

Written Testimony

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Before the United States House of Representatives
Committee on Foreign Affairs
Subcommittee on Terrorism, Nonproliferation & Trade

At a Hearing titled

“Financial Hardball: Corralling Terrorists and Proliferators”

April 6, 2011

Chairman Royce, Ranking Member Sherman, and distinguished members of the Subcommittee, thank you for the opportunity to speak with you about financial sanctions. It's a pleasure to be here today, especially alongside such distinguished colleagues. I follow Iran issues far more closely than I do North Korea, so I will focus in my remarks on the application of sanctions to Iran. I will open with an overview of U.S. sanctions on Iran and their impact. The financial sanctions on Iran are one piece of a broader set of sanctions on Iran, and can only be understood in that broader context, so I will address that broader context as well as the specifics of the financial sanctions on Iran. I will then turn to making a series of recommendations for next steps with regard to U.S. sanctions on Iran, with an emphasis on financial sanctions. The standard caveat applies that this presentation is in my personal capacity and doesn't necessarily represent the views of any of my employers, past or present.

I. The Current U.S. Sanctions on Iran: Goals and Progress

What are the goals of the current U.S. sanctions on Iran, and what kind of progress is being made towards achieving those goals?

The U.S. government's current sanctions on Iran are designed to both coerce and constrain Iran.¹ Sanctions can coerce a target (in this case Iran) into halting its illegal behavior,

¹ See, e.g., Press Release, *U.S. Dep't of the Treasury, Remarks at the Center for Strategic and International Studies by Treasury Under Secretary for Terrorism and Financial Intelligence Stuart Levey* (Sept. 20, 2010), available at <http://www.ustreas.gov/press/releases/tg862.htm> (Levey emphasizes two desired impacts of the Obama Administration's tightening sanctions on Iran. One is "to sharpen the choice for Iran's leaders between integration with the international community, predicated on fulfilling their international obligations, and the hardship of further isolation." Levey explains that "[b]y dramatically isolating Iran financially and commercially and by capitalizing on Iran's existing vulnerabilities, we can impact Iran's calculations" so as to "create crucial leverage for our

if the costs of the behavior (in this case proceeding with its nuclear program or supporting terrorism) are increased sufficiently to outweigh the benefits to the regime of proceeding with the behavior. Sanctions can constrain a target from engaging in illegal behavior, if the sanctions materially reduce the target's supply of assets necessary to engage in the behavior.²

How are we doing in achieving those goals?

The bottom line with regard to the efforts to coerce Iran is that while sanctions on Iran have undoubtedly increased the cost to Iran of its illegal behavior, they have clearly not raised the costs sufficiently to outweigh the benefits to the Iranian regime of proceeding with its nuclear program and state sponsorship of terrorism. We know that because Iran is clearly still choosing to proceed with both its nuclear program and its state sponsorship of terrorism.

The bottom line with regard to the efforts to constrain Iran is that while Iran's capacity to pursue its illicit behavior has undoubtedly been hindered it is clearly still making progress, albeit somewhat more slowly, towards its illicit goals.

So, how are financial sanctions on Iran *contributing* to raising the cost to Iran and constraining Iran, and what more needs to be done if we are to tip the balance and succeed in both coercing Iran and halting its capacity?

The U.S. Department of the Treasury has convinced more than eighty banks around the world, including most of the world's top financial institutions,³ to cease some or all of their business with Iran.⁴ The tactics Treasury is using were designed and first implemented under the George W. Bush administration.⁵ However, the Obama Administration cast a strong vote of confidence in them, including by taking the extraordinary decision to retain in place Stuart Levey, the Bush-appointed Under Secretary of the Treasury, principally known as the leading architect of these financial sanctions, who returned to the private sector just a few weeks ago.⁶

What is Treasury's rationale for pressuring foreign banks to curtail their business dealings with Iran?⁷ Iran utilizes the international financial system to advance both its nuclear program

diplomacy." Another desired impact is to "make it harder for Iran to pursue international procurement for its nuclear and military programs.").

² Readers interested in a more detailed discussion of the goals potentially served by the imposition of sanctions in the international arena may wish to refer to Orde F. Kittrie, *Averting Catastrophe: Why the Nuclear Nonproliferation Treaty is Losing its Deterrence Capacity and How to Restore It*, 28 MICH. J. INT'L L. 337, 354–61 (2007), <http://ssrn.com/abstract=996953>.

³ Orde F. Kittrie, *New Sanctions for a New Century: Treasury's Innovative use of Financial Sanctions*, 30 U. PA. J. INT'L L. 789–822 (2009), <http://ssrn.com/abstract=1402265>.

⁴ See Robin Wright, *Stuart Levey's War*, N.Y. TIMES MAG., Nov. 2, 2008, at 31.

⁵ See, e.g., *id.*, Kittrie *supra* note 3.

⁶ Paul Richter, *Obama Administration Keeps Bush Official Involved with Iran Sanctions*, L.A. TIMES (Feb. 3, 2009), <http://articles.latimes.com/2009/feb/03/world/fg-usiran3> ("The Obama administration has decided to retain the official who led the Bush administration's effort to squeeze Iran with economic sanctions, providing an important clue on how it intends to approach the Islamic Republic.").

⁷ Readers interested in a more detailed discussion of the U.S. Treasury Department's innovative campaign to persuade banks to curtail their business with Iran may wish to refer to Orde F. Kittrie, *New Sanctions for a New*

and its state sponsorship of terrorism. In order to avoid suspicion and minimize the risk of detection, Iran's state-owned banks and other entities use an array of deceptive practices when using their global financial ties to advance Iran's nuclear program and sponsorship of terrorism. For example, Iran uses front companies and intermediaries to surreptitiously obtain technology and materials for its nuclear and missile programs from countries that would prohibit such exports to Iran.⁸ In addition, Iranian banks ask other financial institutions to remove the Iranian banks' names when processing their transactions through the international financial system.⁹ The goal is to allow Iranian banks to remain undetected as they move money through the international financial system to pay for the Iranian government's nuclear and missile related purchases and to fund terrorism.¹⁰

What accounts for Treasury's considerable success in persuading foreign banks to stop doing business with Iran? Treasury's principal innovation can be described as follows: Rather than asking, e.g., the Swiss government to order its banks to stop doing business with Iran, the Treasury has gone directly to the Swiss banks. Treasury has found that its unprecedented direct outreach to a country's key private financial institutions can yield results much more quickly than does outreach to that same country's government, which can lack political will or the necessary authority, or may face cumbersome bureaucratic procedures for exercising whatever relevant authorities it does have.¹¹ Once some foreign private financial institutions decide to halt business with entities or individuals of concern, the reputational risk for others not to follow is increased, and those who have halted business with Iran often cooperate with the U.S. in putting pressure on those who have not yet done so.¹² Other banks within the jurisdiction soon follow.¹³ Such private sector decisions can in turn make it more politically feasible for foreign governments to impose restrictions because some or all of the major relevant companies in their jurisdiction have already forgone the business.¹⁴

What does the Treasury Department say to the foreign banks to get them to stop doing business with Iran? Treasury officials remind the foreign banks of the risks of doing even prima facie legal business with Iran.¹⁵ The banks with which the Treasury Department communicates are already aware of the prosecutions the Treasury has brought against other banks. For example, in May 2004, the Federal Reserve fined UBS, Switzerland's largest bank, \$100 million for sending U.S. dollars to Cuba, Iran, Libya, and Yugoslavia, and intentionally hiding the

Century: Treasury's Innovative use of Financial Sanctions, 30 U. PA. J. INT'L L. 789–822 (2009), <http://ssrn.com/abstract=1402265>, from which this discussion is adapted.

⁸ See *Between Feckless and Reckless: U.S. Policy Options to Prevent a Nuclear Iran: Joint Hearing Before the Subcomm. on the Middle East and South Asia, and the Subcomm. on Terrorism, Nonproliferation and Trade of the House Committee on Foreign Affairs*, 110th Cong. 28 (2008) (statement of Daniel Glaser, Deputy Assistant Secretary for Terrorist Financing and Financial Crimes, U.S. Dep't of Treasury), <http://foreignaffairs.house.gov/110/41849.pdf>.

⁹ *Id.*

¹⁰ *Id.*

¹¹ PRESS RELEASE, U.S. DEP'T OF TREASURY, REMARKS BY TREASURY SECRETARY PAULSON ON TARGETED FINANCIAL MEASURES TO PROTECT OUR NATIONAL SECURITY (June 14, 2007).

¹² See *id.*

¹³ See *id.*

¹⁴ Glaser statement, *supra* note 8.

¹⁵ *Id.*

transactions by submitting false monthly reports to the Federal Reserve.¹⁶ In December 2005, ABN Amro Bank NV, a Dutch firm, was fined \$80 million by U.S. federal and state financial regulators for actions including modification by its branch in Dubai of payment instructions on wire transfers, letters of credit, and checks issued by Iran's Bank Melli and a Libyan bank in order to hide their involvement in the transactions and enable access to the U.S. banking system.¹⁷ As one former Treasury official put it in 2008, the Treasury Department's success in persuading foreign banks to curtail transactions with Iran was due in part to those banks' eagerness "to avoid being the 'next ABN AMRO.'"¹⁸

Such prosecutions have continued under the Obama Administration. In January 2009, Lloyds TSB Bank had to pay the U.S. government \$350 million in fines and forfeiture as a result of a scheme in which Lloyds altered or "stripped" wire-transfer information to hide the identities of Iranian and Sudanese clients in order to deceive American financial institutions and enable the clients to access the U.S. banking system.¹⁹ The stripping of wire-transfer information "made it appear that the transactions originated at Lloyds TSB Bank" in the U.K. rather than in the sanctioned countries.²⁰ Most recently, in August 2010, Barclays PLC agreed to a \$298 million settlement with U.S. prosecutors in connection with allegations that it violated U.S. financial sanctions against countries including Iran.²¹

What has been the impact on Iran of the pressure on foreign banks doing business with Iran? According to former Under Secretary of the Treasury Stuart Levey, Iran is "effectively unable to access financial services from reputable banks and is finding it increasingly difficult to conduct major transactions in dollars or euros."²² The challenges of doing business with Iran are "leading major companies across the range of industry, finance, engineering, energy, manufacturing, automobile, insurance, accounting firms" to announce that they are curtailing their business dealings with Iran.²³ Levey noted that "Iran's reduced access to international financial system has also made it very difficult for Iran to make payments on loans and maintain insurance coverage on IRISL ships" and this is having an impact on IRISL's ability to continue operations and even led to the seizure of some IRISL ships by its creditors.²⁴ With most leading foreign banks curtailing their business with Iran, Iranian companies and their business partners

¹⁶ See *UBS Fined \$100 Million Over Trading of Dollars*, N.Y. TIMES, May 11, 2004, at C17.

¹⁷ Paul Blustein, *Dutch Bank Fined for Iran, Libya Transactions: \$80 Million Levied for Foreign Dealings, Money Laundering*, WASH. POST (Dec. 20, 2005, 5:09 PM), <http://www.washingtonpost.com/wp-dyn/content/article/2005/12/19/AR2005121901804.html>. Between December 2001 and April 2004, ABN AMRO's overseas branches removed or revised references to entities in which the governments of Libya and Iran had an interest before forwarding wire transfers, letters of credit and U.S. dollar checks to ABN AMRO branches in New York, NY and Chicago, IL. OFFICE OF FOREIGN ASSETS CONTROL, DEP'T OF TREASURY, ENFORCEMENT INFORMATION (Jan. 3, 2006).

¹⁸ Michael Jacobson, *Sanctions Against Iran: A Promising Struggle*, 31 WASH. Q. 69, 73 (2008).

¹⁹ Chad Bray, *Lloyds TSB Settles with U.S. Officials*, WALL ST. J., Jan 10, 2009, at B8.

²⁰ *Id.*

²¹ *Barclays Deal with U.S. Over Trade Sanctions is Approved*, N.Y. TIMES, Aug. 19, 2010, at B9.

²² *Hearing on Iran Sanctions, House Committee on Foreign Affairs*, December 1, 2010 (testimony of Under Secretary Stuart Levey).

²³ *Id.*

²⁴ *Id.*

are finding it difficult to arrange letters of credit, a central requirement for conducting trade.²⁵ Many companies doing business in or with Iran have been forced to use smaller banks or go through intermediaries to arrange new letters of credit, adding twenty to thirty percent to their costs.²⁶

So the financial sanctions currently in place on Iran have clearly increased the cost to Iran of its illegal behavior, and undoubtedly have hindered that behavior by costing Iran money and complicating its economic transactions. The other sanctions on Iran have had a similarly significant but non-dispositive impact. These include the U.N. and other international sanctions aimed at hindering Iran's proliferation as well as the U.S. sanctions -- set forth principally in the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010 (CISADA) -- which are aimed at leveraging Iran's dependence on imported refined petroleum. All of these sanctions, combined, have clearly not raised Iran's costs sufficiently to outweigh the benefits to the Iranian regime of proceeding with its nuclear program and state sponsorship of terrorism. Nor have they succeeded in so constraining Iran's illicit programs that progress has become impossible. We know that because Iran is clearly still choosing to proceed with both its nuclear program and its state sponsorship of terrorism, and is still making progress, albeit somewhat more slowly, towards its illicit goals.²⁷

What more needs to be done if we are to tip the balance and succeed in both coercing Iran and halting its capacity?

President Obama's National Security Advisor, Tom Donilon, in his March 29 speech to the Carnegie International Nuclear Policy Conference, stated as follows: "Unless and until Iran complies with its obligations under the NPT and all relevant UN Security Council resolutions, we will continue to ratchet up the pressure."²⁸

I don't know what alternatives the NSC is considering for ratcheting up that pressure, and I certainly don't speak for anybody but myself here today. However, I have read closely the options being suggested in Congressional bills, and by my colleagues in the academic and think tank communities. The following are some of the most interesting ideas I have seen for tipping the balance towards succeeding in both coercing Iran and halting its capacity to pursue proliferation and state sponsorship of terrorism. In my personal opinion, these are options well worth considering.

²⁵ See, e.g., Mark Trevelyan, *More Companies Suspend Business with Iran*, INT'L HERALD TRIB., Jan. 17, 2008, at 15 (quoting a senior German banking and finance consultant as stating that "[i]t is today impossible more or less in Europe, with a couple of exceptions, to get a letter of credit" for trade with Iran); *No Letters of Credit, No Steel for Iranian Importers, say Traders*, METAL BULLETIN WEEKLY, Sept. 13, 2010, <http://www.metalbulletin.co.uk/Article/2675316/No-letters-of-credit-no-steel-for-Iranian-importers-say-traders.html>.

²⁶ Michael Jacobson, *Putting the Squeeze on Iran*, THE GUARDIAN ONLINE, July 22, 2008, <http://www.guardian.co.uk/commentisfree/2008/jul/22/iran.usforeignpolicy>.

²⁷ See, e.g., Arms Control Association, *The Impact of Sanctions on Iran's Nuclear Program*, March 9, 2011 (transcript of a presentation by Robert J. Einhorn, Special Advisor for Nonproliferation and Arms Control, U.S. Department of State), <http://www.armscontrol.org/events/RoleSanctionsIranNuclear>.

²⁸ <http://iipdigital.usembassy.gov/st/english/texttrans/2011/03/20110330120145su5.553401e-02.html>.

II. Options for Ramping Up the Pressure on Iran

A. Respond Vigorously to Chinese Violations and Backfilling

China is reportedly failing to comply with the several UN Security Council Resolutions which prohibit the transfer to Iran of proliferation-sensitive equipment and materials. Robert Einhorn, the State Department's Special Advisor for Nonproliferation and Arms Control, last month stated that "we continue to have concerns about the transfer of proliferation-sensitive equipment and materials to Iran by Chinese companies."²⁹ On a visit to Beijing last September, Einhorn reportedly discussed with Chinese officials the concern that various Chinese companies were violating UN sanctions against Iran³⁰ and handed them a "significant list" of Chinese firms that the Obama Administration thinks are violating the UN sanctions on Iran.³¹ In January, David Albright, a leading expert on Iran's nuclear program, stated that the Chinese government's lax oversight enables Iran to purchase from Chinese companies "a large amount" of proliferation-sensitive equipment and material.³² Such transactions are crucially important to the Iranian nuclear program, which reportedly is still dependent on the import of high-strength maraging steel, vacuum pumps, and other critical items.³³

Some of the equipment and material making its way to Iran by way of China reportedly originates with European companies who are duped into selling it to Chinese companies that are fronting for Iranian smugglers.³⁴ U.S. officials reportedly believe that at least some of the transfers to Iran may be taking place without the knowledge of the Chinese government, and thus are the result of lax oversight and weak enforcement rather than a Chinese government desire to help Iran.³⁵ Over the last twenty years, the U.S. government has sanctioned dozens of Chinese

²⁹ See, e.g., Arms Control Association, *The Impact of Sanctions on Iran's Nuclear Program*, March 9, 2011 (transcript of a presentation by Robert J. Einhorn, Special Advisor for Nonproliferation and Arms Control, U.S. Department of State), <http://www.armscontrol.org/events/RoleSanctionsIranNuclear>.

³⁰ See, e.g., Indira Lakshmanan, *U.S. Concerned Chinese Companies May be Aiding Iran's Nuclear Weapon Effort*, BLOOMBERG, March 10, 2011, <http://www.bloomberg.com/news/2011-03-10/u-s-concerned-chinese-companies-may-be-aiding-iran-nuclear-weapon-effort.html>.

³¹ John Pomfret, *U.S. Says Chinese Businesses and Banks Are Bypassing U.N. Sanctions Against Iran*, WASHINGTON POST, October 18, 2010, at http://www.washingtonpost.com/wp-dyn/content/article/2010/10/17/AR2010101703364_pf.html.

³² Indira Lakshmanan, *China Failing to Enforce Nuclear-Weapon Sanctions on Iran, Expert Says*, BLOOMBERG, January 14, 2011, <http://www.bloomberg.com/news/print/2011-01-14/china-failing-to-enforce-sanctions-on-iran-s-nuclear-program-expert-says.html>.

³³ *Id.*

³⁴ *Id.*

³⁵ See, e.g., Indira Lakshmanan, *U.S. Concerned Chinese Companies May be Aiding Iran's Nuclear Weapon Effort*, BLOOMBERG, March 10, 2011, <http://www.bloomberg.com/news/2011-03-10/u-s-concerned-chinese-companies-may-be-aiding-iran-nuclear-weapon-effort.html>; John Pomfret, *U.S. Says Chinese Businesses and Banks Are Bypassing U.N. Sanctions Against Iran*, WASHINGTON POST, October 18, 2010, at http://www.washingtonpost.com/wp-dyn/content/article/2010/10/17/AR2010101703364_pf.html.

companies for Iran-related proliferation activities.³⁶ **In light of the continued contributions by some Chinese companies to Iran’s proliferation activities, it may be wise to strongly consider sanctioning additional Chinese companies, for example under the Iran-Syria-North Korea Nonproliferation Act and/or Executive Order 13382. It may also be worth considering a more systemic response, such as assessing whether China meets the criteria set forth in CISADA for designation as a Destination of Diversion Concern.**

Chinese *banks* are also reportedly involved in violating sanctions on Iran, including by facilitating the provision to Iran of restricted technology and materials.³⁷ In addition, while Einhorn on March 9 expressed less concern about Chinese energy cooperation with Iran, stating that Beijing appears to have taken a “cautious, go-slow approach,”³⁸ on March 10 ten U.S. Senators wrote to Secretary Clinton to express concern that “Chinese firms in the energy and banking sectors have conducted significant activity in violation of U.S. law.”³⁹ **If Chinese banks are either directly facilitating Iranian proliferation or backfilling behind other countries’ banks that have responsibly exited the Iranian market, they could be subject to the requisite sanctions. Similarly, if Chinese energy companies are persisting in doing business with Iran’s energy sector in a manner inconsistent with the Iran Sanctions Act, as amended by CISADA, they too could be sanctioned.** A failure to take decisive action in response to Chinese violations and backfilling risks undermining the more helpful sanctions compliance records of Europe and the governments of such countries as Japan, Canada, and Australia, as well as the scores of individual companies that have curtailed their business ties with Iran.

B. Hinder Iran’s Ability to Benefit from Crude Oil Sales

With world crude oil prices already sky high as a result of the turmoil in the Middle East, this is obviously a very sensitive topic. Doing to Iran’s crude oil exports what CISADA did to Iran’s refined petroleum imports could have an enormous impact on Iran. Crude oil exports are the lifeblood of the Iranian regime, reportedly accounting for 80 percent of Iran’s export earnings and a quarter of its GDP.⁴⁰ However, in light of the current worldwide price of crude, I don’t see much support out there for a blanket sanctioning of all companies that are involved with Iran’s crude oil exports.

³⁶ See, e.g., John Pomfret, *U.S. Says Chinese Businesses and Banks Are Bypassing U.N. Sanctions Against Iran*, WASHINGTON POST, October 18, 2010, at http://www.washingtonpost.com/wp-dyn/content/article/2010/10/17/AR2010101703364_pf.html ; Mark Dubowitz & Laura Grossman, *IRAN’S CHINESE ENERGY PARTNERS* (2010), <http://www.iranenergyproject.org/documents/1674.pdf> (Annex A).

³⁷ John Pomfret, *U.S. Says Chinese Businesses and Banks Are Bypassing U.N. Sanctions Against Iran*, WASHINGTON POST, October 18, 2010, at http://www.washingtonpost.com/wp-dyn/content/article/2010/10/17/AR2010101703364_pf.html .

³⁸ Arms Control Association, *The Impact of Sanctions on Iran’s Nuclear Program*, March 9, 2011 (transcript of a presentation by Robert J. Einhorn, Special Advisor for Nonproliferation and Arms Control, U.S. Department of State), <http://www.armscontrol.org/events/RoleSanctionsIranNuclear> .

³⁹ <http://menendez.senate.gov/download/?id=f2fd53f6-d75f-4d16-b7d7-6d497c14617c> .

⁴⁰ Mark Dubowitz, *Killing Iran’s Energy Industry*, WALL STREET JOURNAL, January 2, 2011.

However, there are measures short of such blanket sanctions that might be able to hinder the Iranian regime's ability to benefit from its crude oil sales without depriving the world market of so much Iranian crude. The best work I have seen on this is being done by Mark Dubowitz at the Foundation for Defense of Democracies (FDD). Here are two of what I find to be the most intriguing ideas along these lines:

- Subsidiaries of the Iranian Revolutionary Guard Corps (IRGC), which is the backbone of the regime and its crackdown on dissidents, are reportedly involved in Iran's crude oil export chain and thus benefiting directly from Iran's crude oil profits.⁴¹ Many of these subsidiaries may not yet have been specifically designated or listed by Treasury. It takes time and resources for Treasury to go through the process of publicly identifying IRGC subsidiaries. It may make sense to focus some of those resources on **publicly identifying IRGC subsidiaries which are involved in Iran's crude oil export chain.** If Iran as a whole is going to continue to benefit from its crude oil export revenues, we should at least make it as difficult as possible for the IRGC to receive those benefits. As Dubowitz points out, this would have the additional benefit of greatly intensifying the "hassle factor" in buying Iranian crude.⁴²
- H.R. 6296, The Stop Iran's Nuclear Weapons Program Act, which was introduced in the last Congress by the chair and ranking member of this subcommittee, Congressmen Ed Royce and Brad Sherman, would **sanction entities that pay in advance for oil deliveries or sign long-term contracts to purchase oil and gas from Iran.** In 2003, Japan reportedly paid several billion dollars in cash for Iranian crude oil to be delivered over the course of several years.⁴³ EGL, a Swiss firm, reportedly signed a contract worth nearly \$20 billion for future purchases of Iranian natural gas.⁴⁴ When the international community buys Iranian crude oil and natural gas, they should do so on a cash basis without long term commitment, lest they provide the Iranian government with a financial lifeline it doesn't deserve.

C. Crack Down on the Central Bank of Iran

In light of the key role played by the Central Bank of Iran (Bank Markazi) in financing Iran's illicit state sponsorship of terrorism and illicit proliferation activities, the imposition of sanctions on the Central Bank, ideally in conjunction with key allies, is looking like an increasingly good option. Members of Congress have for years been calling

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Summary of the Stop Iran's Nuclear Weapons Program Act.*

⁴⁴ *Id.*

for sanctions on the Central Bank of Iran. For example, in a “Sense of Congress” recommendation, CISADA “urges the President, in the strongest terms, to consider immediately using the authority of the President to impose sanctions on the Central Bank of Iran and any other Iranian financial institution engaged in proliferation activities or support of terrorist groups.” In 2008, 26 Senators, led by Senator Chuck Schumer, called for Bank Markazi to be sanctioned because it is “heavily involved in the funding of terrorism and the financing of Iran’s proliferation activities,” and because of its role helping Iranian banks that have already been blacklisted to circumvent U.S. financial sanctions.⁴⁵

Senior U.S. Treasury officials have also publicly identified Bank Markazi as engaged in money laundering activities.⁴⁶ In addition, in last year’s Resolution 1929, the UN Security Council singled out the Central Bank of Iran, noting “the need to exercise vigilance over transactions involving Iranian banks, including the Central Bank of Iran, so as to prevent such transactions contributing to proliferation-sensitive nuclear activities, or to the development of nuclear weapon delivery systems.” However, several European countries reportedly oppose sanctions against Iran’s Central Bank as an extreme step that would prevent Iran from keeping its currency stable.⁴⁷

Central banks should be sanctioned only in extraordinary circumstances.⁴⁸ However, this is such a circumstance. The Central Bank of Iran operates as an arm of the regime,⁴⁹ and its leadership has publicly admitted that the Central Bank is used to help other Iranian banks evade sanctions.⁵⁰ So long as the Central Bank of Iran is not included in U.S. sanctions, and has accounts with major European banks, it is able to utilize those banks’ services on behalf of Iranian banks that have been sanctioned.⁵¹ Iran is aggressively destabilizing its neighbors, including through state sponsorship of terrorism, and pursuing nuclear weapons contrary to international law. It should not be allowed to continue to use its Central Bank to pursue these aims.

⁴⁵ Glenn R. Simpson, *Democrats Urge Sanctions on Iran’s Central Bank*, WALL STREET JOURNAL, March 5, 2008, at A4.

⁴⁶ See, e.g., Glenn R. Simpson, *U.S. Weighs Sanctions on Iran’s Central Bank*, WALL STREET JOURNAL, February 25, 2008, at A1.

⁴⁷ See, e.g., Kenneth Katzman, *Iran Sanctions*, February 3, 2011, at 34.

⁴⁸ Such a move would not be unprecedented, as the U.S. reportedly included the central bank of Iraq in its sanctions on that country during the 1990s. Glenn R. Simpson, *U.S. Weighs Sanctions on Iran’s Central Bank*, WALL STREET JOURNAL, February 25, 2008, at A1.

⁴⁹ Glenn R. Simpson, *U.S. Weighs Sanctions on Iran’s Central Bank*, WALL STREET JOURNAL, February 25, 2008, at A1.

⁵⁰ *Id.*

⁵¹ *Id.*

D. Fully Implement CISADA Section 104

The principal CISADA provision addressing financial measures is section 104, which includes specific changes to U.S. law, as well as the previously referenced “Sense of Congress” recommendation regarding the Central Bank of Iran. According to the conference report on CISADA, these changes to U.S. law were “designed to impose considerable additional pressure on Iran by mandating a new financial sanction that, if implemented appropriately, will substantially reduce Iran’s access to major segments of the global financial system.” Nine months after enactment of CISADA Section 104, it is well worth asking whether Section 104 has been implemented fully and what its impact has been.

Section 104(c) requires Treasury to, within 90 days, issue regulations to prohibit, or impose strict conditions on, the opening or maintaining in the United States of a correspondent account or a payable-through account by a foreign financial institution that the Secretary finds knowingly engages in various types of activities facilitating specified Iran-related transactions. Section 104(d) requires Treasury to, within 90 days, issue regulations to prohibit any person owned or controlled by a domestic financial institution from knowingly engaging in a transaction or transactions with or benefitting Iran’s Revolutionary Guard Corps or any of its agents or affiliates whose property or interests in property are blocked pursuant to the International Emergency Economic Powers Act. This expands the reach of the Iranian Transactions Regulations (ITR) to prohibit certain activities undertaken by entities that are not “U.S. persons” under the ITR but are owned or controlled by a domestic financial institution.

The Section 104(c) and 104(d) regulations were issued in a timely manner. My understanding is that no financial institutions have yet been penalized for violation of either. However, that doesn’t mean that these provisions have yet to have an impact. We know from other examples of Treasury’s Iran sanctions work that Treasury can often achieve the desired goal – getting a company to stop doing proscribed business with Iran – by going to that company directly, informing it of the risk, and thereby securing an agreement that it will stop the proscribed business with Iran. My understanding is that this is being done with regard to CISADA section 104(c) in particular and that it is having a dramatic impact, with more and more banks all over the world making the decision to curtail their business with Iran.

Section 104(e) requires Treasury to issue regulations to require a domestic financial institution maintaining a correspondent account or payable-through account in the United States for a foreign financial institution to take steps to guard against the foreign financial institution being engaged in activities facilitating Iran-related financial transactions of the type listed in Section 104(c). Unlike with Sections 104(c) and 104(d), CISADA did not specify a deadline by which the Section 104(e) regulations must be issued. **However, it is now 9 months after enactment of CISADA and the regulations required by Section 104(e) have yet to be issued.**

E. Curtail Iran's Ability to Issue Bonds

With most major international banks and many major international energy companies having stopped doing business with Iran, it has become harder for Iran to attract the investment it needs to develop its energy sector. In response, Iran recently announced the issuance of billions of dollars in bonds to support development of the South Pars natural gas field.⁵² **The Stop Iran's Nuclear Weapons Program Act, H.R. 6296, which was introduced in the last Congress by the chair and ranking member of this subcommittee, Congressmen Ed Royce and Brad Sherman, would address this by making sanctionable the buying or facilitating of sovereign debt of the Government of Iran, including Iranian governmental bonds, or debt, including bonds, of any entity owned or controlled by the Iranian government.**

F. Require Disclosure to the SEC of Sanctionable Activities

Several foreign companies which reportedly may be engaged in sanctionable business with Iran are listed on the New York Stock Exchange.⁵³ **The Iran Transparency and Accountability Act of 2010, H.R. 740, sponsored by Congressman Ted Deutch, would help deter such behavior by requiring companies to publicly disclose such sanctionable activity in their quarterly and annual reports to the Securities and Exchange Commission.**

G. Confirm the New Leadership of Treasury's Office of Terrorism and Financial Intelligence

The departure of Under Secretary Stuart Levey is a big loss for Treasury's Office of Terrorism and Financial Intelligence. However, the Obama Administration has nominated two exceptionally capable, knowledgeable, and experienced successors in David Cohen, the nominee for the Under Secretary position Levey vacated, and Daniel Glaser, the nominee to be Assistant Secretary for Terrorist Financing. They should be confirmed as soon as possible. This is no time to leave in limbo the leadership of Treasury's Office of Terrorism and Financial Intelligence.

There is plenty of work to be done if we are to tip the balance and succeed in our efforts to peacefully coerce and constrain the Iranian regime and achieve a halt to its illicit nuclear weapons program and support for terrorism. Thank you.

⁵² See, e.g., Avi Jorisch and Lee Prisant, *Iran's Merry-Go-Bonds*, JERUSALEM POST, April 4, 2011, <http://www.jpost.com/Opinion/Op-EdContributors/Article.aspx?id=215158>; Michael Lynch, *Iran's bond sales for South Pars should be a stunning success*, Gerson-Lehrman Group, March 13, 2011, <http://www.glgroup.com/News/Irans-bond-sales-for-South-Pars-should-be-a-stunning-success-52920.html>.

⁵³ See, e.g., Mark Dubowitz & Laura Grossman, *IRAN'S CHINESE ENERGY PARTNERS* (2010), <http://www.iranenergyproject.org/documents/1674.pdf>.