

Memorandum

To: Members of the Committee on Financial Services

From: Financial Services Committee Majority Staff

Date: October 20, 2023

Subject: October 25, 2023, National Security, Illicit Finance, and International Financial Institutions Subcommittee Hearing Entitled “How America and Its Allies Can Stop Hamas, Hezbollah, and Iran and Hamas from Evading Sanctions and Financing Terror.”

On Wednesday, October 25, 2023, at 2:00 p.m. in Room 2128 of the Rayburn House Office Building, the Financial Services National Security, and Illicit Finance Subcommittee will hold a hearing titled “How America and Its Allies Can Stop Hamas, Hezbollah, and Iran and Hamas from Evading Sanctions and Financing Terror.” Testifying at the hearing will be:

- **Mr. Richard Goldberg:** Senior Advisor, Foundation for Defense of Democracies
- **Mr. Gabriel Noronha:** Fellow, The Gemunder Center for Defense and Strategy, The Jewish Institute for National Security of America (JINSA)
- **Jason Brodsky:** Policy Director, United Against Nuclear Iran
- **Adam Zarazinski:** Chief Executive Officer, Inca Digital
- **Dr. Matthew Levitt:** Fromer-Wexler Senior Fellow, The Washington Institute for Near East Policy

Iran Background

Since the Islamic Revolution of 1979, the United States has used sanctions as key tool of U.S. policy tool to deter, constrain, and encourage change in the adversarial behavior of the Iranian regime, including its support for international terrorism, nuclear and missile development programs and proliferation activities, destabilizing regional interventions, and human rights abuses.¹ The United States began imposing sanctions on Iran in the early 1980s, after the 1979 seizure of the U.S. Embassy in Tehran and the illegal taking of U.S. diplomats as hostages. By 1995, Tehran’s continued support for extremism and terrorism prompted the U.S. to expand its sanctions regime through statutes and Executive Orders (EOs) that aim to isolate the Iranian regime from the financial benefits and resources of the U.S. and its foreign trading partners. Since that time, additional sanctions have been imposed on Iran to deter growth in a variety of industries, such as energy/oil, metals, banking, military and defense development, and petrochemicals.²

Hamas Background

¹ CONGRESSIONAL RESEARCH SERVICE, IF12452, U.S. SANCTIONS ON IRAN (July 20, 2023).

² Jason Bartlett and Megan Ophel, *Sanctions by the Numbers: U.S. Secondary Sanctions*, CENTER FOR NEW AMERICAN SECURITY (August 26, 2021), <https://www.cnas.org/publications/reports/sanctions-by-the-numbers-u-s-secondary-sanctions>.

Hamas is a foreign terrorist organization that “emerged in Gaza in the late 1980s and as an alternative to the Fatah movement in the 1990s.”³ Hamas has controlled the Gaza Strip and governed more than two million Palestinians since it seized control from the Fatah-controlled Palestinian Authority in 2007.⁴ Iran is one of Hamas’s largest contributors – financially and militarily (weapons, training, defense, etc.).⁵ Iran publicly praised “Hamas’s assault on Israel...and pledge(d) its continuing support for the Palestinian group.”⁶

General Background on Sanctions

Primary sanctions are economic tools that restrict the transactions U.S. persons may conduct with foreign targets (countries, businesses, or individuals) that the U.S. government believes to be working against U.S. national security interests or that the U.S. has deemed guilty of committing international crimes.⁷

Secondary sanctions are economic tools imposed to restrict third-party transactions that non-U.S. persons conduct with foreign targets subject to primary sanctions. Secondary sanctions require non-U.S. persons to adhere to U.S. sanctions if they wish to do business with/in U.S., leveraging the value of U.S. market access to deter trade with U.S. sanctioned targets.

Failure to comply with U.S. sanctions can result in civil and criminal penalties, such as blocking U.S.-based assets (i.e., freezing targeted property), prohibiting transactions with U.S. persons, limiting use of U.S. financial instruments, denying entry into the United States, or prosecution.⁸ For context, “blocking immediately imposes an across-the-board prohibition against transfers or dealings of any kind with regard to the [specified] property.”⁹

Current Sanctions Landscape Relating to Iran¹⁰

Overview

U.S. sanctions on Iran block Iranian government assets in the United States, ban nearly all U.S. trade with Iran (except food and agricultural commodities, medicine, medical supplies, and other humanitarian-related goods), and prohibit foreign assistance and arms sales. U.S. law authorizes sanctions targeting:

³ CONGRESSIONAL RESEARCH SERVICE, IN12262, ISRAEL AND HAMAS: MAJOR CONFLICT AFTER SURPRISE ATTACKS (October 10, 2023).

⁴ Kali Robinson, *What is Hamas?*, COUNCIL ON FOREIGN RELATIONS (October 9, 2023), <https://www.cfr.org/background/what-hamas>.

⁵ *Id.*

⁶ *Id.*

⁷ *Comply Advantage What are Primary and Secondary Sanctions*, <https://complyadvantage.com/insights/primary-secondary-sanctions/> (last visited Oct. 19, 2023).

⁸ Jason Bartlett and Megan Ophel, *Sanctions by the Numbers: U.S. Secondary Sanctions*, CENTER FOR NEW AMERICAN SECURITY (August 26, 2021), <https://www.cnas.org/publications/reports/sanctions-by-the-numbers-u-s-secondary-sanctions>.

⁹ *U.S. Dep’t of Treasury Office of Foreign Assets Control Basic Information on OFAC and Sanctions*, <https://ofac.treasury.gov/faqs/topic/1501> (last visited Oct. 19, 2023).

¹⁰ CONGRESSIONAL RESEARCH SERVICE, IF12452, U.S. SANCTIONS ON IRAN (July 20, 2023).

- Iran’s energy sector, including foreign corporations that invest in and entities that buy, sell, or transport Iranian oil;
- Iran’s financial sector, including its Central Bank;
- Additional sectors of Iran’s economy, including shipping, construction, mining, textiles, automotive, and manufacturing, as well as entities that conduct transactions with, or otherwise provide support for, those sectors;
- Arms trade to or from Iran; and
- Many components of Iran’s government (including the Supreme Leader and the Islamic Revolutionary Guard Corps, IRGC), including entities that conduct transactions with or otherwise support them.¹¹

Notwithstanding humanitarian exemptions, the U.S. Treasury has issued general licenses to authorize otherwise prohibited transactions for specific purposes. These include providing telecommunications services and equipment to Iranians to thwart their government’s attempts to cut off internet access.¹²

Financial Sanctions

Over the last several decades the Treasury Department conducted targeted campaign to “persuade foreign banks to cease transactions with Iran.”¹³

- “Sanctions Against Lending to Iran: Under §1621 of the International Financial Institutions Act (P.L. 95- 118), U.S. representatives to international financial institutions, such as the World Bank, are required to vote against loans to Iran by those institutions.”¹⁴
- “Banking Sanctions: Iranian banks have been named as proliferation or terrorism supporting entities under E.O.s 13382 and 13224, and CISADA prohibits banking relationships with U.S. banks for any foreign bank that conducts transactions with Iran’s Revolutionary Guard or with sanctioned Iranian entities. FY2012 Defense Authorization (P.L. 112-81) prevents U.S. accounts with foreign banks that process transactions with Iran’s Central Bank (with specified exemptions).”¹⁵
- In addition, Iran has been identified as a “jurisdiction of primary money laundering concern.” As a result, all U.S. financial institutions are barred from conducting any transaction with any Iranian banks or foreign banks that act on behalf of an Iranian bank.¹⁶

U.S. sanctions are enforce by Treasury’s Office of Foreign Asset Control (OFAC) as well as the Counter Threat Finance and Sanctions Bureau (TFS) and the Office of Economic Sanctions Policy and Implementation (SPI) at the State Department.

¹¹ *Id.*

¹² *Id.*

¹³ CONGRESSIONAL RESEARCH SERVICE, RS20871, IRAN SANCTIONS (FEB. 2, 2022).

¹⁴ *Id.* at 62.

¹⁵ *Id.* at 63.

¹⁶ *Id.* at 28.

Joint Comprehensive Plan of Action

In July 2015, the U.N. Security Council Resolution (UNSCR) 2231 adopted the “implement[ation of] the JCPOA and contains other provisions concerning Iran’s nuclear program, Tehran’s development of missiles, and arms transfers to and from Iran.”¹⁷ The agreement between Iran and China, France, Germany, Russia, the United Kingdom, and the United States (the “JCPOA participants,” as defined by UNSCR 2231) required Iran to limit its uranium enrichment and heavy water nuclear reactor programs, as well as allow the International Atomic Energy Agency (IAEA) to inspect and monitor Tehran’s compliance with the agreement.¹⁸

Special Drawing Rights

Special Drawing Rights (SDRs) are reserve assets created by the International Monetary Fund (IMF) to supplement member countries’ official foreign exchange reserves.¹⁹ SDRs are allocated based on countries’ ownership share, or quota, at the IMF.²⁰ IMF quotas generally reflect a country’s economic share of the global economy. Iran holds approximately five billion SDRs, equivalent to about \$6.5 billion. IMF member countries may exchange SDRs for hard currency, but Treasury’s policies and sanctions have made it difficult for the Iranian government to redeem those SDR’s abroad. The Iranian share of a general SDR allocation equivalent to \$650 billion is about \$3.6 billion.²¹

Digital Assets

Reports have emerged that Hamas and other allied terrorist organizations have tried to use digital assets to evade sanctions and raise money for their efforts.²² However, blockchain networks and the digital assets that transact on top of them are not well suited to this task as they create a transparent and immutable record of all transactions on the network. Any individual with access to the internet can look up a given blockchain network and view the entire transaction history, including the public addresses that received these transactions. In addition, blockchain analytics companies have extensive capabilities to analyze transaction data that allow law enforcement to establish a trail between the public address visible on the blockchain and the individual that initiated the transaction. “[A]rmed only with the knowledge of a target’s cryptocurrency address...law enforcement can learn... the total amount that the subject sent and received, the total value of the subject’s current holdings in the cryptocurrency, the addresses to which the subject sent funds, the addresses from which the subject received funds, and the addresses of co-

¹⁷ CONGRESSIONAL RESEARCH SERVICE, IF 11583, IRAN’S NUCLEAR PROGRAM AND U.N. SANCTIONS REIMPOSITION, (Sept. 23, 2022).

¹⁸ *Id.*

¹⁹ CONGRESSIONAL RESEARCH SERVICE, IF11835, INTERNATIONAL MONETARY FUND: SPECIAL DRAWING RIGHTS ALLOCATION (MAY 19, 2021).

²⁰ *International Monetary Fund Questions and Answers on Special Drawing Rights*, <https://www.imf.org/en/About/FAQ/special-drawing-right> (last visited Oct. 19, 2023).

²¹ *International Monetary Fund Special Drawing Rights (SDR)*, <https://www.imf.org/en/About/Factsheets/Sheets/2023/special-drawing-rights-sdr#> (last visited Oct. 19, 2023).

²² Angus Berwick and Ian Talley, *Hamas Militants Behind Israel Attack Raised Millions in Crypto*, THE WALL STREET JOURNAL (Oct. 10, 2023), <https://www.wsj.com/world/middle-east/militants-behind-israel-attack-raised-millions-in-crypto-b9134b7a>.

conspirators and other associated individuals.”²³ This has resulted in large-scale discoveries of illicit activity in the digital asset ecosystem, discoveries that would have been impossible had these criminals used traditional funding mechanisms.

Hamás’s first known attempt to fundraise using digital assets came in 2019 when the organization’s military wing launched a campaign soliciting donations from supporters via social media.²⁴ Over three years (August 2021-June 2023), Hamás and its ally Palestinian Islamic Jihad amassed an estimated \$134 million in digital asset donations, while over roughly the same period Iran sent these terrorist organizations approximately \$300 million.²⁵ By April 2023, the Israeli government had become so adept at tracing funds on the blockchain that Hamás announced it would no longer accept donations in Bitcoin. Although a number of digital asset fundraising efforts have reappeared since the start of Hamás’s terrorist attacks in October, many of these have also been quickly shuttered.²⁶ Ultimately, terrorists have not adopted digital assets as a primary mechanism for funding because they “do not provide substantial benefits ... over other established [terrorist financing] methods.”²⁷

Legislation for Consideration

1. **H.R. 5921, “No U.S. Financing for Iran Act of 2023” (Rep. Huizenga)**
 - a. This bill would prohibit the Secretary of the Treasury from issuing any licenses authorizing a U.S. financial institution from engaging in transactions for trade with Iran, other than food, medicine, or medical devices benefitting Iranian civilians. The legislation also requires the Secretary to oppose International Monetary Fund (IMF) assistance to Iran, and to ensure that IMF member companies do not exchange Special Drawing Rights held by Iran. H.R. 5921 further prohibits the Export-Import Bank from providing assistance involving the Iranian government, or an entity owned or controlled by the government.
2. **H.R. 5923, “Iran-China Energy Sanctions Act of 2023” (Rep. Lawler)**
 - a. This legislation would expand secondary sanctions involving Iran to cover all transactions between Chinese financial institutions and sanctioned Iranian banks that transact for the purchase of petroleum and petroleum products.
3. **H.R. _____, “Holding Iranian Leaders Accountable Act” (Rep. Hill)**
 - a. This bill requires the President to report on the assets of certain Iranian government officials and terrorist leaders, and provides for the publication of those assets. This legislation further requires the Secretary of the Treasury to seek

²³ DEP’T OF JUSTICE, JOURNAL OF FEDERAL LAW AND PRACTICE, VOL. 67 NO. 1 (FEB. 2019).

²⁴ David Carlisle, *How Hamas has utilized crypto, and what may be coming*, ELLIPTIC (Oct. 11, 2023).

²⁵ Angus Berwick and Ian Talley, *Hamas Militants Behind Israel Attack Raised Millions in Crypto*, THE WALL STREET JOURNAL (Oct. 10, 2023), <https://www.wsj.com/world/middle-east/militants-behind-israel-attack-raised-millions-in-crypto-b9134b7a>

²⁶ TRM Insights, *In Wake of Attack on Israel, Understanding How Hamas Uses Crypto* (Oct. 10, 2023), <https://www.trmlabs.com/post/in-wake-of-attack-on-israel-understanding-how-hamas-uses-crypto>.

²⁷ *Virtual currencies and terrorist financing: assessing the risks and evaluating responses*, EUROPEAN PARLIAMENT THINK TANK (Apr. 6, 2018), [https://www.europarl.europa.eu/thinktank/en/document/IPOL_STU\(2018\)604970](https://www.europarl.europa.eu/thinktank/en/document/IPOL_STU(2018)604970).

the closure of U.S. and foreign financial institution accounts connected with the assets.

4. **H.R. ___, “Iran Counterterrorism Act of 2023” (Rep. Kim)**
 - a. This bill requires Iran to have ceased support for acts of international terrorism before the President may waive secondary sanctions involving the country.

5. **H.R. ___, “End Financing to Hamas Act of 2023”**
 - a. This legislation requires the Secretary of the Treasury to submit to Congress an analysis of major financing sources to Hamas, a description of U.S. and multilateral efforts to disrupt illicit financial flows to the group, and an evaluation of efforts to undermine Hamas’s ability to finance armed hostilities against Israel. The bill also requires the Secretary to develop a multilateral strategy to ensure that Hamas is incapable of financing conflict.

6. **H.R. ___, “Freezing-HAMAS Act” (Rep. Meuser)**
 - a. This bill would nullify waivers transmitted to Congress on September 11, 2023 that permitted Iranian access to certain funds held abroad.

7. **H.R. ___, “Revoke Iranian Funding Act of 2023” (Rep. Nunn)**
 - a. This bill would rescind waivers transmitted to Congress on September 11, 2023 that purport to allow for humanitarian assistance to Iran. The legislation would also rescind, for a period of one year, any authority to the Secretary of the Treasury to provide for humanitarian sanctions relief for Iran.

8. **H.R. ___, “Iran Sanctions Accountability Act of 2023” (Rep. Luetkemeyer)**
 - a. This legislation would require the President to prescribe regulations to ensure that humanitarian exemptions involving Iran sanctions do not facilitate acts of international terrorism, transactions with sanctioned persons, or the proliferation of weapons of mass destruction.