

*Summary of Comprehensive Iran Sanctions, Accountability
and Divestment Act of 2009*

Economic and Trade Sanctions

Expands Coverage of Iran Sanctions Act (ISA): This provision expands the definition of persons subject to sanctions to include financial institutions, underwriters, insurers, export credit agencies and others, and expands the definition of “petroleum resources” in ISA to include oil and natural gas pipelines, oil and natural gas tankers, and products used to construct or maintain them.

Subjects to sanctions entities who export to Iran certain refined petroleum products: These provisions would subject to new sanctions certain transactions by firms which involve gasoline, aviation fuel, or diesel fuel exports to Iran. Required penalties include a prohibition on foreign exchange activities, banking transactions, or certain property transactions by the sanctioned person. Targeted transactions would include those involving insurance or reinsurance for the sale, lease, or provision of petroleum by-products; financing or brokering such a transaction, or providing ships or shipping services for such a transaction.

Subjects to sanctions entities who help expand Iran’s domestic refinery capacity: These provisions would impose new sanctions, similar to those described above, regarding exports of refined petroleum products to Iran, on entities which provide support with respect to the construction, modernization, or repair of Iran’s petroleum refineries.

Codification and expansion of export and import bans on goods to and from Iran: In accordance with the International Emergency Economic Powers Act (50 U.S.C. 1701-1707), certain executive orders currently prohibit, with some exceptions, the direct or indirect exportation of U.S.-origin goods to Iran, and the direct or indirect importation of Iranian-origin goods into the United States. This measure codifies the direct and indirect export ban on U.S. goods destined for Iran, exempting food, medicine, medical devices, and other humanitarian assistance; aid provided to the IAEA to assist non-proliferation efforts, or to other organizations for democracy promotion; informational materials other than those subject to control under the Export Administration Act; and goods or services necessary for safe commercial aircraft operation approved by the Secretary of the Treasury and licensed appropriately. The measure provides an exception from the import ban for informational materials.

Freezing of assets of certain Iranian persons: Under current law, the President has frozen the U.S. assets of several Iranian governmental, military, and quasi-governmental entities, as well as those of Iranians designated as proliferators of weapons of mass destruction or terrorists, and the U.S. assets of their supporters. This measure effectively removes the President’s discretion to freeze or not freeze such assets, and instead requires the President to freeze the funds and assets under U.S. jurisdiction of Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran (including Iran’s Revolutionary Guard and its affiliates), and their family members or associates to whom they have transferred assets on or after January 1, 2009, if such persons are found to have been involved in proliferation-related or terrorist activities. The provision also requires financial institutions to report to the Office of Foreign Assets Control on any assets of a person so named. The President must report to Congress on such asset freezes within 14 days.

Ban on U.S. Government Contracts for Entities Subject to Sanctions, and for Entities Shipping Sensitive Communications Technology to Iran: This ban would prohibit U.S. or foreign firms from entering into procurement contracts with the federal government for goods or services if the entity meets the criteria for imposition of sanctions under ISA. It also covers those determined by the President to be exporting to Iran sensitive communications jamming or monitoring technology.

Each of these sanctions provisions would be subject to a waiver by the President if he determines that such a waiver would be in the national interest of the United States, and if he reports to Congress describing the reasons for the waiver.

U.S. Parent Company Liability for Violations of Sanctions by Foreign Subsidiaries: Under current law, foreign subsidiaries of U.S. companies may invest in Iran if the foreign subsidiary is completely independent of the U.S. parent company. This measure subjects U.S. parent companies to sanctions if the parent company establishes or maintains a subsidiary to circumvent U.S. sanctions law, and if the subsidiary engages in activity which, if committed in the U.S. or by a U.S. person, would violate sanctions law. The provision does not apply to those firms which terminate business with such an entity or which divest themselves of the subsidiary within 90 days of the legislation's effective date. The President may waive this requirement if he determines that such a waiver would be in the national interest of the United States, and reports to Congress on the reasons for the waiver.

Increased Capacity to Combat Terrorist Financing: The Department of Treasury's Office of Terrorism and Financial Intelligence (TFI), including the Office of Foreign Asset Controls and its Financial Crimes Enforcement Center (FinCEN), plays a critical role in administering U.S. sanctions laws. The proposal authorizes additional funding for both entities – more than \$64 million for TFI and more than \$104 million for FinCEN for fiscal year 2010.

Reporting Requirement to Increase Monitoring of Investment in Iran: The Iran Sanctions Act of 1996 ("ISA") requires the President to impose sanctions on a U.S. or foreign natural person if the President determines that the person invested \$20,000,000 or more in Iran's petroleum or natural gas sectors, but successive administrations have for years failed to do so even though foreign companies have invested more than the specified amount. The measure requires the President, within 180 days of enactment of the bill and every 180 days thereafter, to report to the appropriate Congressional Committees on eligible foreign investments made in Iran's energy sector since January 1, 2009 and the determination of the President on whether such investments qualify as sanctionable offenses.

Authorization of Divestment from Iran

Divestment for reasons of reputational or financial risk: Expresses the sense of Congress that the U.S. government should support efforts by State and local governments to divest from, or prohibit investment of the assets of state or local governments in, a person that the government determines poses a financial or reputational risk.

Authorization of Divestment: Patterned after legislation enacted in 2007 to enable divestment from firms engaged in certain activity in Sudan, the bill authorizes State and local governments to divest from any company that invests \$20 million or more in the energy sector in Iran, or extends \$20 million or more in credit to be used for investment in the energy sector in Iran. While not mandating divestment, this authorization is designed to recognize that investors may have moral, prudential or reputational reasons to divest from companies that accept the substantial business risk of operating in countries like Iran subject to international economic sanctions.

Standards for Divestment: Requires advance notice to persons to which the measure is to be applied; offers an opportunity for comment by the person to which the measure would be applied (including an opportunity to demonstrate that the person does not engage in the prohibited investment activities related to Iran's energy sector); urges care by State or local governments related to erroneous targeting of divestment; and requires notice to the Department of Justice within 30 days of enactment of state divestment legislation or other divestment measures.

Safe Harbor for Asset Managers: Amends the Investment Company Act of 1940 to prohibit legal action against asset managers who, based on credible information available to the public, choose to divest assets from, or avoid investing in, persons investing \$20 million or more in Iran's energy sector, or extending credit for such investments in Iran's energy sector.

SEC Divestment Regulations: Requires the Securities and Exchange Commission to revise current regulations as necessary to require disclosure of Iran divestment actions.

ERISA Pension Plan Investments: Expresses the sense of Congress that managers of certain ERISA pension plans may divest plan assets from, or avoid investing in, persons investing directly or indirectly in Iran's energy sector, without breaching their fiduciary obligations under ERISA -- if their decision is made based on credible publicly available information, and is conducted consistent with current Department of Labor regulations related to economically targeted investments.

Strengthening Efforts to Prevent Illegal Diversion of Sensitive Technologies to Iran

Identification of Countries of Possible Diversion Concern: Within 6 months, requires the Director of National Intelligence to submit to the Secretaries of State, Commerce, and the Treasury, and appropriate Congressional Committees, a report that identifies all countries that the Director believes are of concern with respect to trans-shipment, re-exportation or diversion of sensitive technologies to an entity owned or controlled by the government of Iran.

Assistance to Countries Designated as Destinations of Possible Diversion Concern: Requires the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Treasury, to determine if a country should be designated a Destination of Possible Diversion Concern. Such determinations would be based on the volume of items transported through the country to end-users who cannot be verified; the inadequacy of export and re-export controls of the country; and the unwillingness or inability of the country to control diversion, or to cooperate in interdiction efforts. Requires a series of government-to-government activities designed to strengthen cooperation, data exchange, and enforcement regarding export controls and re-export controls in a country so designated. Includes efforts designed to prevent Iran from obtaining weapons of mass destruction or their components, or sensitive dual use technologies.

Identification of Countries of Diversion Concern: If the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Treasury, determines that a country is a destination of diversion concern, either because a country is determined by the Secretary of Commerce to be allowing trans-shipment or illegal diversion to Iran, or one year after being listed a country as a Destination of Possible Diversion Concern has failed to cooperate in efforts to improve its export control system, it shall be subject to rigorous U.S. licensing requirements for sensitive technologies. The President may waive imposition of these licensing requirements if he determines that such a waiver is in the U.S. national interest, and submits a report to Congress describing the reasons for the determination.

Expanding Diversion Concern System to Countries Other than Iran: The measure requires within six months a report from the Director of National Intelligence to be submitted to Congress that assesses the feasibility and advisability of expanding the system of Diversion Concern described above to other countries in addition to Iran.

Sunset: All provisions of the bill will terminate 30 days after the President determines and certifies to committees of jurisdiction that Iran has ceased its support for terrorism and is no longer designated by the U.S. as a State Sponsor of terrorism, and has ceased the pursuit of nuclear, biological and chemical weapons and the systems necessary to deliver such weapons.