

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

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

Washington, DC  
May 12, 2016



FOUNDATION FOR  
DEFENSE OF DEMOCRACIES

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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

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<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://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>2</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/>)

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

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<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>)

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.

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<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>)

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>

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<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/jl0398.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-idUSKCN0X00RK>); 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>)

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>)

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>

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<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/hp1258.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/tg1367.aspx>)

<sup>30</sup> Bradly 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/eric-b-lorber-treasury-prepares-to-take-dollarized-transactions-with-iran-offshore/>)

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

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<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/HHRG-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>)



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

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<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.*

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<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=116314f3fa7cc31c414670ca6ab97006&mc=true&n=pt31.3.560&r=PART&ty=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/jpoa\\_ext\\_faq\\_11252014.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jpoa_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 Bisserbe, and Madeleine 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

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<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\\_faq\\_11252014.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jpoa_ext_faq_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,

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<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-a7b2-5a2f824b02c9\\_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-a7b2-5a2f824b02c9_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/rouhanis-abysmal-economic-record-and-the-wests-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/scr/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.

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

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<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 Hatttem, "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.foreignpolicyi.org/content/transcript-fpi-conference-call-implications-granting-iran-access-us-financial-market>)

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:

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<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-kerry-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

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<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. (<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>77</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-idUSKCN0XOORK>)

<sup>78</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>)



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 sweeteners 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

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<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-idUSKCNOUR0IT20160113>)

<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>

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<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-Shaheed/>)

<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/emanuele-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.bloombergvew.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/tg1718.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/jl1968.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/jl0437.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.

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<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/jl0398.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/tg1706.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

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<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/hp644.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/tg1217.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/tg810.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/tg1181.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

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<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/hp644.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>)

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))



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

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<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-idUSKCN0S505L20151011>); 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-un-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/5cb0901c025a4cfb93c4fb08558d68c0/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-eu-set-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/jl0322.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/jl0395.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/O2AIHO3PWT1D>; <http://www.armed-services.senate.gov/hearings/16-02-09-worldwide-threats>; <http://www.armed-services.senate.gov/hearings/16-02-09-worldwide-threats>)

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>)

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

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<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/irgc-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*

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

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*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-fg-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/hrrpt/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.uscirf.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 Shaheed- 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> Reuel Marc Gerecht and Ali Alfoneh, “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/2016/02/12/world/middleeast/death-toll-from-war-in-syria-now-470000-group-finds.html?\\_r=0](http://www.nytimes.com/2016/02/12/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/tg1797.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/>)

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.

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<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

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<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 MODAFL 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.

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<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 MODAFL 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

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<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.

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<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/j12595.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/j10451.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/hr\\_1905\\_pl\\_112\\_158.pdf](https://www.treasury.gov/resource-center/sanctions/Documents/hr_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-un-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-un-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/jl0322.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/jl0395.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/1000000578-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.

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

*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.