

Testimony

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Chairman Schmitt, members of the Senate Committee on Jobs, Economic Development, and Local Government, on behalf of the Foundation for Defense of Democracies and its Center on Sanctions and Illicit Finance, thank you for the opportunity to submit written testimony for your important hearing on Missouri's investment policies and the leading state sponsor of terrorism, Iran.

EXECUTIVE SUMMARY

Despite the fanfare over the July 2015 nuclear deal, the Iranian regime remains involved in a range of destabilizing activities and illicit conduct. In October and again in November, Iran tested ballistic missiles capable of carrying nuclear warheads in violation of a key UN Security Council resolution.¹ At the same time, Iran increased its crackdown on its citizens,² expanded its support for Syria's Assad regime and terrorist organizations like Hezbollah and Hamas,³ and remains the leading state sponsor of terrorism.⁴

Iran's belligerency did not abate even as Implementation Day of the nuclear agreement approached. Less than a week before receiving significant sanctions relief and access to about \$100 billion in frozen assets, Iran detained 10 U.S. Navy sailors. Legal and maritime experts state that the seizure contravenes international standards of innocent passage and the intent of the Geneva Convention.⁵

In the shadow of Implementation Day (which occurred on January 16), Iran released five Americans who had been imprisoned illegally for years. While everyone should be relieved that these innocent victims have returned home, the price paid for their release was high. America pardoned seven Iranians and Iranian Americans who had been charged with or convicted of

¹ 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 News*, 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>)

² Rick Gladstone, "U.N. Rights Investigator Highly Critical of Iran," *The New York Times*, October 27, 2015. (http://www.nytimes.com/2015/10/28/world/middleeast/un-rights-investigator-highly-critical-of-iran.html?_r=2); Jon Gambrell, "2 Iranian Poets Are Latest Target in Hardliners' Crackdown on Expression in Iran," *Associated Press*, October 27, 2015. (<http://www.usnews.com/news/world/articles/2015/10/27/poets-latest-to-be-snared-in-iranian-hard-liners-crackdown>); "Situation of Human Rights in the Islamic Republic of Iran," *United Nations*, October 6, 2015. (<http://shaheedoniran.org/wp-content/uploads/2015/10/SR-Report-Iran-Oct2015.pdf>)

³ Sam Dagher & Asa Fitch, "Iran Expands Role in Syria in Conjunction With Russia's Airstrikes," *The Wall Street Journal*, October 2, 2015. (<http://www.wsj.com/articles/iran-expands-role-in-syria-in-conjunction-with-russias-airstrikes-1443811030>); Ladane Nasser & Donna Abu-Nasr, "Iran's Syria Aid Deepens as It Jockeys for Role in Talks," *Bloomberg News*, October 27, 2015. (<http://www.bloomberg.com/news/articles/2015-10-27/iran-says-syria-aid-deepens-to-include-army-revamp-recruitment>)

⁴ U.S. Department of State, "Country Reports on Terrorism 2014: Chapter 3: State Sponsors of Terrorism Overview," April 2015. (<http://www.state.gov/j/ct/rls/crt/2014/239410.htm>)

⁵ Felicia Schwartz and Gordon Lubold, "Videos Raise Questions About Iran's Treatment of U.S. Soldiers," *The Wall Street Journal*, January 13, 2016. (<http://www.wsj.com/articles/irans-revolutionary-guard-to-question-detained-u-s-sailors-1452672825>)

procuring sensitive technology and equipment for Iran in violation of U.S. law.⁶ The United States also dropped the charges and removed the Interpol red notices against 14 Iranians, including two Mahan Air officials accused of supplying weapons to the Assad regime.⁷ Iran may have learned a dangerous lesson from this exchange: Additional hostages will block new sanctions and prosecutions.

While the Obama administration has repeatedly made it clear that the Joint Comprehensive Plan of Action (JCPOA) does not prevent the imposition of non-nuclear sanctions,⁸ it has done little to respond to the Iranian regime's threatening behavior. When the administration finally responded to Iran's provocative ballistic missile tests, it issued sanctions against a procurement network that Tehran can easily reconstitute,⁹ as the regime has done time and again. These designations have minimal, if any, economic impact on Iran.

The JCPOA does not address the full range of Iran's illicit activities but lifts many of the most impactful sanctions. It also fails to achieve the stated goal of the P5+1: blocking all pathways to an Iranian nuclear bomb. Iran has merely agreed to certain limitations on its nuclear activities – a departure from the original U.S. policy goal of dismantling Iran's illicit nuclear infrastructure. Unfortunately, even these modest restrictions are fatally flawed because they disappear over time. Iran will mothball certain equipment and reduce enriched uranium stockpiles for 10 to 15 years, after which Tehran can expand its nuclear activities, build an industrial-scale infrastructure powered by easier-to-hide advanced centrifuges, and develop an intercontinental ballistic missile program.

As the United States and its partners dismantle the global sanctions regime, Iran can build greater economic resiliency against future sanctions pressure. The deal provides extensive sanctions

⁶ U.S. Department of Justice, Press Release, "List of Individuals Receiving Pardons/Commutations," January 17, 2016. (<http://www.justice.gov/opa/pr/list-individuals-receiving-pardonscommutations>)

⁷ Josh Rogin, "Prisoner Swap May Help Iran Arm Assad," *Bloomberg*, January 17, 2016. (<http://www.bloombergview.com/articles/2016-01-17/prisoner-swap-may-help-iran-arm-assad>)

⁸ For example see, Mina Al-Oraibi, "John Kerry: US Will "Push Back" Against Iran's Role in Region," *Asharq Al-Awsat*, July 22, 2015. (<http://english.aawsat.com/2015/07/article55344466/john-kerry-us-will-push-back-against-irans-role-in-region>); John Kerry, "Iran Nuclear Agreement Review," *Testimony before the Senate Foreign Relations Committee*, July 23, 2015. (<http://www.state.gov/secretary/remarks/2015/07/245221.htm>); Jacob Lew, "Iran Nuclear Agreement: The Administration's Case," *Hearing before the House Foreign Affairs Committee*, July 28, 2015. (<https://foreignaffairs.house.gov/hearing/hearing-examine-iran-nuclear-agreement>); John Kerry, "Iran Nuclear Agreement: The Administration's Case," *Testimony before the House Foreign Affairs Committee*, July 28, 2015. (<http://www.state.gov/secretary/remarks/2015/07/245369.htm>); "Iran Nuclear Agreement Review," *Testimony before the Senate Foreign Relations Committee*, July 23, 2015. (<http://www.cq.com/doc/congressionaltranscripts-4731018?3>); Jeffrey Goldberg, "John Kerry on the Risk of Congress 'Screwing' the Ayatollah," *The Atlantic*, August 5, 2015. (<http://www.theatlantic.com/international/archive/2015/08/john-kerry-interview-iran-nuclear-deal/400457/>); Wendy Sherman & Adam Szubin, "The Implications of Sanctions Relief Under the Iran Agreement," *Hearing before the Senate Banking, Housing, and Urban Affairs Committee*, August 5, 2015. (http://www.banking.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=66419365-b8c6-4a0d-a5ea-e143742ca9e5); Barack Obama, "Press Conference by the President," *The White House*, July 15, 2015. (<https://www.whitehouse.gov/the-press-office/2015/07/15/press-conference-president>); "Transcript: Secretary of State John Kerry On Cuba, Nuclear Deal With Iran," *NPR*, July 20, 2015. (<http://www.npr.org/2015/07/20/424769835/transcript-secretary-of-state-john-kerry-on-cuba-nuclear-deal-with-iran>)

⁹ 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>)

relief to Iran, and the impact of this relief will expand over time. Economic forecasts estimate that Iran's economic growth will expand to 4-5 percent annually for the next three years.¹⁰ The IMF estimates that Iran's real GDP growth may reach 5.5 percent in FY 2016/17 and FY 2017/18.¹¹ This is a significant rebound from Iran's *negative* growth rate of 6 percent in FY 2012/13.¹²

Despite wishful thinking that the nuclear deal will empower the moderate forces in Iran, the deal is more likely to enrich the most dangerous elements of the regime, in particular Iran's Islamic Revolutionary Guard Corps (IRGC), as well as the massive business interests of Supreme Leader Ali Khamenei. An early indication came last week when the Guardian Council, which vets candidates for Iran's (flawed and undemocratic) elections, disqualified 99 percent of all reformist candidates for the February parliamentary elections.¹³

Outside the political realm, the IRGC and other radical revolutionaries are positioned to be the primary recipients of the economic benefits in the nuclear deal. The Revolutionary Guards not only direct Iran's external regional aggression, its nuclear and ballistic missile programs, and its vast system of domestic repression, but they also control a vast business empire.

The IRGC controls large swaths of Iran's economy. "The IRGC is Iran's most powerful economic actor," the U.S. Treasury Department explained, "dominating many sectors of the economy, including energy, construction, and banking"¹⁴ – precisely those sectors which have received sanctions relief under the JCPOA. Likewise, Supreme Leader Ali Khamenei controls a vast business empire, estimated to be worth at least \$95 billion, through a holding company called the Execution of Imam Khomenei's Order (EIKO, or Setad in Farsi). Sanctions on EIKO were removed by the U.S. government on Implementation Day. It is difficult to image a significant business transaction in the key sectors of Iran's economy where the IRGC or EIKO won't be in on the deal. The financial gains from the JCPOA will enable these radical revolutionaries to expand their dangerous activities.

While the JCPOA lifts sanctions on Iran's nuclear activities, it does not preclude the United States from using economic tools to address the full range of Iran's illicit activities – despite statements from Iran that it will view any imposition of sanctions, nuclear or non-nuclear, as a violation of the deal. Giving into that interpretation would significantly undermine Washington's

¹⁰ Mark Dubowitz, Annie Fixler, & Rachel Ziemba, "Iran's Mysterious Shrinking Reserves: Estimating the Value of Tehran's Foreign Assets," *Foundation for Defense of Democracies & Roubini Global Economics*, September 2015. (http://www.defenddemocracy.org/content/uploads/publications/FDDRoubini_Report_Irans_mysterious_shrinking_reserves.pdf)

¹¹ International Monetary Fund, "Regional Economic Outlook for the Middle East and Central Asia," October 21, 2015, page 83. (<http://www.imf.org/external/pubs/ft/reo/2015/mcd/eng/pdf/mreo1015.pdf>)

¹² Mark Dubowitz, Annie Fixler, & Rachel Ziemba, "Iran's Economic Resilience Against Snapback Sanctions Will Grow Over Time," *Foundation for Defense of Democracies & Roubini Global Economics*, June 2015. (http://www.defenddemocracy.org/content/uploads/publications/Iran_economy_resilience_against_snapback_sanctions.pdf)

¹³ Emanuele Ottolenghi and Saeed Ghassemnejad, "Hardliners Set to Dominate Iran's February Elections," *FDD Policy Brief*, January 21, 2016. (<http://www.defenddemocracy.org/media-hit/emanuele-ottolenghi-hardliners-set-to-dominate-irans-february-elections/>)

¹⁴ 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>)

ability to use non-military tools to address national security threats. Instead, American lawmakers – at both the federal, state, and local levels – should take the lead and impose measures to target Iran’s support for terrorism, ballistic missile program, support for the Assad regime in Syria, human rights abuses, and systemic corruption. 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.”¹⁵

There are significant “non-nuclear” measures that lawmakers should consider to prevent the enrichment of those in the Iranian regime who continue to engage in terrorism and other activities inimical to U.S. interests. At the state level, lawmakers have important levers that they can deploy. My specific recommendations in this testimony are:

1. Reaffirm the authority of state governments to divest public retirement funds from companies that invest in the Iranian energy sector.
2. Expand state-level sanctions efforts by banning government contracts with, and state government procurement from, companies doing business with Iran. State governments should also require divestment of funds from companies doing business with state sponsors of terrorism.
3. Create a watch list of Iranian companies linked to the Revolutionary Guards, the Supreme Leader’s business empire, and/or the Iranian government. State governments could then sanction any company that engages in business with firms included on the watch list.

INTRODUCTION

Throughout the summer and fall, Congress held numerous, in-depth debates and discussions about the terms of the nuclear deal and the sunset clauses that over time lift restrictions on Iran’s nuclear activities. Given the deeply-flawed nature of the JCPOA, it should come as no surprise that bipartisan majorities of both the House and Senate opposed the deal and that the American public overwhelming rejected it. Some members of Congress who ultimately decided not to vote against the deal did so after issuing lengthy – and anguished – statements outlining its serious shortcomings.

Despite congressional reservations about the deal, on January 16, the International Atomic Energy Agency (IAEA) verified that Iran had met its preliminary nuclear commitments under deal.¹⁶ This finding triggered the lifting of EU and UN sanctions and the suspension of many of the most impactful U.S. sanctions on Iran. These initial commitments from Iran did not,

¹⁵ John Kerry, “Remarks on Nuclear Agreement With Iran,” *National Constitution Center, Philadelphia*, September 2, 2015. (<http://www.state.gov/secretary/remarks/2015/09/246574.htm>)

¹⁶ International Atomic Energy Agency, “Verification and Monitoring in the Islamic Republic of Iran in light of United Nations Security Council Resolution 2231,” January 16, 2016. (<https://www.iaea.org/sites/default/files/gov-inf-2016-1.pdf>)

however, include transparent cooperation with the IAEA to resolve international concerns about the possible military dimensions of Iran's nuclear program.¹⁷

While the political debate over the JCPOA continues into the election year, the challenges for international companies are just beginning. Navigating economic sanctions on Iran – both those that have been lifted and those that will remain – will be a legal and reputational minefield for international companies.

First, major discrepancies exist between U.S. and EU “de-designation” lists. Differences between EU and U.S. sanctions have existed for years – for example, the EU has designated more than 50 high ranking Iranian human rights violators who have escaped U.S. sanction, while the U.S. has designated two dozen Iranian financial institutions that have never been sanctioned by Europe. These inconsistencies will continue, and on Implementation Day, the U.S. and EU removed sanctions from more than one hundred entities that were not on each other’s sanctions relief lists.

These discrepancies likely will create a nightmare for professionals charged with keeping international businesses in compliance with U.S. laws and global reputational standards. The problem is especially acute when it comes to foreign financial institutions. Any institution engaged in “significant financial transactions” with banks that remain under U.S. sanctions “will risk losing its access to the U.S. financial system,” warned Treasury Secretary Jack Lew.¹⁸

American companies also need to be wary of doing business with entities removed from Treasury’s Specially Designated Nationals (SDN) list. Despite their removal from the SDN list, more than 140 entities (including financial institutions) remain off limits to U.S. firms and their subsidiaries.¹⁹ According to the JCPOA, these entities are identified by the U.S. Treasury as owned or controlled by the government of Iran, and U.S. persons are “prohibited from transactions with these individuals and entities, pursuant to the Iran Transactions and Sanctions Regulations.”

Next, American companies need to navigate the legal and political complexities of what business they are permitted to conduct through their foreign subsidiaries. Under the JCPOA, the U.S. government will license foreign subsidiaries to conduct business from which their parent

¹⁷ International Atomic Energy Agency, “Final Assessment on Past and Present Outstanding Issues regarding Iran’s Nuclear Programme,” December 2, 2015. (<https://www.iaea.org/sites/default/files/gov-2015-68.pdf>); David Albright, Andrea Stricker, and Serena Kelleher-Vergantini, “Analysis of the IAEA’s Report on the Possible Military Dimensions of Iran’s Nuclear Program,” *Institute for Science and International Security*, December 8, 2015.

(http://www.isisnucleariran.org/assets/pdf/ISIS_Analysis_of_the_IAEA_PMD_Report_December_8_2015_Final.pdf); Olli Heinonen, “Next Steps in the Implementation of the JCPOA,” *FDD Research*, December 8, 2015. (<http://www.defenddemocracy.org/media-kit/next-steps-in-the-implementation-of-the-jcpoa/>); “The Possible Military Dimensions of Iran’s Nuclear Program,” *Iran Task Force*, December 2015. (http://taskforceoniran.org/pdf/The_PMDs_of_Iran%20%99s_Nuclear_Program.pdf)

¹⁸ Jacob J. Lew, “Iran Nuclear Agreement: The Administration’s Case,” *Testimony before the House Foreign Affairs Committee*, July 28, 2015. (<http://docs.house.gov/meetings/FA/FA00/20150728/103823/HHRG-114-FA00-Wstate-LewJ-20150728.pdf>)

¹⁹ “Joint Comprehensive Plan of Action – Attachments,” Vienna, July 14, 2015, Attachment 3. (http://eeas.europa.eu/statements-euas/docs/iran_agreement/annex_1_attachments_en.pdf)

companies are prohibited²⁰ – a loophole that Congress previously closed and one that legislators, and a future administration, may not want reopened.²¹

Since America’s primary trade embargo against Iran remains in place, U.S. persons continue to be banned from conducting business with most Iranian entities. Foreign companies meanwhile need to ensure that their transactions don’t transit through New York, because Iran is banned from conducting the “momentary transaction to … dollarize a foreign payment,” known as a U-turn transaction, Acting Under Secretary of the Treasury Adam Szubin noted.²² As Treasury Secretary Lew explained succinctly, Iran “will continue to be denied access to the world’s largest financial and commercial market.”²³

Behind all of the technical details, one overarching theme should remain at the forefront of risk concerns for international firms: the IRGC’s dominant role in the Iranian economy. The Guards control significant companies in all major sectors of Iran’s economy. Any foreign company partnering with local Iranian businesses will likely expose itself to the IRGC or to the business interests of Supreme Leader Ali Khamenei through EIKO or both. That is, unless lawmakers take steps now to mitigate this very significant problem.

In the following testimony, I will explain the problems with the structure of the JCPOA’s sanctions relief and the leverage that the deal provides Iran – what I call Iran’s “nuclear snapback.” I will also elaborate on how sanctions relief is projected to enrich the most dangerous elements of the regime. Lawmakers at the state and federal level can mitigate some of the worst effects of the sanctions relief by using non-nuclear sanctions and all economic levers of national power to raise the costs for international companies and the foreign subsidiaries of U.S. companies engaging in business with the Revolutionary Guards, the Supreme Leader’s business empire, and other dangerous Iranian elements.

THE FLAWED STRUCTURE OF THE DEAL

The Joint Comprehensive Plan of Action (JCPOA) is a fatally flawed deal because rather than block Iran’s pathways, it opens a “patient path” to a nuclear weapon and intercontinental ballistic missile (ICBM) capability over the next decade and a half. Tehran has to simply abide by the agreement to emerge as a threshold nuclear power with a stronger economy increasingly immunized against Western sanctions.

²⁰ “Joint Comprehensive Plan of Action, Annex II – Sanctions-related commitments,” Vienna, July 14, 2015, paragraph 5.1.2. (http://eeas.europa.eu/statements-eu/docs/iran_agreement/annex_2_sanctions_related_commitments_en.pdf)

²¹ U.S. House of Representatives, 112th Congress, 2nd Session, H.R. 1905, “Iran Threat Reduction and Syria Human Rights Act of 2012,” *Government Printing Office*, 2012, Section 218. (<http://www.gpo.gov/fdsys/pkg/BILLS-112hr1905enr/pdf/BILLS-112hr1905enr.pdf>)

²² 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>)

²³ Jacob J. Lew, “Iran Nuclear Agreement: The Administration’s Case,” *Testimony before the House Foreign Affairs Committee*, July 28, 2015. (<http://docs.house.gov/meetings/FA/FA00/20150728/103823/HHRG-114-FA00-Wstate-LewJ-20150728.pdf>)

The Patient Pathway to a Bomb

Even if Iran doesn't violate the JCPOA, over time, it will have a patient pathway to nuclear weapons, an ICBM program, access to heavy weaponry, an economy immunized against sanctions pressure, and a more powerful regional position where it can continue its destabilizing and aggressive behavior. Even if Iran abides by the deal, it can re-open and expand its paths to a nuclear bomb.

Under the JCPOA, Iran will be permitted over the next 8.5 to 15 years to expand its nuclear program. The deal allows certain restrictions on Iran's nuclear activities to lapse after 8.5 and 10 years, and many additional restrictions to terminate after 15 years. Additionally, Implementation Day has significantly dismantled the international economic sanctions architecture.

The administration stated that the goal of the nuclear deal is to cut off Iran's "four pathways to a nuclear weapon:" the two uranium pathways through Natanz and Fordow, the plutonium pathway at the Arak reactor, and the clandestine pathway.²⁴

The JCPOA is fundamentally flawed in its design because if Iran abides by the deal, it can still re-open and expand each of these pathways.

During the first 10 years, Iran can test advanced centrifuges in a way that does not accumulate enrichment uranium; however, after 8.5 years, Iran can commence research and development (R&D) and testing with uranium in up to 30 IR-6's and IR-8's.²⁵ After 10 years, Iran can increase the number and type of centrifuges operating at the Natanz facility, further reducing the limited restriction on this pathway.

As restrictions on Iran's enrichment program lapse, Iran can operationalize an unlimited number of advanced centrifuges. These centrifuges can more easily be used in a clandestine program because they are more efficient than Iran's basic models, can enrich uranium to weapons-grade faster, requiring a fewer number of machines, and can be housed in smaller, harder-to-detect facilities. Iran's breakout time – the amount of time it takes to enrich enough uranium for one bomb to weapons-grade – will begin to drop below the one-year breakout time after year 10 and fall to mere weeks after year 15 and beyond.²⁶

²⁴ Ernest Moniz, "A Nuclear Deal that Offers a Safer World," *The Washington Post*, April 12, 2015. (https://www.washingtonpost.com/opinions/a-safer-iran/2015/04/12/ae3a7f78-dfae-11e4-a1b8-2ed88bc190d2_story.html)

²⁵ "Joint Comprehensive Plan of Action," Vienna, July 14, 2015, Annex I, paragraphs 32, 37, 38. (http://eeas.europa.eu/statements-e eas/docs/iran_agreement/annex_1_nuclear_related_commitments_en.pdf)

²⁶ "Transcript: President Obama's Full NPR Interview on Iran Nuclear Deal," *NPR*, April 7, 2015. (<http://www.npr.org/2015/04/07/397933577/transcript-president-obamas-full-npr-interview-on-iran-nuclear-deal>); David Albright, Houston Wood, and Andrea Stricker, "Breakout Times Under the Joint Comprehensive Plan of Action," *Institute for Science and International Security*, August 18, 2015. (http://www.isis-online.org/uploads/isis-reports/documents/Iranian_Breakout_Timelines_and_Issues_18Aug2015_final.pdf)

Additionally, after 15 years, Iran can build an unlimited number of advanced centrifuge-powered enrichment facilities.²⁷ Iran will also be permitted to enrich uranium at its underground facility at Fordow²⁸ – a facility possibly impenetrable to U.S. military strikes. Indeed, under the deal, Iran will be permitted to build multiple Fordow-type facilities. Thus, in a decade and a half, Iran will be on a path to an industrial-size, widely-dispersed nuclear program with an ICBM program and will have the capability to enrich very quickly to weapons-grade at hardened, Fordow-type enrichment facilities.

After 15 years, Iran can also build an unlimited number of heavy water reactors. The JCPOA prohibits Iran from building additional heavy water reactors for 15 years and after that, relies on a non-binding Iranian intention to build only light water reactors. This intention might change.²⁹ The deal also relies on Iranian intentions not to engage in spent fuel reprocessing,³⁰ a process from which plutonium for a nuclear bomb can be recovered.

The only permanent restriction on Iran's ability to use its heavy water reactors to reprocess plutonium for weapons purposes is the requirement to ship all spent fuel out of Iran "for the lifetime of the reactor."³¹ When Arak is no longer operational, does this restriction also lapse? When Iran has multiple heavy water reactors and determines that the United States has limited coercive options outside of military force to respond a violation of this ban, it may feel emboldened to retain spent fuel inside the country.

While abiding by the terms of the JCPOA, Iran can exercise strategic patience and wait to open up these multiple pathways to nuclear weapons while building up immunity against economic sanctions, leveraging its nuclear snapback to constrain Western retaliation to violations, and increasing its regional power. The JCPOA does not prevent a nuclear-armed Iran; rather it provides a patient pathway.

The Structure of Sanctions Relief

On Implementation Day, Iran received substantial sanctions relief – a major "stimulus package" for Iran's economy, with the benefits expanding and creating greater economic resiliency over time. The JCPOA front-loads sanctions relief, reconnecting Iranian banks back into the global financial system and providing Iran with access to about \$90-120 billion in previously frozen foreign assets.³² These funds could flow to the coffers of terrorist groups and rogue actors. While President Obama has claimed the money would not be a "game-changer" for Iran,³³ Supreme

²⁷ "Joint Comprehensive Plan of Action," Vienna, July 14, 2015, Annex I, paragraph 31.

(http://eeas.europa.eu/statements-e eas/docs/iran_agreement/annex_1_nuclear_related_commitments_en.pdf)

²⁸ Ibid., paragraph 45.

²⁹ Ibid., paragraph 16.

³⁰ Ibid., paragraphs 18-19.

³¹ Ibid., paragraph 11.

³² Mark Dubowitz, Annie Fixler, & Rachel Ziomba, "Iran's Mysterious Shrinking Reserves: Estimating the Value of Tehran's Foreign Assets," *Foundation for Defense of Democracies & Roubini Global Economics*, September 2015. (http://www.defenddemocracy.org/content/uploads/publications/FDDRoubini_Report_Irands_mysterious_shrinking_reserves.pdf)

³³ Barack Obama, "Press Conference by the President," Washington, D.C., July 15, 2015.

(<https://www.whitehouse.gov/the-press-office/2015/07/15/press-conference-president>)

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.”³⁴ This infusion of \$90-\$12 billion in cash and other assets will relieve budgetary challenges for a country that had only an estimated \$20 billion in fully accessible foreign exchange reserves prior to November 2013³⁵ but was spending at least \$6 billion annually to support Assad.³⁶

Last week, Secretary of State John Kerry admitted that Iran will use some of the funds from sanctions relief to aid its nefarious activities and support terrorism. About 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.”³⁷ The Foundation for Defense of Democracies previously studied how sanctions relief could be provided in such a way that Iran could not use the funds to support terrorist activities. Our recommendations structured relief so as to “deter and punish Iranian non-compliance...; provide a vital enforcement mechanism to support a monitoring, verification, and inspection regime; and curb Iran’s support for terrorism and its abuse of human rights.”³⁸ Instead, the Obama administration negotiated an agreement that significantly undermined the international sanctions architecture in exchange for temporary, reversible constraints on Iran’s nuclear activities.

On Implementation Day, sanctions on Iran’s crude oil export transactions were lifted, as were sanctions on key sectors of the Iranian economy. This sanctions relief will enable Iran to build economic resilience against future economic sanctions pressure – both sanctions aimed at isolating other illicit financial conduct and so-called “snapback” sanctions in the event of Iranian non-compliance with the JCPOA.

After five and eight years respectively, the arms embargo and restrictions on ballistic missile development will lapse. Already, since the July 2015 JCPOA agreement, Iran twice tested ballistic missiles capable of carrying nuclear warheads in violation of UN Security Council resolutions,³⁹ and yet the entities involved in the missile test are set to be removed from

³⁴ “Iran Press Review 20 July,” *Foundation for Defense of Democracies*, July 20, 2015. (<http://www.defenddemocracy.org/iran-press-review-20-july>)

³⁵ Mark Dubowitz & Rachel Ziembra, “When Will Iran Run Out of Money?,” *Foundation for Defense of Democracies & Roubini Global Economics*, October 2, 2013.

(http://www.defenddemocracy.org/content/uploads/documents/Iran_Report_Final_2.pdf)

³⁶ 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>)

³⁷ 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/>)

³⁸ Mark Dubowitz and Richard Goldberg, “Smart Relief After an Iran Deal,” *Foundation for Defense of Democracies*, June 2014.

(http://www.defenddemocracy.org/content/uploads/documents/Final_Smart_Sanctions_Report.pdf)

³⁹ 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 News*, 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 Charboneau, “Iran’s October missile test violated U.N. ban: expert panel,”

sanctions lists.⁴⁰ Iranian officials have also stated that they will not abide by limitations on their ballistic missile program. Following the missile test, Defense Minister IRGC Brigadier General Hossein Dehghan said, “We will not ask permission from anyone in strengthening our defensive power and missile capability,” implying, if not explicitly stating, that Iran would not refrain from this type of activity.⁴¹ Deputy Foreign Minister Abbas Araghchi was more explicit:

“We will not implement [the resolution]. We are not committed to the Security Council’s armament sanction for the next five years.... We will sell weapons to whomever we want.... None of our missiles are covered by this resolution.”⁴²

After eight years, on Transition Day, the U.S., EU, and UN will lift additional sanctions and provide Iran with additional sanctions relief. This sanctions relief will occur whether or not the IAEA can reach a so-called “broader conclusion” that Iran’s nuclear program is entirely peaceful. Simultaneously, restrictions on Iran’s nuclear activities will begin to lapse. At that time, and especially after year 15, Iran’s nuclear program will be poised for much greater expansion, and the United States will have a greatly diminished economic sanctions capability to force the Iranian government to comply with the remaining obligations. I am deeply concerned that if Iran decides to step from a threshold nuclear weapons state to a state in possession of an arsenal of nuclear weapons, the only choice at that point may be the use of U.S. military force against a much more powerful Iran.

The deal is also fatally flawed because it dismantles international sanctions without a reciprocal dismantlement of Iran’s illicit nuclear infrastructure. The agreement neutralizes UN and EU sanctions, and significantly diminishes the scope and efficacy of U.S. sanctions.

The JCPOA lifts blanket bans on commercial and financial transactions in entire sectors of Iran’s economy, including upstream energy investment and energy-related technology transfers, the auto industry, petrochemicals, and shipping, as well as the precious metals trade. Additionally, on Implementation Day, the U.S. and EU removed hundreds of individuals and entities designated from their sanctions lists. These entities were originally sanctioned for supporting Iran’s nuclear and ballistic missile proliferation.

Of the more than 650 entities that have been designated by the U.S. Treasury for their role in Iran’s nuclear and missile programs or for being owned or controlled by the government of Iran, more than 67 percent were de-listed from Treasury’s blacklists on Implementation Day. This

Reuters, December 16, 2015. (<http://www.reuters.com/article/us-iran-missiles-un-exclusive-idUSKBN0TY1T920151216>)

⁴⁰ 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/>)

⁴¹ “Mooshak-e Emad’ Nasl-e Jadid-e Moushakha-ye Ballistik-e Iran ba Movafaghiyat Azmayesh Shod (Iran’s New Generation Ballistic Missile the ‘Emad Missile’ Was Successfully Tested),” *Young Journalists Club* (Iran), October 11, 2015. (<http://www.yjc.ir/fa/news/5352934>) 80% E2% 80% 8E های بالستیک ایران جامو فقیت-عمراد-سل-جید-موشک (از مایش شد-تصاویر و فیلم)

⁴² “Araghchi: Bakhshai az Ghatname ra Ejra Nakhahim Kard (We Will Not Implement Certain Sections of the Resolution,” *Tabnak* (Iran), September 11, 2015. (<http://www.tabnak.ir/fa/news/530866>) بر-قطعنامه-از-عراقيي خشهاي-كرد-نخواهيم-اجرا

includes the Central Bank of Iran and most major Iranian financial institutions. After eight years, only 25 percent of the entities that have been designated by Treasury over the past decade will remain sanctioned.

The goal of sanctions was to provide the president with the tools to stop the development of an Iranian nuclear threshold capacity and also to protect the integrity of the U.S.-led global financial sector from the vast network of Iranian financial criminals. The JCPOA, however, requires a de-listing of sanctioned entities divorced from a change in the illicit and illegal behavior that prompted the designations in the first place. The JCPOA requires the wholesale lifting of sanctions on entire sectors rather than creating a rehabilitation program (as was the case for the termination of sanctions on Myanmar) requiring that sanctioned entities demonstrate that they are no longer engaged in illicit behavior. Instead, the JCPOA's sanctions relief program creates no guarantees that these entities will, once de-listed, cease the patterns of illicit conduct that caused them to be sanctioned in the first place. Indeed, there is ample reason to believe they will redouble that activity.

The JCPOA and the Challenge to Conduct-Based Financial Sanctions

The JCPOA dismantles the international economic sanctions architecture which was designed to respond to the full range of Iran's illicit activities, not only the development of Iran's illicit nuclear program. The United States has spent the last decade building a powerful sanctions architecture to punish Iran for its nuclear mendacity, illicit ballistic missile development, vast financial 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"⁴³ from Iranian illicit financial activities.⁴³

Tranche after tranche of designations issued by Treasury, backed by intelligence that often took months, if not years, to compile, isolated Iran's worst financial criminals. And designations were only the tip of the iceberg. Treasury officials traveled the globe to meet with financial leaders and business executives to warn them against transacting with known and suspected terrorists and weapons proliferators.⁴⁴ This campaign was crucial to isolating Iran.

Following years of individual designations of Iranian and foreign financial institutions for involvement in the illicit financing of nuclear, ballistic missile, and terrorist activities,⁴⁵ Treasury issued a finding in November 2011 under Section 311 of the USA PATRIOT Act that Iran (and

⁴³ 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>)

⁴⁴ Robin Wright, "Stuart Levey's War," *The New York Times*, November 2, 2008. (<http://www.nytimes.com/2008/11/02/magazine/02IRAN-t.html?pagewanted=all&r=0>)

⁴⁵ Treasury designated 23 Iranian and Iranian-allied foreign financial institutions as "proliferation supporting entities" under Executive Order 13382 and sanctioned Bank Saderat as a "terrorism supporting entity" under Executive Order 13224. U.S. Department of the Treasury, Press Release, "Treasury Cuts Iran's Bank Saderat Off from U.S. Financial System," September 8, 2006. (<http://www.treasury.gov/press-center/press-releases/Pages/hp87.aspx>); U.S. Department of the Treasury, Press Release, "Treasury Designates Major Iranian State-Owned Bank," January 23, 2012. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1397.aspx>)

its entire financial sector, including its central bank) was a “jurisdiction of primary money laundering concern.”⁴⁶ 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.”⁴⁷ The entire country’s financial system posed “illicit finance risks for the global financial system.”⁴⁸

Internationally, the global anti-money laundering and anti-terror finance standards body the Financial Action Task Force (FATF) also warned its members that they should “apply effective counter-measures to protect their financial sectors from money laundering and financing of terrorism (ML/FT) risks emanating from Iran.”⁴⁹ Despite the JCPOA, in June and in October 2015, FATF again issued statements warning that Iran’s “failure to address the risk of terrorist financing” poses a “serious threat … to the integrity of the international financial system.”⁵⁰

The Section 311 finding was conduct-based, and it would therefore be appropriate to tie the lifting of sanctions on all designated Iranian banks (especially the legislatively-designated Central Bank of Iran) and their readmission into the global financial system to specific changes in their conduct. The JCPOA, however, requires the lifting of financial sanctions prior to a demonstrable change in Iran’s illicit financial conduct.

On Implementation Day (January 16), the United States terminated financial sanctions against most Iranian financial institutions. The nuclear deal lifts U.S. sanctions on 21 out of the 23 Iranian banks designated for proliferation financing – including both nuclear and ballistic missile activity – and 26 other financial institutions blacklisted for providing financial services to previously-designated entities or for being owned by the government of Iran.⁵¹ The designation

⁴⁶ 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>)

⁴⁷ Ibid.

⁴⁸ 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>)

⁴⁹ 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>)

⁵⁰ The Financial Action Task Force, Public Statement, “FATF Public Statement 26 June 2015,” June 26, 2015. (<http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/documents/public-statement-june-2015.html>); The Financial Action Task Force, Public Statement, “FATF Public Statement – 23 October 2015,” October 23, 2015. (<http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/public-statement-october-2015.html>)

⁵¹ Over the past decade, the Treasury Department has designated 51 banks and their subsidiaries inclusive of the 23 banks designated as proliferators, Bank Saderat which was designated for financing terrorism, and the Central Bank of Iran. With the exception of Bank Saderat, Ansar Bank, and Mehr Bank, all Iranian financial institutions will be de-listed on implementation day. Note, there is an inconsistency in Attachment 3. The Joint Iran-Venezuela Bank is listed as the same entry as Iran-Venezuela Bi-National Bank. On the SDN list, the two are listed with unique entries and different designations. FDD assumes, however, that both banks are being de-listed. U.S. sanctions on Ansar Bank and Mehr Bank are scheduled to remain in place. Sanctions on Arian Bank, Banco International de Desarollo, Bank Kargoshaee, Bank of Industry and Mine, Bank Melli, Bank Mellat, Bank Refah, Bank Sepah, Bank Tejarat, Europaisch-Iranische Handelsbank, Export Development Bank of Iran, First East Export Bank, First Islamic Bank, Future Bank, Iranian-Venezuela Bi-National Bank, Kont Investment Bank, Moallem Insurance Company, Persia International Bank, Post Bank, Sorinet Commercial Trust Bankers, and Trade Capital Bank (aka Bank Torgovoy Kapital ZAO) as well as the Central Bank of Iran (aka Bank Markazi Jomhouri Islami Iran) will be lifted on

of Bank Saderat for terrorist financing will remain in place, but the sanctions against the Central Bank of Iran have been lifted.

U.S. persons are still prohibited from transacting with Iranian financial institutions, and these de-listed banks will continue to be prohibited from transacting in dollars.⁵² Restrictions banning Iran from engaging in U-turn payments will remain in place.⁵³

Meanwhile, the European Union lifted sanctions against most Iranian banks that it sanctioned over the past decade and removed restrictions on financial messaging services, allowing these Iranian banks back onto the SWIFT financial messaging system from where they were expelled in March 2012.⁵⁴ SWIFT sanctions were lifted from the Central Bank of Iran and all Iranian banks⁵⁵ originally banned from SWIFT⁵⁶ without any indication that their financial conduct has changed.

In the past, Washington has given “bad banks” access to the global financial system in order to secure a nuclear agreement. In 2005, Treasury issued a Section 311 finding against Macau-based Banco Delta Asia,⁵⁷ and within days, North Korean accounts and transactions were frozen or blocked in banking capitals around the world. North Korea refused to make nuclear concessions before sanctions relief and defiantly conducted a nuclear test.⁵⁸ The State Department advocated for the release of frozen North Korean funds on good faith,⁵⁹ and ultimately prevailed. As a result, however, Washington lost its leverage and its credibility by divorcing the Section 311

⁵¹“Implementation Day.” See Attachment 3. (http://eeas.europa.eu/statements-eeas/docs/iran_agreement/annex_1_attachements_en.pdf)

⁵² Henry Balani, “Iran Nuclear Agreement’s AML Policy Implications: Banks Should Be Researching Changes Now,” *Banking Exchange*, September 4, 2015. (<http://www.bankingexchange.com/compliance/bsa-aml/item/5726-iran-nuclear-agreement-s-aml-policy-implications>)

⁵³ U.S. Department of the Treasury, Office of Foreign Assets Control, “Additional Iran-related Questions From Financial Institutions,” Accessed October 30, 2015. (http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_iran.aspx#misc_fi)

⁵⁴ “Joint Comprehensive Plan of Action, Annex II – Sanctions-related commitments,” Vienna, July 14, 2015. (http://eeas.europa.eu/statements-eeas/docs/iran_agreement/annex_2_sanctions_related_commitments_en.pdf);

SWIFT, Press Release, “SWIFT Instructed to Disconnect Sanctioned Iranian Banks Following EU Council Decision,” March 15, 2012. (http://www.swift.com/news/press_releases/SWIFT_disconnect_Iranian_banks)

⁵⁵ On Implementation Day, the EU will lift sanctions on the Central Bank of Iran and Bank Mellat, Bank Melli, Bank Refah, Bank Tejarat, Europaische-Iranische Handelsbank (EIH), Export Development Bank of Iran, Future Bank, Onerbank ZAO, Post Bank, and Sina Bank. On Transition Day, the EU will also lift sanctions on Ansar Bank, Bank Saderat, Bank Sepah and Bank Sepah International, and Mehr Bank. See Attachment 1, parts 1 and 2 and Attachment 2, parts 1 and 2. (http://eeas.europa.eu/statements-eeas/docs/iran_agreement/annex_1_attachements_en.pdf)

⁵⁶ The Council of the European Union, “Council Regulation (EU) No 267/2012 of 23 March 2012 Concerning Restrictive Measures against Iran and Repealing Regulation (EU) No 961/2010,” *Official Journal of the European Union*, March 24, 2012. (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1406807228342&uri=CELEX:32012R0267>)

⁵⁷ U.S. Department of the Treasury, Press Release, “Treasury Designates Banco Delta Asia as Primary Money Laundering Concern Under USA PATRIOT Act,” September 15, 2005. (<http://www.treasury.gov/press-center/press-releases/Pages/js2720.aspx>)

⁵⁸ David E. Sanger, “North Koreans Say They Tested Nuclear Device,” *The New York Times*, October 9, 2006. (<http://www.nytimes.com/2006/10/09/world/asia/09korea.html?pagewanted=all>)

⁵⁹ Juan Zarate, *Treasury’s War: The Unleashing of a New Era of Financial Warfare*, (New York: Public Affairs, 2013), page 258.

finding from the illicit conduct that had prompted the finding in the first place. Undeterred, North Korea moved forward with its nuclear weapons program while continuing to engage in money laundering, counterfeiting, and other financial crimes.

Compromising the integrity of the U.S. and global financial system to conclude a limited agreement with North Korea neither sealed the deal nor protected the system. The JCPOA repeats this same mistake by lifting financial restrictions on bad banks without certifications that Iran's illicit finance activities have ceased.

This is what is especially notable about the lifting of designations: the Obama administration has provided no evidence to suggest that these individuals, banks, and businesses are no longer engaged in the full range of illicit conduct on which the original designations were based. What evidence is there, for example, to support the de-designation of the Central Bank of Iran, which is the main financial conduit for the full range of Iran's illicit activities? How does a nuclear agreement resolve the proven role of the Central Bank of Iran in terrorism and ballistic missile financing, money laundering, deceptive financial activities, and sanctions evasion? In other words, with the dismantlement of much of the Iran sanctions architecture in the wake of a nuclear agreement, the principle upon which Treasury created the sanctions architecture – the protection of the global financial system – appears no longer to be the standard.

The Challenge of “Non-Nuclear” Sanctions and Iran’s “Nuclear Snapback”

Another fatal deficiency of the JCPOA is that it creates an Iranian “nuclear snapback” instead of an effective economic sanctions snapback. Throughout the negotiations, the Obama administration assured the public and Congress that if Iran violated its nuclear commitments under the final deal, sanctions could be “snapped back” into place. Under a final deal, these officials explained, the United States and its allies would be able to re-impose sanctions quickly in order to punish Iranian non-compliance and bring Iran back into compliance with its nuclear commitments. This was the so-called “snapback” sanction.

Even as originally conceived, this enforcement mechanism was weak and flawed for political, economic, psychological, and structural reasons.⁶⁰

Politically, there are likely to be significant disagreements between the United States, Europe, and members of the UN Security Council on the evidence, the seriousness of infractions, the appropriate level of response, and likely Iranian retaliation. The dispute resolution mechanism in the JCPOA is governed by a Joint Commission made up of the United States, EU, France, UK, Germany, China, Russia, and Iran. The mechanism creates a 60-plus day delay between the time that the United States (or another P5+1 member) announces that a violation has occurred and the time that United Nations sanctions may be re-imposed.⁶¹

If the United States believes that Iran has violated the deal, Washington will refer Iran to the

⁶⁰ For more detail on the challenges of the “snapback” sanction, see “The ‘Snapback’ Sanction as a Response to Iranian Non-Compliance,” *Iran Task Force*, January 2015. (http://taskforceoniran.org/pdf/Snapback_Memo.pdf)

⁶¹ “Joint Comprehensive Plan of Action,” Vienna, July 14, 2015, paragraphs 36-37.

(http://eeas.europa.eu/statements-e eas/docs/iran_agreement/iran_joint-comprehensive-plan-of-action_en.pdf)

Joint Commission. If the issue cannot be resolved by consensus within the Joint Commission, after a process of 35 days, the United States can then unilaterally refer the issue to the UN Security Council. The Security Council must then pass a resolution (which the United States can veto) to continue the current sanctions relief. If that resolution is not passed within another 30 days, the previous UN sanctions will be re-imposed. The “snap” in “snapback” therefore takes more than two months. The mechanism also does not provide for any unilateral re-imposition of sanctions, nor does the UN Security Council resolution, Resolution 2231, which the Obama administration pushed forward to a vote despite congressional requests to delay until after Congress had thoroughly reviewed the deal.⁶²

The snapback sanction mechanism also is economically flawed because it does not account for the effort it will take to pursue companies to leave Iran. It took years to persuade international companies to exit Iran after they had invested billions of dollars; once companies re-enter the Iranian market, it will be difficult to get them to leave again.

As international companies reengage in the Iranian market, European countries may experience domestic economic pressure not to re-impose sanctions. These companies may have invested billions of dollars back into Iran and may be unwilling to walk away from those investments despite Iranian nuclear non-compliance. Mere days after the JCPOA was announced, Foreign Minister Mohammad Zarif noted that the “swarming of businesses to Iran” is a barrier to the re-imposition of sanctions, and once the sanctions architecture is dismantled, “it will be impossible to reconstruct it.” Zarif boasted that Iran can restart its nuclear activities faster than the United States can re-impose sanctions.⁶³

The Obama administration’s understanding of the “snapback” sanction also reflected a too-optimistic assessment of the lag-time between the imposition of sanctions and market and Iranian reaction. Previous economic sanctions impacted reputational and legal risk calculations of private companies evaluating potential business deals with Iranian entities that had consistently engaged in deceptive and other illicit conduct. Economic sanctions have a significant psychological impact in addition to the direct economic impact. But the question of risk and the integrity of Iran’s economy and financial dealings cannot be turned on and off quickly.

From a structural perspective, United Nations Resolution 2231 states that the snapback mechanism is for issues of “significant non-performance,” implying that it would not likely be used for incidents of incremental cheating.⁶⁴ The Iranian regime has previously cheated incrementally, not egregiously, although the sum total of these infractions has been egregious.

⁶² Steny Hoyer, Press Release, “Hoyer: U.N. Security Council Vote Should Wait for Congressional Review Period,” July 17, 2015. (<http://www.democraticwhip.gov/content/hoyer-un-security-council-vote-should-wait-congressional-review-period>); House Committee on Foreign Affairs, Press Release, “Chairman Royce, McCaul to President on Iran Deal: UN Security Council Should Wait Until Congressional Review is Complete,” July 16, 2015. (<http://foreignaffairs.house.gov/press-release/chairmen-royce-mccaul-president-iran-deal-un-security-council-should-wait-until>); “Congress Leaders Ask White House To Delay UN Vote on Iran Deal,” JTA, July 17, 2015. (<http://forward.com/news/breaking-news/312210/congress-leaders-ask-white-house-to-delay-un-vote-on-iran-deal/>)

⁶³ “Foreign Investments in Iran to Serve as Barrier for Sanctions Snapback – FM,” *Voice of the Islamic Republic of Iran, Radio Farhang* (in Persian), July 21, 2015. (Accessed via BBC Worldwide Monitoring)

⁶⁴ United Nations Security Council, “Resolution 2231 (2015),” July 20, 2015, page 4, paragraph 11. (<http://www.un.org/en/sc/inc/pages/pdf/pow/RES2231E.pdf>)

The snapback provision incentivizes Iran to continue this behavior because there is no enforcement mechanism to punish incremental cheating.

Acting Under Secretary of the Treasury Adam Szubin and other administration officials have emphasized that if there are small violations, “We have a host of calibrated penalty tools to respond.”⁶⁵ However, Iran is likely to interpret these actions – “from small measures to sectoral measures to full snap-back of the current sanctions,” to quote Szubin⁶⁶ – as a re-imposition of sanctions and grounds to walk away from the deal, and has said as much.⁶⁷

According to statements from the Obama administration, the snapback will not be used to address Iranian violations of the “non-nuclear” provisions of UN Security Council resolutions, namely the arms embargo and the ballistic missile restrictions.⁶⁸ To date, the United Nations has not taken action to address Iran’s violation of the ballistic missile restrictions – even as its Panel of Experts concluded that Iran’s missile tests violate UN resolutions⁶⁹ – or to address Quds Force Commander Qassem Soleimani’s visit to Russia in violation of international sanctions.⁷⁰ Members of Congress have raised concerns about the unwillingness of the Obama administration to respond to Iran’s illicit activities,⁷¹ and lawmakers from both sides of the aisle have urged the administration to impose meaningful sanctions for Iran’s ballistic missile violations.⁷²

⁶⁵ 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>)

⁶⁶ 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>)

⁶⁷ 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/>)

⁶⁸ Louis Charbonneau & Michelle Nichols, “No Automatic Return of Sanctions If Iran Breaks Arms Embargo: Kerry,” *Reuters*, August 11, 2015. (<http://www.reuters.com/article/2015/08/11/us-iran-nuclear-kerry-sanctions-idUSKCN0QG22M20150811>)

⁶⁹ 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>)

⁷⁰ Jennifer Griffin & Lucas Tomlinson, “Exclusive: Quds Force Commander Soleimani Visited Moscow, Met Russian Leaders in Defiance of Sanctions,” *Fox News*, August 6, 2015.

(<http://www.foxnews.com/politics/2015/08/06/exclusive-quds-force-commander-soleimani-visited-moscow-met-russian-leaders-in/>)

⁷¹ Office of Sen. Richard Blumenthal, Press Release, “Blumenthal, Murphy Express Profound Concern over Iranian Ballistic Missile Test in Letter to Secretary Kerry,” October 21, 2015.

(<http://www.blumenthal.senate.gov/newsroom/press/release/blumenthal-murphy-express-profound-concern-over-iranian-ballistic-missile-test-in-letter-to-secretary-kerry>); Jordan Carney, “Senators Push Obama for Response to Iran’s Ballistic Missile Test,” *The Hill*, October 15, 2015. (<http://thehill.com/blogs/floor-action/senate/257018-senators-push-administration-on-iran-missile-test>)

⁷² For example, see Karoun Demirjian, “Democrats, frustrated with Obama on Iran, float new sanctions proposals,” *The Washington Post*, January 7, 2016.

(https://www.washingtonpost.com/news/powerpost/wp/2016/01/07/democrats-frustrated-with-obama-on-iran-float-new-sanctions-proposals/?postshare=176145219505898&tid=ss_tw); Office of Senator Kelly Ayotte, Press Release, “After Panel Concludes that October Test Violates U.N. Security Council Resolution, Senators Urge Administration Not to Lift Sanctions,” December 17, 2015.

(https://www.ayotte.senate.gov/?p=press_release&id=2393); Office of Senator Robert P. Casey, Jr., Press Release, “Nineteen Democratic Senators Express Profound Concern over Second Iranian Ballistic Missile Test in Letter to

Instead of an effective sanctions snapback, the JCPOA provides Iran with a powerful “nuclear snapback.” The JCPOA makes it clear that using snapback sanctions may lead to a cancelling of the agreement, with Iran walking away from its commitments and resuming its nuclear program. Under the JCPOA, both the EU and U.S. “will refrain from re-introducing or re-imposing” the sanctions specified by the JCPOA and “from imposing new nuclear-related sanctions.”⁷³ Nor will there be any “new nuclear-related UN Security Council sanctions … [or] new EU nuclear-related sanctions or restrictive measures.”⁷⁴ The text repeatedly states that if the U.S. or EU reimpose sanctions, Iran will treat this “as grounds to cease performing its commitments under this JCPOA in whole or in part.”⁷⁵

In short, because any re-imposition of sanctions is likely to scuttle the entire agreement, it will be difficult to persuade our P5+1 partners to punish Iran for any violations short of the most flagrant unless the administration sends a message by its own actions that it is determined to punish any violation. Even while incrementally cheating on its commitments, Iran could force the United States and Europe to choose between not strictly enforcing the agreement and abrogating the whole agreement. Any punishment of a small-to-medium level violation may lead Iran to stop complying with the agreement. Because both the United States and Europe will be heavily invested in the deal and only willing to abrogate it for a major violation, and without serious, explicit action that signals a determination to hold Iran accountable for non-compliance, Iran is likely to get away with small- and medium-sized violations. Iran may also use an implicit – or explicit – threat of nuclear escalation to pressure U.S. allies not to support efforts to address Iranian non-compliance.

The JCPOA is flawed in its design; it contains no peaceful, effective means to enforce the deal and explicitly provides Iran with an opening for a nuclear snapback that it can use to characterize itself as the aggrieved party if the EU or U.S. re-impose sanctions. This nuclear snapback could be particularly effective against the Europeans, who will be loath to do anything that leads to Iranian nuclear escalation, and on whose support the United States needs on the Joint Commission, at the UN Security Council, in a coordinated transatlantic snapback scenario of EU and U.S. sanctions, or, at a minimum, to comply with U.S. secondary sanctions. To neutralize the effectiveness of economic snapbacks, Iran could target Europe as the weakest link through threats of nuclear escalation or through inducements of substantial investment and commercial opportunities. And we must bear in mind that Iran needs only to move one of the three European nations in the talks or shake the EU consensus in order to undermine this enforcement mechanism.

Of deep concern, the JCPOA’s language also provides Iran with an opening to diminish the ability of the United States to apply any sanctions, including non-nuclear sanctions, against the full range of Iran’s illicit conduct. The JPCOA contains an explicit requirement for the EU and

President Obama,” December 17, 2015. (<https://www.casey.senate.gov/newsroom/releases/nineteen-democratic-senators-express-profound-concern-over-second-iranian-ballistic-missile-test-in-letter-to-president-obama>)

⁷³ “Joint Comprehensive Plan of Action,” Vienna, July 14, 2015, paragraph 26. (http://eeas.europa.eu/statements-eeas/docs/iran_agreement/iran_joint-comprehensive-plan-of-action_en.pdf)

⁷⁴ Ibid.

⁷⁵ Ibid, paragraph 26 and 37.

the United States to do nothing to “directly and adversely affect the normalization of trade and economic relations with Iran.”⁷⁶ Already Iran is using this provision to challenge U.S. counter-terrorism measures. When the Congress passed legislation to change the visa waiver program to restrict the granting of automatic visas to individuals who had traveled to Iran, Iraq, Syria, and Sudan, Iran protested. Secretary Kerry in turn promised to waive any provisions which would violate the JCPOA.⁷⁷

Tehran may also use this provision to argue that any imposition of sanctions, even for non-nuclear illicit activities, violates the JCPOA.⁷⁸ Iran will likely threaten to walk away from the deal and expand its nuclear program if the United States and its allies attempt to strengthen counter-terrorism related sanctions, for example. Iran has already stated that it may “reconsider its commitments” under the JCPOA if “new sanctions [are imposed] with a nature and scope identical or similar to those that were in place prior to the implementation date, irrespective of whether such new sanctions are introduced on nuclear related or other grounds.”⁷⁹ Supreme Leader Khamenei reiterated this threat in his October 21 letter on Iran’s implementation of the JCPOA:

“Imposition of any sanctions at any level and under any pretexts (including the repeated and fabricated pretexts of terrorism and human rights) by any of the negotiating countries will be considered a violation of the JCPOA.”⁸⁰

U.S. administration officials, in contrast, have stated that Washington is not limited by the JCPOA in its use of targeted economic sanctions to combat the full range of Iran’s illicit activities. Secretary of State John Kerry pledged that the United States “will oppose Iran’s destabilizing policies with every national security tool available.”⁸¹ Secretary of the Treasury Jack Lew committed before Congress that the United States will “continue to prosecute our unilateral sanctions on things like terrorism, on things like regional destabilization and human rights.”⁸² And Under Secretary Szubin has been most explicit on this point:

“The JCPOA does not in any way affect our sanctions that touch on Iran’s support to terrorist groups such as Hezbollah, Palestinian Islamic Jihad, other destabilizing proxies, such as the Qods Force, the Islamic Revolutionary Guard Corps (IRGC). It doesn’t touch

⁷⁶ Ibid, paragraph 29.

⁷⁷ “Kerry: White House Will Waive New Visa Law to Avoid Iran’s Claims That It Violates Nuke Deal,” *The Tower*, December 21, 2015. (<http://www.thetower.org/2721-kerry-white-house-will-waive-new-visa-law-to-avoid-irans-claims-that-it-violates-nuke-deal>); Nahal Toosi, “New U.S. visa rules will have some Iran exceptions, irking GOP.” *Politico*, January 21, 2016. (<http://www.politico.com/story/2016/01/us-visa-rules-posted-website-218054>)

⁷⁸ Ibid, paragraph 29.

⁷⁹ 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/>)

⁸⁰ “Iran Press Review,” *Foundation for Defense of Democracies*, October 21, 2015.

(<http://fdd.cmail20.com/t/ViewEmail/r/941B907BD0F8D6F62540EF23F30FEDED/18EF3159F08F673EDDA3541AF197FE1F>)

⁸¹ John Kerry, “Remarks on Nuclear Agreement With Iran,” *National Constitution Center, Philadelphia*, September 2, 2015. (<http://www.state.gov/secretary/remarks/2015/09/246574.htm>)

⁸² Jacob J. Lew, “Iran Nuclear Agreement: The Administration’s Case,” *Hearing before the House Foreign Affairs Committee*, July 28, 2015. (<http://www.cq.com/doc/congressionaltranscripts-4734477?3>)

on Iran's abuse of human rights and other areas, such as their support to Bashar al-Assad in Syria and the Houthis in Yemen.... The JCPOA in no way limits our ability to target Iran's destabilizing activities, and we have made our posture on this point clear not just to our negotiating partners but to Iran as well.”⁸³

It is important now, before international companies return to Iran, to test the proposition that the JCPOA does not limit America's ability to use economic sanctions to combat non-nuclear illicit activities. Throughout the negotiating period and now following the JCPOA's adoption and implementation, Iran has continued to engage in support for terrorism, support for Assad's brutality against Syrian civilians, and systemic human rights abuses against Iranian civilians. Lawmakers at the state and federal level should pass legislation to enhance sanctions against these activities by targeting the IRGC, the primary organ of the regime responsible for these activities. If administration officials argue that congressional or state-level efforts undermine the JCPOA, we will know that Iran, rather than the United States, is speaking truthfully about the JCPOA's impact on non-nuclear sanctions.

ENRICHING THE MOST DANGEROUS ELEMENTS OF THE REGIME

The JCPOA will enrich 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, the Revolutionary Guards, and the state in 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 strategic areas of the Iranian economy and from an overall improvement in Iran's macroeconomic environment. During the 18-month long negotiations that led to the JCPOA, sanctions relief enabled Iran to move from a severe economic recession to a modest recovery. During that time, Iran received \$11.9 billion in direct sanctions relief, sanctions on major sectors of Iran's economy were suspended, and President Obama de-escalated the sanctions pressure by blocking new congressional sanctions. Jointly, these forces rescued the Iranian economy and its leaders, including the IRGC, from an imminent and severe balance of payments crisis.⁸⁴ Building on this recovery, Implementation Day saw Iran receive access to upwards of \$100 billion in previous frozen assets.⁸⁵

⁸³ 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>)

⁸⁴ Jennifer Hsieh, Rachel Ziemba, & Mark Dubowitz, “Iran’s Economy: Out of the Red, Slowly Growing,” *Foundation for Defense of Democracies & Roubini Global Economics*, October 2014.

(http://www.defenddemocracy.org/content/uploads/publications/RoubiniFDDReport_Oct14.pdf); Jennifer Hsieh, Rachel Ziemba, & Mark Dubowitz, “Iran’s Economy Will Slow but Continue to Grow Under Cheaper Oil and Current Sanctions,” *Foundation for Defense of Democracies & Roubini Global Economics*, February 2015.

(http://www.defenddemocracy.org/content/uploads/publications/RoubiniFDDReport_FEB15.pdf)

⁸⁵ Mark Dubowitz, Annie Fixler, & Rachel Ziemba, “Iran’s Mysterious Shrinking Reserves: Estimating the Value of Tehran’s Foreign Assets,” *Foundation for Defense of Democracies & Roubini Global Economics*, September 2015.

(http://www.defenddemocracy.org/content/uploads/publications/FDDRoubini_Report_Irans_mysterious_shrinking_reserves.pdf)

Iran's growth for this fiscal year (FY 2015/16) is forecast to stabilize around 1-2 percent and expand to 4-5 percent annually for the next three years.⁸⁶ Depending on Iran's policy choices, economic growth could reach 5-6 percent.⁸⁷ In addition to the improvement in Iran's macroeconomic environment, on Implementation Day, the European Union, United States, and United Nations lifted or suspended sanctions against entire sectors of the Iranian economy. The Revolutionary Guards in particular are active in many of these sectors, and IRGC companies and entities controlled by the Supreme Leader are set to capitalize on new business opportunities.

The IRGC and Iran's Rogue Activities

The IRGC is the central force behind the range of Iran's illicit and illegal activities – from nuclear proliferation to support of international terrorism to systemic human rights abuses. In 2011, then-Secretary of State Hillary Clinton and then-Secretary of the Treasury Timothy Geithner explained:

“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.”⁸⁸

It is for this reason that the United States and the international community have targeted the IRGC with a range of sanctions tools. The IRGC was designated first in 2007 for involvement in Iran's proliferation activities,⁸⁹ in 2011 for “severe human rights abuses in Iran,”⁹⁰ and in 2012 for activities like monitoring dissidents and censorship.⁹¹

At the same time, the United States also targeted the IRGC's elite arm, the Quds Force (QF), for its role in international terrorism and supporting a range of terrorist groups. The Quds Force is responsible for “exporting the revolution” abroad,⁹² is Iran's “primary arm for … supporting terrorist and insurgent groups,” and “provides material, logistical assistance, training and

⁸⁶ Mark Dubowitz, Annie Fixler, & Rachel Ziembra, “Iran's Mysterious Shrinking Reserves: Estimating the Value of Tehran's Foreign Assets,” *Foundation for Defense of Democracies & Roubini Global Economics*, September 2015. (http://www.defenddemocracy.org/content/uploads/publications/FDDRoubini_Report_Irands_mysterious_shrinking_reserves.pdf)

⁸⁷ Roubini Global Economics predicts 5-6 percent, and the IMF predicts 5.5 percent in FY 2016/17 and 2017/18. International Monetary Fund, “Regional Economic Outlook for the Middle East and Central Asia,” October 21, 2015, page 83. (<http://www.imf.org/external/pubs/ft/reo/2015/mcd/eng/pdf/mreo1015.pdf>)

⁸⁸ Hillary Rodham Clinton & Timothy Geithner, “Joint Statement on Iran Sanctions,” June 23, 2011. (<http://www.state.gov/r/pa/prs/ps/2011/06/166814.htm>)

⁸⁹ 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>)

⁹⁰ 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>)

⁹¹ 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>)

⁹² Tony Badran, “Exporting the Islamic Revolution,” *Now Lebanon*, June 3, 2015. (<https://now.mmedia.me/lb/en/commentary/564933-exporting-the-islamic-revolution>)

financial support to militants and terrorist operatives throughout the Middle East and South Asia.”⁹³ In its designation of the Quds Force in 2007 for terrorism, Treasury noted that the Quds Force provided “weapons, training, funding, and guidance” to groups in Iraq that targeted American servicemen.⁹⁴ The Quds Force and IRGC-QF Commander Qassem Soleimani were also sanctioned for supporting Syria’s intelligence services during the current crisis in Syria.⁹⁵

The IRGC should be treated as a terrorist entity under U.S. law. It makes no sense to distinguish between the IRGC and QF for the purposes of terrorist designations. The IRGC is “involved in support of terrorism throughout the region,” as Secretaries Clinton and Geithner explained,⁹⁶ and should be designated as a terrorist organization.

Funding the IRGC’s Illicit Activities

The profits the IRGC derives from its business interests fund Iran’s military, terrorist proxies, and other activities hostile to U.S. interests. The U.S. Treasury has repeatedly noted that the Guards’ economic empire “ultimately benefits the IRGC and its dangerous activities.”⁹⁷ As a result, international sanctions have singled out the IRGC and its affiliated entities for sanctions.

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.”⁹⁸ Logically, the lifting of sanctions on these entities and the relevant sectors will also have a direct impact – increasing revenues that could be used to facilitate illicit conduct.

In its role as a protector of the integrity of the global financial system, the U.S. Treasury – as well as the U.S. government more broadly – has a duty to expose the connections of Iranian companies to the IRGC. Based on the experience of the state-level divestment movement, individual states can also have a powerful impact if they build watch lists and identify companies liable for sanction or divestment.

⁹³ 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>)

⁹⁴ 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>)

⁹⁵ 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>)

⁹⁶ Hillary Rodham Clinton & Timothy Geithner, “Joint Statement on Iran Sanctions,” June 23, 2011. (<http://www.state.gov/r/pa/prs/ps/2011/06/166814.htm>)

⁹⁷ U.S. Department of the Treasury, Press Center, Press Release, “Treasury Targets Iran’s Islamic Revolutionary Guards Corps,” February 10, 2010. (<http://www.treasury.gov/press-center/press-releases/Pages/tg539.aspx>)

⁹⁸ U.S. Department of the Treasury, “Fact Sheet: Treasury Sanctions Major Iranian Commercial Entities,” June 23, 2011. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1217.aspx>)

Even if official government designations do not always follow, this exposure can still discourage business ties and dissuade multilateral companies from being complicit in the IRGC's illicit behavior. Exposing the links between the Revolutionary Guards and seemingly legitimate Iranian enterprises can go a long way to reducing the IRGC's ability to fund its illegal activities. As Treasury has stated in the past, "target[ing the] core commercial interests of the IRGC ... undermin[es] its ability to continue using these interests to facilitate its proliferation activities and other illicit conduct."⁹⁹

The IRGC's Pervasive Control of the Iranian Economy

The IRGC has become a dominant force in the Iranian economy, and Iran's "most powerful economic actor," according to the U.S. Treasury.¹⁰⁰ 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.¹⁰¹ Its annual income may be as high as one-sixth of Iran's GDP.¹⁰² 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.¹⁰³

The IRGC investment portfolio is robust, including substantial shares in companies publicly traded on Tehran's Stock Exchange. Taken together, the companies in which the IRGC holds shares are worth more than 20 percent of the Tehran Stock Exchange, and are valued at nearly \$16 billion.¹⁰⁴ Former senior IRGC commanders, many of whom have never been subjected to sanctions, sit on their boards. And this estimate does not account for the hundreds of non-publicly-traded companies in which the IRGC holds controlling stakes.

⁹⁹ U.S. Department of the Treasury, "Fact Sheet: Treasury Sanctions Major Iranian Commercial Entities," June 23, 2011. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1217.aspx>)

¹⁰⁰ 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>)

¹⁰¹ Greg Bruno, Jayshree Bajoria, & Jonathan Masters, "Iran's Revolutionary Guard," *Council on Foreign Relations*, June 14, 2013. (<http://www.cfr.org/iran/irans-revolutionary-guards/p14324>); Emanuele Ottolenghi & Saeed Ghasseminejad, "Who Really Controls Iran's Economy?," *The National Interest*, May 20, 2015.

¹⁰² Parisa Hafezi & Louis Charbonneau, "Iranian Nuclear Deal Set to Make Hardline Revolutionary Guards Richer," *Reuters*, July 6, 2015. (<http://www.reuters.com/article/2015/07/06/us-iran-nuclear-economy-insight-idUSKCN0PG1XV20150706>)

¹⁰³ U.S. Department of State, "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, "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, "Fact Sheet: Treasury Sanctions Major Iranian Commercial Entities," June 23, 2011. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1217.aspx>)

¹⁰⁴ This number is their combined value on January 19, 2016 on the Tehran Stock Exchange (www.tse.ir). See more: Alexi Mostrou, Billy Kenber, & Hugh Tomlinson, "Iranian Militia to Grab British Cash," *The Times* (U.K.), August 26, 2015. (<http://www.thetimes.co.uk/tto/news/world/middleeast/article4538125.ece>)

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,” noted Treasury.¹⁰⁵ The IRGC’s control over strategic sectors of the Iranian economy – banking, energy, construction, industrial, engineering, mining, shipping, shipbuilding, amongst others – means that any foreign firms interested in doing business with Iran will have to do business with the Guards. The IRGC will thus directly benefit from the lifting of sanctions on key sectors of the Iranian economy.

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 Subcommittee¹⁰⁶ as well as the written testimony that he has submitted to this distinguished committee. What follows are key highlights from his research:

Oil, Gas, and Petrochemical Sectors

Iran will benefit from the lifting of sanctions on its energy sector both through renewed foreign investment in upstream and downstream projects and from access to previously-restricted Western technology. IRGC firms own important contracts across the entire energy sector and are positioned to secure additional contracts as foreign capital and technology return to the energy industry. Additionally, the lifting of oil sanctions will benefit the National Iran Oil Company (NIOC) and its many subsidiaries, which both the U.S. and EU de-listed on Implementation Day. At the time of NIOC’s designation, the U.S. Treasury explained that “the IRGC has been coordinating a campaign to sell Iranian oil in an effort to evade international sanctions” and that “the IRGC’s influence has grown within NIOC,” the firm responsible for exporting oil and petroleum products.¹⁰⁷ Iran is projected to bring online around 700,000 barrels per day of oil by the end of 2016.¹⁰⁸ Thus, now that oil sanctions are lifted, the IRGC will benefit from these increased sales through its influence in NIOC.

The JCPOA also permanently removed barriers to trade in the petrochemical sector, allowing renewed Iranian access to sensitive dual-use technology. United Nations Security Council Resolution 1929 (2010) noted the “potential connection between Iran’s revenues derived from its energy sector and the funding of Iran’s proliferation-sensitive nuclear activities,” and also that “chemical process equipment and materials required for the petrochemical industry have much in common with those required for certain sensitive nuclear fuel cycle activities.”¹⁰⁹ Iran’s

¹⁰⁵ U.S. Department of the Treasury, “Fact Sheet: Treasury Sanctions Major Iranian Commercial Entities,” June 23, 2011. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1217.aspx>)

¹⁰⁶ 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>)

¹⁰⁷ U.S. Treasury Department, 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>)

¹⁰⁸ Rachel Ziomba, “What to Watch for After (Iran’s) Implementation Day,” *Roubini Global Economics*, January 18, 2016. (<https://www.roubini.com/thought/what-to-watch-for-after-irans-implementation-day>)

¹⁰⁹ United Nations Security Council, “Resolution 1929 (2010),” June 9, 2010. (http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1929%282010%29)

petrochemical products are, after oil, the country's largest source of foreign income and its second-leading export.¹¹⁰ During the negotiations leading up to the JCPOA, sanctions on this sector were temporarily suspended and exports rose 32 percent to \$3.17 billion.¹¹¹ The permanent suspension of these sanctions under the JCPOA is likely to have an even greater impact. While not a majority owner in any of the publicly-traded petrochemical companies, the IRGC holds major stakes in many of these firms and will no doubt benefit from the suspension of petrochemical sanctions.¹¹²

Automotive

The United States imposed sanctions on Tehran's automotive sector in June 2013, noting that the sector "is a significant contributor to its overall economic activity, generating funds that help prop up the rial and the regime."¹¹³ The IRGC is active in the automotive sector, controlling five major automotive companies listed on the Tehran Stock Exchange, including the Bahman Group, Iran's third largest carmaker.¹¹⁴

The automotive industry relies on dual-use technology, which has applications in the aerospace, defense, and nuclear industries. Lifting bans on such goods is problematic given the IRGC's significant presence in this sector and considering past cases of Iran's illicit procurement under the guise of legitimate trade in the automotive sector.¹¹⁵

Transportation

The IRGC has relied on Iran's largest shipping and aviation companies to transport military equipment and personnel to proxies abroad.¹¹⁶ Under the JCPOA, sectoral sanctions as well as individual designations of companies in the transportation sector were lifted on Implementation Day.

¹¹⁰ Maysam Bizær, "Iran Holds Trump Card on Oil: Petrochemicals," *Al-Monitor*, January 22, 2015. (<http://www.al-monitor.com/pulse/originals/2015/01/iran-oil-petrochemicals.html>)

¹¹¹ Emanuele Ottolenghi & Saeed Ghasseminejad, "Iran Sanctions Relief Sparks Growing Trade with Europe, Asia," *Foundation for Defense of Democracies*, March 27, 2015. (<http://www.defenddemocracy.org/media-hit/Iran-sanctions-relief-sparks-growing-trade-with-Europe-Asia/>)

¹¹² Emanuele Ottolenghi & Saeed Ghasseminejad, "The Geneva Joint Plan of Action and Iran's Petrochemical Sector," *Foundation for Defense of Democracies*, December 9, 2013. (<http://www.defenddemocracy.org/media-hit/the-geneva-joint-plan-of-action-and-irans-petrochemical-sector/>)

¹¹³ U.S. Department of the Treasury, Press Release, "Testimony of Under Secretary for Terrorism and Financial Intelligence David Cohen before the Senate Committee on Banking, Housing and Urban Affairs on 'Iran Sanctions: Ensuring Robust Enforcement, and Assessing Next Steps,'" June 4, 2013. (<http://www.treasury.gov/press-center/press-releases/Pages/jl1969.aspx>)

¹¹⁴ Emanuele Ottolenghi & Saeed Ghasseminejad, "Sanctions Relief Under the JCPOA," *Foundation for Defense of Democracies*, February 23, 2015. (<http://www.defenddemocracy.org/media-hit/emanuele-ottolenghi-sanctions-relief-under-the-jpoa/>)

¹¹⁵ Michael Birnbaum and Joby Warrick, "A Mysterious Iranian-Run Factory in Germany," *The Washington Post*, April 15, 2013. (https://www.washingtonpost.com/world/europe/a-mysterious-iranian-run-factory-in-germany/2013/04/15/92259d7a-a29f-11e2-82bc-511538ae90a4_story.html); Mark Dubowitz & Emanuele Ottolenghi, "Iran's Car Industry - A Big Sanctions Buster," *Forbes*, May 13, 2013.

(<http://www.forbes.com/sites/energysource/2013/05/13/irans-car-industry-a-big-sanctions-buster/>)

¹¹⁶ 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>)

In addition to the deceptive practices in which Iran's state-owned shipping companies – the Islamic Republic of Iran Shipping Lines (IRISL) and the National Iranian Tanker Company – engage, the IRGC itself controls and manages most Iranian commercial ports. Although Iran's biggest port operator, Tidewater Middle East PLC, will remain under EU sanctions until Transition Day (and under U.S. sanctions indefinitely), any increase in shipping prompted by the lifting of sanctions will enrich IRGC-owned companies managing container terminals and port services. As Treasury noted when it sanctioned Tidewater in June 2011, “[S]hipments into Tidewater facilities provide an avenue of revenue to the IRGC in support of its illicit conduct.”¹¹⁷

At the same time, the United States is now “allow[ing] for the sale of commercial passenger aircraft and related parts and services to Iran,” as well as the export, lease, and transfer of aircraft, and the provision of associated services to aircraft, provided they are “for exclusively civil aviation end-use.”¹¹⁸ The U.S. and EU have removed sanctions on major Iranian airlines, including those designated for facilitating illegal activities. For example, Yas Air (now called Pouya Air), was designated for acting “on behalf of the IRGC-QF [Quds Force] to transport illicit cargo – including weapons – to Iran’s clients in the Levant.”¹¹⁹ According to Treasury, Yas Air “has moved IRGC-QF personnel and weapons under the cover of humanitarian aid.”¹²⁰

Similarly, Mahan Air was designated in October 2011 “for providing financial, material and technological support” to the Quds Force including ferrying personnel and weapons to Syria.¹²¹ Mahan’s role in the shipment of weapons and military personnel to Syria appears to be ongoing.¹²² U.S. sanctions on these two firms will remain in place, though the EU will lift sanctions on Yas Air on Transition Day. Of greater concern, the EU has not previously designated Mahan Air, and therefore the its airplanes fly with impunity to more than a dozen European destinations.

The removal of sanctions on other firms in the aviation sector will likely also enhance the IRGC’s ability to engage in illicit activities. On Implementation Day, the U.S. de-listed Iran Air, which has, according to the U.S. Treasury, “shipped military-related equipment on behalf of the IRGC since 2006 … [and has] also been used to transport missile or rocket components to

¹¹⁷ Ibid.

¹¹⁸ “Joint Comprehensive Plan of Action – Annex II – Sanctions related commitments,” July 14, 2015, Section 5.1.1. (http://eeas.europa.eu/statements-e eas/docs/iran_agreement/annex_2_sanctions_related_committments_en.pdf)

¹¹⁹ U.S. Department of the Treasury, Press Release, “Treasury Targets Iranian Arms Shipments,” March 27, 2012. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1506.aspx>)

¹²⁰ U.S. Department of the Treasury, Press Release, “Treasury Designates Syrian Entity, Others Involved in Arms and Communications Procurement Networks and Identifies Blocked Iranian Aircraft,” September 19, 2012. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1714.aspx>)

¹²¹ U.S. Department of the Treasury, Press Release, “Treasury Designates Iranian Commercial Airline Linked to Iran’s Support for Terrorism,” October 12, 2011. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1322.aspx>)

¹²² Emanuele Ottolenghi & Benjamin Weinthal, “The Wings of War,” *Politico EU*, September 16, 2015. (<http://www.politico.eu/article/iran-mahan-air-sanctions-nuclear-deal-aviation-air-safety/>); Jennifer Griffin, “Exclusive: Russia Flying Iranian Weapons Shipments into Syria, Sources Say,” *Fox News*, October 29, 2015. (<http://www.foxnews.com/world/2015/10/29/exclusive-russia-flying-iranian-weapons-shipments-into-syria-sources-say/>)

Syria.”¹²³ The IRGC Quds Force uses Iran Air to “dispatch weapons and military personnel to conflict zones worldwide.”¹²⁴ As a result of the JCPOA, my colleagues Emanuele Ottolenghi and Saeed Ghassemnejad explain, “The Quds Force will have access to newer, larger, and more efficient planes with which to pursue its strategic objectives.”¹²⁵

Construction

Khatam al-Anbiya (KAA), a massive IRGC conglomerate, was designated by the United States as a proliferator of weapons of mass destruction.¹²⁶ It is Iran’s biggest construction firm and, according to my colleagues’ estimates, “may be its largest company outright, with 135,000 employees and 5,000 subcontracting firms.”¹²⁷ The value of its current contracts is estimated to be nearly \$50 billion, or about 12 percent of Iran’s GDP.¹²⁸ KAA has hundreds of subsidiaries in numerous sectors of Iran’s economy, including its nuclear and defense programs, energy, construction, and engineering. The company is also involved in “road-building projects, offshore construction, oil and gas pipelines, and water systems.”¹²⁹

The IRGC uses KAA to “generate income and funds its operations,” according to the U.S. Treasury Department.¹³⁰ Even though KAA will remain under EU sanctions for eight years and under U.S. sanctions indefinitely, its primary constraint until now was Iran’s failing economy itself. With Tehran’s economy on the rebound, the organization’s prospects look bright. The anticipated increase in public spending to modernize and improve Iran’s aging infrastructure will no doubt lead to public tenders for large projects. KAA will be the primary beneficiary. More business coming into Iran means more construction, so even if the company is still under sanctions, it will make money.

While the Obama administration may be correct that Iran will use the bulk of funds in previously frozen accounts to finance construction projects rather than transferring the funds directly to

¹²³ 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>).

¹²⁴ Emanuele Ottolenghi & Saeed Ghassemnejad, “The Nuclear Deal’s Impact on Iran’s Revolutionary Guards,” *Foundation for Defense of Democracies*, July 17, 2015. (<http://www.defenddemocracy.org/media-hit/emanuele-ottolenghi-the-nuclear-deals-impact-on-irans-revolutionary-guards/>)

¹²⁵ Ibid.

¹²⁶ U.S. Department of State, Office of the Spokesman, “Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism,” October 25, 2007. (<http://2001-2009.state.gov/r/pa/prs/ps/2007/oct/94193.htm>)

¹²⁷ Parisa Hafezi & Louis Charbonneau, “Iranian Nuclear Deal Set to Make Hardline Revolutionary Guards Richer,” *Reuters*, July 6, 2015. (<http://www.reuters.com/article/2015/07/06/us-iran-nuclear-economy-insight-idUSKCN0PG1XV20150706>); Emanuele Ottolenghi & Saeed Ghassemnejad, “The Nuclear Deal’s Impact on Iran’s Revolutionary Guards,” *Foundation for Defense of Democracies*, July 17, 2015. (<http://www.defenddemocracy.org/media-hit/emanuele-ottolenghi-the-nuclear-deals-impact-on-irans-revolutionary-guards/>)

¹²⁸ Benoît Faucon & Asa Fitch, “Iran’s Guards Cloud Western Firms’ Entry After Nuclear Deal,” *The Wall Street Journal*, July 21, 2015. (<http://www.wsj.com/articles/irans-guards-cloud-western-firms-entry-after-nuclear-deal-1437510830>)

¹²⁹ Ibid.

¹³⁰ U.S. Department of the Treasury, Press Release, “Treasury Announces Additional Sanctions Against Iranian Engineering and Shipping Firms,” March 28, 2012. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1509.aspx>)

terrorist proxies, the money will flow through the IRGC's construction arm, which in turn will support the Guards' ability to fund terrorism.

Telecommunications

The United States sanctioned the IRGC in April 2012 for its role in systemic human rights abuses via information technology. Executive Order 13606 targets those entities and individuals that operate, support, or provided technology that disrupts, monitors, or tracks communication that could assist or enable human rights abuses by the governments of Iran.¹³¹

All mobile operators in Iran are directly or indirectly partners with IRGC-affiliated companies.¹³² The IRGC also controls Iran's largest telecom company, the Telecommunication Company of Iran (TCI).¹³³ The company has a near monopoly on Iran's landline telephone services,¹³⁴ and reportedly "all internet traffic in and out of Iran travels through" TCI,¹³⁵ which is particularly problematic since TCI purchased "a powerful surveillance system capable of monitoring landline, mobile and internet communications" from a Chinese firm.¹³⁶

As sanctions on the telecommunication sector are lifted, the sector will attract foreign investment and gain significant access to advanced technology. The IRGC will be in a position to benefit from additional sensitive monitoring technology, and it will likely use these tools to enhance its surveillance of Iranian dissidents. As a result of the JCPOA, the IRGC will thus increase revenue, as well as its ability to spy on and censor its citizens.

The JCPOA's Big Winner: The IRGC

As a significant force in the Iranian economy, the IRGC is set to be a primary direct and indirect beneficiary of the deal unless the United States and its allies act decisively to prevent its enrichment. With the lifting of EU sanctions, Europe will increasingly become an economic free zone for Iran's most dangerous people and entities. In addition to the lifting of specific types of economic and financial sanctions, the JCPOA requires the United States and Europe to remove numerous IRGC-linked entities from their sanction lists.

In anticipation of the sanctions relief in a final nuclear deal, President Rouhani's 2015 budget rewards the IRGC. It includes a 48 percent increase on expenditures related to the IRGC, the

¹³¹ 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 23, 2012. (http://www.treasury.gov/resource-center/sanctions/Programs/Documents/2012iran_syria_eo.pdf)

¹³² Khourosh Avaei, "What to expect in Iran's Telecom Sector," *Al-Monitor*, August 18, 2013. (<http://www.al-monitor.com/pulse/originals/2013/08/expect-iran-telecom-sector.html#>)

¹³³ Michael Slackman, "Elite Guard in Iran Tightens Grip with Media Move," *The New York Times*, October 8, 2009. (http://www.nytimes.com/2009/10/09/world/middleeast/09iran.html?_r=0)

¹³⁴ Steve Stecklow, "Special Report: Chinese firm helps Iran spy on citizens," *Reuters*. March 22, 2012. (<http://uk.reuters.com/article/2012/03/22/uk-iran-telecoms-idUKBRE82L0B720120322>); Robin Wright, editor, *The Iran Primer*, (Washington, DC: United States Institute of Peace, 2010), page 55.

¹³⁵ Ian Black, "How Iran is filtering out dissent," *The Guardian*, June 30, 2009. (<http://www.guardian.co.uk/technology/2009/jun/30/internet-censorship-iran>)

¹³⁶ Steve Stecklow, "Special Report: Chinese Firm helps Iran spy on its Citizens," *Reuters*, 22 March 2012. (<http://www.reuters.com/article/2012/03/22/us-iran-telecoms-idUSBRE82L0B820120322>)

intelligence branches, and clerical establishment. Iran's official defense spending will increase to about \$11-12 billion – excluding off the books funding – up from \$10 billion last year.¹³⁷ The IRGC and its paramilitary force, the Basij, are set to receive 64 percent of public military spending, and the IRGC's massive construction arm Khatam al-Anbiya will see its budget double. Rouhani's budget also included a 40 percent increase (\$790 million) for Iran's Ministry of Intelligence.¹³⁸ Iran's latest five-year plan, announced days before the JCPOA, calls for an additional increase in military spending to 5 percent of the total government budget.¹³⁹ With access to additional revenue around the corner and with the termination of the arms embargo just over the horizon, Iran knows how it will spend its new cash.

These estimates do not include Iran's black market economy, from which the IRGC draws another significant source of income. My colleague Saeed Ghassemnejad, 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 lion's share of the benefits" from the underground economy.¹⁴⁰

Many IRGC businesses that were involved in the procurement of material for Iran's nuclear and ballistic missile programs have been or will be de-listed. The European Union removed sanctions on a few major IRGC-controlled entities on Implementation Day, and will remove many more designations after eight years (assuming that these sanctions are even enforced over the next eight years). Europe may increasingly become the economic destination of choice for regime-connected, corrupt IRGC oligarchs.

Of even greater concern, after eight years, the EU will lift all of its counter-proliferation sanctions on Iran. Notorious Quds Force Commander Qassem Soleimani will remain under EU sanctions for terrorism and Syria-related issues,¹⁴¹ and the Quds Force itself will also remain

¹³⁷ Saeed Ghassemnejad, "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>)

¹³⁸ Emanuele Ottolenghi & Saeed Ghassemnejad, "Iran's Repressive Apparatus Gets a Raise," *The Wall Street Journal*, December 22, 2014. (<http://www.wsj.com/articles/emanuele-ottolenghi-and-saeed-ghassemnejad-irans-repressive-apparatus-gets-a-raise-1419281552>)

¹³⁹ Abbas Qaidaari, "More Planes, More Missiles, More Warships: Iran Increases Its Military Budget By A Third," *Al-Monitor*, July 13, 2015. (<http://www.al-monitor.com/pulse/originals/2015/07/khamenei-orders-increase-military.html>)

¹⁴⁰ Saeed Ghassemnejad, "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>)

¹⁴¹ The Council of the European Union, "Council Implementing Regulation (EU) No 611/2011 of 23 June 2011 Implementing Regulation (EU) No 442/2011 Concerning Restrictive Measures in View of the Situation in Syria," *Official Journal of the European Union*, June 24, 2011. (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:164:0001:0003:EN:PDF>); The Council of the European Union, "Council Implementing Regulation (EU) 790/2014 of 22 July 2014 Implementing Article 2(3) of Regulation (EC) No 2580/2001 on Specific Restrictive Measures Directed Against Certain Persons and Entities with a View to Combating Terrorism, and Repealing Implementing Regulation (EU) No 125/2014," *Official Journal of the European Union*, July 23, 2014. (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014R0790>)

under certain Syria-related sanctions.¹⁴² But despite these few remaining sanctions, after eight years, the only Iran-specific EU sanctions will be those related to human rights.

In short, while the United States is set to maintain its sanctions on the IRGC, and the European Union will not de-list most IRGC entities for eight years, the bulk of Iran sanctions were lifted on Implementation Day. The remaining measures against the IRGC are likely insufficient to prevent it from expanding its illicit activities. Unless lawmakers at the federal and state level act to strengthen non-nuclear sanctions against the IRGC, the remaining measures will not isolate it from the economic benefits that the JCPOA will generate.

The JCPOA’s Second Big Winner: Supreme Leader Khamenei’s Network of Corruption

According to the U.S. Treasury, Supreme Leader Ali Khamenei’s financial empire is a “shadowy network of off-the-books front companies.”¹⁴³ The network, headed by an organization known as the Execution of Imam Khomeini’s Order (EIKO), or Setad, is reportedly worth \$95 billion.¹⁴⁴ EIKO and its subsidiaries were de-listed by both the EU and United States on Implementation Day.

The U.S. Treasury Department designated this organization and its subsidiaries in June 2013 and noted at the time that the purpose of EIKO was “to generate and control massive, off-the-books investments, shielded from the view of the Iranian people and international regulators.”¹⁴⁵ Then-Under Secretary for Terrorism and Financial Intelligence David S. Cohen explained:

“Even as economic conditions in Iran deteriorate, senior Iranian leaders profit from a shadowy network of off-the-books front companies. While the Iranian government’s leadership works to hide billions of dollars in corporate profits earned at the expense of the Iranian people, Treasury will continue exposing and acting against the regime’s attempts to evade our sanctions and escape international isolation.”¹⁴⁶

My colleagues Emanuele Ottolenghi and Saeed Ghassemnejad have also studied the sanctions relief scheduled to be provided to Supreme Leader Ali Khamenei under the JCPOA. As they explain, the de-listing of these entities “will pump tens of billions of dollars into the supreme leader’s personal coffers, helping him secure his grip on the Iranian people, and bolstering Iran’s ability to promote its agenda abroad.”¹⁴⁷

¹⁴² The Council of the European Union, “Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria,” *Official Journal of the European Union*, June 1, 2013. (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013D0255>)

¹⁴³ U.S. Department of the Treasury, Press Release, “Treasury Targets Assets of Iranian Leadership,” June 4, 2013. (<http://www.treasury.gov/press-center/press-releases/Pages/j11968.aspx>)

¹⁴⁴ Steve Stecklow, Babak Dehghanpisheh & Yeganeh Torbati, “Khamenei Controls Massive Financial Empire Built on Property Seizures,” *Reuters*, November 11, 2013. (<http://www.reuters.com/investigates/iran/#article/part1>)

¹⁴⁵ U.S. Department of the Treasury, Press Release, “Treasury Targets Assets of Iranian Leadership,” June 4, 2013. (<http://www.treasury.gov/press-center/press-releases/Pages/j11968.aspx>)

¹⁴⁶ Ibid.

¹⁴⁷ Emanuele Ottolenghi & Saeed Ghassemnejad, “Under Iran Agreement, U.S. Will Delist All Entities Controlled by Supreme Leader,” *Foundation for Defense of Democracies*, July 27, 2015..

[\(http://www.defenddemocracy.org/media-hit/ottolenghi-ghassemnejad-us-will-delist-entities-controlled-by-khamenei/\)](http://www.defenddemocracy.org/media-hit/ottolenghi-ghassemnejad-us-will-delist-entities-controlled-by-khamenei/)

An overview of the EIKO's holdings reveals the extent of its control of the Iranian economy. The value of EIKO's real estate portfolio totals nearly \$52 billion; its stakes in publicly traded companies totaled nearly \$3.4 billion in 2013.¹⁴⁸ EIKO controls more than five percent of publicly traded companies on Tehran's Stock Exchange.¹⁴⁹

The United States removed sanctions from Khamenei's financial empire on Implementation Day despite the fact that none of these entities were designated for nuclear proliferation.¹⁵⁰ These entities were sanctioned because they were involved in illicit financial practices, including government corruption. There is no indication that this conduct has changed. They continue to pose risks to the integrity of the global financial system and pose a significant terror financing risk. Yet, the Supreme Leader and his financial empire have been granted a clean bill of health as a result of the JCPOA.

RECOMMENDATIONS

Given the fundamentally flawed nature of the JCPOA, it is imperative that lawmakers at all levels of government develop ways to prevent the enrichment and empowerment of the most dangerous elements of the Iranian regime. As it became clear that the Iranian government used revenue from its energy sector to fund its illicit nuclear program, individual state governments played an important role enhancing and expanding U.S. sanctions in order to limit the funds available to the regime. In the wake of the JCPOA and the dismantling of many of the most impactful sanctions on Iran, the role of state governments is even more important.

To prevent the benefits of sanctions relief from flowing to the most dangerous elements of the Iranian regime, state lawmakers should defend and expand the remaining, "non-nuclear" sanctions architecture

¹⁴⁸ Steve Stecklow, Babak Dehghanpisheh & Yeganeh Torbati, "Khamenei Controls Massive Financial Empire Built on Property Seizures," *Reuters*, November 11, 2013. (<http://www.reuters.com/investigates/iran/#article/part1>)

¹⁴⁹ Emanuele Ottolenghi & Saeed Ghassemnejad, "Who Really Controls Iran's Economy," *The National Interest*, May 20, 2015. (<http://nationalinterest.org/feature/who-really-controls-irans-economy-12925>); For more information about EIKO and its investment arms, see Emanuele Ottolenghi & Saeed Ghassemnejad, "The Bank of Ayatollah," *National Post* (Canada), December 18, 2013. (<http://news.nationalpost.com/full-comment/ottolenghi-ghassemnejad-the-bank-of-ayatollah>)

¹⁵⁰ Executive Order 13599, "Blocking Property of the Government of Iran and Iranian Financial Institutions," February 8, 2012. (<http://www.gpo.gov/fdsys/pkg/FR-2012-02-08/pdf/2012-3097.pdf>); U.S. Department of the Treasury, Press Release, "Treasury Targets Assets of Iranian Leadership," June 4, 2013. (<http://www.treasury.gov/press-center/press-releases/Pages/j11968.aspx>); "New US Sanctions on the Government of Iran and Iranian Financial Institutions," *Steptoe & Johnson, LLP*, February 7, 2012. (<http://www.steptoe.com/publications-newsletter-431.html>)

1. Reaffirm the authority of state governments to divest public retirement funds from companies that invest in the Iranian energy sector.

Currently, 30 states and the District of Columbia have some form of Iran divestment legislation or policy.¹⁵¹ Starting about a decade ago, individual states began passing legislation requiring state pension funds to divest from companies that engaged in specific sanctionable activities and made investments into the Iranian energy sector. Missouri was one of the early leaders of the efforts to include an anti-terrorism screening process to ensure state pension funds are not investing in companies with possible ties to terrorism.¹⁵² Many state laws tied the imposition of sanctions to both Iran's pursuit of weapons of mass destruction and its support for terrorism.¹⁵³ Many of these measures contain termination clauses linked to Iran's removal from the state sponsors of terrorism list or similar certifications that Iran is no longer engaged in the support of international terrorism.

Following legal challenges to some of the early state-level sanctions, Congress passed and President Obama signed into law the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010. Among other things, the law affirmed the authority of states to impose sanctions or divest from Iran if they wished to do so.¹⁵⁴

This provision is unaffected by the JCPOA, however, the nuclear deal contains problematic language indicating that the federal government may attempt to pressure states to lift their sanctions:

“If a law at the state or local level in the United States is preventing the implementation of the sanctions lifting as specified in this JCPOA, the United States will take appropriate steps, taking into account all available authorities, with a view to achieving such implementation. The United States will actively encourage officials at the state or local level to take into account the changes in the U.S. policy reflected in the lifting of sanctions under this JCPOA and to refrain from actions inconsistent with this change in policy.”¹⁵⁵

¹⁵¹ “State Legislation,” *United Against Nuclear Iran*, accessed July 6, 2015. (<http://www.unitedagainstnucleariran.com/state-legislation>)

¹⁵² Matthew Swibel, “Missouri Treasurer: Show Me You’re Anti-Terror,” *Forbes*, July 12, 2006. (http://www.forbes.com/2006/07/12/beltway-business-terror-cz_ms_0712terror.html)

¹⁵³ Office of Clint Zweifel, Missouri State Treasurer, “Investment Policy,” May 20, 2015. (<https://www.treasurer.mo.gov/invest/Investpolicy.pdf>)

¹⁵⁴ For example, see Florida State Legislature, Committee Substitute for SB 2142, Protecting Florida’s Investments Act, 2007. (http://laws.flrules.org/files/Ch_2007-088.pdf); California Legislature, Assembly Bill 221, January 29, 2007. (http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_0201-0250/ab_221_bill_20071014_chaptered.html); The Illinois General Assembly, Public Act 095-0616, September, 2007. (<http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=095-0616>); General Assembly of Pennsylvania, SB 928, 2009, Protecting Pennsylvania’s Investments Act. (<https://legiscan.com/PA/text/SB928/2009>)

¹⁵⁵ “Fact Sheet: Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA),” *U.S. Department of State*, May 23, 2011. (<http://www.state.gov/e/eb/esc/iransanctions/docs/160710.htm>); U.S. House of Representatives, 111th Congress, 2nd Session, P.L. 111-195, “Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010,” Section 202, *Government Printing Office*, 2010, pages 32-33. (<https://www.congress.gov/111/plaws/publ195/PLAW-111publ195.pdf>)

¹⁵⁶ “Joint Comprehensive Plan of Action,” Vienna, July 14, 2015, paragraphs 25. (http://eeas.europa.eu/statements-eeas/docs/iran_agreement/iran_joint-comprehensive-plan-of-action_en.pdf)

Does this mean that the White House will try to pressure individual states to lift their divestment measures, even as the termination criteria for the legislation have not been met? At the federal level, Members of Congress have sought to clarify this section of the nuclear deal and affirm the provisions of CISADA. Lawmakers in the U.S. House and Senate have introduced bills that seek to clarify and reaffirm the ability of individual states to continue boycotts of Iran based on its continued terrorist activity and systemic human rights violations. These efforts are supported by members on both sides of the aisle.¹⁵⁶

Through legislation, resolutions, and public statements, individual state governments should also reaffirm their authority and defend their right to divest from companies supporting Iran's ability to fund its nefarious activities.

2. Expand state-level sanctions efforts by banning government contracts with, and state government procurement from, companies doing business with Iran. State governments should also require divestment of funds from companies doing business with state sponsors of terrorism.

Building on the model of the past decade, state governments can expand their sanctions against Iran and all state sponsors of terrorism by divesting government pension funds from companies doing business with Iran and prohibiting government procurement or contracting with any company (foreign or American) doing business with Iran. These provisions would create disincentives to and enhance the risks for foreign companies interested in re-engaging in the Iranian economy.

3. Create a watch list of Iranian companies linked to the Revolutionary Guards, the Supreme Leader's business empire, and/or the Iranian government. State governments could then sanction any company that engages in business with firms included on the watch list.

State governments could publish a watch list of banned Iranian firms linked to the Revolutionary Guards, the Supreme Leader's business empire, and/or the Iranian government. Such a watch list would be built not only from the U.S. Treasury Department's designation list but also from due diligence research revealing companies with as little as 10 percent IRGC (or EIKO) ownership. The Revolutionary Guards exercise outsized influence over companies disproportionate to their ownership stake, and therefore any company with a 10 percent (or greater) IRGC presence should be included on the watch list. The state government could then legislate that any company found to be partnering with these entities would face sanctions.

¹⁵⁶ U.S. House of Representatives, 114th Congress, H. Con. Res. 100, "Expressing the sense of the Congress regarding the right of States and local governments to maintain economic sanctions against Iran," Introduced December 1, 2015. (<https://www.congress.gov/bill/114th-congress/house-concurrent-resolution/100>); U.S. Senate, 114th Congress, S. Con. Res. 26, "Expressing the sense of Congress regarding the right of States and local governments to maintain economic sanctions against Iran," Introduced December 1, 2015. (<https://www.congress.gov/bill/114th-congress/senate-concurrent-resolution/26>); Rosie Gray, "Members Of Congress Signal Support For States Rights to Sanction Iran," *Buzzfeed*, December 1, 2015. (http://www.buzzfeed.com/rosiegray/members-of-congress-signal-support-for-states-rights-to-sanc?utm_term=.ahKNEOEwPZ#.goyqAoAZ4N)

The watch list may also have a broader effect of alerting market players to the prevalence of Iran's most dangerous actors in all the major sectors of the Iranian economy.

CONCLUSION

State legislatures have an important role to play defending the sanctions they have the legal and moral authority to impose. Lawmakers can increase the reputational and business risks to companies trading with a country that remains a leading state sponsor of terrorism. State divestment measures are rooted not only in Iran's illicit nuclear activities, but also in its extensive support for global terrorism and illegal ballistic missile development. Until the White House certifies that Iran is no longer engaged in the full range of malignant activities that prompted federal and state-level sanctions, states should continue to enforce and should expand their sanctions against Iran. Lawmakers at the federal and state levels have important levers to help mitigate the most significant and most troubling effects of the sanctions relief – namely the enrichment of those in the Iranian regime like the IRGC and the Supreme Leader who continue to engage in activities hostile to U.S. interests and are the dominant players in Iran's economy.

Thank you for the opportunity to submit testimony for this distinguished committee.