treasury.gov/press-center/press-releases/Pages/tp1367.aspx>)

<sup>30</sup> Bradley Klapper, "Republicans worry Obama is opening door to new Iran relief," *Associated Press*, March 24, 2016. (<http://bigstory.ap.org/article/b2c1eb1820154a518deb12b85882536e/gop-worries-obama-leaving-door-open-new-iran-relief>)

<sup>31</sup> Eric B. Lorber, "Treasury Prepares to Take Dollarized Transactions with Iran Offshore," *Foundation for Defense of Democracies*, March 31, 2016. (<http://www.defenddemocracy.org/media-hit/cric-b-lorber-treasury-prepares-to-take-dollarized-transactions-with-iran-offshore/>)

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In March, in a hearing before the House Financial Services Committee, Secretary of the Treasury Jack Lew avoided answering direct questions posed by Chairman of this Committee, Rep. Ed Royce, on whether the U.S. administration is “considering permitting Iranian banks to clear transactions in dollars with U.S. banks or foreign financial institutions including offshore clearing houses.”<sup>32</sup> Secretary Lew responded by stating that the administration continues to explore ways “to make sure Iran gets relief” from sanctions. Congress is rightfully concerned.

Permitting Iran access to the U.S. dollar would contradict repeated administration promises to Congress, and goes beyond any commitments made to Iran under the JCPOA.<sup>33</sup> During the weeks of intense congressional debate about the nuclear agreement and in the months following, administration officials repeatedly pledged that Iran would not be granted access to the U.S. financial system. Treasury Secretary Lew was adamant during a congressional grilling last July. “Iranian banks will not be able to clear U.S. dollars through New York,” he told both the Senate Foreign Relations Committee and House Foreign Affairs Committee, or “hold correspondent account relationships with U.S. financial institutions, or enter into financing arrangements with U.S. banks.”<sup>34</sup>

In August before the Senate Banking committee, Treasury’s Acting Under Secretary for Terrorism and Financial Intelligence Adam Szubin similarly testified that Iran will not “be able to clear U.S. dollars through New York” or have correspondent accounts or financing arrangements with U.S. banks.<sup>35</sup> Most explicitly, Szubin publicly committed:

Iran will not be able to open bank accounts with U.S. banks, nor will Iran be able to access the U.S. banking sector, even for that momentary transaction to, what we call, dollarize a foreign payment. It was once referred to as a U-turn license, and Iran was allowed to make such offshore-to-offshore payments that cross U.S. banking sector thresholds for just a second. That is not in the cards.<sup>36</sup>

On Implementation Day (January 16, 2016), even as the administration suspended many of the most impactful secondary sanctions on Iran under the terms of the JCPOA, it vowed that the Islamic Republic would never get the ultimate prize: access to the U.S. financial system or dollar transactions. Treasury’s guidance about sanctions relief stated that U-turn transactions remain

<sup>32</sup> “The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System,” *Hearing before the House Financial Services Committee*, March 22, 2016. (<http://financialservices.house.gov/calendar/eventsingle.aspx?EventID=400462>)

<sup>33</sup> U.S. Department of the Treasury, “Frequently Asked Questions Relating to the Lifting of Certain U.S. Sanctions Under the Joint Comprehensive Plan of Action (JCPOA) on Implementation Day,” issued January 16, 2016, updated March 24, 2016. ([https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa\\_faqs.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa_faqs.pdf))

<sup>34</sup> Jacob Lew, “Written Testimony of the Secretary of the Treasury,” *Hearing before the Senate Foreign Relations Committee*, July 23, 2015. (<http://www.foreign.senate.gov/imo/media/doc/07-23-15%20Lew%20Testimony.pdf>); Jacob Lew, “Written Testimony of the Secretary of the Treasury,” *Hearing before House Foreign Affairs Committee*, July 28, 2016. (<http://docs.house.gov/meetings/FA/FA00/20150728/103823/HRG-114-FA00-Wstate-LewJ-20150728.pdf>)

<sup>35</sup> Adam Szubin, “Written Testimony,” *Hearing before the Senate Banking, Housing, and Urban Affairs Committee*, August 5, 2015. (<https://www.treasury.gov/press-center/press-releases/Pages/jl0144.aspx>)

<sup>36</sup> Adam Szubin, “Beyond the Vote: Implications for the Sanctions Regime on Iran,” *Keynote Address before The Washington Institute for Near East Policy*, September 16, 2015. (<http://www.washingtoninstitute.org/uploads/Documents/other/SzubinTranscript20150916-v2.pdf>)

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banned. It explained that despite the suspension of sanctions, “foreign financial institutions need to continue to ensure they do not clear U.S. dollar-denominated transactions involving Iran through U.S. financial institutions.” Treasury emphasized, “The clearing of U.S. dollar- or other currency-denominated transactions through the U.S. financial system or involving a U.S. person remain prohibited.” Treasury noted that the JCPOA “does not impact the November 2011 finding by the Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN) that Iran is a Jurisdiction of Primary Money Laundering Concern.”<sup>37</sup>

News reports indicate that Treasury now may permit dollarized transactions as long as: 1) no Iranian banks are involved in the transactions; 2) no Iranian rials enter into the transaction at the dollar clearing facility; and 3) the payment does not start or end with U.S. dollars.<sup>38</sup> The transaction would be temporarily converted into dollars allowing the European (or other foreign) bank to conduct at least part of the exchange in dollars, which banks prefer because the dollar is a stable currency with less fluctuations and therefore less risk.

Any authorization of dollarized transactions would likely need to make it clear that U.S. banks would be shielded from liability for providing dollars to the offshore transaction facility (potential liability could exist for U.S. persons indirectly providing services to a prohibited Iranian person otherwise). Further, it would also need to make clear that foreign banks are only permitted to engage in transactions in dollars received via the facility so long as those transactions are consistent with the relief provided under the JCPOA.

Foreign financial institutions would still face significant due diligence challenges to ensure that none of the parties to the transaction remain under U.S. sanctions or are owned or controlled by a sanctioned entity. As detailed below, the pervasive influence of the IRGC throughout Iran’s economy means that this due diligence will be critical in order to ensure that foreign companies and foreign banks are not complicit in Iran’s terror finance or the range of other illicit financial activities in which Iranian entities regularly engage. Reportedly, U.S. banks are drafting their own blacklists of companies with connections to the Iranian government – beyond those the designations Treasury has imposed – to protect themselves from transacting with an agent of Iranian financial institutions or the government of Iran.<sup>39</sup>

Whether or not, the administration moves ahead with a blanket license or some other measure authorizing all Iran-related dollarized transactions, specific classes of dollarized transactions are already permitted. In general, U.S. banks are permitted “to process transfers of funds to or from Iran, or for the direct or indirect benefit of persons in Iran or the Government of Iran, if the transfer arises from, and is ordinarily incident and necessary to give effect to, an underlying transaction that has been authorized by a specific or general license,” according to Treasury’s

<sup>37</sup> U.S. Department of the Treasury, “Frequently Asked Questions Relating to the Lifting of Certain U.S. Sanctions Under the Joint Comprehensive Plan of Action (JCPOA) on Implementation Day,” issued January 16, 2016, updated March 24, 2016. ([https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa\\_faqs.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa_faqs.pdf))

<sup>38</sup> “New U.S. sanctions concession to Iran may be in works: AP,” *Associated Press*, March 31, 2016. (<http://www.cbsnews.com/news/new-us-sanctions-concession-to-iran-may-be-in-works-ap/>)

<sup>39</sup> Colby Adams, “Banks Draft ‘Shadow’ Blacklists of Iranian Firms No Longer Cited by OFAC,” *MoneyLaundering.com*, May 3, 2016. (<http://www.moneylaundering.com/News/Pages/138074.aspx>)

Iranian Transactions and Sanctions Regulations.<sup>40</sup> U.S. financial institutions are permitted (with some restrictions) to process transactions related to food, medicines, and medical supplies and personal remittances.<sup>41</sup> Treasury also issued a general license allowing U.S. persons to engage in transactions related to negotiating contracts with Iran's airline industry, provided the execution of the contract is contingent on receiving a specific license,<sup>42</sup> and a general license for trade in certain goods and services related to personal communications.<sup>43</sup>

During the interim agreement, the U.S. government worked directly with foreign financial institutions to facilitate the repatriation of \$11.9 billion in Iranian assets held abroad.<sup>44</sup> It is not clear how much of those assets – if any – were released or returned as dollar-denominated funds or dollarized through related conversions out of or into other currencies at some point in the transaction. Now, the administration may be poised to permit the dollarization of Iran's previously frozen assets, worth approximately \$100 billion, in response to Iranian complaints that they are not able to use these funds.<sup>45</sup> Additionally, the administration will likely route the \$8.6 million payment for 32 metric tons of Iranian heavy water through a foreign financial institution, although administration officials have not provided specific details about whether this payment will use dollars.<sup>46</sup>

Congress is rightly concerned about the dollarized transaction issue and how the administration could provide Iran with such access. In addition to simply reinstating the U-turn general license that was in place prior to November 2008, there are a number of different mechanisms the United States could employ.

There appears to be no regulation expressly permitting foreign financial institutions to use offshore dollars to transact with Iran. Treasury's guidance notes that it is prohibited for foreign financial institutions to "clear U.S. dollar-denominated transactions involving Iran *through U.S.*

<sup>40</sup> "Title 31: Money and Finance: Treasury, Part 560—Iranian Transactions and Sanctions Regulations," §560.516 Transfers of funds involving Iran, *Electronic Code of Federal Regulations*, May 5, 2016. (<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=116314f3fa7cc31e414670ca6ab97006&mc=true&n=pt31.3.560&r=PART&v=HTML>)

<sup>41</sup> U.S. Department of the Treasury, Office of Foreign Assets Control, "Clarifying Guidance: Humanitarian Assistance and Related Exports to the Iranian People," February 6, 2013. ([https://www.treasury.gov/resource-center/sanctions/Programs/Documents/hum\\_exp\\_iran.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/hum_exp_iran.pdf))

<sup>42</sup> U.S. Department of the Treasury, Office of Foreign Assets Control, "General License I," March 24, 2016. ([https://www.treasury.gov/resource-center/sanctions/Programs/Documents/iran\\_gli.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/iran_gli.pdf))

<sup>43</sup> U.S. Department of the Treasury, "OFAC FAQs: Iran Sanctions," Iranian General License D-1, updated February 7, 2014. ([https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq\\_iran.aspx#gld1](https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_iran.aspx#gld1))

<sup>44</sup> U.S. Department of the Treasury, "Frequently Asked Questions Relating to the Extension of Temporary Sanctions Relief through June 30, 2015, to Implement the Joint Plan of Action between the P5 + 1 and the Islamic Republic of Iran," November 25, 2014. ([https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ipoa\\_ext\\_faq\\_11252014.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ipoa_ext_faq_11252014.pdf))

<sup>45</sup> Barbara Slavin, "Central Bank governor: Iran expects access to US financial system," *Al-Monitor*, April 15, 2016. (<http://www.al-monitor.com/pulse/originals/2016/04/iran-expects-limited-access-us-financial-system.html>)

<sup>46</sup> Adam Kredo, "Obama Admin Withholding Details of 'Potentially Illegal' Deal to Buy Iranian Nuke Materials," *Washington Free Beacon*, April 27, 2016. (<http://freebeacon.com/national-security/obama-admin-withholding-deal-iran-nuclear/>)

*financial institutions*<sup>47</sup> (emphasis added), but it is not clear if the transactions are permitted if they do not transit a U.S. bank. European banks, however, have received substantial fines from the U.S. government as well as from New York regulators.<sup>48</sup> This is giving those with a global presence and with substantial U.S. operations pause until they are certain that they will not be on the wrong side of a future enforcement action.

First, the United States could allow Iran to use what are known as offshore “large-value payment systems.”<sup>49</sup> Currently, offshore clearing houses and individual banks themselves have dollars within their holdings. Alternatively, the United States may permit dollar clearance through the Asian Clearing Union (which Iran had been using in 2009 to evade sanctions<sup>50</sup>) or allow banks to conduct what are known as “book transfers.”<sup>51</sup>

If the U.S. government wants to allow dollarized transactions, Treasury could issue a general license permitting – or a statement of guidance allowing – U.S. banks to provide dollars for an offshore clearing facility overseen by a foreign government or foreign bank.<sup>52</sup> When transmitting payments between Iranian companies and European companies, for example, the foreign financial institution would use this offshore clearing facility to convert the transaction into dollars. Treasury would issue similar licenses or guidance vis-à-vis the Asian Clearing Union or book transfers.

Congress should reject all of these attempts to give Iran direct or indirect access to the U.S. dollar. Iran did not explicitly negotiate this concession as part of the JCPOA and should not now be given a unilateral concession of this magnitude – particularly given its continued record of illicit behavior.

#### *Arguments and Counterarguments*

Ahead of any action by Treasury to allow dollarized transactions, it is important for Congress to understand the counterpoints to arguments that the administration is likely to put forward.<sup>53</sup>

<sup>47</sup> U.S. Department of the Treasury, “Frequently Asked Questions Relating to the Lifting of Certain U.S. Sanctions Under the Joint Comprehensive Plan of Action (JCPOA) on Implementation Day,” issued January 16, 2016, updated March 24, 2016. ([https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa\\_faqs.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa_faqs.pdf))

<sup>48</sup> David Enrich, Noémie Bissière, and Madelaine Nissen, “Potential BNP Penalty Worries European Banks,” *The Wall Street Journal*, June 24, 2014. (<http://www.wsj.com/articles/potential-bnp-penalty-worries-european-banks-1403638199>)

<sup>49</sup> For an in-depth look at large-value payment systems, see Morten L. Bech, Christine Preisig, and Kimmo Soramäki, “Global Trends in Large-Value Payments,” *Federal Reserve Bank of New York Economic Policy Review*, September 2008. (<https://www.newyorkfed.org/medialibrary/media/research/epr/08v14n2/0809prei.pdf>)

<sup>50</sup> Avi Jorisch, “How Iran Skirts Sanctions,” *The Wall Street Journal*, November 4, 2009.

(<http://www.wsj.com/articles/SB10001424052748703298004574457322960633830>)

<sup>51</sup> Katherine Bauer, “Potential U.S. Clarification of Financial Sanctions Regulations,” *The Washington Institute for Near East Policy*, April 5, 2016. (<http://www.washingtoninstitute.org/policy-analysis/view/potential-u.s.-clarification-of-financial-sanctions-regulations>)

<sup>52</sup> Eric B. Lorber, “Treasury Prepares to Take Dollarized Transactions with Iran Offshore,” *Foundation for Defense of Democracies*, March 31, 2016. (<http://www.defenddemocracy.org/media-hit/eric-b-lorber-treasury-prepares-to-take-dollarized-transactions-with-iran-offshore/>)

<sup>53</sup> The following counterarguments are outlined in Mark Dubowitz and Jonathan Schanzer, “Dollarizing the Ayatollah,” *The Wall Street Journal*, March 27, 2016. (<http://www.wsj.com/articles/dollarizing-the-ayatollahs-1459115248>)

*Better Intelligence:* The White House may argue that allowing dollar transactions could yield better intelligence. In 2008, when Treasury banned U-turn transactions, it determined that the risks simply outweighed the intelligence benefits. Four years later, Treasury pushed to ban several Iranian banks, including the central bank, from the SWIFT financial messaging system. The threat to the integrity of the global financial system from Iranian banks, it again determined, was too grave, despite the intelligence that could be gathered.

*Assets vulnerable to future sanctions:* The administration might claim that Treasury could capture dollar-denominated assets when Iran violates the nuclear agreement or uses the greenback to finance terrorism or ballistic missiles. This wouldn't be realistic. Iran knows the U.S. can freeze transactions that are even temporarily converted to dollars, making it unlikely that the regime would hold registered dollar accounts in sufficient quantities in banks where U.S. authorities have reach. If anything, Iran is likely to keep its dollar holdings in offshore accounts or in pallets of cash. Indeed, after the Supreme Court issued its decision affirming the ability of victims of Iranian terrorism to seize certain assets of the Central Bank of Iran, Iranian officials stated that allowing assets to remain in dollar accounts was "poor planning" and "clear negligence."<sup>54</sup> Having learned this lesson, if the regime contemplates a nuclear violation or gets wind of new sanctions, it is likely to quickly dump whatever traceable dollar assets it holds.

*Iranian economic recovery:* The administration may also argue that providing dollarized transactions is necessary in order to ensure that Iran's economy grows, and Tehran sees the economic benefits of the deal. And yet, this also contradicts the evidence: Tehran has already received substantial sanctions relief, a major "stimulus package."

In 2012 and 2013, Iran's economy was crashing. It had been hit with an asymmetric shock from sanctions, including those targeting its central bank, oil exports, and access to the SWIFT financial messaging system. The economy shrank by six percent in the 2012-13 fiscal year, and bottomed out the following year, dropping another two percent.<sup>55</sup> Accessible foreign exchange reserves were estimated to be down to only \$20 billion.<sup>56</sup>

This changed during the nuclear negotiations. During the 18-month period starting in late 2013, interim sanctions relief<sup>57</sup> and the lack of new shocks enabled Iran to move from a severe

<sup>54</sup> Arash Karami, "Who's to blame for US seizure of \$2 billion in Iranian assets?" *Al-Monitor*, April 28, 2016. (<http://www.al-monitor.com/pulse/originals/2016/04/ahmadinejad-us-supreme-court-iran-terror-2-billion.html>)

<sup>55</sup> Mark Dubowitz, Annie Fixler, and Rachel Ziemba, "Iran's Economic Resilience Against Snapback Sanctions Will Grow Over Time," *Foundation for Defense of Democracies and Roubini Global Economics*, June 2015. ([http://www.defenddemocracy.org/content/uploads/publications/iran\\_economy\\_resilience\\_against\\_snapback\\_sanctions.pdf](http://www.defenddemocracy.org/content/uploads/publications/iran_economy_resilience_against_snapback_sanctions.pdf))

<sup>56</sup> Mark Dubowitz and Rachel Ziemba, "When Will Iran Run Out of Money?" *Foundation for Defense of Democracies and Roubini Global Economics*, October 2, 2013. ([http://www.defenddemocracy.org/content/uploads/documents/Iran\\_Report\\_Final\\_2.pdf](http://www.defenddemocracy.org/content/uploads/documents/Iran_Report_Final_2.pdf))

<sup>57</sup> U.S. Department of the Treasury, "Frequently Asked Questions Relating to the Extension of Temporary Sanctions Relief through June 30, 2015, to Implement the Joint Plan of Action between the P5 + 1 and the Islamic Republic of Iran," November 25, 2014. ([https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jpoa\\_ext\\_faqs\\_11252014.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jpoa_ext_faqs_11252014.pdf))

recession to a modest recovery.<sup>58</sup> During that time, the Islamic Republic received \$11.9 billion through the release of restricted assets, while sanctions on major sectors of its economy were suspended. This facilitated strong imports that supported domestic investment, especially from China. The Obama administration also de-escalated the sanctions pressure by blocking new congressional legislation.<sup>59</sup> Jointly, these forces rescued the Iranian economy and its leaders, including the Revolutionary Guard, from an imminent and severe balance of payments crisis. In the 2014-15 fiscal year, the Iranian economy rebounded and grew at a rate of 3 to 4 percent.<sup>60</sup>

Now, under the JCPOA, Iran has received access to an additional \$100 billion in previously frozen foreign assets, significantly boosting its accessible foreign exchange reserves, and permitting it to pay off outstanding debts.<sup>61</sup> Sanctions were also lifted on Iran's crude oil exports and upstream energy investment and on key sectors of the economy, and hundreds of Iranian banks, companies, individuals, and government entities were removed from sanctions lists. The additional access of Iranian institutions to global financial payments systems has reduced transaction costs and the need for intermediaries.

In the current fiscal year – with declining oil prices and a tight monetary policy to rein in inflation – Iran's economy grew only slightly, and may have even experienced a modest contraction.<sup>62</sup> But in the coming fiscal year, its economy is projected to grow at a rate of 3 to 6 percent, according to estimates from the International Monetary Fund, World Bank, and private analysts.<sup>63</sup> Assuming that Iran continues to make modest economic reforms to attract investment,

<sup>58</sup> Mark Dubowitz and Rachel Ziemba, "Early Signs of an Iranian Economic Recovery," *Foundation for Defense of Democracies*, January 9, 2016. (<http://www.defenddemocracy.org/media-hit/early-signs-of-an-iranian-economic-recovery/>); Jennifer Hsieh, Rachel Ziemba, and Mark Dubowitz, "Iran's Economy: Out of the Red, Slowly Growing," *Foundation for Defense of Democracies and Roubini Global Economics*, October 2014. ([http://www.defenddemocracy.org/content/uploads/publications/RoubiniFDDReport\\_Oct14.pdf](http://www.defenddemocracy.org/content/uploads/publications/RoubiniFDDReport_Oct14.pdf)); Jennifer Hsieh, Rachel Ziemba, and Mark Dubowitz, "Iran's Economy Will Slow but Continue to Grow Under Cheaper Oil and Current Sanctions," *Foundation for Defense of Democracies and Roubini Global Economics*, February 2015. ([http://www.defenddemocracy.org/content/uploads/publications/RoubiniFDDReport\\_FEB15.pdf](http://www.defenddemocracy.org/content/uploads/publications/RoubiniFDDReport_FEB15.pdf))

<sup>59</sup> Mark Landler, "Senate Bill to Impose New Sanctions on Iran Spurs Veto Threat From White House," *The New York Times*, December 19, 2013. ([http://www.nytimes.com/2013/12/20/world/middleeast/senate-bill-to-impose-new-sanctions-on-iran-spurs-veto-threat-from-white-house.html?\\_r=1](http://www.nytimes.com/2013/12/20/world/middleeast/senate-bill-to-impose-new-sanctions-on-iran-spurs-veto-threat-from-white-house.html?_r=1))

<sup>60</sup> International Monetary Fund, "Iran Faces Multiple Challenges as Growth Prospects Brighten," *IMF Survey*, January 20, 2016. (<http://www.imf.org/external/pubs/ft/survey/so/2016/new012016a.htm>)

<sup>61</sup> Brian Murphy, "Iran claims \$100 billion now freed in major step as sanctions roll back," *The Washington Post*, February 1, 2016. ([https://www.washingtonpost.com/world/iran-claims-100-billion-now-freed-in-major-step-as-sanctions-roll-back/2016/02/01/edfc23ca-c8e5-11e5-a7b2-5a2f824b02e9\\_story.html](https://www.washingtonpost.com/world/iran-claims-100-billion-now-freed-in-major-step-as-sanctions-roll-back/2016/02/01/edfc23ca-c8e5-11e5-a7b2-5a2f824b02e9_story.html)); Mark Dubowitz, Annie Fixler, and Rachel Ziemba, "Iran's Mysterious Shrinking Reserves: Estimating the Value of Tehran's Foreign Assets," *Foundation for Defense of Democracies and Roubini Global Economics*, September 2015. ([http://www.defenddemocracy.org/content/uploads/publications/FDDRoubini\\_Report\\_Irans\\_mysterious\\_shrinking\\_reserves.pdf](http://www.defenddemocracy.org/content/uploads/publications/FDDRoubini_Report_Irans_mysterious_shrinking_reserves.pdf))

<sup>62</sup> Saeed Ghasseminejad, "Rouhani's abysmal economic record and the West's dilemma," *Business Insider*, March 30, 2016. (<http://www.businessinsider.com/rouhani-abysmal-economic-record-and-the-west-dilemma-2016-3>); International Monetary Fund, "Iran Faces Multiple Challenges as Growth Prospects Brighten," *IMF Survey*, January 20, 2016. (<http://www.imf.org/external/pubs/ft/survey/so/2016/new012016a.htm>)

<sup>63</sup> International Monetary Fund, "IMF Country Report No. 15/349: Islamic Republic of Iran," December 2015. (<http://www.imf.org/external/pubs/ft/cr/2015/cr15349.pdf>); World Bank, "Global Economic Prospects: Spillovers amid Weak Growth," January 2016. (<http://www.worldbank.org/content/dam/Worldbank/GEP/GEP2016a/Global-Economic-Prospects-January-2016-Spillovers-amid-weak-growth.pdf>); Additional data available upon request.

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the country's economic growth is projected to stabilize around 4 to 4.5 percent annually over the next five years.<sup>64</sup>

*Going beyond the spirit of the deal:* The administration might also argue that the West needs to provide economic incentives for Tehran to comply with the nuclear deal. Given its post-deal record of missile activities, hostage taking, terrorism, regional aggression, and illegal arms deals, as well as a financial sector that remains rotten to the core, Tehran is hardly in a position to complain that the "spirit" of the deal now requires more American generosity. President Obama explicitly acknowledged that Iran is not keeping to the spirit of the agreement,<sup>65</sup> and yet administration officials have stated that it is America's responsibility to go beyond its commitments under the agreement to ensure that Iran "get[s] the benefits that they are supposed to get," according to Secretary Kerry.<sup>66</sup> During last summer's debate, administration officials claimed that denying Iran access to the dollar and the U.S. financial system would provide Washington with leverage after the deal was done. Providing a unilateral concession now would have far-reaching consequences. Not only would it throw away U.S. leverage, but it would also undermine the West's ability to address Iran's other nefarious activities.

If the United States provides dollarized access now, and six months from now, Iran conducts more ballistic missile tests or executes more dissidents or provides more weapons to the Assad regime in Syria, Washington won't be able to revoke Iran's access to dollarized transactions. Iran will argue, convincingly, that the U.S. provided this sanctions relief under the JCPOA, so it can't re-impose this sanction for non-nuclear reasons later.<sup>67</sup> Iran will threaten to walk away from the deal and deploy its own "nuclear snapback," where it will threaten to walk away from the deal and reconstitute its nuclear program.

As I have warned in prior testimonies, Iran will use this threat to deter the use of both nuclear and non-nuclear sanctions by dividing the United States and Europe. Once European companies are sufficiently invested in Iran's lucrative markets, any Iranian violations of the deal are likely to provoke disagreements between Washington and its European allies. Indeed, why would the Europeans agree to new sanctions when they have big money on the line? Their arguments against new nuclear sanctions will include questions about the credibility of evidence, the seriousness of the nuclear infractions, the appropriate level of response, and likely Iranian retaliation.

The same dynamics apply to the imposition of non-nuclear sanctions, such as terrorism or human rights sanctions. On July 20, 2015, Iran informed the UN Security Council, stating that it may "reconsider its commitments" under the agreement if "new sanctions" are imposed "irrespective

<sup>64</sup> International Monetary Fund, "IMF Country Report No. 15/349: Islamic Republic of Iran," December 2015. (<http://www.imf.org/external/pubs/ft/scr/2015/cr15349.pdf>)

<sup>65</sup> Julian Hattem, "Obama: Iran not following 'spirit' of deal," *The Hill*, April 1, 2016. (<http://thehill.com/policy/national-security/274954-obama-iran-has-followed-letter-but-not-spirit-of-nuke-deal>)

<sup>66</sup> John Kerry, "Remarks After Meeting Iranian Foreign Minister Zarif," *United Nations*, April 19, 2016. (<http://www.state.gov/secretary/remarks/2016/04/255977.htm>)

<sup>67</sup> Example derived from analysis of my colleague at FDD's Center on Sanctions and Illicit Finance, Eric Lorber. Eric B. Lorber, "FPI Conference Call on Implications of Granting Iran Access to U.S. Financial Market," *Foreign Policy Initiative*, April 7, 2016. (<http://www.foreignpolicy.org/content/transcript-fpi-conference-call-implications-granting-iran-access-us-financial-market>)



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of whether such new sanctions are introduced on nuclear related or other grounds.”<sup>68</sup> Would Europe agree to Washington’s plan to withdraw U.S. dollar access if, for example, the Central Bank of Iran was found – once again – to be financing terrorism? This is doubtful given that Tehran would threaten to return to its nuclear activities including large-scale uranium enrichment, putting not just European investments but the entire nuclear deal in jeopardy.

Instead of granting such a significant unilateral concession of Iranian access to dollarized transactions, the United States should require a reciprocal step by Tehran. Iran must start to address all of its non-nuclear malign activities – indeed, the very concerns that administration officials promised that they were going to address using the remaining non-nuclear sanctions. It would be a mistake to provide unilateral concessions and diminish America’s leverage at the very time that Washington ought to be cracking down on Iran’s missile activity, terrorism, and human rights abuses.

U.S. policy to date can be summed up this way: We did not want bad Iranian banks touching our financial sector, and we did not want our dollar directly or indirectly touching the rial, even through dollarized transactions. But the next president’s ability to target Iran’s malign activities with non-nuclear sanctions will be much more difficult if billions of dollarized transactions are green-lighted. The next administration won’t easily be able to reverse this once it is in motion, made even more difficult by inevitable European and Asian pushback.

If the Obama administration grants Iran access to the world’s most important currency, U.S. sanctions will be severely undermined without any reciprocity. Tehran will receive yet another significant and unilateral concession. And Washington will have lost critical leverage to target Iran’s terror finance, missile activities, destabilizing regional aggression, systemic human rights abuses, and the financial and military backing of the Assad regime.

#### **BUILDING INTERNATIONAL LEGITIMACY WITHOUT CHANGING BEHAVIOR**

The Joint Comprehensive Plan of Action has turned Iran from a nuclear pariah to nuclear partner without requiring Iran to come clean on its decades-long track record of nuclear mendacity. The December 2015 International Atomic Energy Agency decision to “close” the file on outstanding concerns about the possible military dimensions of Iran’s program<sup>69</sup> means that, without ever admitting to weaponization activities, Iran has convinced the international community to wipe its slate clean.

These schemes continue. With reports that Iran exceeded limits on its heavy water production<sup>70</sup> and worked out a deal to sell 32 tons to the United States,<sup>71</sup> Iran has created a clever plan:

<sup>68</sup> Column Lynch, “Iran to United Nations; New Sanctions Could Kill Nuclear Deal,” *Foreign Policy*, July 28, 2015. (<https://foreignpolicy.com/2015/07/28/john-kerrey-obama-administration-terrorism-human-rights-iran-to-united-nations-new-sanctions-could-kill-nuclear-deal/>)

<sup>69</sup> Laurence Norman, “IAEA Board Agrees to Close File on Iran’s Past Nuclear Activities,” *The Wall Street Journal*, December 15, 2015. (<http://www.wsj.com/articles/iaea-board-agrees-to-close-iran-past-nuclear-activities-file-1450195869>)

<sup>70</sup> “Iran briefly overstepped a limit set by nuclear deal, IAEA says,” *Reuters*, February 26, 2016. (<https://www.yahoo.com/news/iran-overstepped-limit-set-nuclear-deal-iaea-report-171008398.html?ref=gs>)

Produce too much heavy water so as to break the nuclear agreement, then get the United States to pay Tehran to get rid of it so that it can continue to produce an essential element for a plutonium-bomb making capability. This is of particular concern as the key restrictions on Iran's nuclear program, including on both its uranium and plutonium paths to a bomb, begin to sunset during an eight- to fifteen-year period.

We are also witnessing Iran's attempts to play the same game with the international financial and business community. The government has mounted a full-court press to persuade the global financial community to overlook its long rap sheet of financial crimes<sup>72</sup> and to persuade the United States to green-light Iran's access to U.S. dollar transactions,<sup>73</sup> an action which would go beyond the sanctions relief promised by the nuclear agreement.<sup>74</sup>

Iranian Central Bank Governor Valiollah Seif has publicly criticized the U.S. for "not honor[ing its] obligations" and explicitly called for the U.S. to change its laws to allow Iran to access the U.S. financial system.<sup>75</sup> Deliberately sidestepping Iran's record of illicit financial activities, he and Foreign Minister Javad Zarif regularly dismiss concerns about Iran's support for terrorism and provocative ballistic missile launches.<sup>76</sup> The Supreme Leader has accused the United States of scaring business away from Iran and creating "Iranophobia."<sup>77</sup>

Tehran's record of illicit financial activities and the central role of the Central Bank of Iran (CBI) in these efforts require scrutiny. Between 2006 and 2011, as the U.S. sanctioned Iranian banks, the CBI facilitated transactions for designated banks involved in proliferation and terror financing and, according to Treasury, helped them evade sanctions.<sup>78</sup> As a result, Treasury took the necessary step in November 2011 of designating Iran and its entire financial sector – including its central bank – a "jurisdiction of primary money laundering concern."<sup>79</sup> The

<sup>71</sup> Jay Solomon, "U.S. to Buy Material Used in Iran Nuclear Program," *The Wall Street Journal*, April 22, 2016. (<http://www.wsj.com/articles/u-s-to-buy-material-used-in-iran-nuclear-program-1461319381>)

<sup>72</sup> U.S. Department of the Treasury, Press Release, "Fact Sheet: New Sanctions on Iran," November 21, 2011. (<https://www.treasury.gov/press-center/press-releases/Pages/tg1367.aspx>)

<sup>73</sup> "New U.S. sanctions concession to Iran may be in works: AP," *Associated Press*, March 31, 2016. (<http://www.cbsnews.com/news/new-us-sanctions-concession-to-iran-may-be-in-works-ap/>)

<sup>74</sup> U.S. Department of the Treasury, "Frequently Asked Questions Relating to the Lifting of Certain U.S. Sanctions Under the Joint Comprehensive Plan of Action (JCPOA) on Implementation Day," issued January 16, 2016, updated March 24, 2016. ([https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa\\_faqs.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa_faqs.pdf))

<sup>75</sup> Valiollah Seif, "A Conversation With Valiollah Seif," *Council on Foreign Relations*, April 15, 2016. (<http://www.cfr.org/global/conversation-valiollah-seif/p37733>)

<sup>76</sup> Eli Lake, "Show Iran a Little Disrespect," *Bloomberg*, April 26, 2016.

<sup>77</sup> (<http://www.bloombergview.com/articles/2016-04-26/show-iran-a-little-disrespect>); Robin Wright, "Iran's Javad Zarif on the Fraying Nuclear Deal, U.S. Relations, and Holocaust Cartoons," *The New Yorker*, April 25, 2016. (<http://www.newyorker.com/news/news-desk/irans-javad-zarif-on-the-fraying-nuclear-deal-u-s-relations-and-holocaust-cartoons>)

<sup>78</sup> "Iran's Supreme Leader says U.S. lifted sanctions only on paper," *Reuters*, April 27, 2016.

(<http://www.reuters.com/article/us-iran-economy-khamenei-idUSKCN0XO0RK>)

<sup>79</sup> U.S. Department of the Treasury, Financial Crimes Enforcement Network, Advisory, "Update on the Continuing Illicit Finance Threat Emanating from Iran," June 22, 2010.

([https://www.fincen.gov/statutes\\_regs/guidance/html/fin-2010-a008.html](https://www.fincen.gov/statutes_regs/guidance/html/fin-2010-a008.html))

<sup>79</sup> U.S. Department of the Treasury, Press Release, "Finding That the Islamic Republic of Iran is a Jurisdiction of Primary Money Laundering Concern," November 18, 2011. (<http://www.treasury.gov/press-center/press-releases/Documents/iran311Finding.pdf>)

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following year, Congress statutorily designated the CBI for its support of nuclear and missile proliferation, terrorism, and money laundering, and banned all transactions with it beyond limited crude oil sales and humanitarian trade.<sup>80</sup>

The CBI continues to deny its role as Iran's central bank for terror finance. The bank had appealed to the U.S. Supreme Court to overturn the seizure of nearly \$2 billion of its assets to settle outstanding judgments won by victims of Iranian-backed terrorism.<sup>81</sup> When the Supreme Court issued its ruling last month affirming the lower court's decision to award the funds to these victims,<sup>82</sup> Iran denounced it as a theft of Iranian property.<sup>83</sup> Tehran still owes other terrorism victims another \$53 billion in outstanding judgments.<sup>84</sup>

Economic forecasts note that Iran's ability to take advantage of sanctions relief depends not primarily on additional American concessions but on Iran's own economic policies. Specifically, Iran needs to implement policies to attract foreign investment and to address systemic illicit finance risks. The IMF explained in a December 2015 report:

Bolstering the AML/CFT framework would facilitate the re-integration of the domestic financial system into the global economy, lower transaction costs, and reduce the size of the informal sector. It will also help better detection of illegal proceeds, including those related to tax evasion and corruption. Staff urged the authorities to adopt a comprehensive CFT law that properly criminalizes terrorist financing (TF) and contains mechanisms for the implementation of United Nations Security Council Resolutions related to terrorism and TF.<sup>85</sup>

The future success of Iran's economy depends on foreign investment and on Tehran's ability to alleviate the concerns of international banks and companies that Iran is committed to ending its support for terrorism, missile development, and destabilizing regional activities, and to reducing the economic power of the Islamic Revolutionary Guard Corps and the supreme leader's business empire. All of these issues increase the risks of investing in the Islamic Republic, regardless of what deal sweetens the White House provides.

But Iranian leaders are attempting to persuade the global financial community to overlook these risks, to treat Iran as a member of the international community in good standing. The global anti-money laundering and anti-terror finance standards body the Financial Action Task Force

<sup>80</sup> National Defense Authorization Act For Fiscal Year 2012, Pub. L. 112-81, U.S.C. § 1245. ([https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ndaa\\_publaw.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ndaa_publaw.pdf))

<sup>81</sup> Lawrence Hurley, "Iran central bank takes Beirut bombing case to U.S. Supreme Court," *Reuters*, January 13, 2016. (<http://www.reuters.com/article/us-usa-court-iran-idUSKCN0UR01T20160113>)

<sup>82</sup> *Bank Markazi aka Central Bank of Iran v. Peterson et al.*, Decision, No. 14-770, (Supreme Court of the United States, April 20, 2016). ([http://www.supremecourt.gov/opinions/15pdf/14-770\\_9o6b.pdf](http://www.supremecourt.gov/opinions/15pdf/14-770_9o6b.pdf))

<sup>83</sup> Rick Gladstone, "Iran Accuses U.S. of Theft in \$2 Billion Court Ruling for Terror Victims," *The New York Times*, April 21, 2016. ([http://www.nytimes.com/2016/04/22/world/middleeast/iran-accuses-us-of-theft-in-2-billion-court-ruling-for-terror-victims.html?\\_r=1](http://www.nytimes.com/2016/04/22/world/middleeast/iran-accuses-us-of-theft-in-2-billion-court-ruling-for-terror-victims.html?_r=1))

<sup>84</sup> Orde Kittrie, "After Supreme Court Decision, Iran Still Owes \$53 Billion in Unpaid U.S. Court Judgments to American Victims of Iranian Terrorism," *Foundation for Defense of Democracies*, May 2016. ([http://www.defenddemocracy.org/content/uploads/documents/Kittrie\\_After\\_SCOTUS\\_Iran\\_Owes.pdf](http://www.defenddemocracy.org/content/uploads/documents/Kittrie_After_SCOTUS_Iran_Owes.pdf))

<sup>85</sup> International Monetary Fund, "IMF Country Report No. 15/349: Islamic Republic of Iran," December 2015. (<http://www.imf.org/external/pubs/ft/scr/2015/cr15349.pdf>)

(FATF) regularly warns members that they should “apply effective counter-measures to protect their financial sectors” from illicit finance risks emanating from Iran.<sup>86</sup> As recently as February 2016, FATF warned that Iran’s “failure to address the risk of terrorist financing” poses a “serious threat ... to the integrity of the international financial system.”<sup>87</sup> So now, Iran has begun to engage with FATF in order to get itself off the blacklist.<sup>88</sup> Tehran also expressed its intention to join the FATF-style regional body the Eurasian Group,<sup>89</sup> which is dominated by Russia.

In order to get off of FATF’s blacklist, Iran will need to make substantial changes to its anti-money laundering regulation and fulfill a FATF action plan, but Iran will also attempt to use this process as part of its narrative and efforts to normalize its place in the international community. Iran needs to change its notorious illicit financial activities, but step-by-step, Iran will try to legitimize itself in the global financial and business community without fundamentally changing its financial practices. Just as it went from nuclear pariah to nuclear partner under the JCPOA without admitting to its nuclear weaponization work, Tehran will use this same strategy of coupling a denial of wrongdoing with demands for more and more concessions.

Congress can play an important role working with Treasury to counteract this narrative and maintain the market’s understanding of the risks by exposing Iran’s ongoing deceptive conduct and illicit activities in ways that illuminate for markets the risks involved in doing business with Iran. Commercial actors are currently hesitating because Iran’s behavior is not conducive to effective risk management.<sup>90</sup> As Jarrett Blanc, assistant coordinator of the State Department’s nuclear deal implementation team, noted in remarks before business leaders in Zurich, “Business decisions, not surprisingly, in fact take into account concerns well beyond sanctions.”<sup>91</sup> Congress can keep the pressure on by exposing Iran’s illicit networks and deceptive conduct that heightens the private sector’s risk management concerns.

Iran will also likely follow the same strategy of denial and deception in the human rights arena. As the United Nations renewed Dr. Shaheed’s mandate to investigate human rights abuses,<sup>92</sup>

<sup>86</sup> For example, see The Financial Action Task Force, Public Statement, “FATF Public Statement 14 February 2014,” February 14, 2014. (<http://www.fatf-gafi.org/countries/d-i/islamicrepublicofiran/documents/public-statement-feb-2014.html>)

<sup>87</sup> The Financial Action Task Force, Public Statement, “FATF Public Statement – 19 February 2016,” February 19, 2016. (<http://www.fatf-gafi.org/countries/d-i/iran/documents/public-statement-february-2016.html>)

<sup>88</sup> Michelle Caruso-Cabrera, “Iran pushes for acceptance in global banking system,” *CNBC*, April 30, 2016. (<http://www.cnbc.com/2016/04/30/iran-pushes-for-acceptance-in-global-banking-system.html>)

<sup>89</sup> Irene Madongo, “Iran to Gain Observer Status in Eurasian Group by Summer, Says FIU Chief,”

*MoneyLaundering.com*, April 27, 2016. (<http://www.moneylaundering.com/News/Pages/138005.aspx>)

<sup>90</sup> “The over-promised land,” *The Economist*, April 23, 2016. (<http://www.economist.com/news/business/21697276-it-proving-harder-expected-investors-make-start-over-promised-land>); Fabio Benedetti Valentini, “Europe’s Banks Are Staying Out of Iran,” *Bloomberg*, May 2, 2016. (<http://www.bloomberg.com/news/articles/2016-05-03/europe-s-banks-haunted-by-u-s-fines-forgo-iran-deals-amid-boom>); Patrick Clawson, “Misleading Claims About U.S. Barriers to Iran-Europe Financial Ties,” *The Washington Institute for Near East Policy*, April 27, 2016. (<http://www.washingtoninstitute.org/policy-analysis/view/misleading-claims-about-u.s.-barriers-to-iran-europe-financial-ties>); Lawrence Franklin, “Iran Comes Clean on Banking Problems,” *Gatestone Institute*, May 5, 2016. (<http://www.gatestoneinstitute.org/7958/iran-bank-problems>)

<sup>91</sup> John Miller, “Don’t blame our sanctions. U.S. tells nervous Iran investors,” *Reuters*, May 4, 2016. (<http://www.reuters.com/article/us-iran-economy-sanctions-idUSKCN0XV1X1>)

<sup>92</sup> Ann M. Simmons, “U.N. will continue monitoring human rights in Iran,” *Los Angeles Times*, March 23, 2016. (<http://www.latimes.com/world/global-development/la-global-iran-folo-20160323-story.html>)

Iranian Foreign Ministry Spokesman Hossein Jaber Ansari called his reporting “biased,” “discriminatory,” and “subjective and unbalanced.”<sup>93</sup> Instead, Ansari contended, human rights can only improve through cooperation and dialogue – in other words, Iran is looking to negotiate away the international community’s concerns about its widespread human rights abuses without changing its fundamental behavior.

### ***Corruption and Sanctions Relief***

Earlier this spring, Iran held a parliamentary “*selection*.” I use this term rather than “election” because the Guardian Council, which vets candidates for Iran’s deeply flawed and undemocratic elections, disqualified 99 percent of all reformist candidates.<sup>94</sup> Simultaneously, Iran held “elections” for the Assembly of Experts, which picks the successor to the Supreme Leader. The Council again disqualified 80 percent of the candidates.<sup>95</sup> The vast majority of those disqualified in both cases were self-described moderates and reformers, although all were committed to the unquestioned rule of the theocrats. Real reformists – those who want to make political and social change – are excluded from the political system. Many did not even try to register, and the most prominent remain under house arrest, in jail, or in exile.<sup>96</sup>

After the disqualifications, the self-styled moderate camp was forced to add notorious hard-liners to its ticket to have a full slate.<sup>97</sup> Hard-liners do not become moderates simply by being included on an election slate,<sup>98</sup> and yet, the narrative persisted that Iranian moderates somehow won the election. Supreme Leader Ali Khamenei explicitly rejected the very idea of moderate vs. hard-liner: politicians can be pragmatic as long as they remain faithful to the revolution.<sup>99</sup> As former Under Secretary of State and U.S. negotiator in the Iran talks Wendy Sherman noted, “There are hardliners in Iran, and then there are hard-hardliners in Iran. Rouhani is not a moderate, he is a hard-liner.”<sup>100</sup>

<sup>93</sup> “UN rights report politically-motivated, biased: Iran,” *PressTV* (Iran), March 16, 2016.

(<http://www.presstv.com/Detail/2016/03/16/456042/Iran-UN-human-rights-Jaberi-Ansari-Ahmad-Shaliced/>)

<sup>94</sup> Emanuele Ottolenghi and Saeed Ghasseminejad, “Hardliners Set to Dominate Iran’s February Elections,” *Foundation for Defense of Democracies*, January 21, 2016. (<http://www.defenddemocracy.org/media-hit/cmanucle-ottolenghi-hardliners-set-to-dominate-irans-february-elections/>)

<sup>95</sup> Saeed Ghasseminejad, “Iran’s Assembly of Experts: A Foregone Conclusion,” *Foundation for Defense of Democracies*, February 26, 2016. (<http://www.defenddemocracy.org/media-hit/saeed-ghasseminejad-irans-assembly-of-experts-election-a-foregone-conclusion/>)

<sup>96</sup> Thomas Erdbrink, “Iran’s Thwarted Reformers Set Careful Goals for Coming Vote,” *The New York Times*, February 21, 2016. (<http://www.nytimes.com/2016/02/22/world/middleeast/irans-thwarted-reformers-set-careful-goals-for-coming-vote.html>)

<sup>97</sup> Saeed Ghasseminejad, “Iran’s False Choice: Rebranding Hard-Liners as ‘Moderates,’” *The National Interest*, March 4, 2016. (<http://www.nationalinterest.org/feature/irans-false-choice-rebranding-hard-liners-%E2%80%98moderates%E2%80%99-15397/>); Eli Lake, “Iran’s Elections are Magic,” *Bloomberg*, February 29, 2016. (<http://www.bloombergview.com/articles/2016-02-29/iran-s-elections-are-magic>)

<sup>98</sup> “Moderation, Tehran Style,” *The Wall Street Journal*, February 28, 2016.

(<http://www.wsj.com/articles/moderation-tehran-style-1456689067>)

<sup>99</sup> For more on this analysis, see Amir Toumaj, “Iran’s Principlists to Dominate Elections,” *Foundation for Defense of Democracies*, February 26, 2016. (<http://www.defenddemocracy.org/media-hit/amir-toumaj-irans-principlists-to-dominate-elections/>)

<sup>100</sup> Matthew Riley, “Lead U.S. negotiator of Iran deal Sherman analyzes the agreement,” *The Duke Chronicle*, February 5, 2016. (<http://www.dukechronicle.com/article/2016/02/lead-u-s-negotiator-of-iran-deal-sherman-analyzes-the-agreement/>)

We are now witnessing a consolidation of the regime's power as it reaps the spoils of the nuclear agreement without changing its malign behavior. Even as Iran has temporarily suspended some of its nuclear activities, the regime continues to engage in ballistic missile activities in violation of UN Security Council Resolution 2231 and in weapons proliferation, support for terrorism, and regional aggression in violation of U.S. and European laws.

Some argued that sanctions relief as a result of the deal would benefit Iranian society, but early reporting revealed that "the only deals being struck have been with state-backed conglomerates."<sup>101</sup> As explained in greater depth in the next section, the IRGC is a dominant force in the Iranian economy, and Iran's "most powerful economic actor," according to the U.S. Treasury.<sup>102</sup> Rather than benefitting independent Iranian businesses and the average Iranian, sanctions relief is strengthening the control of the Supreme Leader, IRGC, and the state in key sectors of Iran's economy.

This should be expected in a country that is a hub of corruption and kleptocracy. Iran's Supreme Leader himself controls a "shadowy network of off-the-books front companies," according to the U.S. Treasury Department,<sup>103</sup> which is valued at over \$95 billion according to *Reuters*.<sup>104</sup> Transparency International ranks Iran 130 out of 168 countries on its corruption perception index, and the Basel Institute on Governance ranked Iran as the worst country in the world with regard to risks from money laundering and terrorism financing in its annual Anti-Money Laundering Index report.<sup>105</sup>

Corruption and kleptocracy are not just financial transparency issues but are also human rights issues. Corruption is the reason many authoritarian leaders seize and cling to power. It is the glue that holds their regimes together, giving dictators spoils to distribute. As U.S. Assistant Secretary of the Treasury Daniel Glaser noted, corruption "stifles economic development, impairs democratic institutions, erodes public trust, and impairs international cooperation ... [and] creates space for criminals to flourish."<sup>106</sup> In Iran, these criminals are not only traditional thugs, but state-sponsored human rights violators.

### *Principles and Conduct-based Sanctions*

<sup>101</sup> Thomas Erdbrink, "In Iran, State-Backed Companies Win from Lifted Sanctions," *The New York Times*, February 5, 2016. (<http://www.nytimes.com/2016/02/06/world/middleeast/in-iran-state-backed-companies-win-from-lifted-sanctions.html>)

<sup>102</sup> U.S. Department of the Treasury, Press Release, "Treasury Submits Report to Congress on NIOC and NITC," September 24, 2012. (<http://www.treasury.gov/press-center/press-releases/Pages/j1738.aspx>)

<sup>103</sup> U.S. Department of the Treasury, Press Release, "Treasury Targets Assets of Iranian Leadership," June 4, 2013. (<http://www.treasury.gov/press-center/press-releases/Pages/j11968.aspx>)

<sup>104</sup> Steve Stecklow, Babak Dehghanpisheh, and Yeganeh Torbati, "Assets of the Ayatollah," *Reuters*, November 11, 2013. (<http://www.reuters.com/investigates/iran/#article/part1>)

<sup>105</sup> "Corruption by Country/Territory: Iran," *Transparency International*, accessed February 12, 2016.

(<https://www.transparency.org/country/#IRN>); "Basel AML Index 2015 Report," *Basel Institute on Governance*, August 18, 2015. ([https://index.baselgovernance.org/sites/index/documents/Basel\\_AML\\_Index\\_Report\\_2015.pdf](https://index.baselgovernance.org/sites/index/documents/Basel_AML_Index_Report_2015.pdf))

<sup>106</sup> Daniel Glaser, "The Role of Transparency in Fighting Corruption in Financial Systems," *Remarks at the Atlantic Council and Thomson Reuters "Power Of Transparency" Speaker Series*, April 21, 2016. (<https://www.treasury.gov/press-center/press-releases/Pages/j10437.aspx>)

Recently, Secretary Lew gave a speech in which he warned, “Since the goal of sanctions is to pressure bad actors to change their policy, we must be prepared to provide relief from sanctions when we succeed. If we fail to follow through, we undermine our own credibility and damage our ability to use sanctions to drive policy change.”<sup>107</sup>

This is an important principle; but while Iran has agreed to a nuclear deal, it has not addressed the full range of illicit activities that prompted U.S. and international sanctions. The United States has spent the last decade building a powerful sanctions architecture to address not only Iran’s nuclear program but also its ballistic missile development, vast support for terrorist groups, backing of other rogue states like Bashar al-Assad’s Syria, human rights abuses, and the financial crimes that sustain these illicit activities. More broadly, a primary goal of the sanctions on Iran, as explained by senior Treasury Department officials over the past decade, was to “protect the integrity of the U.S. and international financial systems” from Iranian illicit financial activities.<sup>108</sup> As FATF’s February 2016 statement makes clear, Iran’s illicit finance continues; therefore efforts to isolate this activity from the international financial system must also continue.

De-coupling the lifting of sanctions from a change in the behavior that prompted sanctions in the first place risks undermining the very arguments that make sanctions an effective tool of national security policy. Sanctions work not when the U.S. merely imposes them on Iranian companies, but when foreign businesses stop doing business with these Iranian entities because they believe that Treasury is using objective measures to determine which entities pose illicit finance risks. When companies see Treasury’s actions as political rather than merit-based maneuvers, that’s when sanctions as a credible instrument of coercive statecraft will be damaged beyond repair.

Instead of bending to Iranian demands, Washington and its partners should be pushing Tehran to end its many illicit activities. The world needs to hold Iran accountable. Legitimacy cannot be granted without a dramatic change in the Islamic Republic’s respect for international norms, financial transparency, and the freedoms and human rights of its people. Congress can lead the charge, as it has done in the past, by increasing pressure on the regime to change its behavior.

#### **THE IRGC’S DOMINANT POSITION IN IRAN’S ECONOMY**

One of the major flaws of the JCPOA is its enrichment of the most dangerous elements of the Iranian regime. Rather than benefitting independent Iranian businesses, the sanctions relief likely will strengthen the control of the Supreme Leader, Iran’s Islamic Revolutionary Guard Corps (IRGC), and state of key sectors of Iran’s economy. These elements stand to be the greatest beneficiaries of the economic relief granted under the JCPOA. They will benefit both from their dominance of key strategic areas of the Iranian economy and from an overall improvement in Iran’s macroeconomic environment.

<sup>107</sup> Jacob Lew, “The Evolution of Sanctions and Lessons for the Future,” *Remarks before the Carnegie Endowment for International Peace*, March 30, 2016. (<https://www.treasury.gov/press-center/press-releases/Pages/rl0398.aspx>)

<sup>108</sup> David Cohen, “The Law and Policy of Iran Sanctions,” *Remarks before the New York University School of Law*, September 12, 2012. (<http://www.treasury.gov/press-center/press-releases/Pages/rl1706.aspx>)

The IRGC was founded to defend and export the 1979 revolution, and it implements this mission by engaging in nuclear proliferation, ballistic missile development, destabilizing Iran's neighbors, and crushing domestic opposition to the regime.<sup>109</sup> Iran is the foremost state sponsor of terrorism, and the IRGC is the principal instrument through which Tehran trains, finances, arms, equips, and spreads terror across the Middle East and beyond. According to the U.S. government:

The IRGC also serves as the domestic 'enforcer' for the Iranian regime, continues to play an important proliferation role by orchestrating the import and export of prohibited items to and from Iran, is involved in support of terrorism throughout the region, and is responsible for serious human rights abuses against peaceful Iranian protestors and other opposition participants.<sup>110</sup>

The United States has targeted the IRGC with a range of sanctions tools. In testimony before Congress, Director of National Intelligence James Clapper stated: "Iran—the foremost state sponsor of terrorism—continues to exert its influence in regional crises in the Middle East through the Islamic Revolutionary Guard Corps—Qods Force (IRGC-QF), its terrorist partner Lebanese Hizballah, and proxy groups. ... Iran also supported Huthi rebels in Yemen by attempting to ship lethal aid to the Huthis."<sup>111</sup> The IRGC was designated first in 2007 for involvement in Iran's proliferation activities,<sup>112</sup> in 2011 for "severe human rights abuses in Iran,"<sup>113</sup> and in 2012 for activities like monitoring dissidents and censorship.<sup>114</sup> The United States also targeted the IRGC's elite, external relations arm, the Quds Force, for its role in international terrorism and supporting a range of terrorist groups,<sup>115</sup> and for the Assad regime's brutality in Syria.<sup>116</sup> In its designation of the Quds Force in 2007, Treasury noted that it provided

<sup>109</sup> Hafizulla Emadi, "Exporting Iran's Revolution: The Radicalization of the Shiite Movement in Afghanistan," *Middle Eastern Studies*, January 1995. (Accessed via Jstor); Michael Connell, "Iran's Military Doctrine," *U.S. Institute of Peace*, accessed March 8, 2016. (<http://iranprimer.usip.org/resource/irans-military-doctrine>)

<sup>110</sup> Hillary Rodham Clinton and Timothy Geithner, "Joint Statement on Iran Sanctions," June 23, 2011. (<http://www.state.gov/r/pa/prs/ps/2011/06/166814.htm>)

<sup>111</sup> James Clapper, "Statement for the Record: Worldwide Threat Assessment of the US Intelligence Community," *Testimony before the Senate Armed Services Committee*, February 9, 2016, pages 6, 24. ([http://www.armed-services.senate.gov/imo/media/doc/Clapper\\_02-09-16.pdf](http://www.armed-services.senate.gov/imo/media/doc/Clapper_02-09-16.pdf))

<sup>112</sup> U.S. Department of the Treasury, Press Release, "Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism," October 25, 2007. (<http://www.treasury.gov/press-center/press-releases/Pages/16644.aspx>)

<sup>113</sup> U.S. Department of the Treasury, Press Release, "Fact Sheet: Treasury Sanctions Major Iranian Commercial Entities," June 23, 2011. (<http://www.treasury.gov/press-center/press-releases/Pages/12117.aspx>)

<sup>114</sup> Executive Order 13606, "Blocking the Property and Suspending Entry into the United States of Certain Persons With Respect to Grave Human Rights Abuses by the Governments of Iran and Syria via Information Technology," April 22, 2012. (<http://www.treasury.gov/resource-center/sanctions/Programs/Documents/13606.pdf>)

<sup>115</sup> U.S. Department of the Treasury, Press Release, "Fact Sheet: U.S. Treasury Department Targets Iran's Support for Terrorism Treasury Announces New Sanctions Against Iran's Islamic Revolutionary Guard Corps-Qods Force Leadership," August 3, 2010. (<http://www.treasury.gov/press-center/press-releases/Pages/1810.aspx>)

<sup>116</sup> Executive Order 13572, "Blocking Property of Certain Persons With Respect to Human Rights Abuses in Syria," April 29, 2011. (<http://www.treasury.gov/resource-center/sanctions/Programs/Documents/13572.pdf>); U.S. Department of the Treasury, Press Release, "Administration Takes Additional Steps to Hold the Government of Syria Accountable for Violent Repression Against the Syrian People," May 18, 2011. (<http://www.treasury.gov/press-center/press-releases/Pages/1181.aspx>)



“weapons, training, funding, and guidance” to militias in Iraq that targeted American servicemen and women.<sup>117</sup>

The IRGC sits at the table at the center of the power structures in Iran. It plays a significant role in the formulation of the Islamic Republic’s foreign policy, including through its role on the Supreme National Security Council, Iran’s highest national security decision-making body.<sup>118</sup>

The IRGC has also become a dominant force in the Iranian economy, and Iran’s “most powerful economic actor,” according to the U.S. Treasury.<sup>119</sup> The IRGC has “displace[d] ... the legitimate Iranian private sector,” created a preferential system “in favor of a select group of insiders,” and “expanded its reach into critical sectors of Iran’s economic infrastructure,” according to the U.S. government.<sup>120</sup> Although exact figures are difficult to estimate because of the opaque nature of the IRGC’s influence and the size of off-book enterprises, experts calculate that the IRGC controls around 20-30 percent of the Iranian economy,<sup>121</sup> including the strategic sectors of the economy that international companies will find most lucrative such as oil, natural gas, petrochemicals, automotive, transportation, mining, construction, engineering, finance, and telecommunications, among others.<sup>122</sup>

These estimates do not include Iran’s black market economy, from which the IRGC draws another significant source of income. My FDD colleague Saeed Ghasseminejad, who studies the Iranian economy, notes that the underground economy is estimated to be valued at 6-36 percent of Iran’s GDP. He concludes: “Assuming a conservative 15 [percent], the underground economy is worth an additional \$60 billion each year. ... The IRGC is in the best position to have the

<sup>117</sup> U.S. Department of the Treasury, Press Release, “Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism,” October 25, 2007. (<http://www.treasury.gov/press-center/press-releases/Pages/tp644.aspx>)

<sup>118</sup> Kenneth Katzman, “Iran: U.S. Concerns and Policy Responses,” *Congressional Research Service*, October 1, 2014, page 2. (<http://fpc.state.gov/documents/organization/217472.pdf>)

<sup>119</sup> U.S. Department of the Treasury, Press Release, “Treasury Submits Report to Congress on NIOC and NITC,” September 24, 2012. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1718.aspx>)

<sup>120</sup> U.S. Department of State, Office of the Spokesperson, Media Note, “Joint Statement on Iran Sanctions,” June 23, 2011. (<http://www.state.gov/r/pa/prs/ps/2011/06/166814.htm>); U.S. Department of State, Media Note, “Treasury Targets Iran’s Islamic Revolutionary Guard Corps,” February 10, 2010. (<http://www.state.gov/r/pa/prs/ps/2010/02/136595.htm>); U.S. Department of the Treasury, Press Release, “Fact Sheet: Treasury Sanctions Major Iranian Commercial Entities,” June 23, 2011. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1217.aspx>)

<sup>121</sup> Greg Bruno, Jayshree Bajoria, and Jonathan Masters, “Iran’s Revolutionary Guard,” *Council on Foreign Relations*, June 14, 2013. (<http://www.cfr.org/iran/irans-revolutionary-guards/p14324>); Emanuele Ottolenghi and Saeed Ghasseminejad, “Who Really Controls Iran’s Economy?” *The National Interest*, May 20, 2015. (<http://nationalinterest.org/feature/who-really-controls-irans-economy-12925>); Frederic Wehrey, Jerrold D. Green, Brian Nichiporuk, Alireza Nader, Lydia Hansell, Rasool Nafisi, and S. R. Bohandy, “The Rise of the Pasdaran: Assessing the Domestic Roles of Iran’s Islamic Revolutionary Guards Corps,” *The RAND Corporation*, 2009. ([http://www.rand.org/content/dam/rand/pubs/monographs/2008/RAND\\_MG821.pdf](http://www.rand.org/content/dam/rand/pubs/monographs/2008/RAND_MG821.pdf)); Mark Gregory, “Expanding Business Empire of Iran’s Revolutionary Guards,” *BBC* (UK), July 26, 2010. (<http://www.bbc.com/news/world-middle-east-10743580>)

<sup>122</sup> Emanuele Ottolenghi, “The Iran Nuclear Deal and its Impact on Iran’s Islamic Revolutionary Guards Corps, Appendix I and II,” *Testimony before the House Foreign Affairs Middle East and North Africa Subcommittee*, September 17, 2015. (<http://docs.house.gov/meetings/FA/FA13/20150917/103958/HHRG-114-FA13-Wstate-OttolenghiE-20150917-SD001.pdf>)

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lion's share of the benefits" from the underground economy.<sup>123</sup>

Justifying sanctions against the IRGC's business interests, Treasury noted, "Imposing financial sanctions on commercial enterprises of the IRGC has a direct impact on revenues that could be used by the IRGC to facilitate illicit conduct."<sup>124</sup> The IRGC is heavily involved in Iran's "financial and commercial sectors and [has] extensive economic interests in the defense production, construction, and oil industries, controlling billions of dollars in corporate business," explained Treasury.<sup>125</sup> The IRGC's control over strategic sectors of the Iranian economy means that any foreign firms interested in doing business with Iran will have to do business with the Guards. Many of these are the very sectors that received sanctions relief under the nuclear deal. The IRGC is thus directly benefiting from the lifting of sanctions.

Moreover, as Treasury explained, the Guards' economic empire "ultimately benefits the IRGC and its dangerous activities."<sup>126</sup> Thus the lifting of sanctions on the relevant sectors of Iran's economy with large IRGC presence will have a direct impact, increasing its revenues and resources that can be used to fund its illicit conduct.

For an extensive analysis of the role of the IRGC in strategic sectors of the Iranian economy and how it will benefit from sanctions relief under the JCPOA, I recommend the testimony of my colleague Emanuele Ottolenghi before the House Foreign Affairs Middle East and North Africa Subcommittee.<sup>127</sup> In the coming weeks, FDD will also be publishing a comprehensive study building on this testimony and providing innovative policy ideas for Congress on ways to use economic pressure against the Revolutionary Guards. My colleagues and I look forward to sharing this report with you.

#### **EXPLOITING ECONOMIC SECTORS TO DEVELOP BALLISTIC MISSILES**

Iran's ballistic missile program is inherently linked to its nuclear ambitions. Iran has the "largest inventory of ballistic missiles in the Middle East" and would use ballistic missiles to as delivery vehicles for nuclear weapons should it decide to build a bomb, according to U.S. intelligence estimates.<sup>128</sup> Furthermore, experts note that a ballistic missile programs is expensive and makes

<sup>123</sup> Saeed Ghasseminejad, "Iran's military budget is going to get a huge boost from the nuclear deal," *Business Insider*, October 30, 2015. (<http://www.businessinsider.com/irans-military-budget-is-going-to-get-a-huge-boost-from-the-nuclear-deal-2015-10>)

<sup>124</sup> U.S. Department of the Treasury, Press Release, "Fact Sheet: Treasury Sanctions Major Iranian Commercial Entities," June 23, 2011. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1217.aspx>)

<sup>125</sup> U.S. Department of the Treasury, Press Release, "Fact Sheet: Treasury Sanctions Major Iranian Commercial Entities," June 23, 2011. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1217.aspx>)

<sup>126</sup> U.S. Department of the Treasury, Press Release, "Treasury Targets Iran's Islamic Revolutionary Guards Corps," February 10, 2010. (<http://www.treasury.gov/press-center/press-releases/Pages/tg539.aspx>)

<sup>127</sup> Emanuele Ottolenghi, "Major Beneficiaries of the Iran Deal: IRGC and Hezbollah," *Hearing before the House Foreign Affairs Subcommittee on the Middle East and North Africa*, September 17, 2015. (<http://foreignaffairs.house.gov/hearing/subcommittee-hearing-major-beneficiaries-iran-deal-irgc-and-hezbollah>)

<sup>128</sup> James Clapper, "Statement for the Record: Worldwide Threat Assessment of the US Intelligence Community," *Testimony before the Senate Armed Services Committee*, February 9, 2016, page 8. ([http://www.armed-services.senate.gov/imo/media/doc/Clapper\\_02-09-16.pdf](http://www.armed-services.senate.gov/imo/media/doc/Clapper_02-09-16.pdf))

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little sense without a parallel nuclear weapons program.<sup>129</sup> Historically, no country has ever developed a domestic medium- or long-range ballistic missile program without aspirations for nuclear weapons.<sup>130</sup>

As part of the JCPOA, the P5+1 accepted an apparent weakening of the UN restrictions,<sup>131</sup> and even these remaining restrictions will be lifted in eight years. Since the announcement of the JCPOA, Iran has tested ballistic missiles capable of carrying nuclear warheads in violation of UN Security Council resolutions at least three times.<sup>132</sup> Earlier this week, Iranian press reported a fourth ballistic missile test.<sup>133</sup> And yet the entities involved in the missile test will be removed from sanctions lists in eight years.<sup>134</sup> Instead, the administration has issued sanctions against procurement networks that Tehran can easily reconstitute,<sup>135</sup> as the regime has done time and again. These designations have minimal, if any, economic impact on Iran and on the strategic calculus of Iran's leaders.

Thus far, U.S. and international restrictions have not deterred Iranian ballistic missile development. In February, Director of National Intelligence James Clapper testified before Congress that since June 2010, and over a period when the United States and Europe dramatically escalated sanctions against Iran, Tehran conducted 140 missile launches.<sup>136</sup> In

<sup>129</sup> Behnam Ben Taleblu, "Don't Forget Iran's Ballistic Missiles," *War on The Rocks*, August 25, 2014.

(<http://warontherocks.com/2014/08/dont-forget-irans-ballistic-missiles/>); Robert Joseph, "JCPOA: Non-Proliferation, Inspections, and Nuclear Constraints," *Testimony before the Senate Foreign Relations Committee*, August 4, 2015. ([http://www.foreign.senate.gov/imo/media/doc/080415\\_Joseph\\_Testimony.pdf](http://www.foreign.senate.gov/imo/media/doc/080415_Joseph_Testimony.pdf))

<sup>130</sup> David A. Cooper, "Iran's Enduring Ballistic Missile Threat," *Statement before the House Committee on Foreign Affairs Subcommittee on Middle East and North Africa*, June 10, 2015.

(<http://docs.house.gov/meetings/FA/FA13/20150610/103582/HHRG-114-FA13-Wstate-CooperD-20150610.pdf>)

<sup>131</sup> Colum Lynch, "Washington Made it Easy for Iran to Fire Its Ballistic Missiles," *Foreign Policy*, March 16, 2016. (<http://foreignpolicy.com/2016/03/16/washington-made-it-easy-for-iran-to-fire-its-ballistic-missiles/>)

<sup>132</sup> Sam Wilkins, "Iran Tests New Precision-Guided Ballistic Missile," *Reuters*, October 11, 2015.

(<http://www.reuters.com/article/2015/10/11/us-iran-military-missiles-idUSKCN0S505120151011>); Bradley Klapper, "US official says Iran tested ballistic missile last month, at least 2nd time since nuke deal," *Associated Press*, December 8, 2015. (<http://www.usnews.com/news/politics/articles/2015/12/08/us-official-iran-tested-ballistic-missile-last-month>); Louis Charbonneau, "Iran's October missile test violated U.N. ban: expert panel," *Reuters*, December 16, 2015. (<http://www.reuters.com/article/us-iran-missiles-uu-exclusive-idUSKBN0TY1T920151216>); Tim Hume and Alireza Hajihosseini, "Iran fires ballistic missiles a day after test; U.S. officials hint at violation," *CNN*, March 9, 2016. (<http://www.cnn.com/2016/03/09/middleeast/iran-missile-test/>)

<sup>133</sup> Nasser Karimi, "Iran test-fires ballistic missile, latest after nuclear deal," *Associated Press*, May 9, 2016. (<http://www.bigstory.ap.org/article/5cb0901c025a4c7b93c4fb08558d68c0/iran-test-fires-ballistic-missile-latest-after-nuclear-deal>)

<sup>134</sup> Behnam Ben Taleblu, "EU Set to Delist Entities Linked to Iran's Ballistic Missile Test," *Foundation for Defense of Democracies*, October 29, 2015. (<http://www.defenddemocracy.org/media-hit/behnam-ben-taleblu-cu-sci-to-delist-entities-linked-to-irans-ballistic-missile-test/>)

<sup>135</sup> U.S. Department of the Treasury, Press Release, "Treasury Sanctions Those Involved in Ballistic Missile Procurement for Iran," January 17, 2016. (<https://www.treasury.gov/press-center/press-releases/Pages/j10322.aspx>); U.S. Department of the Treasury, Press Release, "Treasury Sanctions Supporters of Iran's Ballistic Missile Program and Terrorism-Designated Mahan Air," March 24, 2016. (<https://www.treasury.gov/press-center/press-releases/Pages/j10395.aspx>)

<sup>136</sup> James Clapper, "Worldwide Threats," *Hearing before the Senate Armed Services Committee*, February 9, 2016. (<https://www.bgov.com/core/news/#/articles/Q2A1H03PWT1D>; <http://www.armed-services.senate.gov/hearings/16-02-09-worldwide-threats>); <http://www.armed-services.senate.gov/hearings/16-02-09-worldwide-threats>)

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December 2015, Ambassador Stephen Mull, the State Department's coordinator for the implementation of the JCPOA, testified before the Senate Foreign Relations Committee, "Iran is going to develop [its missile] program regardless of the consequences."<sup>137</sup>

There may be a better way, however, to impose strategic costs on Tehran for its continued defiance than what has been attempted to date. Ballistic missile programs are capital- and technology-intensive endeavors that require expertise from sectors ranging from construction to robotics and computer science. My colleague Saeed Ghasseminejad has studied the connections between Iran's ballistic missile program and key sectors of the Iranian economy, including metallurgy and mining; chemicals, petrochemicals, and energy; construction; automotive; and electronic, telecommunication, and computer science sectors.<sup>138</sup>

The IRGC and Iran's Ministry of Defense and Armed Forces Logistics (MODAFL) are responsible for Iran's missile program, explains Ghasseminejad. They utilize a "broad range of commercial entities and front companies to procure sensitive-technology or to provide goods for military purposes. ... A wide array of entities and sectors are thus likely involved in Iran's ballistic missile program."<sup>139</sup> These industries can be targeted with sector-based economic sanctions in the same way sectors of the Iranian economy were previously sanctioned for their connections to Iran's nuclear program.

I recommend Ghasseminejad's research memo on ties between Tehran's ballistic missiles program and the Iranian economy to the Committee.<sup>140</sup>

#### **THE DETERIORATING HUMAN RIGHTS SITUATION IN IRAN AND SYRIA**

The Islamic Republic continues to commit serious human rights abuses, including limiting freedom of expression and the press; engaging in arbitrary detention and torture; and discriminating against women, ethnic, and religious minorities, and other vulnerable populations.<sup>141</sup> The regime reigns over its citizens using repression and violence to rule through fear.

<sup>137</sup> Stephen Mull, "The Status of JCPOA Implementation and Related Issues." *Hearing before the Senate Foreign Relations Committee*, December 17, 2015. (<https://www.bgov.com/core/news#!/articles/NZJ3O23PWT1C>; <http://www.foreign.senate.gov/hearings/the-status-of-jcpoa-implementation-and-related-issues-121715>)

<sup>138</sup> Saeed Ghasseminejad, "Iran's Ballistic Missile Program and Economic Sanctions," *Foundation for Defense of Democracies*, March 17, 2016. ([http://www.defenddemocracy.org/content/uploads/documents/Ballistic\\_Missile\\_Sanctions.pdf](http://www.defenddemocracy.org/content/uploads/documents/Ballistic_Missile_Sanctions.pdf))

<sup>139</sup> Saeed Ghasseminejad, "Iran's Ballistic Missile Program and Economic Sanctions," *Foundation for Defense of Democracies*, March 17, 2016. ([http://www.defenddemocracy.org/content/uploads/documents/Ballistic\\_Missile\\_Sanctions.pdf](http://www.defenddemocracy.org/content/uploads/documents/Ballistic_Missile_Sanctions.pdf))

<sup>140</sup> Saeed Ghasseminejad, "Iran's Ballistic Missile Program and Economic Sanctions," *Foundation for Defense of Democracies*, March 17, 2016. ([http://www.defenddemocracy.org/content/uploads/documents/Ballistic\\_Missile\\_Sanctions.pdf](http://www.defenddemocracy.org/content/uploads/documents/Ballistic_Missile_Sanctions.pdf))

<sup>141</sup> United Nations Human Rights Council. "Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran," March 10, 2016. (<http://shaheedoniran.org/wp-content/uploads/2016/03/SR-Report-HRC2016FF.pdf>); United Nations General Assembly, "Situation of human rights in the Islamic Republic of Iran," October 6, 2015. (<http://shaheedoniran.org/wp-content/uploads/2015/10/SR-Report-Iran-Oct2015.pdf>)

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In the wake of the nuclear deal, the human rights situation in Iran has deteriorated even further.<sup>142</sup> The regime is suppressing internal dissent, and the IRGC has arrested hundreds of activists, journalists, and regular citizens in what human rights experts call the “largest crackdown since the violent state suppression” in 2009.<sup>143</sup> As United Nations Special Rapporteur on the situation of human rights in the Islamic Republic of Iran Dr. Ahmed Shaheed reports, despite a “noticeable change in the tone and tenor of the government’s approach to human rights,” there has been no “meaningful change on the ground.”<sup>144</sup>

*Juvenile Executions:* Last year, Iran executed a record number of prisoners, at least 966 individuals (including 16 juveniles), the majority of whom were convicted of drug-related crimes.<sup>145</sup> Amnesty International published an exhaustive study on juvenile executions in Iran, noting that the country is “one of the world’s last executioners of juvenile offenders.” The report “debunks recent attempts by Iran’s authorities to whitewash their continuing violations of children’s rights.”<sup>146</sup> Amnesty International observed that Iran’s legal codes allow girls as young as nine and boys as young as 15 to be sentenced to death after “unfair trials, including those based on forced confessions extracted through torture and other ill-treatment.”

As of January 2016, 161 juvenile offenders were sitting on death row.<sup>147</sup> Two were executed in October 2015. Their stories need to be told. Samad Zahabi was secretly hanged without notifying his family or his lawyer of the impending execution. At the age of 17, he was sentenced to death for murder, an act which he claimed was unintentional and in self-defense, and he was never informed of his right to judicial review.<sup>148</sup> Fatemeh Salbehi was hanged for the murder of her husband, whom she was forced to marry at the age of 16. Her trial was flawed to say the least: there was no judicial consideration of the domestic abuse Salbehi suffered,<sup>149</sup> and she confessed

<sup>142</sup> United Nations Human Rights Council, “Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran,” March 10, 2016. (<http://shaheedoniran.org/wp-content/uploads/2016/03/SR-Report-HRC2016FF.pdf>)

<sup>143</sup> “Largest Wave of Arrests by Iran’s Revolutionary Guards Since 2009,” *International Campaign for Human Rights in Iran*, November 19, 2015. (<https://www.iranhumanrights.org/2015/11/ircg-intelligence-arrests/>)

<sup>144</sup> UN Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran, “Press Conference Statement,” March 10, 2016. (<http://shaheedoniran.org/english/dr-shaheeds-work/press-releases/press-conference-statement-on-10-march-2016/>)

<sup>145</sup> UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Press Release, “Zeid calls for an end to executions for drug offences in Iran,” April 14, 2016. (<http://shaheedoniran.org/english/human-rights-at-the-united-nations/human-rights-monitoring-mechanisms/high-commissioner-office/zeid-calls-for-an-end-to-executions-for-drug-offences-in-iran/>)

<sup>146</sup> “Growing Up on Death Row: The Death Penalty and Juvenile Offenders in Iran,” *Amnesty International*, January 25, 2016. (<http://www.amnestyusa.org/research/reports/growing-up-on-death-row-the-death-penalty-and-juvenile-offenders-in-iran>)

<sup>147</sup> United Nations, Office of the High Commissioner for Human Rights, “Committee on the Rights of the Child examines the report of Iran,” January 12, 2016. (<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16940&LangID=E>)

<sup>148</sup> Press Release, “Execution of two juvenile offenders in just a few days makes a mockery of Iran’s juvenile justice system,” *Amnesty International*, October 14, 2015. (<http://www.amnestyusa.org/news/press-releases/execution-of-two-juvenile-offenders-in-just-a-few-days-makes-a-mockery-of-iran-s-juvenile-justice-sy>)

<sup>149</sup> United Nations, Office of the High Commissioner for Human Rights, “Iran: UN rights experts outraged at the execution of two juvenile offenders,” October 16, 2015.

(<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16611&LangID=E>); Press Release, “Execution of two juvenile offenders in just a few days makes a mockery of Iran’s juvenile justice system,” *Amnesty*

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under duress.<sup>150</sup> UN Special Rapporteur on extrajudicial, summary or arbitrary executions Christof Heyns put it best: “These are unlawful killings committed by the State, the equivalent of murders performed by individuals. These are profound tragedies.”<sup>151</sup>

*Rights of Children:* The brutal death of a six-year-old Afghan refugee in Iran last month shed a light on the violence and daily discrimination that refugee communities experience.<sup>152</sup> Migrant and refugee children, children of religious and ethnic minorities, and children of the LGBT community are vulnerable to abuses, including violence and state-sanctioned discrimination.<sup>153</sup> Girls are particularly vulnerable to sexual abuse because the legal age of marriage for girls is only 13, and girls as young as nine can be married with permission of the court and their fathers.<sup>154</sup> Earlier this year, the United Nations condemned Iran for an increasing number of forced marriages, which place young girls at risk of “sexual violence, including marital rape.” The UN Committee on the Rights of the Child said that Iran’s legal provisions “authorize, condone or lead to child sexual abuse.”<sup>155</sup>

*Religious Freedom:* For nearly two decades, the U.S. State Department has designated Iran as a “country of particular concern” under the International Religious Freedom Act (IRFA).<sup>156</sup> Earlier this week, the United States Commission on International Religious Freedom published its annual report, finding that religious freedom conditions in Iran “continued to deteriorate” over the past year.<sup>157</sup> This independent, bipartisan government commission notes that the number of individuals imprisoned for their religious beliefs has increased, and the government “continues to engage in systematic, ongoing, and egregious violations of religious freedom, including prolonged detention, torture, and executions based primarily or entirely upon the religion of the accused.” The report also finds that the Islamic Republic uses “religious laws to silence

*International*, October 14, 2015. (<http://www.amnestyusa.org/news/press-releases/execution-of-two-juvenile-offenders-in-just-a-few-days-makes-a-mockery-of-iran-s-juvenile-justice-sy>)

<sup>150</sup> “Alleged Juvenile Offender at Risk of Imminent Execution,” *Iran Human Rights Documentation Center*, October 12, 2015. (<http://www.iranhrdc.org/english/news/inside-iran/1000000614-alleged-juvenile-offender-at-risk-of-imminent-execution.html>)

<sup>151</sup> United Nations, Office of the High Commissioner for Human Rights, “Iran: UN rights experts outraged at the execution of two juvenile offenders,” October 16, 2015.

(<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16611&LangID=E>)

<sup>152</sup> Ali M. Latifi and Ramin Mostaghim, “6-year-old Afghan girl’s murder puts spotlight on history of discrimination and abuse in Iran,” *Los Angeles Times*, April 21, 2016. (<http://www.latimes.com/world/middleeast/la-ig-iran-afghanistan-killing-20160421-story.html>)

<sup>153</sup> Press Release, “Iran: 20 years of unfulfilled promises: It is time to put children first,” *Iran Human Rights*, July 20, 2015. (<http://iranhr.net/en/statement/28/>); “Iran: Submission to the Committee on the Rights of the Child,” *Human Right Watch*, March 13, 2015. (<https://www.hrw.org/news/2015/03/13/iran-submission-committee-rights-child>)

<sup>154</sup> U.S. Department of State, Country Reports on Human Rights Practices for 2015, “Iran,” April 13, 2016.

(<http://www.state.gov/j/drl/rls/hurpt/humanrightsreport/index.htm?year=2015&dliid=252923>)

<sup>155</sup> Jack Moore, “U.N. Condemns Iran for Forced Increase in Child Brides as Young as 10,” *Newsweek*, February 5, 2016. (<http://www.newsweek.com/un-condemns-iran-increase-child-brides-young-10-423435>)

<sup>156</sup> U.S. Department of State, International Religious Freedom Report for 2014, “Iran,” October 14, 2015.

(<http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2014&dliid=238454>); U.S. Department of State, “Frequently Asked Questions: IRF Report and Countries of Particular Concern,” accessed April 27, 2016. (<http://www.state.gov/j/drl/irf/c13003.htm>)

<sup>157</sup> United States Commission on International Religious Freedom, “2016 Annual Report,” May 2, 2016, pages 45-49. (<http://www.uscifr.gov/sites/default/files/USCIRF%202016%20Annual%20Report.pdf>)

reformers, including human rights defenders and journalists, for exercising their internationally-protected rights to freedom of expression and religion or belief.”<sup>158</sup>

*Freedom of the Press*: May 3 was World Press Freedom Day. Iran “celebrated” a week early by sentencing four journalists working for reformist newspapers to a combined 27 years in prison. Afarin Chitsaz, Eshan Manzandarani, Davood Asadi, and Eshan Safarzaiee were arrested by the IRGC in November on trumped-up charges of acting against the national security of the state.<sup>159</sup> According to Dr. Shaheed, at least 47 journalists and social media activists were in prison as of January, and nearly 300 internet cafes were closed in 2015.<sup>160</sup> For the past six years, Iran has ranked in the top three of the world’s worst jailers of journalists and in the top ten most censored nations, according to the Committee to Protect Journalists (CPJ).<sup>161</sup> Iran engages in censorship and “uses mass and arbitrary detention as a means of silencing dissent.” In short, the CPJ observes, “the situation for the press has not improved under Rouhani.”<sup>162</sup>

Expectations were misplaced that President Rouhani would improve the human rights situation. When he was elected, he was hailed as a man of the system who nevertheless wanted to make fundamental changes that would gradually bring greater freedom to Iranian society and politics. This assessment ignores the evidence. In 1999, he supported crushing student protests and called for the execution of those agitating for greater freedom.<sup>163</sup> Last year, my colleagues at the Foundation for Defense of Democracies conducted an in-depth study of his writings, speeches, and autobiography. Their research revealed that his “politics aren’t reformist”; his priority is to “ensure the regime’s continuing dominion.” He is “a founding father of Iran’s theocracy and its nuclear-weapons program” and has “arduously and vengefully worked to see the revolution succeed.”<sup>164</sup> Or, as former Under Secretary of State and U.S. negotiator in the Iran talks Wendy Sherman explained, “There are hardliners in Iran, and then there are hard-hardliners in Iran. Rouhani is not a moderate, he is a hard-liner.”<sup>165</sup>

<sup>158</sup> United States Commission on International Religious Freedom, “2016 Annual Report,” May 2, 2016, page 45. (<http://www.uscirf.gov/sites/default/files/USCIRF%202016%20Annual%20Report.pdf>)

<sup>159</sup> Thomas Erdbrink, “Iranian Court Sentences 4 Journalist to Long Prison Terms,” *The New York Times*, April 26, 2016. (<http://www.nytimes.com/2016/04/27/world/middleeast/iranian-court-sentences-4-journalists-to-long-prison-terms.html>)

<sup>160</sup> UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, “The Statement by Ahmed Shahced- The United Nations Human Rights Council – Session 31,” March 14, 2016. (<http://shaheedoniran.org/english/dr-shaheeds-work/the-statement-to-united-nations-human-rights-council-session-31/>)

<sup>161</sup> “10 Most Censored Countries,” *Committee to Protect Journalists*, April 2015. (<https://cpj.org/2015/04/10-most-censored-countries.php>)

<sup>162</sup> “10 Most Censored Countries,” *Committee to Protect Journalists*, April 2015. (<https://cpj.org/2015/04/10-most-censored-countries.php>)

<sup>163</sup> Sohrab Ahmari, “Behind Iran’s ‘Moderate’ New Leader,” *The Wall Street Journal*, June 16, 2013. (<http://www.wsj.com/articles/SB10001424127887323566804578549262039104552>); Hassan Rouhani, “Remarks before the Iranian Majlis,” *Translation provided by BBC World Media Watch*, July 14, 1999. (<http://news.bbc.co.uk/2/hi/world/monitoring/394731.stm>)

<sup>164</sup> Ruel Marc Gerecht and Ali Alfonch, “Persian Truths and American Self-Deception: Hassan Rouhani, Muhammad-Javad Zarif, and Ali Khamenei in Their Own Words,” *Foundation for Defense of Democracies*, March 24, 2015. (<http://www.defenddemocracy.org/media-hit/persian-truths-and-american-self-deception/>)

<sup>165</sup> Matthew Riley, “Lead U.S. negotiator of Iran deal Sherman analyzes the agreement,” *The Duke Chronicle*, February 5, 2016. (<http://www.dukechronicle.com/article/2016/02/lead-u-s-negotiator-of-iran-deal-sherman-analyzes-the-agreement>)

*Iranian crimes against humanity in Syria*

Iran's support for Syrian President Bashar al-Assad reached new levels in the last year, including the provision of IRGC ground forces, weaponry, intelligence, telecommunications, and financial support.<sup>166</sup> Through this support, Iran has allowed Assad to remain in power, bombing civilians with impunity, reportedly causing more than 470,000 deaths,<sup>167</sup> and creating millions of refugees who have fled to Europe and neighboring Middle Eastern states.

A recently published report by Naame Shaam, a group of Syrian and Lebanese activists and citizen-journalists whose reporting focuses on the role of the Iranian regime in Syria, finds that Tehran initially entered the fray to prevent its ally, the Assad regime, from collapsing but has effectively become an occupying force in the regime-held areas of Syria. The Syrian regime itself is "little more than a puppet" of the Iranian regime and the IRGC.<sup>168</sup>

Moreover, Shiar Youssef, the author of the report, noted that there is "sufficient evidence to try the Iranian regime's military and political leadership for complicity" in war crimes and crimes against humanity. "The only thing missing is the political will in the White House and in the European Union to do so," he added.<sup>169</sup>

The report analyzes Iran's role creating and organizing the pro-Assad *shabbiha* force, and quotes Assad's cousin Rami Makhouf explaining that the paramilitary force was established "to do the 'dirty work' of the regime to counter the anti-regime protests."<sup>170</sup> As early as May 2012, U.S. officials noted that the *shabbiha* forces "clearly reflect the tactics and the techniques that the Iranians use for their own suppression of civil rights."<sup>171</sup> When the U.S. sanctioned the militia in December 2012, Treasury noted that the IRGC has "provided training, advice, and weapons and equipment" as well as "funding worth millions of dollars" to these forces.<sup>172</sup>

<sup>166</sup> Max Peck, "Doubling Down on Damascus: Iran's Military Surge to Save the Assad Regime," *Foundation for Defense of Democracies*, January 11, 2016.

([http://www.defenddemocracy.org/content/uploads/documents/Doubling\\_Down\\_on\\_Damascus.pdf](http://www.defenddemocracy.org/content/uploads/documents/Doubling_Down_on_Damascus.pdf))

<sup>167</sup> Anne Barnard, "Death Toll From War in Syria Now 470,000, Group Finds," *The New York Times*, February 11, 2016. ([http://www.nytimes.com/2016/02/11/world/middleeast/death-toll-from-war-in-syria-now-470000-group-finds.html?\\_r=0](http://www.nytimes.com/2016/02/11/world/middleeast/death-toll-from-war-in-syria-now-470000-group-finds.html?_r=0))

<sup>168</sup> Shiar Youssef, "Iran in Syria: From an Ally of the Regime to Occupying Force," *Naame Shaame*, 2<sup>nd</sup> Edition, April 2016, page 10. (<http://www.naameshaam.org/naame-shaam-releases-updated-report-on-irans-role-in-syria/>)

<sup>169</sup> Press Release, "Naame Shaam releases updated report on Iran's role in Syria," *Naame Shaam*, April 29, 2016. (<http://www.naameshaam.org/naame-shaam-releases-updated-report-on-irans-role-in-syria/>)

<sup>170</sup> Shiar Youssef, "Iran in Syria: From an Ally of the Regime to Occupying Force," *Naame Shaame*, 2<sup>nd</sup> Edition, April 2016, page 17. (<http://www.naameshaam.org/naame-shaam-releases-updated-report-on-irans-role-in-syria/>)

<sup>171</sup> Chris McGreal, "Houla massacre: US accuses Iran of 'bragging' about its military aid to Syria," *The Guardian* (UK), May 29, 2012. (<http://www.theguardian.com/world/2012/may/29/houla-massacre-us-accuses-iran>); Shiar Youssef, "Iran in Syria: From an Ally of the Regime to Occupying Force," *Naame Shaame*, 2<sup>nd</sup> Edition, April 2016, page 18. (<http://www.naameshaam.org/naame-shaam-releases-updated-report-on-irans-role-in-syria/>)

<sup>172</sup> U.S. Department of the Treasury, Press Release, "Treasury Sanctions Al-Nusra Front Leadership in Syria and Militias Supporting the Assad Regime," December 11, 2012. (<https://www.treasury.gov/press-center/press-releases/pages/tel797.aspx>); Shiar Youssef, "Iran in Syria: From an Ally of the Regime to Occupying Force," *Naame Shaame*, 2<sup>nd</sup> Edition, April 2016, page 18. (<http://www.naameshaam.org/naame-shaam-releases-updated-report-on-irans-role-in-syria/>)



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The *shabbiha* are responsible for “finding, torturing or killing” anti-regime activities, and “[t]here have been numerous reports about *shabbiha* force members looting houses and setting them on fire; about them destroying entire villages and raping, torturing and slitting the throats of inhabitants suspected of opposing the regime,” Naame Shaam finds. Vividly, Naame Shaam provides disturbing details of the alleged war crimes committed by *shabbiha* members, noting that these forces are known for, and may even be encouraged to, loot and rape. The report quotes a captured *shabbiha* member admitting to raping a woman and stating, “My commander raped many times. It was normal.”<sup>173</sup>

The report notes that “thanks to Sepah Pasdaran [another name for the IRGC] and Hezbollah Lebanon,” these *shabbiha* forces have become the combatants on the ground while the Syrian army plays a “logistical and directive role.”<sup>174</sup> Iran is responsible for the actions of the *shabbiha* forces because it has helped set up, train, and arm “one of the most notorious militia forces that has been responsible for war crimes and crimes against humanity committed in Syria,” Naame Shaam concludes. Additionally, top IRGC commanders in Syria as well as IRGC Quds Force commander Qassem Solemani and Supreme Leader Ali Khamenei “should also be implicated in the[se] crimes ... because evidence suggests it was with their full knowledge and complicity, if not their direct orders, that these crimes were committed,” argues Naame Shaam.<sup>175</sup>

The lifting of sanctions that were part of the nuclear deal with Iran provides the regime more financial resources to pursue these malign activities and to support the Assad regime’s brutality in Syria.

### **RECOMMENDATIONS**

Addressing the Iranian threat requires a coherent strategy deploying all tools of American statecraft, including deploying covert, military, economic, and cyber resources. As requested by this Committee, I focused my recommendations on sanctions, but I urge that these measures not be considered in isolation. Sanctions are most effective when combined with other tools of coercive statecraft.

The JCPOA permits sanctions on Tehran for non-nuclear activities such as missile tests, terrorism and human rights abuses. Since the JCPOA was reached last year, Iran’s regime shows no sign of moderating its behavior in these areas or addressing the full range of illicit activities that prompted U.S. sanctions. Iran is likely to protest these non-nuclear sanctions and may even threaten to walk away from the nuclear agreement. Congress should not let these threats dissuade it from taking action. If Iran does walk away from the deal, Washington can rightfully argue that Iran is to blame for the dissolution of the deal. The United States then will be better positioned to take other coercive steps with more international support.

<sup>173</sup> Shiar Youssef, “Iran in Syria: From an Ally of the Regime to Occupying Force,” *Naame Shaame*, 2<sup>nd</sup> Edition, April 2016, pages 23-24. (<http://www.naameshaam.org/naame-shaam-releases-updated-report-on-irans-role-in-syria/>)

<sup>174</sup> Shiar Youssef, “Iran in Syria: From an Ally of the Regime to Occupying Force,” *Naame Shaame*, 2<sup>nd</sup> Edition, April 2016, page 24. (<http://www.naameshaam.org/naame-shaam-releases-updated-report-on-irans-role-in-syria/>)

<sup>175</sup> Shiar Youssef, “Iran in Syria: From an Ally of the Regime to Occupying Force,” *Naame Shaame*, 2<sup>nd</sup> Edition, April 2016, page 26. (<http://www.naameshaam.org/naame-shaam-releases-updated-report-on-irans-role-in-syria/>)

Congress can take the lead in enhancing non-nuclear sanctions, increasing the enforcement of remaining sanctions, and defending the threat that Iran's illicit financial activities pose to the integrity of the U.S. financial system and U.S. dollar.

**1. Protect the integrity of the U.S. dollar from Iranian illicit finance.**

After Treasury revoked the U-turn general license and designated Iran as a jurisdiction of primary money laundering concern, Congress included in Section 1245(c) of the National Defense Authorization Act of 2012 a prohibition stipulating, "The President shall, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block and prohibit all transactions in all property and interests in property of an Iranian financial institution if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person."<sup>176</sup> Section 1245(b) also codified the jurisdiction of primary money laundering finding.

Congress can emphasize that Section 1245(c) codifies the U-turn by stating that it is prohibited for any U.S. financial institution to process any transactions for Iranian entities, even when such "transfer was by order of a non-Iranian foreign bank from its own account in a domestic bank to an account held by a domestic bank for a non-Iranian foreign bank."<sup>177</sup> To prevent the use of offshore clearing, Congress can also state that it is prohibited for a U.S. financial institution to provide dollars for clearing facilities if any party to the transaction anywhere in the financial chain is an Iranian entity. Congress should also authorize mandatory sanctions on any offshore large value payment system that provides dollar-clearing services in any transactions involving an Iranian party. The termination of these prohibitions should be linked to a certification from the president that Iran is no longer involved in supporting terrorism and illicit missile development as well as addressing its outstanding obligations to compensate victims of Iranian terrorism.

Finally, Congress should require the Treasury Department to report on all financial institutions involved in giving Iran direct or indirect access to the U.S. dollar with details on institutions, transactions, counterparties, and mechanisms. This reporting requirement will be useful in identifying entities for further government or non-governmental action. The Government Accountability Office (GAO) or a similar governmental or quasi-government body should verify this list and add any additional persons or entities not identified by Treasury.

**2. Strengthen sanctions against the IRGC by targeting its support for terrorism and expanding non-proliferation sanctions and designations.**

To date, the administration has refused to impose terrorism sanctions against the Revolutionary Guards by either designating them under Executive Order 13224 or by declaring the entity to be a Foreign Terrorist Organization. If the administration refuses to designate the IRGC for terrorism, Congress should impose the same penalties provided under the FTO designation or

<sup>176</sup> National Defense Authorization Act for Fiscal Year 2012, Pub. L. 112-81, U.S.C. § 1245, page 351. ([https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ndaa\\_publaw.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ndaa_publaw.pdf))

<sup>177</sup> U.S. Department of the Treasury, Office of Foreign Assets Control, "Iranian Transactions Regulations," *Federal Register*, November 10, 2008. (<https://www.gpo.gov/fdsys/pkg/FR-2008-11-10/pdf/E8-26642.pdf>)

Executive Order 13224. These sanctions will reinforce existing secondary sanctions against companies engaged in business with IRGC companies. This legislation would provide another warning to foreign companies contemplating illicit business in Iran.

In the missile arena, numerous companies owned or controlled by the IRGC and MODAFI and high-ranking Iranian officials involved in the program have not been sanctioned. Congress should require the administration to provide a list of all of the individuals and entities involved in Tehran's ballistic missile development. The Government Accountability Office (GAO) or a similar governmental or quasi-government body should verify this list and add any additional persons or entities not identified by Treasury. Congress should require Treasury to add all of those identified on this list to the Specially Designated Nationals list under its counter-proliferation authorities. These should also include any entities owned or controlled by designated entities.

**3. Require a) updated reporting on IRGC penetration in sectors of the Iranian economy and b) reporting on the sectors involved in Iran's ballistic missile development.**

The Iran Freedom and Counter-Proliferation Act of 2012 requires the president to provide a report to Congress every 180 days on "which sectors of the economy of Iran are controlled directly or indirectly by Iran's Revolutionary Guard Corps."<sup>178</sup> Congress can update this reporting requirement so that the president must provide not only an assessment of which sectors are controlled by the IRGC but also a determination of the nature and extent of the IRGC's penetration into key sectors of Iran's economy. This report should include an analysis of the contribution of the most significant sectors to Iran's GDP, a list of the largest companies in that sector and their links to the Revolutionary Guards (whether or not they meet the ownership or IRGC Watch List thresholds). The report should also provide a qualitative and quantitative assessment of the IRGC's involvement in each sector. Congress should create sector-based sanctions targeting any sector of the Iranian economy with a significant IRGC presence.

Congress also should require a similar report on which sectors of Iran's economy are contributing directly or indirectly to the development of the country's ballistic missile program. The report should also list all foreign investors in the sectors and all foreign persons engaging in business with these sectors. FDD's research has revealed that metallurgy and mining; chemicals, petrochemicals, and energy; construction; automotive; and electronic, telecommunication, and computer science sectors are involved in Iran's ballistic missile program.<sup>179</sup> These sectors are an appropriate starting point for a government study. Congress can then authorize sanctions on sectors identified in the study. These sanctions could build on the precedent that Congress and Treasury have set of targeting sectors connected to Iran's nuclear program.

<sup>178</sup> National Defense Authorization Act for Fiscal Year 2013, Pub. L. 112-239, 126 Stat. 1632, codified as amended at 112 U.S.C. § 1245. ([https://www.treasury.gov/resource-center/sanctions/Programs/Documents/pl112\\_239.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/pl112_239.pdf))

<sup>179</sup> Saeed Ghasseminejad, "Iran's Ballistic Missile Program and Economic Sanctions," *Foundation for Defense of Democracies*, March 17, 2016. ([http://www.defenddemocracy.org/content/uploads/documents/Ballistic\\_Missile\\_Sanctions.pdf](http://www.defenddemocracy.org/content/uploads/documents/Ballistic_Missile_Sanctions.pdf))

**4. Require the administration to report on Iran's deceptive conduct and illicit activities as well as the role of the IRGC and other rogue actors in Iran's networks.**

As Iran engages with FATF and undergoes evaluations by this global standards body, Tehran will use this process to further the narrative that it is a responsible global actor. Congress should counter the Iranian narrative and explain to markets the ongoing compliance and business risks involved in transactions with Iran. Congress should expose Iran's ongoing deceptive conduct and illicit activities to build on the already-existing market concerns of doing business with Iran. Congress should underscore that responsible actors should keep Iran at arm's length unless, and until, Iran's behavior becomes conducive to effective risk management. Specifically, Congress should require the administration to provide detailed reporting on Iran's deceptive conduct and illicit activities. In addition to the reports mentioned in the previous recommendation, these reports should focus on exposing Iran's shadow networks and the role of the IRGC and other designated Iranian actors in "legitimate" businesses.

**5. Require the U.S. Treasury to create an IRGC Watch List.**

Congress should consider a legislative requirement that Treasury create an "IRGC Watch List" of entities that do not meet the threshold for designation but have demonstrable connections to the IRGC. The list could be maintained by Treasury or another government agency such as the GAO that can evaluate public and classified information on companies that may be used as fronts for the IRGC. As the IRGC continues to evolve and its influence and control in the Iranian economy becomes increasingly sophisticated, enforcement must also evolve. The criteria for inclusion on the IRGC Watch List should be flexible to account for the IRGC's evolving use of deceptive business practices.

The exposure of the links between Iranian companies and the Revolutionary Guards can still discourage business ties and protect the unwitting complicity of foreign companies in the IRGC's illicit behavior. Exposing the links between the IRGC and seemingly legitimate Iranian enterprises can go a long way to reducing the IRGC's ability to fund its illegal activities. This Watch List would also be a critical resource for risk compliance officers who want to limit their company's exposure to bad actors. In their open source research, my colleagues Emanuele Ottolenghi and Saeed Ghasseminejad have identified about 230 companies over which the IRGC exercises significant influence either through equity shares or positions on the board of directors.<sup>180</sup>

**6. Require the U.S. Treasury to designate companies with IRGC or MODAFI beneficial ownership.**

The majority equity stake threshold for designation as owned or controlled by a designated entity should be re-examined. Currently, Treasury uses the 50-percent threshold to determine IRGC

<sup>180</sup> Data available upon request; Emanuele Ottolenghi, "The Iran Nuclear Deal and its Impact on Iran's Islamic Revolutionary Guards Corps, Appendix I and II." *Testimony before the House Foreign Affairs Middle East and North Africa Subcommittee*, September 17, 2015. (<http://docs.house.gov/meetings/FA/FA13/20150917/103958/HHRG-114-FA13-Wstate-OttolenghiE-20150917-SD001.pdf>)

ownership (or ownership by any other designated entity); however a 25-percent threshold would better reflect global standards and Treasury's own recommendations.<sup>181</sup> Just last week, Treasury announced the final rule on customer due diligence and proposed beneficial ownership legislation. The rule requires financial institutions in the United States to "identify and verify the identity of any individual who owns 25 percent or more of a legal entity, and an individual who controls the legal entity."<sup>182</sup> Congress should require the Treasury Department to lower the threshold for designation to the 25-percent beneficial ownership threshold rather than majority ownership and include "board of directors' criteria." The latter criteria takes into account not only equity shares but also seats on the board of directors or an ability "to otherwise control the actions, policies, or personnel decisions" used to determine ownership.<sup>183</sup> Under new criteria, many additional IRGC- and MODAFL- controlled entities would likely be eligible for sanctions. Lowering the threshold would likely also generate greater public scrutiny and enhanced due diligence procedures by the private sector.

**7. Require reporting to the Securities and Exchange Commission regarding any transactions with IRGC Watch List companies or joint ventures with IRGC entities.**

The Iran Threat Reduction and Syria Human Rights Act of 2012 requires companies publicly traded in the U.S. to file reports with the Securities and Exchange Commission (SEC) that include any transactions or dealings with sanctioned entities or the government of Iran unless the company received specific authorization from the U.S. government.<sup>184</sup> To address the IRGC's role in Iran's economy, Congress can amend this report to require companies to include: 1) any business in sectors with significant IRGC penetration; 2) any joint ventures with public or private Iranian companies (as even so-called private companies are often heavily influenced or controlled by the IRGC); 3) any transactions with companies on the IRGC Watch List; and 4) any transactions with the sectors connected to Iran's ballistic missile program.

Congress should mandate that any company that does not provide timely and accurate reports – and does not amend previous reports when new information comes to light about potential IRGC-linked partners – would be penalized.

<sup>181</sup> Financial Action Task Force, "International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation," February 2012, page 60. ([http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF\\_Recommendations.pdf](http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf)); U.S. Department of the Treasury, "Treasury Issues Proposed Rules to Enhance Financial Transparency," July 30, 2014. (<http://www.treasury.gov/press-center/press-releases/Pages/i12595.aspx>); Samuel Rubinfeld, "Proposed Rule to Force Banks to Identify Beneficial Owners," *The Wall Street Journal*, July 30, 2014. (<http://blogs.wsj.com/riskandcompliance/2014/07/30/u-s-treasury-proposes-rule-forcing-banks-to-identify-beneficial-owners/>)

<sup>182</sup> U.S. Department of the Treasury, Press Release, "Treasury Announces Key Regulations and Legislation to Counter Money Laundering and Corruption, Combat Tax Evasion," May 5, 2016. (<https://www.treasury.gov/press-center/press-releases/Pages/i10451.aspx>)

<sup>183</sup> For example, see Legal Information Institute, "U.S. Code § 8725 - Liability of Parent Companies for Violations of Sanctions by Foreign Subsidiaries," *Cornell University Law School*, accessed October 29, 2015. (<https://www.law.cornell.edu/uscode/text/22/8725>)

<sup>184</sup> Iran Threat Reduction and Syria Human Rights Act of 2012, 112 U.S.C. § 219. ([https://www.treasury.gov/resource-center/sanctions/Documents/ir\\_1905\\_pl\\_112\\_158.pdf](https://www.treasury.gov/resource-center/sanctions/Documents/ir_1905_pl_112_158.pdf))

**8. Require Treasury to explain the qualitative and quantitative effects of individual designations against Iranian entities.**

In the wake of Iran's October and November 2015 ballistic missile tests in violation of UN Security Council resolutions,<sup>185</sup> the U.S. Treasury designated 11 individuals and companies involved in a proliferation network.<sup>186</sup> In March, Treasury designated another two entities related to Iran's ballistic missile program.<sup>187</sup> These designations have a minimal tangible impact on Iran's ballistic missile development as Iran will likely simply reconstitute procurement networks using new front companies and middlemen and establish new subsidiaries. To understand the effects of individual designations, Congress should require the Treasury Department to provide a qualitative and quantitative explanation of the projected effects. This assessment would include an economic analysis as well as a policy assessment about whether or not the designation is likely to change Iran's calculations about specific actions.

**9. Expand human rights sanctions by imposing sanctions on Iranian state organs responsible for institutionalized human rights abuses and by linking sanctions concessions to improvements in human rights conditions.**

With a few exceptions, U.S. sanctions against Iranian human rights abusers have primarily targeted individuals. Congress should expand these sanctions and impose human rights sanctions on state organs responsible for institutionalized human rights abuses, as well as any and all individuals who work for these state organs. Washington should target the people, companies, and sources of revenue that facilitate and embolden Iran's vast system of domestic repression and single out the institutions, such as prisons or military bases, at which abuses like torture and arbitrary detention occur and the Iranians responsible for those abuses. Many of these institutions, including the notorious Evin prison's Ward 2A for political prisoners,<sup>188</sup> are controlled by the Revolutionary Guards.

Congress should also consider the creation of a new authority to designate an entity or potentially an entire country as a "jurisdiction of human rights concern." Using the model of Section 311 of the USA PATRIOT Act, the finding would carry regulatory implications in the United States but would also likely have an effect on risk calculations by foreign companies, even if they are not directly affected by the finding. The goal of this policy would be to

<sup>185</sup> Sam Wilkins, "Iran tests new precision-guided ballistic missile," *Reuters*, October 11, 2015. (<http://www.reuters.com/article/2015/10/11/us-iran-military-missiles-idUSKCN0S505L20151011>); "U.S.: Iran missile test 'clear violation' of U.N. sanctions," *CBS*, October 16, 2015. (<http://www.cbsnews.com/news/iran-ballistic-missile-test-in-sanctions-us-ambassador-samantha-power/>); Bradley Klapper, "US official says Iran tested ballistic missile last month, at least 2nd time since nuke deal," *Associated Press*, December 8, 2015. (<http://www.usnews.com/news/politics/articles/2015/12/08/us-official-iran-tested-ballistic-missile-last-month>); Louis Charbonneau, "Iran's October missile test violated U.N. ban: expert panel," *Reuters*, December 16, 2015. (<http://www.reuters.com/article/us-iran-missiles-in-exclusive-idUSKBN0TY1T920151216>)

<sup>186</sup> U.S. Department of the Treasury, Press Release, "Treasury Sanctions Those Involved in Ballistic Missile Procurement for Iran," January 17, 2016. (<https://www.treasury.gov/press-center/press-releases/Pages/j10322.aspx>)

<sup>187</sup> U.S. Department of the Treasury, Press Release, "Treasury Sanctions Supporters of Iran's Ballistic Missile Program and Terrorism-Designated Mahan Air," March 24, 2016. (<https://www.treasury.gov/press-center/press-releases/Pages/j10395.aspx>)

<sup>188</sup> "A Tour of Ward 2A of Evin Prison," *Iran Human Rights Documentation Center*, accessed February 17, 2016. (<http://www.iranhrdc.org/english/news/features/100000578-a-tour-of-ward-2a-of-evin-prison.html>)

encourage the private sector, including foreign companies, to sever ties with those institutions that perpetrate human rights abuses. It could also prompt the private sector to end trade relations with other entities in Iran that have been publicly accused of committing abuses but have not yet been sanctioned.

The United States should also build on its global leadership regarding Iranian human rights issues by establishing the importance of linking any further nuclear-related concessions to Iran with an improvement in Tehran's atrocious human rights record. During the Cold War, Western negotiators linked certain arms control agreements with the Soviet Union to demands for Moscow's adherence to human rights under the civil rights portion of the 1975 Helsinki Accords. The JCPOA did not require Tehran to make any improvements in its human rights record. This is a mistake: It will be much easier to monitor Iran's nuclear program in a relatively freer and more transparent Iran.

**10. Target corruption and kleptocracy for reasons related to terrorism and human rights issues.**

The Revolutionary Guards and the ruling elite (including the Supreme Leader) have enriched themselves at the expense of the Iranian people. But Washington should be a leader on anti-corruption issues and work with its international partners to fight global corruption. The United States can lead efforts to develop new policy tools, including financial sanctions tools, to combat corruption in Iran as well as in other authoritarian governments. Congress can help develop a mechanism to facilitate the sharing of intelligence between international partners on illicit or suspicious financial activities to protect the integrity of the global financial system and prevent corrupt officials from using the world's banking systems.

Congress should consider legislation targeting corruption in all state sponsors of terrorism. The link between the funds generated from corruption and the sponsorship of terrorism by these regimes is well documented. The pending Global Magnitsky Human Rights Accountability Act is one mechanism which could be used to target corruption in Iran. That legislation authorizes sanctions not only against human rights violators but also against government officials and their associates responsible for or complicit in significant corruption.<sup>189</sup>

Focusing on corruption can be an effective way to promote human rights because it undercuts arguments that dictators often use to try to isolate and persecute human rights activists. Authoritarian leaders paint civil society groups as foreign agents, pass laws to regulate these groups, and cast themselves as defenders of traditional values against a decadent and deviant West. Dictators can muster excuses for shooting demonstrators, arresting political enemies, or censoring the Internet, but they have a more difficult time using ideological, cultural, or nationalist argument to justify thievery. Most ordinary people believe that international action against "crooks and thieves" in their countries is legitimate. Targeting corrupt individuals and institutions will not only impose economic costs, but it will also demonstrate to the Iranian people that the United States and the international community oppose the enrichment of oligarchs at the expense of ordinary people.

<sup>189</sup> Global Magnitsky Human Rights Accountability Act, S.284, 114<sup>th</sup> Congress (2015). (<https://www.congress.gov/bills/114/4th-congress/senate-bill/284>)

Mark Dubowitz

May 12, 2016

*Conclusion*

Congress is well positioned to assist the current and future administration in targeting the tide of Iranian aggression in the region and its repression at home. Over the next decade, Iran can faithfully comply with the JCPOA and yet emerge as a threshold nuclear power with an industrial-size, advanced centrifuge-powered enrichment program, an ICBM program, access to advanced heavy weaponry, and a more powerful economy increasingly immunized against Western sanctions. To prepare for that day, the United States needs a comprehensive strategy to sharpen its tools of economic coercion as one element of a comprehensive strategy. I hope that these recommendations will assist in strengthening those tools.

Thank you for the opportunity to testify today. I look forward to your questions.



Chairman ROYCE. Thank you, Mr. Dubowitz.  
Now, Ms. Rosenberg.

**STATEMENT OF MS. ELIZABETH ROSENBERG, SENIOR FELLOW  
AND DIRECTOR, ENERGY, ECONOMICS AND SECURITY PRO-  
GRAM, CENTER FOR A NEW AMERICAN SECURITY**

Ms. ROSENBERG. Thank you, Chairman Royce, Ranking Member Engel, and distinguished members of the committee. I appreciate the opportunity to testify before you today on the risks of economic engagement with Iran.

The Iran sanctions regime was and remains the most comprehensive program of U.S. and international sanctions commensurate with the grave security concerns regarding Iran's nuclear proliferation activities, its regional destabilization, ballistic missile programs, support for terrorism, and abuse of human rights.

Many U.S. and international sanctions on Iran were waived on implementation day, the milestone of the nuclear deal recognizing Iran's completion of its major initial nuclear commitments. However, the United States maintains sanctions authorities relevant to Iran as part of the deal as well as a wide array of sanctions on Iran outside the scope of the deal, as mentioned by my co-panelists and yourself as well. The existing architecture of Iran sanctions remains very powerful and affords an enormous amount of leverage to pursue Iranian security provocations and destabilization.

Following implementation day, there are various reasons why Iran will expand its links to the international financial system only very slowly. The cumbersome unraveling of nuclear sanctions restrictions at banks and companies around the world in order to engage in now permitted business with Iran is only one factor. Remaining sanctions of Iran for its terrorist and ballistic missile activities are a deterrent to those who would contemplate business with Iran, along with prudential concerns related to a history of corruption, a lack of transparency and maneuverability for foreign firms in Iran's financial system.

Beyond remaining sanctions and Iran's self-imposed financial troubles, its escalating regional provocations and continued aggression through proxies make the specter of future confrontation with its neighbors or the United States a real possibility. Iran has the largest and most lethal ballistic missile arsenal in the Middle East and has stepped up its missile tests in recent months, again as has been mentioned. It has also expanded its material support to the Houthis in Yemen and continues to support other proxies that destabilize the region, including President Assad and Hezbollah.

For reasons of political and security risk, the existing sanctions, and the serious financial challenges associated with attempting business in Iran, many global banks have made it clear that they do not plan on doing business with Iran. The banks and companies that will attempt it are generally moving slowly with contracts and deals, and they are biding their time to discover what market pitfalls or potential future sanctions may mean for their business. And furthermore, many of the banks that are doing so are regional banks with relatively smaller capacity to handle trade and structured finance, and retail services.

U.S. policymakers and European counterparts and others should publicly identify Iran's self-imposed financial problems. Doing so will make it clear to Iran and the global community that Iran bears significant responsibility for improving its own economic conditions and that the removal of sanctions under the nuclear deal cannot independently deliver a windfall to Iran.

The strongest and most credible strategy to highlight Iran's need to improve its financial transparency and accountability is for technical experts to point out the problems in the anti-money laundering, counterterrorist financing, counter-corruption, and prudential financial stability domains that Iran must address. Additionally, such experts should be encouraged and allowed, by license if they are U.S. persons, to offer technical guidance to Iranian financial institutions to conduct this work. This will support U.S. policy interests in achieving greater transparency in the Iranian financial industry, and it will clearly demonstrate that the United States is not the roadblock to Iran's economic reform. It could also help to reinvigorate private business in Iran to better challenge the insidious control of the IRGC over significant parts of the Iranian economy.

In pursuing Iran sanctions now and in the future, U.S. policymakers must prioritize the important work of isolating Iranian entities engaged in dangerous and illicit behavior through aggressive implementation of existing sanctions authorities, and they must balance this with educational outreach to highlight Iran's self-imposed financial problems and implementation of strategies to facilitate and encourage remediation of these problems by U.S. or foreign experts.

Thank you for the opportunity to testify, and I look forward to answering any questions you may have.

[The prepared statement of Ms. Rosenberg follows:]



Center for a  
New American  
Security

May 12, 2016

Testimony before the House Committee on Foreign Affairs  
Terrorism, Missiles and Corruption:  
The Risks of Economic Engagement with Iran

Elizabeth Rosenberg, Senior Fellow and Director  
Energy, Economics, and Security Program  
Center for a New American Security

Chairman Royce, Ranking Member Engel, and distinguished members of the Committee, thank you for the opportunity to testify today on the risks of economic engagement with Iran.

Sanctions on Iran created the pressure necessary to compel Iran to agree to a deal with the international community last year. In exchange for economic relief, the Iranian government agreed to curb its nuclear weapons capability. The effectiveness of Iran sanctions can be traced directly to the diligence and creativity of policymakers in Congress and in this administration, as well as the previous one. Specifically, the leadership of U.S. lawmakers and executive branch implementation and enforcement officials helped to craft a coherent international message regarding Iran's threatening proliferation behavior, a multilateral coalition to isolate Iran diplomatically and financially, and the collective financial leverage so critical to delivering the Iran nuclear deal. This deal was a major step forward in proliferation security in the Middle East and I applaud the work of this Committee for your important role in facilitating effective nuclear diplomacy.

The Iran sanctions regime was, and remains, the most comprehensive program of U.S. and international sanctions, commensurate with the grave security concerns regarding Iran's nuclear proliferation activities, as well as its ongoing regional destabilization, ballistic missile program, support for terrorism, and abuse of human rights. Many U.S. and international sanctions on Iran were waived on Implementation Day, the milestone of the nuclear deal recognizing Iran's completion of its major initial commitments to ship out nearly all of its enriched uranium, disassemble thousands of centrifuges, and submit to a much more comprehensive inspections regime. However, the United States maintains sanctions authorities relevant to Iran as part of the deal, as well as a wide array of sanctions on Iran outside the scope of the deal, including those that bar U.S. companies and citizens from doing business with Iran. The existing architecture of Iran sanctions remains very powerful and affords an enormous amount of leverage to U.S. policymakers to pursue Iranian security provocations and destabilization.

**Unwinding Nuclear Sanctions Under the Iran Deal**

On Implementation Day the removal of many EU sanctions and the exercise of U.S. sanctions waivers and issuance of licenses permitted Iran to expand its oil sales and access \$100 billion in

*Bold*

*Innovative*

frozen assets.<sup>1</sup> Additionally, the United States, the EU, and the UN together removed hundreds of designated Iranian entities from sanctions lists, including Iranian banks that then gained access to European financial institutions. Iranian institutions have been able to expand their international ties since January, though this expansion is far from the tidal wave of new economic activity that many hoped for or feared. Iran has established new oil trading contracts in Europe<sup>2</sup> and expanded oil deliveries to Asia.<sup>3</sup> Several Iranian banks are reestablishing branch licenses and correspondent relationships in Europe and are renewing their ties with Asian counterparts.<sup>4</sup> Additionally, Iran's charm offensive to market new deals for trade and investment, including in areas such as automobiles and airplanes, have met some success internationally.<sup>5</sup>

There are various reasons why Iran will expand its links to the international financial system slowly, however. The cumbersome unraveling of nuclear sanctions restrictions at banks and companies around the world in order to engage in now-permitted business with Iran is only one factor. Remaining sanctions on Iran for its terrorist and ballistic missile activities are a deterrent to those who would contemplate business with Iran, along with prudential concerns related to a history of corruption, and a lack of transparency and maneuverability for foreign firms in Iran's financial system. Beneficial ownership information for Iranian legal entities is notoriously unavailable and confusing, and there is a lack of confidence in Iranian due process mechanisms for foreign entities conducting business there. Iranian banks also lag behind many emerging market peers in compliance with global tax, financial reporting, capital requirements, and anti-money laundering standards, a fact tacitly acknowledged by Iranian financial overseers.<sup>6</sup> The Financial Action Task Force has pointed out risks associated with Iran's economy in grave terms,<sup>7</sup> Transparency International ranks Iran 130 out of 168 on their corruption index,<sup>8</sup> the World Bank's Ease of Doing Business Ranking puts Iran at number 118 out of 189,<sup>9</sup> and the International Monetary Fund has recently called attention to

<sup>1</sup> "Written Testimony of Adam J. Szubin, Acting Under Secretary of Treasury for Terrorism and Financial Intelligence United States Senate Committee on Banking, Housing, and Urban Affairs," U.S. Department of the Treasury, press release, August 5, 2015, <https://www.treasury.gov/press-center/press-releases/Pages/tf0144.aspx>.

<sup>2</sup> "Italy's Renzi Signs Potentially Huge Business Deals in Iran," Reuters, April 12, 2016,

<http://www.reuters.com/article/us-iran-italy-idUSKCN0X9112>.

<sup>3</sup> Chen Aizhu, "Exclusive: Iran Renews Oil Contracts with China, Taps New Buyers," Reuters, December 3, 2015, <http://www.reuters.com/article/us-china-iran-oil-idUSKBN0TM0CN20151203>.

<sup>4</sup> Martin Arnold, "British Regulators Help Iranian Banks Come in From the Cold," *Financial Times*, January 31, 2016, <http://www.ft.com/intl/cms/s/0/54144ec2-c692-11e5-b3b1-7b2481276e45.html#axzz45oJdkOv>.

<sup>5</sup> Mehmoosh Khalaj and Michael Stothard, "Peacock Agrees Deal to Revive Iran Partnership," *Financial Times*, February 7, 2016, <http://www.ft.com/intl/cms/s/0/71b1acd8-cdbb-11e5-831d-0917778e7377.html#axzzA5oJdkOv>.

<sup>6</sup> Barbara Slavin, "Central Bank governor: Iran expects access to US financial system," *Al-Monitor*, April 15, 2016, <http://www.al-monitor.com/pulse/originals/2016/04/iran-expects-limited-access-us-financial-system.html>; Patrick Clawson, "Iran Locks Itself Out of the International Financial System While Blaming Washington," The Washington Institute, Policywatch 2600, April 5, 2016, <http://www.washingtoninstitute.org/policy-analysis/view/iran-locks-itself-out-of-the-international-financial-system-while-blaming-w>.

<sup>7</sup> "FATF Public Statement – 19 February 2016," FATF, High-risk and non-cooperative jurisdictions, February 19, 2016, <http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/public-statement-february-2016.html>.

<sup>8</sup> "Corruption by country / territory: Iran," Transparency International, accessed April 14, 2016, <https://www.transparency.org/country/#IRN>.

<sup>9</sup> "Ease of doing business index," World Bank, Accessed April 14, 2016, <http://data.worldbank.org/indicator/IC.BUS.EASE.XQ>.

Iran's troubled banking system.<sup>10</sup> These various factors represent tremendous impediments to foreign investment in Iran and the creation of new commerce for the Iranian regime and people.

Beyond Iran's self-imposed financial troubles, its escalating regional provocations and continued aggression through proxies make the specter of future confrontation with its neighbors or the United States a real possibility. Iran has the largest, most lethal ballistic missile arsenal in the Middle East and has stepped up missile tests in recent months.<sup>11</sup> It has also expanded its material support to the Houthis in Yemen and continues to support other proxies that destabilize the region, including Hezbollah. Iran's aggressive rhetoric and flagrant disregard for the United Nations' restrictions on ballistic missile activity is a red flag to potential partners, who are already wary of the reckless behavior of Iran's revolutionary leaders.

For reasons of political and security risk, existing sanctions, and the serious financial challenges associated with attempting business with Iran, many global banks have made it clear that they do not plan on doing business with Iran. The banks and companies that will attempt it are generally moving slowly with actual contracts and deals, biding time to discover what market pitfalls or potential future sanctions may mean for their business. Furthermore, many of these banks are smaller, regional banks with a relatively smaller capacity to handle trade and structured finance, and retail services. They may also be more concentrated in Asia, with more limited exposure to the U.S. financial system than their European counterparts.

#### Overseeing the Nuclear Deal and Addressing Non-nuclear Concerns with Iran

The core technical work of overseeing the Iranian deal falls to nuclear experts involved in compliance and verification activities. The International Atomic Energy Agency (IAEA), the lead institution on this effort, has so far given Iran fair marks for upholding its nuclear commitments under the deal. In February, it issued its first monitoring report following Implementation Day, raising no concerns about Iran's activities.<sup>12</sup>

For sanctions officials, overseeing the nuclear deal involves two primary lines of effort. The first is education and outreach to the global community to clarify what new business activities are permitted under the nuclear deal and what remain off limits pursuant to existing sanctions. This educational initiative is, by necessity, ongoing, given the dynamic nature of sanctions and evasion techniques that designated entities may pursue. The U.S. government has sent delegations around the world in this effort, but much more must be done to address confusion within the global private sector about what business is now allowed with Iran and the appropriate controls that must be in place to prevent sanctions violations in the future.

<sup>10</sup> "Islamic Republic of Iran – 2015 Article IV Consultation – Press Release; Staff Report; and Statement by the Executive Director for the Islamic Republic of Iran," International Monetary Fund, IMF Country Report No. 15/349, December 2015, <http://www.imf.org/external/pubs/ft/scr/2015/cr15349.pdf>.

<sup>11</sup> Kambiz Foroohar, "U.S. Frowns on New Iran Sanctions by Congress After Missile Test," Bloomberg, April 13, 2016, <http://www.bloomberg.com/news/articles/2016-04-13/u-s-argues-against-more-iranian-sanctions-after-missile-tests>.

<sup>12</sup> "Verification and Monitoring in the Islamic Republic of Iran in light of United Nations Security Council Resolution 2231 (2015)," IAEA, February 26, 2016, <https://www.iaea.org/sites/default/files/gov-2016-8-derestricted.pdf>.

The second primary effort for sanctions officials overseeing the nuclear deal is ensuring that sanctions authorities are primed for use, so that the United States and international allies are able to re-impose sanctions in part or in whole if Iran violates its nuclear commitments. Keeping authorities up to date means the reauthorization of the Iran Sanctions Act before it expires at the end of the year. Additionally, it means readying potential additional contingency measures, including new approaches to sanctions enforcement or possible new sanctions authorities, if Iran fails to uphold its commitments under the nuclear deal.

Using sanctions to address non-nuclear concerns with Iran is distinct from oversight of the nuclear deal. Unique authorities exist for sanctioning Iran's support for terrorism and use of ballistic missiles, as well as its human rights abuses. The Treasury Department has announced scores of designations under these authorities over the years, including a number of designations during negotiations on the nuclear deal. In recent months the Obama administration announced sanctions on Iran for its ballistic missile procurement activities and tests, including new sanctions on Implementation Day.<sup>13</sup> It also announced designations highlighting Iran's support for terrorism, including through designations of entities and individuals that support Mahan Air, in March, and Hezbollah, in January and April.<sup>14</sup> This is important work and I urge the administration to expand its sanctions implementation and enforcement in these areas. This is particularly important with regard to the work of exposing and targeting the insidious and dangerous activities of the IRGC within and beyond the borders of Iran, including exposing the financial activity and holdings of the IRGC, its agents and instrumentalities, and Iran's regional terrorist proxies, whenever feasible. The U.S. government should, at a minimum, designate the IRGC under its terrorism authorities.

Beyond designating more targets, sanctions officials in the administration should pursue non-nuclear concerns with Iran by urging foreign counterparts to match U.S. sanctions measures related to Iran's support for terrorism and use of ballistic missiles, as well as its human rights abuses. This includes outreach to European officials in the position to enhance EU sanctions lists to include more IRGC targets and entities involved in Iran's ballistic missile program and support for terrorism. As a specific example, outreach to the Europeans should include encouraging EU authorities to use sanctions restrictions to deny access to European airports for Mahan Air, given its involvement with Iranian support for terrorism. Expanding transatlantic unity on sanctions targeting Iran's continued security provocations and destabilizing regional role will send an important message to Iran: the international community, led by the United States and Europe, broadly condemns Iran's threatening behavior and is expanding its campaign to expose, interdict, and counter it through security and diplomatic means.

<sup>13</sup> "Treasury Sanctions Those Involved in Ballistic Missile Procurement for Iran," U.S. Department of the Treasury, press release, January 17, 2016, <https://www.treasury.gov/press-center/press-releases/Pages/j10322.aspx>.

<sup>14</sup> "Treasury Sanctions Supporters of Iran's Ballistic Missile Program and Terrorism-Designated Mahan Air," U.S. Department of the Treasury, press release, March 24, 2016; "Treasury Sanctions Key Hezbollah Money Laundering Network," U.S. Department of the Treasury, press release, January 28, 2016, <https://www.treasury.gov/press-center/press-releases/Pages/j10331.aspx>; Publication of the Hizballah International Financing Prevention Act of 2015 Related Sanctions Regulations; Counter Terrorism Designations Updates; Syria Designations Updates," U.S. Department of the Treasury, April 15, 2016, <https://www.treasury.gov/resource-center/sanctions/OIAC-Enforcement/Pages/20160415.aspx>.

Alongside this additional sanctions implementation and coordination activity, U.S. policymakers and their European counterparts should also specifically and publicly identify Iran's self-imposed financial problems. Doing so will make clear to Iran and the global community that Iran bears significant responsibility for improving its economic conditions, and that the removal of sanctions under the nuclear deal cannot independently deliver a windfall to Iran. The strongest and most credible strategy to highlight Iran's need to improve its financial transparency and accountability is for technical experts inside the U.S. government, as well as outside at institutions such as the International Monetary Fund, the Financial Action Task Force, Transparency International and elsewhere, to point out the technical problems in the anti-money laundering, counter-terrorist financing, and counter-corruption domains that Iran must address. Additionally, such experts should be encouraged and allowed, by license if they are U.S. persons, to offer technical guidance to Iranian financial institutions to conduct this work. This will support U.S. policy interests in achieving greater transparency in the Iranian financial industry, and it will clearly demonstrate that the United States is not the roadblock to economic reform. It could help to reinvigorate private business in Iran to better challenge the insidious control of the IRGC over significant parts of the Iranian economy. Also, it could allow Iran to reap the economic benefits of the nuclear deal thereby strengthening this important proliferation security accomplishment.

#### A Strategy for Powerful, Sustainable Sanctions on Iran

In pursuing Iran sanctions now and in the future, U.S. policymakers must prioritize both the important work of isolating Iranian entities engaged in dangerous and illicit behavior, as well as a methodological approach to sanctions as a policy tool that supports sanctions' continued cogency and sustainability. Given that Iran sanctions authorities are already extraordinarily extensive and powerful, this means focusing on aggressively using existing authorities and avoiding the creation of new authorities that might sow confusion or undermine existing ones.

There are three particular hazards that U.S. sanctions policy officials must avoid. First, policymakers must refrain from the re-imposition of sanctions waived under the nuclear deal. Parties to the Iran deal agreed to refrain from re-imposing sanctions waived under the accord.<sup>15</sup> Re-imposing these sanctions would be seen at best as undermining confidence and adherence to the deal and at worst as contravention and grounds for throwing out the deal, a significant set back to proliferation security. Second, policymakers must avoid creating new standards, terminology, or timelines that do not line up with existing statutes and create significant confusion for those working to implement and abide by sanctions. The establishment of mismatched standards or terminology may be accidental, but can be difficult to correct and unintentionally harmful to the private sector or policy interests.

The third hazard that sanctions policymakers must avoid is one of strategic and wide-ranging national security significance. Policymakers must be careful not to put in place new sanctions that so significantly alter international financial flows and banking activities that they undermine the attractiveness or primacy of the U.S. financial system and the dollar as a reserve currency. If powerful new sanctions cause companies and banks to leave U.S. jurisdiction out of a desire to avoid confusing, cumbersome, expensive, and threatening sanctions restrictions, then U.S. security and intelligence leaders will have less insight into illicit financial flows and will face a less transparent

<sup>15</sup> *Joint Comprehensive Plan of Action*, July 14, 2015, 13-14.

international financial system. Additionally, the reach and leverage of U.S. sanctions will shrink and this critical security tool will be dulled. Treasury Secretary Lew has warned against the overuse of sanctions multiple times in recent weeks, urging his colleagues and successors in the sanctions arena not to use them lightly as “they can strain diplomatic relationships, introduce instability into the global economy, and impose real costs on companies here and abroad. And of course they carry a risk of retaliation.”<sup>16</sup> Policymakers could diminish the power of the U.S. financial system with zealous overuse of the tool.

Current policy proposals to create new sanctions restrictions on Iran’s use of the dollar in all financial transactions may be an instance of flirtation with the hazards outlined above. It is not the most effective way to draw attention to Iran’s significant illicit activities of concern, and it adds little additional bite to U.S. sanctions on Iran while lending strength to the argument that the United States seeks to undermine the nuclear deal by making it difficult for Iran to reap the economic benefit of its bargain. Furthermore, it may undermine the strength of the U.S. financial system over the longer term. As background, in 2008 U.S. policymakers barred so-called U-Turn transactions for Iranian entities – the transfer of funds by a foreign bank through a U.S. financial institution to a second foreign bank for the benefit of an Iranian bank. Since that time, Iran has been able to use the U.S. dollar if a transaction does not touch a U.S. bank or citizen. In practice this means that Iranian banks or companies cannot deal in dollars for any transaction of significant size or for any significant number of transactions, as any transaction (or series of transactions) of scale must be cleared through a U.S. financial institution and would therefore violate the U-Turn rule. In simplest terms, Iran is virtually barred from use of the U.S. financial system because of the U-Turn prohibition. In response to recent rumors that the administration might be considering loosening this prohibition, President Obama made clear that U.S. has no plans to do so.<sup>17</sup>

The U-Turn rule is highly consequential for global financial institutions. Attempts to circumvent it have proven expensive and caused tremendous reputational damage, as shown by some of the big bank sanctions violations cases of the last decade.<sup>18</sup> The aggressive enforcement posture of U.S. financial officials in these cases has contributed to a tendency among foreign banks to aggressively avoid U.S. sanctions violations by refusing business with Iran, even when permissible under sanctions rules and when it could involve very small dollar amounts that may not need to be cleared through a U.S. financial institution. Banks’ so called de-risking behavior, which has accelerated, not abated, even as nuclear tensions with Iran have receded somewhat, underscores the inaccessibility to Iran of the U.S. financial system.

In this context, anxiety about Iranian use of the U.S. dollar may be overstated in many instances and discussion of new dollar-related sanctions can distract from the grave and urgent need to focus more

<sup>16</sup> “Remarks of Secretary Lew on the Evolution of Sanctions and Lessons for the Future at the Carnegie Endowment for International Peace,” Department of the Treasury, press release, March 30, 2016, <https://www.treasury.gov/press-center/press-releases/Pages/jl0398.aspx>; “Treasury Secretary Jacob J. Lew Remarks at Council on Foreign Relations: America and the Global Economy: The Case for U.S. Leadership,” Department of the Treasury, press release, April 11, 2016, <https://www.treasury.gov/press-center/press-releases/Pages/jl0415.aspx>

<sup>17</sup> “Press Conference by President Obama, 4/1/2016,” The White House, press release, April 1, 2016, <https://www.whitehouse.gov/the-press-office/2016/04/01/press-conference-president-obama-412016>.

<sup>18</sup> Patricia Hurtado, “BNP Paribas Pleads Guilty in U.S. to Violating Sanctions,” Bloomberg, July 9, 2014, <http://www.bloomberg.com/news/articles/2014-07-09/bnp-paribas-pleads-guilty-in-u-s-to-violating-sanctions>.



directly on Iran's terrorism and regional destabilization activities. Furthermore, such new sanctions would not serve U.S. nuclear security interests if they are construed as seeking to disable Iran's ability to use the international financial system and collapse the nuclear deal. Also, if new sanctions remove or restrict waiver authority for the President, it will make the sanctions less flexible, and less of a true bargaining chip for the administration to use with Iran to coerce policy change from Tehran. Finally, introducing a chilling new restriction on dollar activity in the financial system may cause some global banks to shrink their footprint in U.S. jurisdiction to avoid exposure to threatening penalties. Over the long term this may have negative implications for U.S. financial system strength and the reach of sanctions.

#### The Key Leadership Role for Congress on Iran Policy

Congress has a number of critical roles to play on Iran policy. A primary one is providing current and future oversight of the deal, ensuring that the IAFIA is adequately funded to sustain its nuclear inspection and verification activities in Iran. Congress should fully support the office of the Coordinator for Iran Nuclear Implementation. Additionally, lawmakers should provide sanctions investigators, implementers, and enforcement officials at the Treasury and State Departments and in the intelligence community sufficient resources to carry out their activities related to the Iran deal as well as Iranian activities beyond the scope of the deal. In addition to these resource issues, Congress should continue to play an important role in helping to conceive of and prepare for additional sanctions measures related to Iran if it breaches the nuclear deal. This includes eventual reauthorization of the Iran Sanctions Act.

Aside from sanctions measures, Congress has several other important responsibilities in the successful execution of an effective Iran policy. Through appropriations and authorizations processes it must ensure that the United States has adequate ballistic missile defense capabilities in the Middle East. It should also provide an oversight role to ensure that the United States makes available these capabilities to partners in the region and engages with them in robust partner capacity building and cooperation in counterterrorism activities and interdiction efforts to expose and halt Iran's material support to Hezbollah, the Assad regime, and the Houthis in Yemen. Congress should also expand its support to Israel, a key ally in the Middle East, in intelligence-sharing and military aid arenas.

#### Conclusion

Iran sanctions are a powerful tool in the U.S. security arsenal and have delivered successful nuclear diplomacy and a historic deal. Even while many sanctions have recently been rolled back as part of this deal, the regime is still extensive and strong. Policymakers should continue to forcefully implement sanctions on Iran to address its destabilizing regional role and support for terrorism. But they must avoid undermining the availability of sanctions by diminishing the strength and reach of the U.S. financial system. As a tool of first resort, sanctions are an essential part of the U.S. security infrastructure, and policymakers must prioritize a sustainable approach to ensure the cogency and effectiveness of sanctions as a central part of U.S. policy toward Iran in the future.

Chairman ROYCE. Thank you, Ms. Rosenberg. Thank you.

Mr. Zarate, the body that most everybody looks to when considering these issues is the Financial Action Task Force headquartered in Brussels. This is the body that is charged with countering money laundering worldwide. And they have been quite emphatic in their warnings on Iran, calling it a high risk jurisdiction.

As a matter of fact, 2 months ago, 2 months ago, the organization said it was exceptionally concerned about Iran's failure to address the risk of terrorist financing and the serious threat that this poses to the integrity of the international financial system. But yesterday, a senior Treasury official appeared to suggest Iran might receive an improved rating from FATF, saying Iran should get credit for trying to come off that list.

Is this a case of the U.S. working the refs? Are we beating up on the referee here? How would Iran get off of the FATF blacklist and do they deserve it?

Mr. ZARATE. It is a great question, Mr. Chairman. The FATF sometimes feels like a bit of a mysterious body to those who haven't seen it work from the inside. But as you said, it is the standard setting body. It is the assessment body that looks at whether or not jurisdictions are abiding by international anti-money laundering and counterterrorist financing systems. That is a technical body. And in being a technical body they look at the formulaic responses and activities of governments, whether or not they have passed anti-terrorist financing laws, whether or not they have suspicious activity reporting requirements for their financial institutions, whether or not they have regulatory bodies that are inspecting compliance systems, et cetera. So there is a very technical dimension to this.

Iran has been recalcitrant across the board. They have not engaged the FATF, they obviously don't have these kinds of laws and practices, and they clearly are a state sponsor of terror. So this is precisely why FATF for a number of years has held them to be a jurisdiction of high risk and has called on jurisdictions around the world to inform their financial institutions that Iran is highly suspect.

What Iran has figured out though, Mr. Chairman, is that this is a body that can be engaged with and is open to being engaged with, and we should, I think, be open to that as well. But the challenge here is what reforms are we asking of Iran? Are they simply paper reforms that are not meaningful and don't address the real risks behind what Iran is doing?

And I think this is going to be a challenge for FATF, because FATF, I think, wants to engage, and the U.S. Treasury wants to engage this process, but we certainly don't want to give Iran a free pass. And I don't think my former colleagues at the U.S. Treasury are going to whitewash this because they believe fundamentally in issues of financial integrity and protecting the international financial system. The real question here is will Iran game the system, and we should not allow that to happen.

Chairman ROYCE. But Mr. Zarate, Secretary Kerry is in London this morning. He and his British counterpart are meeting with the European bankers. There is a piece in the Financial Times about

how the bankers are pushing back, British major institutions saying we don't want to invest there in Iran. They spoke of bridging a gap between the political intention of the agreement and how the banks are reacting. And Secretary Kerry noted that as long as banks do their normal due diligence and know who they are dealing with then there won't be issues.

But isn't the point of the international warnings on Iran and the Treasury's designation of the entire country as a jurisdiction of "primary money laundering concern," isn't that sending the message that due diligence can't even be done in this environment because of the corruption inside of the country and the system? The IRGC is nationalized. Most of the major businesses are in the hands of the Iranian Revolutionary Guard Corps.

Mr. ZARATE. Mr. Chairman, you have it exactly right. And this is the fundamental tension in the JCPOA, which is an agreement in which we promised the reintegration of Iran into the global financial and commercial system without demanding the change in the underlying conduct that has been the basis of their financial isolation. And I think what is happening now is the delta between that strategy of financial isolation for all of the things that Iran does, from terrorist support to ballistic missiles to the nuclear program, the nuclear issues are now off the table but those other issues were not on the table.

And so the challenge here is we have a system and a set of sanctions and a set of international requirements, by the way U.S. requirements, that have become global norms. The global norms are U.S. standards that demand a change in conduct and a change in behavior and at a minimum require Iran to demonstrate that it is a legitimate actor in the system. That we can know what it is doing with its financial system, that we know the source of funds, that we understand the actors in the system.

In fact, the Treasury just this past week in the wake of the Panama Papers has put out new regulations about customer due diligence which heightens the standards around beneficial ownership and what we should know about with whom we are transacting and what we are transacting in. That goes doubly and triply for Iran.

And so I haven't seen the full remarks of the Secretary, but I would say that it is a bit dangerous to suggest that all you have to do is engage in normal due diligence when talking about Iran, its behavior, and its history of using its financial and economic system for all of the nefarious conduct that they have been sanctioned for.

Chairman ROYCE. Well, let me go to Mr. Dubowitz for a short answer here too, because I mentioned in my opening statement that we have had some success for now in pushing back on the administration's plans to allow Iran access to the U.S. dollar. But what is Iran's goal in getting access to the dollar? Is it the ease of doing business or is Iran seeking to get the stamp of approval in international financial markets without making the changes to its banking practices or underlying behavior which is transferring money directly into its missile program, the terrorism it funds, and so forth?

Mr. DUBOWITZ. Well, Chairman Royce, it is both. I mean, Iran wants access to the U.S. dollar because the U.S. dollar is the global currency. It is responsible for something like 87 percent of global trade, 60 percent of foreign exchange reserves, and 40 percent of international financial transactions. On the other hand, Iran was actually getting paid for its oil under sanctions using euros and yens. So it is possible for Iran to actually transact internationally without access to the U.S. dollar, but the real reason they want access is exactly that. It is a stamp of approval. It is part of the legitimization strategy. It is to do what they did on the nuclear side. We are not going to come clean on our weaponization, but we are going to become a nuclear partner and a respectable international nuclear power. We are going to do the same thing on the financial side with the dollar.

Chairman ROYCE. Thank you, Mr. Dubowitz.

Mr. Engel.

Mr. ENGEL. Thank you, Mr. Chairman. Last year, when the agreement with Iran was announced, we were told that because we were removing sanctions on Iran for its nuclear program it still did not preclude us from having sanctions on Iran for the other things they do—support of terrorism, ballistic missiles, whatever.

The President wrote to our colleague Congressman Nather last summer during the consideration of the nuclear deal with Iran, and the letter said and I quote, “Critically I made sure that the United States reserve the right to maintain and enforce existing sanctions and even to deploy new sanctions to address those continuing concerns which we fully intend to do when circumstances warrant.”

I would like your opinion about what additional authority does the administration need now to crack down on Iran’s terrible behavior? Would new non-nuclear sanctions violate the terms of the nuclear deal? Does the President have the authority now, enough authority now to go after Iran for terrorism or for ballistic missiles, or would Congress need to pass a law to give the President the authority?

Mr. Dubowitz.

Mr. DUBOWITZ. So Ranking Member Engel, I mean, the President has always had the authority under IEEPA to use executive orders to do whatever he wants with respect to Iran. But I think as Congress realized over the past at least decade those authorities were insufficient without Congress playing an important role in passing statutes that actually sent a clear message to the international business community that if you did business with Iran and you did business with designated entities that there would be secondary sanctions that would have a very powerful impact on your ability to then transact globally and particularly with the United States.

And I think it is critical to understand that Congress needs to play that role going forward with respect to non-nuclear sanctions. And one example would be on the ballistic missile side that you mentioned. I mean, it is absolutely clear there are seven, eight sectors of Iran’s economy that are providing key technology and parts and components to Iran’s missile program.

Now does the President have the authority to designate those sectors of the economy? He does under existing EOs, but I think Congress can play a very important role in holding the administra-

tion's feet to the fire on identifying what sectors are playing a key role in Iran's ballistic missile program, and then imposing secondary sanctions on any foreign entities that are doing business with those sectors.

Mr. ENGEL. Thank you. Mr. Zarate, do you agree?

Mr. ZARATE. Absolutely. What is interesting, Congressman, is that not only is there the patchwork of Iran's sanctions related legislation and sanctions that Ms. Rosenberg talked about, but there is also a whole suite of executive orders based on IEEPA that go to the underlying conduct that we are worried about with respect to Iran. I will just give you a quick list.

Terrorism, Executive Order 13224; drug trafficking, multiple executive orders; proliferation finance signed by President Bush in 2005; the cyber executive order signed by President Obama, April 1 of last year; the transnational organized crime executive order; human rights related elements of IEEPA provisions; the Syria sanctions in executive order; the Yemen executive order.

So you go down the line in terms of all of the conduct that we are worried about with respect to Iran, not only does the administration have the existing authority based on Iran legislation and Iran sanctions but you also have the ability to affect the underlying conduct based on the way we have applied sanctions aggressively over the last 15 years. It also underscores why the question of Iranian conduct is so important, because we have built the sanctions program that has been so effective on Iran and other targets of these measures around the underlying conduct that they are engaged in. And if they are not changing their behavior they remain subject to those sanctions as well as the international program.

So my answer to you is we have existing authorities. The administration has plenty of authority with which to work. And to Mark's point, I think Congress' role, I think, is to help clarify the lines of where that authority is and, frankly, where the threats still lie from Iran.

Mr. ENGEL. Thank you. Ms. Rosenberg, you warn against limitations, and I quote you, that could "undermine the attractiveness or primacy of the U.S. financial system and the dollar as a reserve currency."

So let me ask you, what are the risks to the U.S. financial system if oil trade were to be done in, say, euros instead of dollars? With the amount of dollars in circulation compared to euros or other currencies it is even possible to shift to other currencies? And finally, what would be the impact of restrictions on the use of the dollar on the two U.S. clearance systems, which are Fedwire and CHIPS, and U.S. surveillance of financial flows?

Ms. ROSENBERG. Thank you for the question. It is hard to contemplate the trade of oil not in dollars. It is a massive market, it is highly liquid, and it is overwhelmingly done in the dollar. And even though conversation about de-dollarizing oil transactions has been ongoing for quite a long time, it is difficult to think how that would occur. If, however, there was a substantial amount of oil trade that did occur not in the U.S. dollar it would of course reduce the amount of flow through U.S. clearing mechanisms, financial institutions of course, which reduces the amount of activity and revenue they can collect there.

And also, in addition to physical trade in oil, there is also a tremendous market in what is called paper trade or financial trade, sometimes called speculative trade, in oil that occurs around the physical trading. It occurs mostly in the United States because oil is denominated in dollars, and that business represents a huge amount of commerce that would not be in the United States if a majority or a significant amount of trade moved to a different currency and was therefore cleared in a different jurisdiction.

And that is something that as a key global commodity, should be of interest and concern for people who watch markets, market activity, and the opportunity for raising business in the United States.

Mr. ENGEL. Thank you.

Ms. ROSENBERG. Essentially, the same is true when you are thinking about foreign exchange transactions or other dollar clearing for those U.S. platforms that clear that in the United States.

Mr. ENGEL. Thank you very much.

Chairman ROYCE. We go to Ileana Ros-Lehtinen of Florida.

Ms. ROS-LEHTINEN. Thank you so much, Chairman Royce, and thank you for your continued efforts to highlight the dangers of the Iranian nuclear deal and the many ways in which the administration has and continues to deceive Congress and the American people when it comes to implementing this agreement. It seems every week there is a new revelation that was previously undisclosed or some new concessions that the administration is offering to the regime that were not part of the agreement.

Every time Iran threatens to walk away from the deal over perceived slights, the administration caves to Iranian demands. And the regime knows that it can continue to use this tactic and get what it wants because President Obama is intent on maintaining this weak and dangerous deal even if it means allowing the Iranians to undermine the intent and the letter of the JCPOA.

Now we are hearing the administration backtracking on claims that it would not allow Iran access to the U.S. financial system and is actively working to ensure that Iran does indeed get its sanctions relief and that was not part of the deal. So how would the administration go about giving Iran access, either direct or indirect access to the U.S. dollar and our financial system, and what would that access mean for Iran's coffers?

And turning to the IRGC, we know that the IRGC controls a large portion of the Iranian economy, owning the country's largest construction company, its main telecommunications company, and controlling as much as 25 percent of the Tehran Stock Exchange. It controls and owns banks. The officials sit on and control the boards of private companies and it is the primary player in Iran's infrastructure and increasingly its energy sector.

We know that the IRGC is largely responsible for the development of Iran's ballistic missile program as well as overseeing the Quds Force, the asymmetric war and terror operators who are responsible for the deaths of hundreds of American servicemen and women and countless other individuals worldwide.

What sort of impact would Iran getting access to our dollar and financial system have on the IRGC and the Quds Force? Why has the administration not designated the IRGC as a foreign terrorist

organization? And more importantly, what do you suggest, what steps could we take to limit the IRGC's financial growth, and what impact would Iran getting access to the U.S. dollar have on its ballistic missile program, its support for Hezbollah, et cetera?

Lots of questions, you can answer any one of them. Thank you, ladies and gentlemen.

Mr. DUBOWITZ. So Congressman Ros-Lehtinen, thank you for those questions. First of all, the way the administration would give access to the U.S. dollar, it is important to understand that the administration is committed not to give Iran access to the U.S. financial system, and that Treasury officials have been very clear that that means u-turn transactions to the U.S. financial system.

My concern is that they are going to give dollarized transactions. They are going to give access to the U.S. dollar offshore. And why this is important is because getting access to the U.S. dollar means that it facilitates international financial transactions. So most importantly, it actually again, as Chairman Royce said, it is a stamp of approval on Iran. It is part of their legitimization strategy. They can say, if the United States of America is green-lighting the greenback, then FATF shouldn't have us on the blacklist. Sorry to throw out so many colors.

But that is their strategy, their financial legitimization strategy. And this really benefits the IRGC which ultimately is not going to work directly through designated IRGC entities. It is going to work through cutouts and front companies, and those cutouts and front companies are going to be controlled by the IRGC either through share ownership or boards of directors, and they are going to be able to use the U.S. dollar.

Ms. ROS-LEHTINEN. I will give just 1 minute to anyone else who would like to—

Ms. ROSENBERG. Can I respond? As a point of clarification it is not practically possible to do a lot of dollar activity in large transactions, or a large number of transactions, outside of the U.S. financial system without using a U.S. financial institution. That is because at some point those dollars need to be cleared through a U.S. financial system. It is impossible not to. Possibly you could aggregate them over a period of time, but even as an omnibus clearing activity that would occur.

Ms. ROS-LEHTINEN. Thank you. Mr. Zarate, you have got 30 seconds. Thank you, ma'am.

Mr. ZARATE. I think one of the dangers, Congresswoman, is that you incentivize systems to actually be created. So even if there aren't existing sort of volumes in systems, you actually incentivize actors to create offshore dollar clearing systems to facilitate IRGC activity, and frankly then allow them to hide some of their activity even further.

One really important point here, too, is if we allow this concession in the context of the spirit of the deal, we will be conceding that access to the dollar is actually a part of the nuclear sanctions related relief.

Ms. ROS-LEHTINEN. Thank you.

Mr. ZARATE. That then doesn't allow us to use non-access to the dollar as a tool for all the other activity that is important.

Ms. ROS-LEHTINEN. Good point. Thank you, Mr. Chairman.

Chairman ROYCE. Congressman Brad Sherman from Los Angeles.

Mr. SHERMAN. We have to straighten out the difference between being pro-Iran deal, and there are many reasonable people who have taken that position, and pro-Iran. And those of us who criticize the Iran deal, can it not create a political circumstance where the defenders of the deal feel they need to not only defend the deal, which can be done with some credibility, but to defend Iran?

And what we should be talking about is to demand full compliance with the deal and ourselves not over-comply and give to the Iranians more than they bargained for. There are, of course, those in the United States who would take military action against Iran, and those who are repelled by the idea of military action in general and specifically in the Middle East. That does not mean that letting Iran do what it wants ought to be the position of liberals and others whose instinctive belief is peace. Iran is taking its thugs to Syria and killing people by the hundreds every week, and those who believe in peace have to realize that they have no allies in Tehran.

Energy prices, the current global decline has led to a significant pullback in investments in energy worldwide. For global energy companies what are the factors guiding their decisions on investing in Iran? Can Iran offer itself as an attractive place to invest at a time when you cannot be assured of getting more than \$30 for a barrel of oil? Ms. Rosenberg.

Ms. ROSENBERG. Can I respond?

Mr. SHERMAN. Yes.

Ms. ROSENBERG. Yes, thank you. Iran is an interesting case for large international companies, and particularly for independent companies, not nationally owned companies. They need to replace their reserves. They are looking for big, good opportunities to seek the opportunity to produce. Iran is one such place if you look at it from the perspective of its geology, the lack of technical difficulty in being able to produce the oil.

Mr. SHERMAN. What is the lifting cost of Iranian oil?

Ms. ROSENBERG. In the single digits. In the single digits, so by comparison to much U.S. production which is not economically liftable today under an oil price in the mid-40s and higher.

Mr. SHERMAN. Got you.

Ms. ROSENBERG. So this is in the world amongst the lowest global prices for lifting. Nevertheless, the difficulty, by comparison to the ease in the geology and the lifting costs, is the difficulty in making contracts with the Iranian Government. The IPC, their contract, hasn't been finalized yet. They can't agree on it. That is an immediate problem. Additionally, making payments, sourcing equipment, there are incredible—

Mr. SHERMAN. Is there anything we can do to make it even harder other than fuel efficient automobiles and low oil usage?

Ms. ROSENBERG. It is harder even then—yes, it is harder even then what I mentioned too.

Mr. SHERMAN. Rather than describe how hard it is, do you have any suggestions for making it even harder?

Ms. ROSENBERG. For them to produce? There is—

Mr. SHERMAN. And to get oil companies to invest.



Ms. ROSENBERG. There is nothing that the U.S. Government could do more powerful than the collapse in oil prices which have shut global oil companies out of sanctioning any kind of major energy project anywhere in the world.

Mr. SHERMAN. Does anybody have any suggestions as to, obviously we can't match the decline in oil prices, but any suggestions as to how we can make it tougher? Mr. Dubowitz.

Mr. DUBOWITZ. Well, one of the things that I think would be interesting, actually, is to look at the Saudis and other Gulf countries and let them use their enormous economic leverage to put international companies to a choice between doing business in Iran's energy sector or doing business in their energy sector. I mean that would be market based economic and financial warfare that would have nothing to do with sanctions. It would have to do with economic leverage being used by the Saudis—

Mr. SHERMAN. I want to go on to aircraft. Obviously IranAir is in a position to buy American aircraft. That was a bad part of the JCPOA. But Mahan Air is still designated as a terrorist organization. I hope colleagues here, well, you will be receiving a letter from me soon about urging the EU to designate Mahan Air under its terrorism sanctions, and of course to urge the Ukraine, which is seeking so much American support, to not allow Mahan Air to land in Kiev. With that I will yield back.

Chairman ROYCE. Thank you. Thank you, Mr. Sherman. We go now to Mr. Joe Wilson.

Mr. WILSON. Thank you, Mr. Chairman, and thank you for having witnesses here on such an important issue. And it is somewhat startling, I think the American people need to know the threats that are still coming out of Iran and the threats to American families, and somehow an agreement that really just, I think, promotes it obviously with the funding. And Mr. Dubowitz in particular I want to thank you for your service as executive director of the Foundation for Defense of Democracies. You make a difference promoting freedom worldwide.

And Mr. Dubowitz, with the talk surrounding the administration's decision to purchase heavy water from the Iranian Atomic Energy Organization, I want to note that the last facility to produce heavy water domestically was at the Savannah River site in Aiken, South Carolina. Nearly all of the commercial nuclear reactors in the United States use light water, and the purchase of 32 tons of heavy water from Iran represents nearly half of the United States' total imports of this material which usually comes from our great allies, Canada and India.

I appreciate Chairman Ed Royce, who has questioned this purchase, inquiring what guarantees there are that the money wouldn't be used to promote and fund terrorism. Mr. Dubowitz, are there any guarantees at all?

Mr. DUBOWITZ. None at all. There are none at all. And the other thing that is remarkable is that we are actually paying the Iranians to perfect their ability to produce heavy water so that when all the restrictions on heavy water production reprocessing and the plutonium pathway to nuclear weapon go away over time the Iranians will actually have all of that time funded by us in order to

perfect the essential element of a plutonium bomb, so I don't know why we are facilitating that and paying for that.

Mr. WILSON. And thank you for being so clear. And the American people need to know this, and to me the whole thing is bizarre, and how in the world we got to this place. And then Mr. Zarate, your testimony too has been so insightful and clear. Thank you. Sometimes diplomats come across a bit obfuscating.

There are a number of senior Iranian officials that are complicit in human rights abuses, brutal treatment of the Iranian people. The administration has not sanctioned individuals such as Iran's interior minister or the head of judiciary. Has there been any change in Iran since the deal was agreed to?

Mr. ZARATE. None. None that is visible. None that has been demonstrated. There has been a lot of hope in the parliamentary elections, but that I think is a bit of a false hope. And we have seen none of those detained including the leaders of the Green Movement, those individuals remain detained. And I think we have bent over backwards both through the negotiating process and even now to not appear to be instigating or aggravating the Iranians, and I think that has muted our voice whether at the start of the Green Movement or even now.

Mr. DUBOWITZ. Congressman, if I could just add to that.

Mr. WILSON. Yes.

Mr. DUBOWITZ. 2015 was a record year for executions in Iran. The human rights situation has gotten worse not better. That is not me saying that, that is Ahmed Shaheed, the U.N. Special Rapporteur on Human Rights. And yet the administration as I said, since Rouhani came to power in 2013, they have only sanctioned one individual and two entities for human rights abuses.

What is the rationale for not imposing human rights abuses on the instruments of repression and the individuals who are engaged in these human rights abuses? If the administration is serious about non-nuclear sanctions and serious about protecting the American people, why has it been so remiss in using its existing authorities on human rights abuses?

Mr. WILSON. And I thank both of you for referencing the Green Movement. The people of Iran deserve better, and so thank you for promoting that. And Mr. Dubowitz, and back right on point what you said, instead of the administration trying to encourage companies to do business with Iran, shouldn't the focus be on cracking down on corruption which is robbing the Iranian people? And what is Iran's current involvement with terrorist groups?

Mr. DUBOWITZ. Well, again Iran is the leading state sponsor of terrorism. They support Hezbollah. They support Hamas. They support designated Iraqi Shiite militias, and they are obviously involved in the slaughter in Syria. And I think your point on corruption is exactly right. I mean, corruption is a human rights crime as well. Dictators use the fruits of corruption in order to both keep power and as instruments of repression.

And I think that is something that actually has been widely acknowledged by the U.S. Government and by Assistant Secretary Danny Glaser in a number of speeches, and that corruption needs to be addressed through existing authorities. And if existing authorities are insufficient and clarification is needed, Congress needs

to make it clear that corruption is not only a money laundering concern but it is a human rights concern, and actually crack down on those individuals involved in corruption.

Mr. WILSON. And again, as we conclude, thank you, all three of you, for raising these issues that are so important to American families.

Chairman ROYCE. Mr. David Cicilline from Rhode Island.

Mr. CICILLINE. Thank you, Mr. Chairman. Thank you to our witnesses. The argument was advanced during our consideration of the JCPOA that successful implementation of the agreement with rigorous enforcement to ensure full compliance of the deal would put us in a stronger position to push back on Iran, and now a non-nuclear Iran and the other areas. And there were even predictions from many we heard from that there would be likely an increase in their nefarious and thuggish behavior as a response to the more extreme parts of the regime after the deal was struck as a way to sort of reassure them that they were still in control. And I think based on the testimony today and my own reading that is what we are seeing, an additional destabilizing activity.

And so my first question, really, is do we read anything out of the election and the runoff election results in April? Some have suggested that there is some evidence that the reformers have made some progress and that that bodes well for the future. Can anyone comment on whether we should read anything into the election results?

Mr. DUBOWITZ. Well, I think, first of all, it wasn't an election. It was a selection. Over 90 percent of reformers were disqualified from running. The lists that were actually assembled for the parliamentary elections were lists where hardliners were included as moderates. So it was a great marketing job, but it didn't fundamentally change the power structure within Iran.

And I think if we have learned anything from the revelations on Ben Rhodes, the U.S. Government and the U.S. intelligence community doesn't believe that the Iranian regime is moderate in any way and doesn't believe that Rouhani is a moderate, and so that this whole moderate theme has maybe been a fiction of our imaginations rather than an accurate description of the interfactional power balance within the Iranian Government.

Mr. CICILLINE. So are there—

Ms. ROSENBERG. If I could add to that.

Mr. CICILLINE. Sure.

Ms. ROSENBERG. It is true that these most recent elections are notable for trying to test the wind, if you will, in Iran and what is happening with the popular sentiment. Nevertheless, the upcoming Presidential election for Rouhani may be a better sign post to us. So we don't have that data yet, we won't for quite awhile until his election, he stands again for election. But that may be a better sign for us about the popular sentiment and the control of the Supreme Leader over that Revolutionary economy.

Mr. CICILLINE. Thank you. And I would ask each of the panelists, are there any risks that you see to passing new sanctions even if they are outside the JCPOA? Does the administration need additional authority or is it just not using the authority it currently

has? And maybe you answer that first and then I have a follow-up question. Yes.

Ms. ROSENBERG. Right. So the administration does not need additional authorities. Mr. Zarate went through a number of authorities that the administration does have from support to Syria, Yemen, transnational organized crime, cyber, proliferation, terrorism. That covers a huge scope, and furthermore, there is the opportunity for iterations of those through various prongs within them for derivative designations.

The danger that comes from additional sanctions is if there is an opportunity to set up statutes or language, definitions that don't match creating confusion for the private sector. As was mentioned previously, I have warned about the concerns of diminishing the attractiveness of the U.S. dollar. That great power we do have that was spoken of by Mr. Dubowitz as well.

And to the extent that we support and care about the proliferation security gains that have been accomplished in the nuclear deal, if imposing additional sanctions that reimpose sanctions that were lifted occurs and it undermines the deal, that could be a tremendous setback for proliferation security concerns.

Mr. CICILLINE. Mr. Dubowitz?

Mr. DUBOWITZ. Yes, if I could just make a quick comment. And we heard this debate for 10 years. Congress heard this debate from the administration, that they had all the existing authorities that they needed, but you still passed CISADA and ITRSHRA and IFCA and NDAA. So I think that this argument has been a longstanding argument.

I think what Congress has realized is that A, you can impose secondary sanctions, which are a very powerful way to complement the executive orders; and B, through reporting language and clarification language you can begin to hold the administration accountable for its commitments to impose non-nuclear sanctions, which again are not a contravention of the JCPOA, but as Secretary Kerry said they are very much consistent with using all national security tools against Iran's destabilizing behavior.

So again, Congress has played a critical role in the Iran debate and I think Congress can continue to do so through new statutes.

Mr. CICILLINE. Yes, sir.

Mr. ZARATE. Congressman, I think Congress acts and the administration acts with great authority when the sanctions are based in fact, based on real activity of concern, and certainly are in furtherance of not just U.S. law but international norms. If the sanctions appear to be arbitrary and capricious and simply reimposing prior sanctions or capriciously targeting individuals because we don't like them, that is problematic. I think when there is actual substantive concern about the real risks and those have been identified by both Congress and the administration that is incredibly powerful and frankly can't be disputed.

And one final point here, you know, Iran has emerged out from under many of these sanctions into a new world of heightened expectation for global financial transparency. They are starting at a very low bar. We should do everything possible to force them to the standards that now exist in 2016, because those are very real standards and they are very real risks if they don't meet them.

Mr. CICILLINE. Thank you very much. Thank you, Mr. Chairman, I yield back.

Chairman ROYCE. Thank you. We go now to Jeff Duncan of South Carolina.

Mr. DUNCAN. Thank you, Mr. Chairman. Thanks for this hearing. You know, how can anyone in America trust anything that the administration says at this point? They misled the American people about the Affordable Care Act. They misled the American people about the attacks in Benghazi and the motivation behind those attacks. They misled the American people about the IRS' targeting of conservative groups. And now we see they have misled the American people over the Iran deal as evidenced by Ben Rhodes' comments and the New York Times article this week, confirmed in the Washington Post article where the administration pushed a certain narrative. Misled not only the American people, misled the media who in turn misled the American people. And even White House spokesman Josh Earnest couldn't find the words to deny the administration misled you, America.

Mr. Chairman, I would like to recall, reiterate my call for the State Department to provide to this committee and the Committee on Homeland Security, a white paper referenced in their memo as they implemented the Visa Waiver Program Improvement and Terrorist Travel Prevention Act, which they are using to circumvent the will of Congress and the letter of the law to allow foreigners that have traveled to Iran and other areas of the world that host terrorists to have access to the Visa Waiver Program.

There was a white paper referenced in their justification. We asked Secretary Kerry in this committee. We have sent letters to the Department of State. We have asked the Department of State officials and Homeland Security Committee for a copy of that white paper that they used to circumvent Congress and to circumvent the law. So I reiterate my call for that.

Mr. Zarate, how much money would Iran have access to with this Iranian deal, unfrozen assets? Let's just talk about unfrozen assets for just a second.

Mr. ZARATE. Yes, Congressman, the estimates have been anywhere between \$70 billion to \$150 billion. And obviously we have heard—

Mr. DUNCAN. That is a lot of money.

Mr. ZARATE. A lot of money. And I have estimated and I have said this before in testimony that there are likely assets that are unaccounted for. Those are known assets—

Mr. DUNCAN. Known assets, right.

Mr. ZARATE [continuing]. And largely central bank reserves—

Mr. DUNCAN. And a standing Iranian economy with sanctions being lifted, their ability to sell their oil in open market not the black market, would enhance that number somewhat.

Mr. ZARATE. Absolutely. And that does not include the growth of their economy and the—

Mr. DUNCAN. Exactly. So let me read Ayatollah Khomeini's words after this deal was struck. "Whether the deal is approved or disapproved, we will never stop supporting our friends in the region and the people of Palestine, Yemen, Syria, Iraq, Bahrain, and Lebanon." Basically, Hezbollah, Hamas.

Iran is the largest state sponsor of terrorism financially and with material support. And with his own words they are going to continue to support those terrorists, his own words. With a \$150 billion and an expanding economy that is a heck of a lot of money to support terrorism. Should the free world be concerned?

Mr. ZARATE. Absolutely. And it is precisely why we shouldn't be giving Iran any special exemptions or special access to the dollar, be it onshore or offshore. I mean, we should expect and we know not only from what the Iranians have said but also what the terrorists have said, you know, Hassan Nasrallah himself said that we expect continued and expanded support from the Iranians.

And so we know that it is going to happen, we know that there is an increased risk, a very real risk of flows of millions if not billions of dollars to Iranian proxies. We have seen with the interdiction of shipments to Yemen by international naval forces, including U.S. forces that they are trying to send arms into Yemen to the Houthi rebels acting as their proxies. So we know this is—

Mr. DUNCAN. They are active in Iraq. They are active in—

Mr. ZARATE. Yes. It is not just what they say, we see it on the ground. We understand it. We hear what their allies say. And so it is a real risk.

Mr. DUNCAN. Yes. Let me reclaim my time. I chair the Western Hemisphere Subcommittee, and we have had hearings and we have been very vocal about the presence of Hezbollah in the Western Hemisphere. General Kelly, former commander of SOUTHCOM, has testified about his concern of Iran's activity in the Western Hemisphere.

Hezbollah is a proxy of Iran. Iran is active here, cultural centers and areas in Latin America that don't have really strong Islamic ties or Muslim populations. We know that the Tri-Border region between Paraguay, Argentina, and Brazil is very active in Hezbollah.

If Hezbollah is in the Western Hemisphere and Iran has \$150 billion to support their friends, Hezbollah and Hamas and the others that the Ayatollah himself mentioned, would reason not speak to the fact that they may support Hezbollah in the Western Hemisphere, and their own activity, Iran's activity, in the Western Hemisphere that could target American interests or the interests of our friends and allies closer to home? Not in the Middle East but here in Latin America and the Western Hemisphere. Is that fair to assume?

Mr. ZARATE. That is absolutely fair, and it is not just in the Tri-Border Area. It is in places like Venezuela where there have been traditional and commercial ties between the Iranian Government and the Venezuelan Government.

Mr. DUNCAN. And like I say, Air Tehran, Air Terror, whatever the flights.

Mr. ZARATE. Exactly. Not to mention the expanse of Hezbollah network which the U.S. Treasury and the DEA have been exposing as a global criminal enterprise in Latin America, in West Africa, which is part of this infrastructure that Iran can tap into and certainly support with financing.

One other point I will just say, a friend and colleague of mine Alberto Nisman, the Argentine prosecutor, I believe was murdered

in part because he was investigating not just the attacks from Iranian sponsored terrorism in—

Mr. DUNCAN. In '92 and '94. Go ahead.

Mr. ZARATE. But also looking at where Iran had presence in South America and in Latin America.

Mr. DUNCAN. And just for the committee's awareness, the gentleman, the Iranian that was implicated in those attacks was supposed to come to Colombia and may still lead a delegation to Colombia, should be arrested by INTERPOL. That is how close to home this is. With that I yield back.

Mr. DUBOWITZ. And that is Mohsen Rabbani for those folks at INTERPOL who are paying attention.

Chairman ROYCE. Yes. We will make this discussion available to INTERPOL and talk to the government in Colombia.

Let's go to Mr. Gerry Connolly of Virginia.

Mr. CONNOLLY. Thank you, Mr. Chairman. I think this is our 30th hearing on Iran. And I don't know that this committee has cloaked itself in glory on the subject. We beat dead horses. And we have been proved wrong, I think. I am going to ask Ms. Rosenberg.

Ms. ROSENBERG, the JCPOA, the agreement that was completely decried and opposed by my friends on the other side of the aisle and some members of my own party—let me see. One of the requirements was that all uranium enrichment levels had to be reduced to 3.67 percent. Has that happened?

Ms. ROSENBERG. The IAEA has certified that by the beginning of this year, in January, Iran had met all of its major basic and nuclear commitments which is the basis for—

Mr. CONNOLLY. I know, tell me one by one. So 3.67 percent, yes or no.

Ms. ROSENBERG. Yes, I believe so.

Mr. CONNOLLY. Did they in fact remove the core of the Iraq heavy water research reactor and fill it with concrete?

Ms. ROSENBERG. Cement, yes.

Mr. CONNOLLY. Did they reduce their stockpile of previously enriched uranium by 95 percent?

Ms. ROSENBERG. Yes.

Mr. CONNOLLY. Did they ship it out of the country?

Ms. ROSENBERG. Yes, removed.

Mr. CONNOLLY. Did they subject their centrifuge production and uranium mines and mills to surveillance by outside international nuclear inspectors?

Ms. ROSENBERG. Yes, and their reports have been made public.

Mr. CONNOLLY. And did they reduce the number of centrifuges as required by the agreement?

Ms. ROSENBERG. Yes.

Mr. CONNOLLY. Hm. Anything they cheated on that we know of?

Ms. ROSENBERG. Not that we know of.

Mr. CONNOLLY. Not that we know of, really. Now, I don't know. I am not a nuclear expert, but if they met all of those metrics and we are supposed to believe that this was a smokescreen to allow Iran to become a, to give it a "patient pathway to the bomb," it looks to me like that is not a patient pathway to a bomb. That actually reverses the development of a bomb. Would that be a fair statement from your point of view?

Ms. ROSENBERG. Yes. If I may add to that—

Mr. CONNOLLY. Of course.

Ms. ROSENBERG [continuing]. Additionally. I don't think, however, given the grave concerns that the international community has had about Iran's demonstrated proliferation activities, that achieving those milestones we have just gone through, should give anyone any comfort that this is the end of the road.

Mr. CONNOLLY. Of course.

Ms. ROSENBERG. Which is one reason, of course, why this nuclear agreement goes on much longer than just implementation day, and why many people correctly believe that this should be a strengthening of the international nonproliferation regime. Not just for Iran, but for any other state of proliferation concern.

Mr. CONNOLLY. Right. But we know it is a fallacy in reason to argue because it isn't absolute forever perfect we therefore should not do it. Sometimes we take incremental progress, real incremental progress that takes the immediate and short term existential threat and reduces it or reverses it significantly, that is better than the alternative, is it not?

Ms. ROSENBERG. I think many people feel seriously reassured, very sincerely reassured, that Iran is further today from—

Mr. CONNOLLY. Right.

Ms. ROSENBERG [continuing]. A nuclear bomb and nuclear warheads on its ballistic missiles arsenal than it was only a number of months ago.

Mr. CONNOLLY. And I think they should be, because objectively they are.

Ms. ROSENBERG. I agree.

Mr. CONNOLLY. And that doesn't mean, however, the threat is removed. It doesn't mean that we are not going to face all kinds of other problems in the relationship. And it doesn't mean that 15 or 20 years hence they might want to reevaluate and reverse the commitments they made in this agreement—god forbid—and that is what we have got. But we have bought some time, and we didn't just buy time and freeze it in place. We reversed it.

And according to your testimony, and you are not the first to testify here, to the best of our knowledge they have met every metric. It is really interesting to me that we want to talk about everything but compliance, having of course predicted that they wouldn't comply.

Ms. ROSENBERG. I think it is appropriate to talk about, and I assume you would agree, to talk about these other issues of concern related to Iran.

Mr. CONNOLLY. Absolutely.

Ms. ROSENBERG. But nevertheless, very important to distinguish between nuclear, oversight of this nuclear deal and these other concerns, something that—

Mr. CONNOLLY. Listen, I am old enough to have lived through the Cold War. We had nuclear agreements with our bitter enemy that had promised to wipe us from the face of the earth, the Soviet Union. That didn't stop us from negotiating under multiple administrations with Moscow, starting with John Kennedy after the Cuban Missile Crisis of all things. The first Nuclear Test Ban Treaty he negotiated with Khrushchev. Now we are capable of looking



at multiple compartments and manipulating them to our advantage where we can, and this is a good example. I yield back.

Chairman ROYCE. We go now to Mr. Randy Weber of Texas.

Mr. WEBER. I would follow up that by saying that the Russians weren't strapping dynamite vests on kids and killing people in other countries, but that is just me.

Mr. Dubowitz, I think in your exchange with Congressman Duncan you didn't get to finish your last idea. Would you like to take time to do that now?

Mr. DUBOWITZ. Yes, thank you, Congressman, a couple things. One is I would just make it clear that with respect to the Revolutionary Guards and Hezbollah, the fact that Boeing and Airbus are now signing, or trying to sign, multibillion dollar deals with IranAir, I would say that is incumbent upon those companies, and I would argue impossible for those companies, to ensure that the technologies that they are providing to IranAir are not going to end up in the hands of IRGC Air, which is Mahan Air. And I think that those agreements are incredibly difficult to enforce and that the due diligence will be exceptionally difficult to actually undertake.

I would also actually take some exception to the exchange. Iran is in flagrant violation of U.N. Security Council Resolution 2231, which is the implementation resolution for the JCPOA which replaced all of the previous six U.N. Security Council resolutions, because it is engaged in multiple missile tests for long-range ballistic missiles capable of carrying a nuclear warhead—capable of carrying a nuclear warhead.

A nuclear weapon is not just enrichment, a nuclear weapon is also a warhead and it is also the delivery vehicle which is the missile. So Congressman Connolly, Iran is in flagrant violation of U.N. Security Council Resolution 2231 and that should give us some serious pause.

Mr. WEBER. Well, and thank you for saying that. Let me point out that my good friend from California earlier said that liberals, it was their, I believe their instinctive inclination to peace, and I just want to ask, did he say instinctive or was it extinctive?

We need to be careful, because you are dealing with a regime that would take every opportunity to be in flagrant violation, to use your words, not only on all of the sending of, as I point out, terrorism to other countries, kids, dynamite strapped on, blowing up people, their commitment to destroying Israel, the United States ultimately. I think we should take them seriously.

So I appreciate, for one, you all being here and pointing out that we need—and I had this conversation with John Kerry. We should have made them prove that they wanted to be a good world community neighbors, if that is the right word, by doing all of these things in a period of time. You know, they have been bad actors since 1979 when they took the hostages in Tehran. That is 30, back then, last year it was 36 years ago. Half of that time would be 18 years. A fourth of that time would be 9 years. An eighth of that time would be 4½ years. A sixteenth of that time would be 2 years basically.

Couldn't we just make them comply for 2 years to prove that they were serious, to prove that they were willing to be good com-

munity neighbors? I mean, the whole JCPOA was absolutely a travesty in my opinion. That is my opinion.

But anyway I wanted to ask you all for your opinions while you are here. Three things, I want to know three things to apply pressure on Iran. How do we apply pressure, in your opinion, Mr. Dubowitz? Just give us three short things that we could make them comply as closely as possible. What would you do specifically? Well, give me one or two things.

Mr. DUBOWITZ. I would require the administration to report to Congress on the sectors of Iran's economy that are providing key technology and personnel.

Mr. WEBER. That is not going to happen. I don't trust this administration to report to us. I am sorry, I just don't. What can we do as a Congress—

Mr. DUBOWITZ. So you could GAO to do the same report, and GAO would then look at other organizations that have done similar reports. We have done a report on Iran's missile sector looking at the sectors of the economy. Congress could then pass legislation or affect the legislation.

Mr. WEBER. What can we do—it is Mark, right, first name is Mark?

Mr. DUBOWITZ. Mark, yes.

Mr. WEBER. What can we do, Mark, to cut off funding, in the House of Representatives if we would have guts, so that when they want to use access to the United States financial institutions, we as the United States Congress, I know it would have to be in the House of Representatives, what could we do to shut down their access to the U.S. financial institutions?

Mr. DUBOWITZ. So again I think—and Juan and Liz have talked about this. I mean, the best thing you can do is appeal to the market. The best thing that you can do is create this risk overhang that already is there and you can amplify it. Require companies and financial institutions to report to the SEC if they are doing business with IRGC entities. Not just designated IRGC entities, but entities that are on an IRGC watch list that GAO or CRS or independent organizations could provide.

By creating a market risk what you are going to do is you are going to do what Juan talked about, which is you are going to focus on the conduct, the illicit conduct that Iran is engaged in and you can shine a spotlight on that. That does more to change market calculations by—

Mr. WEBER. I am out of time, but let me follow up by this, and I am not going to be able to get to the other two. How do we bring our friends on board with that whether it is Britain, whoever it is, how do we bring our allies on board with that?

Mr. DUBOWITZ. Well, our allies need access to the U.S. market. Many of our allies have financial institutions with corresponding banking relationships in the United States. Many of our allies have companies that are trading on U.S. exchanges. So I would go around the governments and I would appeal to the companies.

British banks today don't want to go back into Iran despite the fact the British Government is trying to strong-arm them back into Iran, because they care about U.S. market access, they care about their reputations and they don't want to be doing business with the

Revolutionary Guards and entities and a state that is engaged in such illicit and dangerous conduct.

Mr. WEBER. Okay. Thank you, Mr. Chairman, and I yield back.

Chairman ROYCE. Thank you. Now we go to Mr. Ted Deutch of Florida.

Mr. DEUTCH. Thank you, Mr. Chairman, and again I would like to thank you and Ranking Member Engel for your enduring commitment to ensure that this committee continues to provide oversight on the nuclear deal and remains engaged and vigilant on all of Iran's troubling activities.

For much of the week Secretary Kerry has been quoted in the press as proclaiming that Iran is open for business, and that as a U.S. official is quoted as saying, it is in fact not U.S. sanctions but Iran's bad banking practices along with its ballistic missile launches, support for terrorism, and human rights abuses including, I might add, a long history of arresting foreign businessmen that make it an unfriendly business climate.

And I would agree that every single company that is considering doing business in Iran should be deeply concerned by and should consider all of these factors before making any deal. The Washington Post, yesterday, reported that fear of running afoul of continued U.S. sanctions for all of these other bad behaviors is preventing banks and businesses from dealing with Iran.

I hope that in his travels Secretary Kerry is making clear to our allies that not only will those sanctions remain in place and be enforced with vigor, but they too should be enforcing these sanctions as they are not covered under the JCPOA. Let's be clear here. If Iran wants business, it is up to the regime to change its behavior.

Now the Washington Post also reported that detention of foreign citizens is another reason businesses are and should be wary of re-entering Iran. And I would urge these companies to give deep consideration to the fact that the longest held American hostage in history disappeared in Iran. Robert Levinson went missing in Iran on March 9, 2007 and he is still not home. And more importantly, Iran is still not providing information as to his whereabouts.

And I hope that Secretary Kerry has raised the issue of Bob Levinson in every one of his meetings with foreign banks and foreign businesses. And I hope that every single oil company, airplane manufacturer, construction company that meets with Iranian officials raises Bob Levinson's case. And I hope that every one of these businesses as they contemplate their challenges to doing business in Iran contemplate the fact that Bob Levinson has been missing for 9 years and makes this an issue in those discussions.

And they should be demanding that if Iran wants foreign investment to return, then it should begin to prove itself a responsible actor by fulfilling its oft-stated pledge of cooperating and providing information on Bob's whereabouts and then helping to return him to his family. And I might add, I hope that in the reports in the press that our great media, who are following these issues so closely, whether or not businesses want to re-engage in Iran, will also raise in their discussions the fact that Bob Levinson is the longest held American hostage and that Iran has not provided the necessary information to help bring him home.

Mr. Dubowitz, I understand that it may be unusual business practice for a company to engage with a government in areas that are commonly left to diplomats. But why should all of these companies looking to reenter Iran, why should they care about Iran's human rights abuses? Why should they care about Iran's support for terrorism? And why, to follow on my opening statement, why should they be concerned about an American who has been missing, went missing in Iran more than 9 years ago?

Mr. DUBOWITZ. Congressman Deutch, I think for two fundamental reasons. Reason number one is that the next hostage that could be taken is them. The CEO or the director of business development for the Middle East for a major oil company or a major financial institution could be the next hostage, because Iran takes hostages as part of its standard operating procedure.

And the second reason is because these international companies have reputations and those reputations are worth billions of dollars, and to have a reputation of doing business with a hostage-taking, genocide-threatening, nuclear-building, missile-testing, Holocaust-denying regime is just bad, fundamentally, for business.

Mr. DEUTCH. Mr. Chairman, I would, before I yield back I would just say again, the members of this committee are probably tired of hearing me talk at every single committee hearing, every meeting we have on Iran about my constituent who needs to be returned to his family.

But it is just inconceivable to me that all of the stories we have been reading this week have focused on whether or not Iran should be open for business, on whether or not other countries should worry about sanctions and going back in to do business deals in Iran without mentioning Bob Levinson's name. I don't understand it. There is an American who has been missing for more than 9 years. Everybody, everybody should care about Bob Levinson. And I yield back.

Mr. WEBER [presiding]. For the record, Congressman, we do not get tired of hearing about that. Thank you. And the chair now recognizes Scott Perry.

Mr. PERRY. Thank you, Mr. Chairman. Mr. Dubowitz, Mr. Zarate, can you tell me in your opinion, I know this might be a little off-target for the hearing, but is Iran's ballistic missile capability currently prepared to deliver whatever payload that it might desire to put on it, whether nuclear or otherwise, beyond, I don't know, several hundred miles? Do they currently have that capability on a consistent basis?

Mr. DUBOWITZ. Well, they certainly have the capability to in terms of range.

Mr. PERRY. Right.

Mr. DUBOWITZ. The question is do they have the capability to affix a nuclear warhead to those missiles.

Mr. PERRY. With a triggering device. That is in question, right?

Mr. DUBOWITZ. Right, that is in question.

Mr. PERRY. So that is the continued testing that we see of the ballistic missiles. That is what they are working on.

Mr. DUBOWITZ. Right. And the danger on the warhead side is, again Congressman Connolly seems to think that the Iranians are

in such full compliance, but on warhead issues we don't know because warhead design is done in a room basically this size.

Mr. PERRY. Right.

Mr. DUBOWITZ. And we don't even know if we are going to have access to military sites where that warhead design is likely to take place.

Mr. PERRY. I am going to get to another question, but I just want to make the point, while Mr. Connolly feels that they are in compliance, and of course you have already elucidated to the fact that they are not in compliance, they are in flagrant violation of Resolution 2231, I would remind him that we will have the same conversation in 10 to 15 years when Iran has consolidated its gains in Yemen, Libya, Iraq, if I didn't say Yemen already, Syria, et cetera, and will have also perfected its ballistic missile technology, will be within months of right where it was when we left off, when they left off of nuclear device, an armed warhead, and also have the air defense artillery from Russia to protect all that stuff, and we will be able to do very little about it just like we can do with North Korea right now, and I will revisit the conversation with Mr. Connolly at that time.

That having been said, let me ask you folks this because we are talking about financial transactions. In addition to the sanctions risk, there is a considerable risk to companies entering Iran from a business perspective. For example, Iran banks will have to adjust to tougher international regulations and may need to offload non-performing loans into a bad bank.

Many of Iran's banks are still struggling after piling up bad debt during the more than a decade long sanctions era, several banks having exposure to the country's property market which turned sour in 2012 leaving problem loans in the system, compounding the situation. Thus, the Iranian financial sector is in a precarious situation. Official data showed that the ratio of nonperforming loans to total loans was 13.4 percent in the Iranian month ending of June 21, 2015. Market estimates point to nearly double that figure with the equivalent of \$40 billion at the top end investments for nonperforming loans.

Since the 2008 financial crisis, most banks must adhere to international capital standard known as Basel III which required them to bolster their balance sheets. Iran remains a command economy dominated by the Islamic Revolutionary Guard Corps, the IRGC, to include the banking sector. While the Secretary is running around telling everybody it is going to fine to invest in Iran, I just want to know how significant the reforms would be for Iranian banks to meet international banking standards particularly with Basel III.

Gentlemen. I would like to hear from them if you could, first.

Mr. ZARATE. I haven't looked at the balance sheets currently, but you are absolutely right that one of the questions that any institution going into Iran has to look at is what is the health of the financial system? And it is not just sort of, it is not only the balance sheet but it is also the requirements of safety and soundness post-Basel III.

So you are absolutely right, in terms of capital requirements as well as transparency and accountability which is now part of the international system. As I said before, 2016 is a very different envi-

ronment than 15 years ago in terms of what the expectations are for a financial system. And so Iran, I think, has to undertake massive reforms. And what is odd to me is we are bending over backward to demonstrate that it is okay to do business in Iran when they aren't even meeting any of those basic standards, be it post-2008 or 2016.

Mr. PERRY. We are bending over backwards. The United States is bending over backwards to tell the international community it is okay to invest there, knowing full well that they are far from compliance with international standards, particularly Basel III. Is that—

Mr. ZARATE. Yes. And we are certainly not sending out road shows for our allied economies that are struggling with de-risking and other challenges where major banks and businesses are de-risking and getting out because they are not meeting standards. And so I don't see Secretary Kerry talking about investment in Iraq—

Mr. PERRY. Right.

Mr. ZARATE [continuing]. Which maybe we should be, but he is certainly not. And so I think there is a real danger here of mixing messages and altering our own standards by trying to meet the needs of the Iranians as they complain about the restrictions that they are facing in the international system when the international system is looking clearly at a very risky environment.

Mr. PERRY. I mean, what would be the point of it from your perspective? Why would the United States engage in this?

Mr. ZARATE. We certainly want to demonstrate that there is a benefit to the deal, that we can honor our side of the deal and that is to be commended. And I do take a little bit of issue with those of us who raised questions about the JCPOA. We very much were open, and certainly in the Bush administration, to negotiations, and in fact we started the pressure campaign in 2005 in parallel with the diplomatic process. Deputy Secretary Burns, who is part of the negotiating process for President Obama, was also negotiating on behalf of the Bush administration.

So the reality is that we have used these tools as a way of isolating rogue behavior, and the challenge with the JCPOA is that we perhaps have negotiated away our ability to use them aggressively precisely because we have given Iran the voice to say you are not giving us the benefit of the deal, which was reintegration into international financial and commercial system. We can't do that if they are not changing their behavior. That is the inherent tension of the deal and it is precisely what I told the Senate on two occasions when these issues were being debated.

Mr. DUBOWITZ. Can I add something very quickly to that? I mean, just to clarify, we never committed to the Iranians in the JCPOA anything to do with outcomes. We never said that we are going to commit to you that you will be reintegrated in the global financial system. We never said to you that we are going to commit that your GDP is going to increase by 5 percent and there is going to be \$500 billion of foreign direct investment.

We committed that we were going to de-designate entities, and we are now, we should now be engaged in providing regulatory guidance on what those de-designations mean rather than becom-

ing the business development and trade promotion authority of the Islamic Republic of Iran.

Mr. PERRY. I am sorry, my time is long expired. I yield.

Mr. WEBER. I thank the gentleman for yielding back. Congressman Boyle, you are recognized for 5 minutes.

Mr. BOYLE. Yes, thank you. I wanted to associate myself with comments that were made much earlier by my colleague Representative Brad Sherman. He, I believe, like myself was someone on the Democratic side of the aisle who found fault with the Iranian nuclear deal and ultimately opposed it.

That said, I don't think it is helpful or in any way productive to keep relitigating old ground, and that the point of our work today and in the future for what is in our national security interest as well as the interest of our allies is to ensure ways moving forward that we can benefit from the positives of the deal while at the same time addressing those areas of concern. Chief among them for me, and when I wrote an op-ed in *The Philadelphia Enquirer* in August announcing that I would be voting against the deal, I talked about how not 5 years from now, 10 years from now, 15 years from now, today the amount of money somewhere in the \$2-4 billion range it is estimated that Iran is using to fund terrorism, whether it be Hezbollah and the over 100,000 rockets in southern Lebanon that are being pointed at Israel, whether it is Hamas, whether it is their actions to prop up the Assad regime, what they are doing in Yemen, et cetera, et cetera.

So I want to kind of, you know, address my comments looking forward prospectively on what can be done today to address, sanctions-wise or other tools we have available, the bad Iranian behavior and the support for terrorism, while at the same time not doing anything that would violate our own obligations under the JCPOA. So with that comment, let me actually first invite Ms. Rosenberg who hasn't had an opportunity for awhile to address that.

Ms. ROSENBERG. Thank you for the question. There are a number of things that the United States can do along with partners and allies in the rest of the world to address these very serious terrorism concerns, also regional destabilization concerns, you have mentioned. Since we are talking about sanctions, first among them is using those authorities aggressively that the United States has, as has been mentioned previously.

I fully support the suggestion that Congress could call upon the administration to designate the IRGC in its entirety under terrorism authorities as well as an aggressive campaign to go after its agents, instrumentalities, front companies, et cetera, in Iran and outside of it as a way to expose this activity and go after it.

However, sanctions are certainly not the only tool, possibly not the most important tool, for truly combating terrorism activities that Iran sponsors in the region and beyond. Certainly counterterrorism cooperation with partners in the region, some of Iran's neighbors, is an incredibly important activity that occurs already and should be a subject of support from this body and broadly, internationally. Intelligence sharing and covert operations are also critically important to that set of activities. So that is just a short list.

Mr. BOYLE. If anyone wanted to add to that.

Mr. ZARATE. Congressman, I think Liz is absolutely right. I think part of this is the position that we need to push back and push back in ways where there are real threats and real risk. One of the suggestions that I have made in the past is much more aggressive interdiction of Iranian shipments, which we have seen some of in the context of Yemen.

Mr. BOYLE. And we have seen some of that increase recently.

Mr. ZARATE. Exactly, because the risk is going to increase precisely because they have more funding, they have more interest, there is more adventurism. That needs to be ramped up with our naval forces as well as allied naval forces. That also raises the specter, which is not included in the negotiations or how we have looked at the risk of the deal, a proliferation with North Korea. The very real possibility that Iran and North Korea continue to collaborate on things like ballistic missile technology has to be a part of what we are looking at in terms of risk and pushing back on.

And I also think we shouldn't ignore things like human rights. We have the Magnitsky Act in terms of Russia, why aren't we thinking more aggressively about what Iran is doing? Certainly, I think one could argue that the human rights abuses in Iran equal if not surpass what is happening in Russia, so why isn't there legislation or at least focus there? So I think we have muted our voices a bit because we have wanted the deal, to be honest, but if that is the case we have the deal, let's make it work.

Mr. BOYLE. Right.

Mr. ZARATE. But there are real risks that are still attendant to this. Let's push back on those risks.

Mr. BOYLE. I am down to 12 seconds, so let me just kind of conclude with this. When Treasury Secretary Jack Lew sat right there and testified in front of this committee, there was debate on exactly how much money we were unfreezing or making available to them. There were estimates upwards of \$150 billion. He said no, that actually the accurate figure is \$56 billion.

And I took the administration at that. My point was that even if 90 percent of those funds go toward improving their basket case economy, if they just siphon off 10 percent to continue terrorist behaviors that is more money than they have at their entire disposal now for all their terrorist activities. So making sure that we tackle those funds for behavior that they are doing today is, in my view, the single most important thing Congress can do. I yield back.

Mr. WEBER. The gentleman makes a good point. The gentleman from New York is recognized for 5 minutes.

Mr. DONOVAN. Thank you, Mr. Chairman. Our hearing is entitled, Terrorism, Missiles and Corruption, and I wanted to touch on the corruption in Iran. And the Foreign Corrupt Practices Act prohibits United States citizens, United States companies from doing business with people who are bribing officials for business transactions and purposes.

Part of the implementation day, the administration issued an edict for the subsidiaries of United States companies to be able to do business with the Iran Government. I was just curious if any of you had any position or idea, are these subsidiaries actually violating the act? And if they are, how is the parent company pro-



tected, the United States parent company from these subsidiaries protected from violating the act itself?

Ms. ROSENBERG. So this is right that the foreign subs of U.S. parents are allowed under the agreement to be able to do business in Iran. There are a number of caveats which say that they can receive certain back office services from their U.S. parents, but they cannot avail themselves of U.S. persons, financial institutions, the dollar, and other services that many would consider necessary for their functioning.

In practice I think it will be incredibly difficult, if not virtually impossible, for those foreign subsidiaries to do their business as long as they are planning to do so in a responsible manner following existing sanctions and FCPA regulations. And for the parent, to protect itself adequately requires, as has been discussed, a tremendous amount of due diligence to ensure that no part in this company, its subsidiary, is involved in inappropriate or illicit activities.

Mr. DUBOWITZ. And Congressman, I will just add, your question on corruption, I think, is an important one and Juan underscored this. But the pending Global Magnitsky Human Rights Accountability Act, which is before Congress, is one mechanism which can be used to target corruption, because not only does it target human rights violators but also government officials and their associates who are responsible for or who are complicit in significant corruption. So Global Magnitsky, I think again is not only important for human rights, qua human rights, but also to target corruption.

And if you look at Iran's regime, and the Supreme Leader himself runs a \$95 billion holdco called the Execution of Imam Khomeini's Order, which by the way was de-listed under the JCPOA, but it is a massive corruption mechanism, as are the bonyads. And so the corruption within the Iranian regime is something again not only should we target because it is an effective way to protect the financial system, but also these are the crooks and thieves that are stealing from the Iranian people.

And there may be a lot of disagreement in Iran over the nuclear program or other issues, but on the corruption issue it is certainly clear that since 1979 and even before that the Iranian people have been cheated out of their national wealth.

Mr. ZARATE. Congressman, I would just say in terms of the environment in 2016, corruption and the issues of kleptocracy are now on the global agenda. And you clearly see the Department of Justice focusing more and more on aggressive applications of the FCPA. The FIFA case is a great example of the use of anti-corruption prosecutions to actually go after prosecution rings and networks around the world, especially institutions.

But three quick issues that I think are important in terms of corruption with respect to Iran. One is the lack of transparency as to who owns what and what is tied to the leadership, everything that Mark and Liz and we have been talking about. The second is the rule of law. What does contractual relationship in Iran look like? What does it look like and what are the benefits and facilitation fees, et cetera, tied to dealing with the IRGC or a state-owned company? What is the rule of law in that context? That is a big question.

And the third is, there is an international standard around how you engage and enhance due diligence, ask lots of questions about politically exposed persons. That is called PEPs. It is a term of art. While Iran is full of PEPs, it is full of high risk of corruption. And so for businesses, one of the reasons they are having trouble with managing how you go in, if you even wanted to go into Iran, is you have a sea of PEPs that you now have to deal with and engage and enhance due diligence to understand how they source their funds, what they are doing, what businesses they control, and this is all part of these heightened global standards that Iran is now facing. They are not just facing potential recalcitrants as part of the deal, they are facing heightened international standards that they have never been forced to adhere to.

Mr. DONOVAN. I thank you all. My time is expired. Thank you.

Chairman ROYCE. Thank you. We go to Mr. Ron DeSantis of Florida.

Mr. DESANTIS. Thank you, Mr. Chairman.

Mr. Dubowitz, with this Ben Rhodes article I was thinking, because I remember during that time when Rouhani was elected and the people were starting to say he was a moderate and then this was like this great opening, and I never bought that. I think most of our members never bought it. But, you know, I did think that the administration was just being naive about it. It turns out, I mean, they never bought it either. I mean, they knew that this a deal that was really going to be done in conjunction with Iran's hardliners.

But it does seem to me just thinking back, I am interested in your thoughts that the deception was very effective. I mean, they did create a narrative in the media that this was a really important opening. That there was a chance for change here and that that is what they were grappling onto, even though they had already started down this road before Rouhani was ever elected.

Mr. DUBOWITZ. Congressman, that is exactly right. And the reason that deception was so important is actually because of the technical issues around the nuclear deal. When I talked in my testimony about a patient pathway to nuclear weapon, what I mean is that these key restrictions that Congressman Connolly believes are so important are actually going to go away beginning after 5 years and 8 years, 8½ years, 10, 15.

Now if Iran ends up in 10, 15 years as a moderate regime with a nuclear weapons capability, an industrial size enrichment program and ICBM, a powerful economy, regional hegemony, then we are not going to be as concerned because actually they start to look more like Japan which has threshold nuclear capability. But if Iran is still ruled by the hard men of Iran, the hardliners, if Rouhani was the Supreme Leader, and he is a hardliner, then we have a very dangerous regime in possession of industrial size nuclear capability. That is why that deception that Ben Rhodes has spun out is so damaging.

Mr. DESANTIS. I agree. In terms of the access to the dollar, I remember the testimony not just from this committee but others about the administration says, look, they are not going to have access to the financial system. I believe that they also said it wouldn't even be indirect. But what is your recollection of that? Is

what they are trying to do now, does that conflict with any of the testimony that we heard from the administration to lead up to the deal?

Mr. DUBOWITZ. Well, it certainly contradicts the spirit of what they said. I think they were really, really careful to talk about specific access to the U.S. financial system and u-turn transactions. And, you know, to Liz's comment, you are right. At some point a U.S. financial institution is going to have to be involved in offshore dollar clearing because they are going to have to provide more dollars into the system. If those dollars have been used they have to replace the dollars that have been used.

But you can get around that by providing a license to U.S. financial institutions that would legally protect them for providing dollars to the offshore dollar clearing facilities. You could also do it not only through offshore dollar facilities but through book transfers, intrabank book transfers within the same financial institution that does that conversion and transfer.

So I am concerned the administration has been trying to very carefully thread the needle between its commitments to Congress and its desire to give Iran dollarized financial transactions generally or in specific classes of transactions.

Ms. ROSENBERG. If I could just respond to that.

Mr. DESANTIS. Hold on. I am going to have one at a time. Mr. Zarate, the Treasury recommends that people considering doing business in Iran or with Iranian persons conduct due diligence to ensure that they are not knowingly doing business with the Revolutionary Guard Corps. What are these companies supposed to do? Because, you know, there is a huge percentage of the businesses that are controlled by the Revolutionary Guard Corps. You are not going to have a Revolutionary Guard Corps general show up to broker the deals. I mean, these things are sheltered and there are different things. And so what are companies supposed to do, and can they ever really be sure in some of these instances that they are not providing money for the Revolutionary Guard Corps?

Mr. ZARATE. It is incredibly opaque, and you are right. I think any due diligence, be it enhanced or otherwise, is limited by the structure and nature of the environment in which you are doing that diligence. And, you know, I doubt that Iran has a corporate registry for all of those companies run by the IRGC. Some of it is public actually. There has been a lot of research on some of those. But a lot of it is opaque and we know that they have used shell companies, we know that they have used procurement agents, we know that they have used classic layering in money laundering fashion to hide their activities.

And so it is a very hostile environment to transparency and due diligence. And what you have are financial institutions that are being asked to do that kind of due diligence in other parts of the world in very harsh and difficult environments now contemplating that in the Iranian context along with all of the things that Iran does in using or misusing its financial system. That is why it is so risky in doing business and it is very hard for a CEO or compliance at a general counsel of a bank to say I feel fully comfortable that I understand with whom we are doing business, how we are doing

it, and to be able to fence-ring the kinds of risk that they are exposed to.

Mr. DESANTIS. Yes, I agree. I think that is very well stated. And my time is up, but I appreciate everyone's testimony. I yield back.

Mr. ENGEL. Mr. Chairman, I am wondering if we could let Ms. Rosenberg finish her answer.

Chairman ROYCE. Without objection, yes, Mr. Engel.

Ms. ROSENBERG. Thank you. I just wanted to offer that as the President has stated, the U.S. Government is not considering giving Iran access to the U.S. financial system. In fact, under current restrictions, the u-turn penalty, this is something that banks take very seriously. And when they have abused it, as has been demonstrated in some of the big bank enforcement cases, including by using book-to-book transfers that were inappropriate and constituted evasion, they have been punished severely. So currently they are not considering it, it is not possible, and it is punishable with severe and expensive financial penalties.

Mr. ENGEL. Thank you. Mr. Chairman, I ask unanimous consent to place into the record this letter from the Treasury Department explaining the administration's policies related to Iranian transactions and access to the U.S. financial system.

Chairman ROYCE. Without objection.

Mr. DUBOWITZ. Mr. Chairman, may I say one quick thing? When the President of the United States says very clearly we will not give Iran direct or indirect access to the U.S. dollar, then I think you and your colleagues should be more assured.

Chairman ROYCE. Thank you, Mr. Dubowitz. I thank all of our panel today. Mr. Zarate, good to see you again. And we thank you for your time, very insightful testimony. And this was a particularly timely discussion given Secretary Kerry's meetings in Europe this week and yesterday, and as international financial institutions weigh their reputational risks with a country like Iran, which as we heard is not heeding basic international standards.

So this hearing stands adjourned.

[Whereupon, at 12:02 p.m., the committee was adjourned.]

# A P P E N D I X

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MATERIAL SUBMITTED FOR THE RECORD

**FULL COMMITTEE HEARING NOTICE**  
**COMMITTEE ON FOREIGN AFFAIRS**  
U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, DC 20515-6128

**Edward R. Royce (R-CA), Chairman**

May 12, 2016

**TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS**

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs, to be held in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at <http://www.ForeignAffairs.house.gov>):

**DATE:** Thursday, May 12, 2016

**TIME:** 10:00 a.m.

**SUBJECT:** Terrorism, Missiles and Corruption: The Risks of Economic Engagement with Iran

**WITNESSES:** The Honorable Juan C. Zarate  
Chairman  
Financial Integrity Network

Mr. Mark Dubowitz  
Executive Director  
Foundation for the Defense of Democracies

Ms. Elizabeth Rosenberg  
Senior Fellow and Director  
Energy, Economics and Security Program  
Center for a New American Security

**By Direction of the Chairman**

*The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.*



**COMMITTEE ON FOREIGN AFFAIRS**  
MINUTES OF FULL COMMITTEE HEARING

Day Thursday Date 5/12/2016 Room 2172

Starting Time 10:07 Ending Time 12:02

Recesses 0 ( \_\_\_ to \_\_\_ ) ( \_\_\_ to \_\_\_ ) ( \_\_\_ to \_\_\_ ) ( \_\_\_ to \_\_\_ ) ( \_\_\_ to \_\_\_ ) ( \_\_\_ to \_\_\_ )

**Presiding Member(s)**

*Chairman Edward R. Royce, Rep. Randy Weber*

*Check all of the following that apply:*

Open Session

Executive (closed) Session

Televised

Electronically Recorded (taped)

Stenographic Record

**TITLE OF HEARING:**

*Terrorism, Missiles and Corruption: The Risks of Economic Engagement with Iran*

**COMMITTEE MEMBERS PRESENT:**

*See attached.*

**NON-COMMITTEE MEMBERS PRESENT:**

*none*

**HEARING WITNESSES:** Same as meeting notice attached? Yes  No

*(If "no", please list below and include title, agency, department, or organization.)*

**STATEMENTS FOR THE RECORD:** *(List any statements submitted for the record.)*

*IFR - Ranking Member Eliot Engel*

*SFR - Rep. Gerald Connolly*

*QFR - Rep. Michael McCaul*

TIME SCHEDULED TO RECONVENE \_\_\_\_\_

or

TIME ADJOURNED 12:02



Jean Marter, Director of Committee Operations

**HOUSE COMMITTEE ON FOREIGN AFFAIRS**  
*FULL COMMITTEE HEARING*

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MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE ELIOT L. ENGEL, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORKDEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

May 11, 2016

The Honorable Eliot L. Engel  
Ranking Member  
Committee on Foreign Affairs  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Engel:

Thank you for your letter regarding press reports that the Administration is considering providing Iran with access to the U.S. financial system. As the Administration has stated, these reports are false. The Joint Comprehensive Plan of Action (JCPOA) between the P5+1 (China, France, Germany, Russia, the United Kingdom, and the United States), the European Union (EU), and Iran has cut off all of Iran's potential pathways to developing a nuclear weapon, which has greatly increased the security of the United States and our allies. As you know, in exchange for Iran verifiably completing its nuclear-related commitments under the JCPOA, we have met our JCPOA commitments by lifting nuclear-related sanctions on Iran as set out in the JCPOA. As long as Iran continues to meet its nuclear commitments, we will continue to meet our JCPOA sanctions lifting commitments.

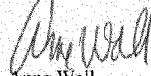
The recent rumors in press reporting about preparations to issue a general license to reinstate the "U-turn" authorization or to give Iran access to the U.S. financial system are wrong. The Administration fully stands by our previous statements. As we have said consistently, we are not planning to reinstate the "U-turn" authorization or to give Iran access to the U.S. financial system under the JCPOA. President Obama confirmed during a press conference that the Administration is not considering granting Iran access to the U.S. financial system. We also continue to vigorously enforce the many sanctions that remain against Iran, including our primary sanctions that generally prohibit Iranian banks from clearing U.S. dollars through the U.S. financial system or holding correspondent account relationships with U.S. financial institutions. These sanctions are an important part of our government's toolkit to protect the integrity of our robust and globally influential financial sector.

We continue to maintain pressure on Iran through a variety of means, including but not limited to sanctions. We have in place all the authorities we need to sanction Iran's support for terrorism, its ballistic missile program, its human rights abuses, and other concerning activities—and we continue to use those authorities to oppose Iranian actions that threaten our interests. Indeed, since the JCPOA was announced on July 14, 2015, the Administration has levied unilateral sanctions against over 30 additional Iran-related individuals and entities, including those

involved in Iran's ballistic missile program and its support for terrorism. This is in addition to the over 200 individuals and entities that remain on OFAC's SDN List after implementation of the JCPOA.

Thank you for your letter. If you have any additional questions, please contact me or have your staff contact Luke Ballman, Office of Legislative Affairs, at (202) 622-1900.

Sincerely,



Anne Wall

Assistant Secretary for Legislative Affairs

**Statement for the Record**  
***Submitted by Mr. Connolly of Virginia***

Since 2013, the House Foreign Affairs Committee has conducted more than 30 Iran-related hearings, meaning that over the course of three years, the Committee has devoted more than 40 percent of its time to the myriad challenges Iran poses to the security of the United States and our allies. It is clear from this close examination that Iran has earned its role as an international pariah through its condemnable record on human rights, terrorism, and regional subversion and its support for illicit ballistic missile and nuclear programs.

On at least one of these fronts, there have been some positive developments. On January 16, 2016, Iran, the U.S., the European Union, and our P5+1 partners completed the requirements for implementing the Joint Comprehensive Plan of Action (JCPOA) – a multi-lateral nonproliferation agreement that has reversed the trajectory of the Iranian nuclear program and blocked all of Iran’s pathways to a nuclear weapon. Three years ago, many would have doubted that a diplomatic agreement would have resulted in Iran removing the core of its Arak Heavy Water Research Reactor and filling it with concrete, reducing the number of its installed centrifuges by two-thirds, limiting all uranium enrichment levels to 3.67 percent, reducing its stockpile of enriched uranium by 95 percent, and subjecting its centrifuge production and uranium mines and mills to constant surveillance by international nuclear inspectors. In fact, there were some that saw the euphemistically termed “kinetic option” as the only viable way in which we could foreclose Iran’s pathways to a nuclear bomb.

By all accounts, prior to the implementation of the Joint Plan of Action (JPOA) on January 20, 2014, Iran possessed an opaque and unconstrained nuclear program that had expanded from a negligible number of installed centrifuges to more than 19,000 in less than ten years. We were very quickly approaching a moment in which our only choice for arresting Iran’s nuclear advance was a kinetic option. That is no longer the imperative, and we should take every necessary precaution to sustain this welcome alternative – one in which the U.S. is the leader of an international coalition of countries that have coalesced around a shared goal of preventing Iran’s development of a nuclear weapon.

Congress should work in concert with the Administration to ensure that the Iran nuclear deal is fully implemented and strictly enforced. To this end, I have introduced bipartisan legislation to establish a Congressional-Executive Commission to oversee the implementation of the JCPOA and verify Iran’s compliance with its obligations under the deal. The Commission to Verify Iranian Compliance Act (H.R. 3741) will ensure close and enduring Congressional oversight of the JCPOA as well as coordination between Congress and the Administration regarding implementation of the deal.

The Commission will include 16 Members of Congress (8 from the Senate and 8 from the House of Representatives) and 4 representatives from the Executive Branch (representing the Department of State, Department of Defense, Department of the Treasury, and Department of Energy). Commissioners will be appointed by the respective Chamber leadership, the leadership of the Senate Foreign Relations Committee and House Foreign Affairs Committee, and the President. The Commission to Verify Iranian Nuclear Compliance is modeled after the Commission on Security and Cooperation in Europe, also known as the Helsinki Commission, which was created in 1976 to monitor compliance with the Helsinki Final Act. Despite initial pushback from the Nixon Administration, the Helsinki Commission has served

as an oversight model and is still actively carrying out its mission nearly 40 years after it was established.

The JCPOA is a viable alternative for addressing the Iranian nuclear threat, and Congress should not be distracted by efforts to unilaterally reject a deal that has already been approved and implemented by the U.S. and our negotiating partners. It should instead look to bolster mechanisms for strict enforcement such as robust funding for the accounts that support the International Atomic Energy Agency (IAEA), the international organization tasked with implementing the JCPOA and other non-proliferation agreements.

Supporters of the agreement are under no illusions that the deal is a comprehensive resolution of the myriad issues the U.S. and our allies have with the repressive regime in Tehran and its reprehensible support for terrorist insurgencies in the region. Support for the deal is derived from the fact that it is a viable alternative to war that takes the Iranian nuclear issue off of the table and secures permanent commitments from Iran regarding the peaceful nature of its nuclear program. In other words, it is the diplomatic alternative we sought to attain when we entered into nuclear negotiations.

Supporters of the deal also understand that the U.S. and our allies are battling on many fronts with the Islamic Republic of Iran, a state sponsor of terror. Progress on the nuclear front does not preclude aggressive action to counter Iran's objectionable behavior elsewhere. If anything, it should invigorate and focus our attention on illicit activity carried out by Iran-supported entities such as the Islamic Revolutionary Guard Corps (IRGC), the IRGC's Qods Force, and Hezbollah.

For example, this Administration has sanctioned individuals and entities associated with the IRGC's support for terrorism, abuse of human rights, and involvement in Iran's illicit nuclear and ballistic missile programs. In an August 19, 2015 letter to Congressman Jerrold Nadler – following the commitments made by the P5+1 in the JCPOA – President Obama stated that going forward “no entities or individuals engaged in terrorism-related activity or the violation of human rights are immune from existing terrorism or human rights sanctions.”

This Administration has also demonstrated resolve to continue to combat Iran's illicit ballistic missile program. In December 2015, I joined 6 of my colleagues in writing to the President to request that the Administration take immediate punitive measures in response to Iran's medium-range ballistic missile tests in October and November of 2015. Less than one month later, the President sanctioned 11 individuals and entities for supporting Iran's illicit ballistic missile program.

Notably, the sanctions were announced one day after Implementation Day of the JCPOA and demonstrated that the U.S. will both pursue the implementation of the nuclear deal while pressuring Iran for subversive activities outside of the scope of the deal. Some have insinuated that these two missions are mutually exclusive. For the sake of the security of the U.S. and our allies, they should not and cannot be treated as such.

QUESTIONS SUBMITTED FOR THE RECORD TO THE PANEL BY THE HONORABLE MICHAEL  
T. MCCAUL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

**House Foreign Affairs Full Committee Hearing**  
“Terrorism, Missiles and Corruption: The Risks of Economic Engagement with Iran”  
May 12, 2016

**1.) EXPANDING IRANIAN INFLUENCE**

Over the course of the Iran nuclear negotiations, Congress consistently urged the President to include Iran’s support for terrorism and other nefarious activities, such as continued ballistic missiles tests and human rights abuses, in exchange for the lifting of financial sanctions. The Administration rejected these calls by Congress and chose to leave these issues off the negotiating table.

I believe this agreement has not only emboldened Iran, but will provide it with the means to expand their influence by financing instability in the region.

**QUESTION:** *What are the regional impacts of an expanding Iranian influence and how will this complicate our national security objectives in the region?*

**2.) IRAN’S ACCESS TO US FINANCIAL SYSTEM**

As stated by Adam Szubin, Acting Under Secretary for Terrorism and Financial Intelligence, in September of last year,

*“Iran will not be able to open bank accounts with U.S. banks, nor will Iran be able to access the U.S. banking sector, even for that momentary transaction to, what we call, dollarize a foreign payment.”*

In March of this year, Secretary Kerry testified before this committee and I specifically asked if the Administration was considering additional measures to provide economic relief to Iran to which he responded, “none at this point in time.” I am now aware of the possibility that the Obama Administration is considering additional economic concessions to Iran all in an effort to, as Treasury Secretary Lew stated “make sure Iran gets relief.”

**QUESTION:** *Given the prevalence and power of the U.S. dollar in the world economy, is it possible for Iran to receive the financial benefits it is seeking without the use of U-turn transactions?*

**QUESTION:** *In your opinion, what will be the consequences of allowing Iran access to the U.S. financial system and how will this limit affect our leverage moving forward?*

**3.) IRAN’S DOMESTIC AND EXTERNAL ISSUES**

I believe Iran’s inability to attract foreign trade and investment has to do with its own domestic and external policies: support for terrorism, ballistic missiles procurement, human rights abuses, and financing proxy wars in the region fueling instability. As you know, it was these same activities the led the Department of Treasury to designate Iran a jurisdiction of primary laundering concern in 2011.

Any foreign entity should be cautious about doing business with Iran because of the uncertainty that exists as to whether they will indirectly be financing terrorism. This is a direct result of Iran's lack of transparency and its provocative actions, which landed it 130 out of 168 on Transparency International's corruption index.

*QUESTION: Instead of trying to convince the international community that Iran is "open for business", what message should this Administration be sending to Iran?*

[NOTE: Responses to the above questions were not received prior to printing.]

