

THE IMPLICATIONS OF U.S. AIRCRAFT SALES TO IRAN

HEARING BEFORE THE SUBCOMMITTEE ON MONETARY POLICY AND TRADE OF THE COMMITTEE ON FINANCIAL SERVICES U.S. HOUSE OF REPRESENTATIVES ONE HUNDRED FOURTEENTH CONGRESS SECOND SESSION

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THE IMPLICATIONS OF U.S. AIRCRAFT SALES TO IRAN

Thursday, July 7, 2016

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON MONETARY
POLICY AND TRADE,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:03 a.m., in room 2128, Rayburn House Office Building, Hon. Bill Huizenga [chairman of the subcommittee] presiding.

Members present: Representatives Huizenga, Pearce, Stutzman, Pittenger, Messer, Schweikert, Guinta, Emmer; Moore, Foster, Perlmutter, Murphy, Kildee, and Heck.

Ex officio present: Representatives Hensarling and Waters.

Also present: Representatives Royce and Sherman.

Chairman HUIZENGA. The Subcommittee on Monetary Policy and Trade will come to order. Without objection the Chair is authorized to declare a recess of the subcommittee at any time.

Today's hearing is entitled, "The Implications of U.S. Aircraft Sales to Iran."

I now recognize myself for 3 minutes to give an opening statement.

The U.S. State Department has consistently labeled Iran a state sponsor of terrorism, and in a report most recently released last month called Iran "the world's foremost state sponsor of terrorism." In fact, Iran's state-owned national carrier, Iran Air, was sanctioned by Treasury in 2011 for transporting fighters and weapons of war on behalf of Iran's Revolutionary Guards.

Under the Iran Nuclear Deal, formerly referred to as the Joint Comprehensive Plan of Action (JCPOA), the Obama Administration agreed to authorize exports of commercial aircraft to the Islamic Republic of Iran while keeping all other existing trade restrictions in place.

These aircraft sales to Iran, purportedly meant to upgrade the country's aging fleet, expanded from 150 to 500 airplanes over the next 3 to 5 years.

On March 24, 2016, the Treasury Department's Office of Foreign Assets Control (OFAC), issued a general license permitting Boeing to begin negotiations with Iran.

On June 21st, Boeing announced it had reached a tentative sales agreement with Iran Air, the country's flagship state-owned carrier. Iran Air intends to purchase 80 commercial planes with a value of \$17.6 billion, along with the leasing of 29 737s.

However, any orders will remain contingent on the additional OFAC license authorizing the sale. OFAC regulations stipulate that such a license can also authorize financing “incident to a transaction.” And last month OFAC Acting Director Johnny Smith suggested that Boeing sales may draw on U.S. banks.

Opponents of Boeing’s deal with Iran point to the country’s continued sponsorship of terrorism, the use of its financial sector for international money laundering, and its support of the Assad regime in Syria, which has committed atrocities over the course of a 5-year-long civil war.

Critics also argue that U.S. financing of aircraft sales, be it through a U.S. bank or agencies such as Export-Import Bank, would go far beyond the Administration’s obligations under the Nuclear Deal.

Today’s hearing will examine the Obama Administration’s nuclear agreement with Iran and how it opened the door for the sale of American-made aircraft to the world’s leading state sponsor of terror. The subcommittee will also discuss legislation to prevent the facilitation of certain transactions by American financial institutions with Iran, as well as the prohibition of the Export-Import Bank from financing projects in Iran.

I am extremely concerned that by relaxing the rules, the Obama Administration has allowed U.S. companies to be complicit in weaponizing the Iranian regime. I will look forward to hearing from our witnesses.

With that, I yield back the balance of my time, and recognize the ranking member of the subcommittee, Ms. Moore from Wisconsin.

Ms. MOORE. Good morning, Mr. Chairman, and good morning to all of our witnesses. It is such a privilege to serve in Congress when you realize that you are going to be able to hear from really just experts on these topics. And I do welcome you here today.

I just want you all as our witnesses to know that this committee had jurisdiction over the Iran deal and we waived it when the Iran deal was before Congress.

The sale of these aircrafts to Iran is legal and it is transparent, and it is under close supervision of the U.S. Government in accordance with the express terms of the Iran deal, which China, Britain, France, all of our allies were party to.

In accordance with the express terms of it. And it actually includes a special aircraft snapback provision, unlike the Reagan deal with Iran, which you might all recall, where there were arms traded for hostages. This, again, is transparent.

And as Ronald Reagan said during the time, “I told the American people I did not trade arms for hostages. My heart and my best intentions still tell me that is true, but the facts and the evidence tell me that it is not.”

I now yield 2 minutes to my good friend, Mr. Heck.

Mr. HECK. Thank you very much, Ranking Member Moore and Chairman Huizenga, thank you very much. I have a lot of things that I worry about that come within the jurisdiction of this subcommittee.

I worry about stubbornly stuck wage growth, 30 years in fact. I worry about GDP growth that is stuck at about 2 percent, more or less. I worry about that which I referred to the other day in a full

committee hearing, the U-6 measure of unemployment stuck at just under 10 percent.

And this subcommittee has jurisdiction over a lot of issues that could impact those factors which so affect middle class Americans, whether it is our monetary policy jurisdiction, some banking, some international financial institution jurisdiction and the like.

And yet what we are focusing on today, the only hearing of this week in this subcommittee, is proposed policy to interfere in a private market transaction that is, and please remember these words, fully legal, fully compliant and scandal-free—fully legal, fully compliant and scandal-free.

I would much rather that we took our time focusing, frankly, on the things that create good paying jobs that put people to work in this country. In fact, what is happening here today is evident to everyone. We are relitigating JCPOA. Period.

We are interfering in a private market transaction that is fully legal, fully compliant and scandal-free.

Thank you Madam Ranking Member. With that I yield back the balance of my time to you.

Ms. MOORE. I yield back my time. Thank you.

I just wanted to point out before we continue with the hearing, just raise the safety concerns. There had been over a couple hundred airplane crashes in the commercial area. These planes that Iran has were so rickety and so ragged that the parts were unavailable anywhere in the world to repair them.

And so it is really important to note that number one, we are doing something that is saving lives of really innocent people, and it could also be Americans who are traveling in that space as well.

In addition to that, Boeing will be doing the inspections, have the inspections contracts so that if there is any effort to weaponize these planes we will be the first to know. And I think that that is really, really important to elucidate to our members here.

And with that, Mr. Chairman, I would yield back the balance of my time.

Chairman HUIZENGA. The gentlelady yields back.

And the Chair at this time recognizes the chairman of the full Financial Services Committee, Mr. Hensarling of Texas, for 2 minutes.

Chairman HENSARLING. Thank you, Mr. Chairman, and thank you for calling this hearing. For the past year this committee's bipartisan Task Force on Terrorism Financing has done excellent work in shedding light on sources of terror financing and offering legislation to improve U.S. Government efforts to choke off these funds.

Undermining this work, news broke a few weeks ago that Boeing had reached a deal to sell and lease billions of dollars' worth of aircraft to Iran. This is the same Iran which the U.S. State Department in a report last month again called, "the world's foremost state sponsor of terrorism."

And the Treasury Department has labeled Iran "a jurisdiction of primary money laundering concern." This is the same Iran behind the 1983 bombing in Beirut that killed 241 American service members. The same Iran that fuels atrocities in Syria, where half a mil-

lion lives have been lost. This is the same Iran whose government calls again and again for the annihilation of our ally, Israel.

And yet, this Administration plans to authorize these transactions with Iran Air, the state-owned national carrier, which has been sanctioned by the United States for transporting fighters and weapons of war on behalf of Iran's Revolutionary Guard.

The Administration also seems poised to allow U.S. financial institutions to provide financing for the deal, despite explicit assurances that Iran would not have access to the U.S. financial system when selling its nuclear deal.

One of the last things we should be doing is allowing Boeing to export military fungible aircraft and providing access to the U.S. financial system to the Iranian regime.

Boeing has been an iconic American company with a proud heritage. And I awoke just the other morning to watch Boeing's 100th anniversary television commercial, which I have seen on numerous occasions. On it were patriotic images of Martin Luther King and one of the space shuttle rockets.

Mr. Chairman, how tragic it would be for Boeing if, on its next anniversary, truth in advertising compelled it to replace Martin Luther King's image with that of the Ayatollah Khomeini, and to replace the space shuttle rocket image with that of Hezbollah rockets instead raining on Israel.

Let us hope Boeing rethinks their decision, and if they do not, our work is clear. We must ensure that American taxpayers and depositors will not have their funds used to back financing for the Ayatollahs and the world's greatest state sponsor of terrorism.

Thank you, Mr. Chairman. And I yield back the balance of my time.

Chairman HUIZENGA. The gentleman yields back.

And today, we welcome the testimony of Mark Dubowitz, executive director of the Center on Sanctions and Illicit Finance at the Foundation for Defense of Democracies; Eric Lorber, senior associate at the Financial Integrity Network; and Zachary Goldman, executive director of the Center on Law and Security at the New York University School of Law.

I might also note that there was a fourth intention, and you will see an empty Chair that is sitting there. Timothy Keating, senior vice president at Boeing, was asked to join this panel.

He was invited. He declined. He sent a letter that I would like to insert into the record, explaining that he had explained Boeing's position in a letter to Chairman Hensarling and to Representative Peter Roskam dated June 23rd.

Unfortunately, I don't find that adequate. We would love to have had that opportunity to ask Boeing a few questions and let them explain where they were coming from. But their choice was to not be here today.

So with that, each of you will be recognized for 5 minutes to give an oral presentation of your testimony. And without objection, each of your written statements will be made a part of the record.

With that, Mr. Dubowitz, you are recognized for 5 minutes.

**STATEMENT OF MARK DUBOWITZ, EXECUTIVE DIRECTOR,
CENTER ON SANCTIONS AND ILLICIT FINANCE, FOUNDATION
FOR DEFENSE OF DEMOCRACIES**

Mr. DUBOWITZ. Thank you, Mr. Chairman. Chairman Huizenga, Vice Chairman Mulvaney, Ranking Member Moore, Chairman Hensarling, and committee members, on behalf of FDD and its Center on Sanctions and Illicit Finance, thank you for the opportunity to testify. It is an honor to be here and to testify alongside these two superb experts.

There are a \$25 billion deal between Boeing and Iran Air, and a similar size deal with Airbus, demonstrates the risk that companies and banks face in doing business with a regime with a long and continuing rap sheet of illicit conduct.

These deals are a multi-billion backed by the Obama Administration and the Europeans for the economic benefits from the JCPOA will moderate Iran's behavior before the nuclear restrictions start expiring in 2023. That is a bad bet given Iran's aggressive behavior since the nuclear deal.

By selling planes to Iran Air, Boeing and Airbus are partnering with an Iranian aviation company and an industry complicit in the regime's weapons proliferation and destabilizing adventurism. These Western aviation giants and the banks financing this deal face a due diligence nightmare.

They cannot prevent the planes from being used by the IRGC for deadly airlifts to Syria's Bashar al-Assad, Lebanese Hezbollah and other terrorist entities.

And it seems that Iran Air is not keeping out of trouble. Three times in June Iran Air flew routes known to be used by the IRGC to resupply Assad and Hezbollah.

As recently as June 9, an Iran Air jet landed in Abadan, Iran, the logistical hub of the IRGC's airlifts, and then flew on to Damascus. The airline frequently uses false transponder information to hide these flights. So much for legal compliance and scandal-free.

We know that Iran Air will not be the only recipient of these planes. It alone does not have the capacity to absorb the large orders from Boeing and Airbus. And it is likely that it will transfer these planes to the IRGC's Mahan Air and three other sanctioned airlines.

These aircraft sales are not necessary. Iranian citizens and foreign travelers have other alternatives to Iran Air and Mahan Air, companies that are racked with corruption and mismanagement and implicated in a range of illegal activities.

Indeed, over the past 3 years, Gulf and Turkish Airlines have increased their domestic and international routes in Iran by nearly 60 percent. And numerous European airlines are also resuming service. Iranians have other alternatives.

These deals present another problem. They are preference of aircraft over smart state craft. They undermine the Obama Administration's much-touted economic snapback mechanism for enforcing the JCPOA.

Last summer some of us raised concerns that Iran would view any imposition of non-nuclear sanctions as a violation of the deal and grounds to snapback its nuclear program. We warned that

these threats would neutralize new non-nuclear sanctions. This is what I call Iran's nuclear snapback.

These warnings have come to pass. Already, over the past year, the Obama Administration has failed to push back with meaningful sanctions against Iran's malign activities. And the Boeing and Airbus deals create a powerful lobby against any return to sanctions.

If Iran Air illegally transfers planes to Mahan Air, for example, the U.S. and Europe will be constrained by concern that Tehran will walk away from both the nuclear deal and its outstanding debts to Western companies and banks.

These threats are likely to motivate Boeing, Airbus and their banks to lobby against any return to sanctions to protect their investments.

The financing of these aircraft sales provides another advantage to Iran. It is essential to the regime's demands for economic legitimacy. Iran wants American banks to finance the Boeing deal and for the Administration to permit the use of the U.S. dollar.

Tehran wants to get the planes now, pay later, borrow the money from Western lenders, and secure its access to dollarized transactions. If the Administration provides this dollarized access and in the future Iran Air legally resells Boeing planes to Mahan Air, the next Administration will not be able to revoke Iran's access to dollarized transactions.

Indeed, Tehran will argue that Washington provided this concession under the Nuclear Deal so it cannot later revoke it for non-nuclear reasons. Iran will threaten to walk away from the deal and deploy its nuclear snapback. This will effectively paralyze America's Iran policy for the next Administration.

The Boeing and Airbus deals only serve to increase the Iranian regime's leverage over the Nuclear Deal while diminishing Western appetite for rigorous enforcement.

I would conclude by noting that it is no small irony that the combined value of the Boeing and Airbus deals, about \$50 billion, is around the exact same amount that Iran refuses to pay to settle outstanding judgments for victims of Iranian terrorism, including Americans.

Look for lawyers pursuing justice for these victims to target these aircraft deals. If these deals are permitted to proceed, the Administration will make two of the world's most respected companies and their banks accomplices to the world's leading state sponsor of terrorism.

Thank you for the opportunity to testify. I look forward to your questions.

[The prepared statement of Mr. Dubowitz can be found on page 46 of the appendix]

Chairman HUIZENGA. Thank you, and the gentleman yields back his time.

Mr. Lorber, you are recognized for 5 minutes as well.

**STATEMENT OF ERIC B. LORBER, SENIOR ASSOCIATE,
FINANCIAL INTEGRITY NETWORK**

Mr. LORBER. Thank you, Mr. Chairman. Chairman Huizenga, Chairman Hensarling, Vice Chairman Mulvaney, Ranking Member Moore, and distinguished members of the subcommittee, I am hon-

ored to appear before you today to discuss the implications of U.S. aircraft sales to Iran.

I would like to focus my testimony on the threats posed by Iran, both to the region and to the international financial community and the risks that the private sector faces when considering re-entering Iranian markets.

I will also speak to the risks in providing commercial aircraft to the Islamic Republic. I would be happy to discuss my suggestions for the three legislative proposals during the question and answer period.

Make no mistake. As we approach the 1-year anniversary of the signing of the JCPOA, Iran has not changed most of the underlying illicit activity that has led respectable financial institutions across the world to refuse to do business there. Iran continues to actively support Syrian President Bashar al-Assad and international terrorist organizations including Hezbollah.

Indeed, because of this underlying illicit activity, the international financial community remains broadly reluctant to re-enter the Iranian market, even if legally permitted to do so. This reluctance is justified. Doing business in Iran poses a unique and toxic combination of risks related to bribery, corruption, money laundering, and illicit finance.

Such risks include, first, financial crime risk. Iran is well-known to present serious risks related to bribery and corruption and was recently ranked 130th out of 175 countries in Transparency International's Corruption Perception Index.

In addition, the Financial Action Task Force continues to keep Iran on its black list as a jurisdiction lacking necessary financial crime compliance controls.

Second, sanctions risk. The United States continues to maintain primary U.S. sanctions on Iran, which pose significant risks for any multinational corporation considering doing business there. U.S. jurisdiction is broad and U.S. regulators can use it to target transactions that may not initially appear to touch U.S. markets or involve U.S. persons.

Similarly, U.S. secondary sanctions remain in force, particularly if foreign financial institutions do business with the Islamic Revolutionary Guard Corps.

Given that the IRGC controls upwards of 35 percent of the Iranian economy and has established opaque corporate structures to hide its true ownership interests, companies returning to Iranian markets run a high risk of dealing with prohibited entities and running afoul of those regulations.

Likewise, though it signed the JCPOA, Iran has not changed much of its underlying illicit conduct. It actively supports terrorism and engages a wide range of destabilizing activities, including ballistic missile development. Given such activities, a serious risk exists that additional sanctions will be imposed on the country.

And third, snapback risk. If Iran cheats on the JCPOA, the U.S. Treasury Department has clear that it can partially snap sanctions back into place, meaning that firms that have re-entered those markets would be suddenly forced to exit, likely at a significant financial loss.

These risks, among others, are a significant part of the reason that the world's most reputable financial institutions have been unwilling to return to Iran.

When speaking with these banks, the response has been remarkably uniform. While the banks recognize that there are commercial opportunities in Iran, the real and regulatory risks remain far too high to consider re-entering the country.

In the case of Boeing's proposed sale of \$25 billion worth of aircraft and associated services to Iran Air, these risks are even higher. Iran Air is well-known to have engaged in illicit activities on behalf of the IRGC and, as you noted, was designated by the Treasury Department in 2011.

While Iran Air was delisted as part of the JCPOA, the illicit activity that led to the designation does not appear to have changed. As my fellow witness, Mr. Dubowitz, has noted, Iran Air continues to fly well-known arms and militant resupply routes to Damascus and into Lebanon.

The heightened risks of dealing with Iran Air and other Iranian airlines are also likely the reason that Boeing and Airbus have reportedly had difficulty finding financial institutions willing to bank these sales. Financial firms' fears are well-founded.

Foreign financial institutions can be subject to U.S. secondary sanctions if they provide services to the IRGC or its affiliates. If a global bank provides financial services for this deal and Iran Air uses these planes to transport arms or militants to Syria or Hezbollah, the bank could lose its access to U.S. markets, a death sentence for an international financial institution.

In conclusion, companies considering re-entering Iran, including Boeing, face serious risks of doing business with sanctioned parties or in ways that directly or indirectly support Iran's destabilizing activities. Congress should take steps to limit that risk.

The three legislative proposals are steps in that direction and with minor modifications can help the United States shape Iran's behavior and limit its ability to use this equipment for illicit purposes.

I look forward to discussing them during our question and answer session. Thank you for your time. I look forward to your questions.

[The prepared statement of Mr. Lorber can be found on page 75 of the appendix.]

Chairman HUIZENGA. The gentleman's time has expired.

And Mr. Goldman, you are recognized for 5 minutes.

STATEMENT OF ZACHARY K. GOLDMAN, EXECUTIVE DIRECTOR, CENTER ON LAW AND SECURITY, NEW YORK UNIVERSITY SCHOOL OF LAW

Mr. GOLDMAN. Chairman Huizenga, Chairman Hensarling, Vice Chairman Mulvaney, Ranking Member Moore, and members of the committee, thank you very much for the honor of appearing before you today with my friends and colleagues, Mr. Lorber and Mr. Dubowitz.

Last year, the United States and its partners in the P5+1 realized an important diplomatic accomplishment when they agreed to the Joint Comprehensive Plan of Action with Iran.

In the JCPOA, Iran committed that it would never seek, develop or acquire nuclear weapons, and the agreement represents the first time in over a decade that Iran's nuclear program is subject to limits agreed upon with the international community.

Under the terms of the JCPOA Iran limited the number of centrifuges that are operating, limited the degree of enriched uranium it can possess, limited the amount of enriched uranium that can be in the country at any given time, substantially modified its existing nuclear facilities, all under the supervision of the IAEA. In exchange, the United States and its partners agreed to limited sanctions relief.

The agreement does not resolve all concerns about Iran's behavior. Indeed, Iran remains one of the principal strategic adversaries of the United States in the Middle East. Since 1984 Iran has been and today remains designated as a state sponsor of terrorism. It provides substantial support to the regime of Bashar al-Assad as he prosecutes Syria's brutal civil war.

It routinely engages in gross human rights abuses, commits malicious cyberattacks inside the United States, and continues its support for terrorist groups like Hezbollah and the Houthi rebels in Yemen.

Until the adoption of the JCPOA last year, Iran's pursuit of an advanced nuclear program compounded these other ways in which Iran threatened American interests and the stability of the Middle East.

Seen in this context, however, the JCPOA ameliorates one of the most important components of the threat from Iran, namely the menace posed by its nuclear program and the possibility that its nuclear program could have been used to intensify the other ways in which Iran threatens the U.S., its allies and its interests.

And there was a significant chance that Iran's further development of its nuclear program would have sparked an arms race in the Middle East.

The constraints embodied in the JCPOA lengthen the time needed for Iran to break out from 2 months at the time the deal was signed to roughly a year under the terms of the agreement. In exchange for these concessions, the U.S. committed to lift nuclear-related secondary sanctions on Iran while it retained its primary sanctions program with some exceptions.

One of those exceptions is at issue today, the commitment by the U.S. Government to establish a licensing regime for the sale of aircraft and related parts and services to Iran.

To be clear, such sales are risky for the reasons Mr. Lorber and Mr. Dubowitz identified. Iran Air was designated in 2001—or 2011, excuse me, for providing support to the IRGC and other proliferation-related entities.

And that is why it is incredibly important to focus on contractual and licensing conditions and stringent monitoring and enforcement in the event a sale of aircraft goes forward.

And indeed, the JCPOA itself states that any licenses to sell aircraft to Iran will be contingent on those aircraft being used exclusively for commercial passenger aviation.

The U.S. has put Iran on notice that a breach of those conditions would be grounds for the U.S. to cease performing its obligations under that section of the JCPOA.

The risks involved in selling aircraft to Iran are similar to the risks generally attendant with doing business there, the risks of becoming involved in illicit financial activity and the reputational risk that comes from doing business in a regime that routinely represses the human rights of innocent people at home and abroad.

These risks and Iran's failure to address the shortcomings of its own financial system are some of the reasons that Iran says it has not gotten as much benefit from the JCPOA as it had anticipated. It is Iran's responsibility to address those shortcomings.

But as long as Iran adheres to the terms of the JCPOA and the IAEA has not raised concerns that Iran is out of compliance, the JCPOA has significant value in the U.S.'s overall national security strategy, even while the U.S. must continue to act to limit Iran's malign influence elsewhere in the region.

And the U.S. retains the full suite of national security tools including sanctions to enable it to do so. For as long as that is true we must work to maintain the integrity and viability of the JCPOA and to resist efforts to undermine it.

Thank you very much for allowing me to join you today. I look forward to your questions.

[The prepared statement of Mr. Goldman can be found on page 65 of the appendix.]

Chairman HUIZENGA. The gentleman yields back the balance of his time.

And with that, I would like to ask for unanimous consent that any member of the full Financial Services Committee who is not a member of the subcommittee be allowed to participate and ask questions of the witnesses. Without objection, it is so ordered.

The Chair now recognizes himself for 5 minutes. I was hoping to address this to Mr. Keating from Boeing. I have a series of questions from his letter to our chairman, Chairman Hensarling and Peter Roskam.

First of all, it is in his first opening paragraph, he talks about from the onset that consultation with Boeing the Administration "made it clear that implementation of the JCPOA was critical to the national security interests of the United States."

Then later, at the bottom of this first page, it says, "Boeing will continue to follow the lead of the U.S. Government with regard to working with Iranian airlines." I was hoping to ask him what kind of pressure they had been feeling from the Administration to do this deal?

I also wanted to ask him as he was talking about the Memorandum of Understanding or of Agreement to express Boeing's intent to help Iran Air lease 29 737s, how were they going to do that? What structure? Was it going to be directly or third-party?

And finally, at the end they have stated repeatedly, "Should the U.S. Government reinstate sanctions against the sale of commercial passenger airlines to Iranian airlines we will cease all sales and delivery activities as required by U.S. law."

And I wanted to get their opinion on what that would look like? What would Boeing do if a new Administration did come in and do

that? Would they be passive? Would they be aggressive to push back against that, that snapback?

And then finally, there is quite a bit of discussion about where this financing is going to be going? And this is something I would like to have you all address.

They say, "We have not reached any decisions on how payment from Iranian Airlines will be affected," as they are looking at the financing of it.

And that they do properly lay out Export-Import Bank as prohibited from any dealings with Iran. So I think we all ought to be agreeing that we are going to be able to codify that.

But they are talking about other financing options pursued by the customer. And I think that leads into those bank situations that Mr. Lorber was talking about.

And Mr. Lorber, you talk about that. You write in your testimony it is an underlying mix of money laundering and financial crime in Iran remains in place and that even after sanctions relief the list of Specially Designated Nationals remains long.

In your testimony you note that there is a big difference between permitting the sale of commercial aircraft and proactively telling U.S. and foreign banks that they can finance these sales.

You are a former Treasury lawyer, I believe, and did the the U.S. Government commit to the JCPOA to provide Iran with economic benefits and facilitating transactions or merely will they not prohibit the trade? I am curious what your take is on that.

Mr. LORBER. Thanks, Chairman. It is a great question and in fact this goes to the heart of the JCPOA because much of the language within the agreement itself is actually fairly ambiguous. I think it is paragraph number 26 of the agreement says, and I can quote it for you here if you would like?

Directly on this point it says, "The United States will make best efforts in good faith to sustain this JCPOA and to prevent interference with the realization of the full benefit by Iran of the sanctions lifted specified in annex two."

I read that to mean that the U.S. Government must ensure that the sanctions specified in annex two are lifted. Full stop. That does not mean the United States needs to go above and beyond and facilitate U.S. financial institutions providing financing in this way.

Chairman HUIZENGA. And you would view this as above and beyond?

Mr. LORBER. Correct. I would consider permitting U.S. financial institutions to bank this deal as above and beyond the obligations contained in this.

Chairman HUIZENGA. Now, in a letter to Senator Marco Rubio last month, Treasury Department wrote, "The administration has not been and is not planning to grant Iran access to the U.S. financial system." But I am curious. They seem to leave doors open as you walk down that hall all the time. And I would like someone to address this as well.

From a financial institutions perspective, what kind of risks are there and what are the dangers if the United States is seen as advocating for trade with Iran?

Mr. LORBER. Mark, do you want to—

Mr. DUBOWITZ. The problem with the Treasury Department's answer is they left the door open for offshore dollarization. And so that there may not be what is called a U-turn transactions for the U.S. financial system, but it is possible then to provide access to dollarization through offshore dollar trading.

Chairman HUIZENGA. Like a third party?

Mr. DUBOWITZ. Right. And so the issue of course with that is that Iran never negotiated that as part of the JCPOA. So now we are going above and beyond what was committed to in the JCPOA.

We are giving Iran access to the U.S. dollar offshore. And in doing so we are effectively neutralizing the ability to use non-nuclear financial sanctions in the future.

So the next Administration's hands are going to be tied. If they try to take away dollarization the Iranians will cry foul, that that is a violation of the JCPOA and the Iranians will threaten to snap-back their nuclear program.

And we won't be able to use financial sanctions in the future to deter Iranian behavior, whether it is on the nuclear side or on the non-nuclear side.

Chairman HUIZENGA. So my time has expired, but it is your understanding or your belief that any new Administration coming in, whomever that may be, will have their hands tied by this if this moves forward?

Mr. DUBOWITZ. That is correct.

Chairman HUIZENGA. With that, my time has expired.

And I now recognize the gentlelady from Wisconsin for 5 minutes.

Ms. MOORE. Thank you so much, Mr. Chairman. And I appreciate you are going to add this to the record, the letter that you read from Boeing, right? Yes.

Chairman HUIZENGA. Without objection so moved.

Ms. MOORE. Okay. I guess what we are hearing, at least if we are to follow the lead of the chairman's questions, that Boeing did not have to make these sales in order to be in compliance with the agreement.

So I guess I would ask you, Mr. Goldman, to comment on why commercial passenger aircraft were included in the deal related to preventing Iran from acquiring the nuclear capacity?

And how central were these provisions in terms of lifting the sanctions related to Iran's willingness to give grounds in other areas? How key was this to an agreement?

Mr. GOLDMAN. Thank you, Ranking Member Moore. I think you identified earlier an important reason the provision committing the U.S. to establish a licensing regime for aircraft sales was permitted in the agreement, and certainly a core reason was questions of aircraft safety.

In 2010 the E.U. actually went so far as to bar certain Iran Air aircraft from overflying the European Union because of concerns about aircraft safety. And indeed, a licensing regime for parts and services was included in the Joint Plan of Action, the interim agreement that was reached in 2013.

I read the provision that allows the licensing of aircraft sales to Iran effectively as standing on its own. The U.S. committed to es-

tablishing a licensing regime contingent on certain restrictions on how the aircraft parts and services would be used.

And in a footnote to that provision said that if those conditions are violated the U.S. would view itself as freed of the obligations in that specific provision. So to my mind I think that that provision can be seen as somewhat self-contained.

Ms. MOORE. Mr. Goldman, just let me continue to pursue this line of questioning. The other witnesses have talked about the Gulf and Turkish Airlines as being able to provide the air capacity and that there would be no need essentially for there to be an Iranian commercial fleet.

I guess my question is is that under the terms of the G-5 agreement would Airbus and other makers of aircraft be able under the terms of the agreement to make these sales to Iran were Boeing to step out of the picture?

Mr. GOLDMAN. Certainly as a legal matter if they are appropriately licensed Airbus would be permitted to sell the aircraft to Iran. My sense, however, is that the U.S. Government's ability to monitor and enforce whatever deals are ultimately struck might be greater in the event a U.S. company makes the sales than in the event that the foreign company makes the sales.

Ms. MOORE. So it gives us greater leverage—

Mr. GOLDMAN. Sure.

Ms. MOORE. —for an American company to make these sales than it would be to just leave it out there for other countries to do it.

Let me just ask you one other question. Would you regard it as kind of a breach of the deal if there were legislation that would somehow clawback the sale of aircraft to Iran? Is that in our best interests and would it be a breach of the agreement?

Mr. GOLDMAN. Iran thus far, as certified by the IAEA, has adhered to its nuclear-related obligations under the deal. The U.S. committed to establishing a licensing regime for aircraft sales to Iran. It did not commit to actually issue those licenses. It committed to establish a licensing regime.

If legislation were to bar the U.S. Government from establishing such a regime, that could put at risk our obligations under that specific provision of the JCPOA.

Ms. MOORE. And just your comment, your opinion perhaps, on the timeliness of this hearing? As you may recall, I indicated that this committee had jurisdiction to have had this hearing prior to the execution of the deal. Is this kind of an untimely hearing in your opinion?

Mr. GOLDMAN. Ranking Member Moore, the Boeing deal was just announced in the last several weeks and certainly this is an issue on which this committee has been and is appropriately very focused. And so this hearing seems to me to be an important exercise in oversight.

Ms. MOORE. Thank you so much.

And I yield back, and thank the chairman for his indulgence.

Chairman HUIZENGA. The gentlelady yields back.

And just to be clear, it really wasn't a motion but I am happy to enter into the record without objection the June 23rd letter from

Boeing to Congressman Roskam and Chairman Jeb Hensarling. Without objection, it is so ordered.

Chairman HUIZENGA. With that, I recognize the chairman of the full Financial Services Committee, Mr. Hensarling from Texas, for 5 minutes.

Chairman HENSARLING. Thank you, Mr. Chairman.

Some who defend the Boeing Iranian Air deal point to the commercial and civilian nature of these airplanes. I would note, Mr. Dubowitz, that a senior fellow at your organization, Emanuele Ottolenghi, has written just last month that Iran Air flew "known weapons resupply routes to Syria," not just once but three times.

And I believe it is for this very reason that Iran Air was sanctioned by Treasury in 2011. So this is the "civilian airline."

Could I have the first slide please?

In addition, Jane's Defense Weekly has written that Iran is capable of reverse engineering from its planes. They write, "The country's domestic aerospace industry has made great strides in indigenously manufacturing what it requires to sustain the country's military capabilities."

And then this is a publication of Boeing itself, and I know it is a little difficult to read. This was from a few years ago, a Boeing Frontiers publication.

In the upper left-hand corner, it says, "Building on success, Boeing's commercial jetliners make an ideal platform for a variety of military derivative aircraft." This is in Boeing's words.

Next slide, please? And this apparently is a picture of the P8, which is a derivative of the Boeing 737 commercial jet. This is also in Boeing's words: "I believe we are well-postured to take commercial military development to the next level." This is the Royal Australian Air Force using Boeing's 737 platform.

So I guess my question is, do the Boeing sales risk weaponizing Iran directly or giving the country technology that can be used to strengthen its military know-how?

Mr. Dubowitz, would you please comment on that?

Mr. DUBOWITZ. Mr. Chairman, the short answer is absolutely. It is only in the month of June that Iran Air flew three flights, its resupply flights through Abadan, Iran, an IRGC resupply base, to Assad and Hezbollah. Iran Air was listed for reasons that had to do with the IRGC and missile proliferation.

It was wrongly delisted because this was a nuclear deal and that sanction should have remained because we promised to keep our non-nuclear sanctions relating to the IRGC and missile proliferation. But even if Iran Air is considered to be a legitimate airline, which it clearly is not, Iran's entire fleet is only 36 planes.

So the order for Airbus and Boeing is 200 planes. And the Iranian minister who is responsible for this says it could go up to 500 planes. So even if Iran Air were to double their fleet to 70, they would still be somewhere in the neighborhood of 130 to 430 planes that they are not going to be using.

So the question is where do those planes go? Well, there are four other sanctioned airlines in Iran, Mahan Air and three other Iranian sanctioned airlines that still remain sanctioned under U.S. law. There is every reason to believe that those planes are going to go either in a lease or a sale to these other sanctioned airlines.

Chairman HENSARLING. My time is running out. On page 12 of your testimony, Mr. Dubowitz, you write, "The financing of Boeing's aircraft sales through access to the U.S. dollar is central to Iran's demands for economic legitimacy."

You go on to say, "But Iran wants the U.S. Government to specifically authorize payments for aircraft sales in dollars with each class of transactions that are dollarized, Iran is slowly undermining the ban on Iranian access to the U.S. financial system." Would you please elaborate?

Mr. DUBOWITZ. The Administration claims that they have prohibited Iran's access to the U.S. dollar. We know from press reports that Secretary Kerry and his team had been briefing reporters that they were going to offer a general license to provide access to the U.S. dollar entirely.

That got essentially stalled when Congress found out about it. Now what they are trying to do is try to provide access to the U.S. dollar through a class of transactions approach. And this is one of the central classes of transactions which is access to the U.S. dollar, to facilitate the financing of these aircraft sales.

If that happens, Iran is going to get access to the U.S. dollar for a major transaction, \$25 billion, Airbus as well, \$50 billion. Iran is effectively now moving into our dollar. The Administration is greenlighting the greenback and we will never be able to revoke that access again.

And as I testified earlier, that undercuts our ability to use financial sanctions in the future against the IRGC, against missile proliferation, things that Hillary Clinton herself has actually promised to do if she were president.

Chairman HENSARLING. My time has expired. Thank you.

Chairman HUIZENGA. The gentleman's time has expired.

The Chair recognizes Mr. Foster of Illinois for 5 minutes.

Mr. FOSTER. Thank you, Mr. Chairman, and thank you to our witnesses. Just first sort of a big picture question, so you mention one future where Iran is operating a potentially large fleet of Airbus and Boeing planes, completely dependent on the spare parts and technical support, all this sort of stuff, for that continued operation.

And then they say maybe we are going to break out for all of the reasons that people are worried about, for good reason. Does that increase or decrease the leverage that the West has that the moment that they break out they will be in violation with all this.

Presumably their spare parts and everything will be cut off immediately. And their potentially very large airplane fleet will not be serviceable anymore. Compared to, say, an alternate future where they buy Chinese and Russian airlines to accomplish the same thing.

Which do you think gives the West the largest leverage to prevent a breakout scenario?

Yes, Mr. Lorber, that would be you.

Mr. LORBER. Sure. I will take it. Thank you, Representative Foster. I think that the first situation you mentioned if we do sell Boeing aircraft and then have service contracts there, that actually doesn't provide us with much leverage in case they do decide to break out.

And the logic is Iran has become fairly adept, excuse me, over the past 30 years for finding workarounds to service the current Boeing aircraft that they do have.

And so I would fully expect them to attempt to stockpile spare parts, attempt to stockpile expertise, frankly, on how to maintain these aircraft such that if you did see a circumstance where they broke out and Boeing did cut off the contracts they would be able to keep those airplanes flying for a significant amount of time.

Mr. DUBOWITZ. And Congressman, if I could just add to that? If Iran is breaking out to a nuclear weapon, I don't think we are going to be worrying about servicing Boeing aircraft. I think we are going to be worrying about servicing U.S. fighter jets to stop that break out.

So I think that the area of breakout means that we will have zero economic leverage to stop Iran from pursuing a nuclear weapon. I think to your question is do we have leverage in the context of Iranians cheating on the deal, where they are trying to incrementally cheat, and I think Mr. Lorber is exactly right.

The reality is that in May of 2015 the U.S. Treasury Department sanctioned nine aircraft that were being delivered from Iraq Air to Mahan Air. And despite that sanction, right, which was supposed to be a powerful sanction, those planes not only were delivered but they are currently landing in European airports.

So we have had no leverage despite the fact that we have had those sanctions in place.

Mr. GOLDMAN. Congressman, if I may? I think that the dynamic that you identified is an important one. I would add a few more. One, I would just to respond to Chairman Hensarling's comments, the dynamics that he identified are undoubtedly a risk.

I would also say that equally they would be a clear violation of the JCPOA, either redirecting aircraft to SDNs or repurposing civilian passenger aircraft for other purposes would be a clear violation of Iran's obligations under the terms of the deal.

Mr. FOSTER. Sure. No.

Mr. GOLDMAN. That is not absolute—

Mr. FOSTER. No. It is my understanding that Boeing at this point has a letter of intent and not final agreement. So you could have, for example, it is not unreasonable to expect that there be very detailed monitoring agreements in terms of making sure the jets aren't repurposed or sold to someone else.

Mr. GOLDMAN. I would expect—

Mr. FOSTER. As part of the leasing and/or sales agreements. I don't know that that is going to be a fact, but it is an entirely reasonable expectation.

Mr. GOLDMAN. Congressman, I also don't know. I haven't seen the term sheets, but I would expect that those would be conditions both of the license and of the contract between Boeing and whatever Iranian entity is its counterparty.

I would also note that the size of the deal provides some degree of leverage to the United States and to Boeing. And so I don't expect 109 airplanes to be delivered on day one to the extent that these planes are delivered over a course of many years, involve prepayment, involve large down payments, involve escrow payments to Boeing, things like this give Boeing additional leverage.

Again, none of this eliminates the risk. There are substantial risks, as my colleagues have noted, of engaging in business in Iran as a general matter and of engaging in this deal specifically.

Mr. LORBER. Representative Foster, do you mind if I weigh in on your question as well?

Mr. FOSTER. Certainly.

Mr. LORBER. Thank you. So I think that the question of what is contained in the contract is going to be incredibly important between Boeing and Iran Air.

But I think given that we don't know what will be contained in that contract this committee does have an important responsibility to play to actually pass legislation which requires OFAC issue certain licenses pursuant to particular conditions.

So for example—

Mr. FOSTER. Oh, right. Yes. I agree, but I see a very large difference between legislation that effectively has us walk away from the JCPOA and something that sets significant conditions on the sort of contracts, the monitoring, provisions like that, to make sure that these are exclusively civilian for the exclusive intended end user.

Mr. LORBER. I—

Mr. FOSTER. That is where I see our main oversight role.

Mr. LORBER. But Congressman, the problem is of course is that in theory that sounds good. In practice the reality is Mahan Air has been under U.S. sanctions. The U.S. Treasury Department has been traveling around the world trying to convince our European and Gulf allies to stop Mahan Air from landing in their airports.

And if you bring Adam Szubin here, who is the under secretary of Treasury, he will tell you that he has had no success in convincing the Europeans, our Gulf allies, to block the landing of a designated airline, Mahan Air, which is controlled by the Revolutionary Guard.

So you can put all the provisions you want and monitoring provisions you want in the contract, but the reality of what is happening on the ground today is the U.S. Government has been unable to stop sanctioned airlines from traveling to even allied airports. That is the reality.

Chairman HUIZENGA. The gentleman's time has expired.

With that, the Chair recognizes Mr. Pearce of New Mexico for 5 minutes.

Mr. PEARCE. Thank you, Mr. Chairman. I have been listening with great interest. I really appreciate the viewpoints expressed by my friends on the other side of the aisle.

I probably draw a different conclusion because the suggestion was made that we shouldn't be having the hearing. And really one of the intersections of probably an important discussion for the country and that is the need for jobs as opposed to the national security concerns.

Now, for me it is somewhat more personal. Back in 1970 I went into Airforce training, pilot training, and we had in our class several Iranian pilots, became good friends with several of the people during my year there.

When the Shah was overthrown I have tried randomly through the years to try to find out what happened to any of my friends

and have never been able to contact, even as a Member of Congress, been able to establish a trail for any of them.

And so the idea of a sponsor of terrorists, of a government like that is one that is personal to me. And so I think that it would be important for us to drill down.

But I do understand what our friends are saying about the jobs. Now, one of the things that I have a concern about is, and Mr. Goldman, I am probably going to ask you to address this, but after the deal was done, the JCPOA, Ben Rhodes, who is the National Security Advisor for Strategic Communication for the president said, yes, we had to lie to the American people in order to get their consent.

His further quote quoted as saying in the spring of last year, and that was some time back, "The legions of arms control experts began popping up in think tanks. We literally created an echo chamber that became key sources for often clueless reporters and reporters who literally knew nothing."

Now, given that background for the underlying agreement, how can we believe anything that the Administration says about the use of the airplanes or the intended use of the airplanes?

You surely understand that we come with a bit of skepticism, but then when the President's own adviser says yes, we did this, do you understand why we might have some concerns on this side?

Mr. GOLDMAN. Congressman, thank you for your question. I look to the terms of the agreement itself.

Mr. PEARCE. No, I am just talking about Mr. Rhodes' comment that—forget the terms. The people were lied to about the terms and what will make sure that we are not being lied to about the elements of this agreement?

Mr. GOLDMAN. Congressman, I think your committee and those of your colleagues is well-positioned to request information about monitoring of the agreement, both in public settings and in private settings from the Administration.

Mr. PEARCE. Okay. With all respect, we request a lot of information from the Administration and almost never, never get anything, whether it is CFPB, the Treasury or whoever. And so my question then, just a rhetorical question is how in the world can our allies trust us if this thing moves forward?

So I would like to separate in the rest of the time separate the discussion into two pieces. You have one the sale of the assets, but then the secondly is the financing of the assets. Now, if we don't finance those here internally in the U.S. who is going to finance those?

Mr. Lorber, do you have an opinion about that?

Mr. LORBER. I do. So I don't think it is going to be any of sort of the major international financial banks, the Wolfsburg Group, so-called Wolfsburg Group. I think you have been seeing in the case of other aircraft sales to Iran, so some of the smaller aircraft companies, Embraer, APR—

Mr. PEARCE. Okay. I am maybe running out of time so I am going to—

Mr. LORBER. Yes. It is smaller German, Austrian, Italian banks, for example, that are not nearly as reputable and cannot—

Mr. PEARCE. So do you think it is better that we have the financing done from in the U.S. if the sale occurs rather than forcing the financing there?

Mr. LORBER. I don't. No. I don't think the United States should be in the position of—

Mr. PEARCE. Mr. Dubowitz, do you have an opinion on that?

Mr. DUBOWITZ. I don't think U.S. financial institutions should be risking their reputation and risking potential illegalities by financing a deal to airlines that are controlled by terrorist organizations.

And if you want to know someone who is telling the truth to you, Congressman, listen to Angela Merkel's speech to the Bundestag today, where based on German intelligence she said Iran is violating the deal because they are continuing to procure nuclear and missile technology in Germany in violation of the requirement of the JCPOA to use their procurement channel.

Mr. PEARCE. Wait, which kind of feeds back into my initial point that the whole deal was sold to the American public based on lies and now then there appear to be lies that are—it is a very difficult question.

Again, I respect our friends on the other side pointing out the balance between national security and jobs. At the end of the day, truth does matter, so thanks.

And I yield back, Mr. Chairman.

Chairman HUIZENGA. The gentleman's time has expired.

It has come to my attention that we have been talking about a number of letters, and in an effort to make sure everybody has all the information about the various letters, I would like to enter into the record without objection the letter to Dennis Muilenburg of the Boeing company dated June 16, 2016, by Peter Roskam and Chairman Jeb Hensarling that was the basis of a number of the letters that we were discussing earlier.

And without objection, it is so ordered.

The Chair now recognizes Mr. Perlmutter of Colorado for 5 minutes.

Mr. PERLMUTTER. Thanks, Mr. Chairman.

So is it true, gentlemen, that the JCPOA is—and I am just going to call it the agreement, okay, is in effect today?

Mr. LORBER. Is it in effect?

Mr. LORBER. Yes, I believe so.

Mr. PERLMUTTER. Okay.

Mr. Dubowitz:

Mr. DUBOWITZ. It is and it is being violated.

Mr. PERLMUTTER. Okay. So you think it would be your position that Iran has breached the agreement?

Mr. DUBOWITZ. Actually it is Angela Merkel's position in her speech today because—

Mr. PERLMUTTER. I asked for your position?

Mr. DUBOWITZ. In my view that is exactly right. Iran is supposed to be using—

Mr. PERLMUTTER. And you are a lawyer, right?

Mr. DUBOWITZ. I am.

Mr. PERLMUTTER. Okay.

Mr. Goldman?

Mr. GOLDMAN. Yes, it is in effect.

Mr. PERLMUTTER. Okay.

Mr. Lorber, do you think it has been breached by Iran?

Mr. LORBER. I think that Iran has generally lived up to the terms, though I think that there are points on the margin where Iran definitely is pushing the boundaries and may be in slight breach, yes.

Mr. PERLMUTTER. All right. Now, none of you disagree—well, let us see if you do or you don't, because there is the legislative piece which is obviously us and what we might do about agreements going into the future.

There is also the judicial piece which Mr. Dubowitz thinks it has been breached and he has quoted the German prime minister. Is Angela Merkel a prime minister or—

Mr. DUBOWITZ. Chancellor.

Mr. PERLMUTTER. Yes.

Mr. DUBOWITZ. German chancellor.

Mr. PERLMUTTER. So my question is I looked at what Mr. Lorber referred us to Section 5.1.1 of the agreement which seems to be pretty straightforward. And maybe I am missing something. "The United States commits to allow for the sale of commercial passenger aircraft and related parts and services to Iran by licensing the export, re-export, sale, lease or transfer to Iran of commercial passenger aircraft for exclusively civil aviation end use."

And then it goes on, "export, re-export," keeps going and then it has a footnote: "Licenses issued in furtherance of Section 5.1.1 will include appropriate conditions to ensure that licensed activities do not involve and no licensed aircraft goods or services are resold or re-transferred to any person on the SDN list."

That is the operative language. That is what we are dealing with in this hearing, is it not?

Mr. GOLDMAN. But Congressman, it is fully in the purview of the U.S. Congress and the U.S. Treasury Department to put in a condition—

Mr. PERLMUTTER. Is this, this the—

Mr. DUBOWITZ. So—

Mr. PERLMUTTER. —operative language that we are dealing with?

Mr. DUBOWITZ. It is the operative language, but let me explain the operative language.

Mr. PERLMUTTER. I just—is that a yes?

Mr. DUBOWITZ. That is the language, but—

Mr. PERLMUTTER. Thank you. All right. Now, you can expand on that if you will?

Mr. DUBOWITZ. It is entirely within the purview of the U.S. Government, both Congress and the Executive Branch, to put, for example, in a certification that the President has to make that Iran is not using these civilian aircraft for illicit military purposes.

It is also entirely within your purview to put in a requirement that these sales not be made until Iran is no longer a state sponsor of terrorism.

And since Iran is in violation of the agreement, as we learned today from Ms. Merkel, in illicitly procuring missile technology from Germany in violation of the procurement channel, Iran is in clear violation of the agreement—

Mr. PERLMUTTER. All right. So—

Mr. DUBOWITZ. —in the letter in spirit.

Mr. PERLMUTTER. —and I appreciate that. So if they are in violation then it may allow us to not have to proceed further with our obligations under the agreement. Okay. So I appreciate that legal position. I got it.

Because we are dealing with a contract. Okay? And I appreciate from a legislative point of view we may want to change that contract in the future. We may want to add some things. But we do have a contract today, but you say it has been breached.

Mr. DUBOWITZ. The contract has been breached.

Mr. PERLMUTTER. And therefore it might eliminate any responsibility for the U.S. to have to fulfill Section 5.1.1?

Mr. DUBOWITZ. No. You can fulfill that provision to the letter by putting in a certification requirement and a condition that this only take place once the president has certified and once Iran is no longer a state sponsor of terrorism.

Mr. PERLMUTTER. So—

Mr. DUBOWITZ. That is entirely within the purview of that agreement.

Mr. PERLMUTTER. All right. All right. Wait a second. We either have responsibilities under this agreement or we don't. And we can always amend the agreement in the future if you get Iran and the other countries to agree to the amendment. Isn't that true?

Mr. DUBOWITZ. No, because the licensing construct that is contemplated in that agreement gives Treasury and gives the U.S. Congress the ability to set up the licensing regime with conditions as the footnotes explains.

Those conditions could be and should be that Iran is not violating the requirement that these aircraft not be used to support the Revolutionary Guard and Bashar Assad and designated terrorist organizations.

Mr. PERLMUTTER. So if a—

Mr. DUBOWITZ. That is not a violation of the agreement.

Mr. PERLMUTTER. So if that were placed in the license, okay, and I appreciate that point, if that were placed in the license you are not going to use this for any bad purposes, then would you say go forward with this sale Boeing or not?

Mr. DUBOWITZ. So my recommendation would be that there be a certification put in, that there be a 5-year rehabilitation period so that we can actually track these planes to make sure that they are not being used for illicit purposes.

If Iran satisfies that certification requirement after 5 years and the President can then certify, then we can move ahead on an incremental basis allowing certain planes to be delivered.

But I think it is actually foolhardy that the day after Iran is—June the 9th, 1 month after Iran has continued to conduct illicit activities with these planes, we greenlight the sale and we hope and a prayer that Iran will change its conduct when there has been no evidence that Iran is going to be conducting itself—

Chairman HUIZENGA. The gentleman's time has expired.

Mr. DUBOWITZ. —in a legal way.

Chairman HUIZENGA. The gentleman's time has expired.

Mr. PERLMUTTER. And I appreciate your answers. Thank you. I yield back.

Chairman HUIZENGA. The gentleman's time has expired.

With that, the Chair recognizes Mr. Schweikert of Arizona for 5 minutes.

Mr. SCHWEIKERT. Thank you, Mr. Chairman. And I know you had touched on this earlier, but I would like to get my head around the financing mechanics. And so I thought we would do just a little experiment. What is the total value that would be financed first on the U.S. aircrafts to be sold? Anyone throw that out for me?

Mr. LORBER. So the total value of the deal, we have heard two numbers. We have heard \$17.8 billion for the actual sale of aircraft and then a leasing provision with a total market value, we are not sure what it is, but market value is up to \$25 billion.

Mr. SCHWEIKERT. Okay. Just for the fun of it, 25. The Airbus products?

Mr. LORBER. I believe the Airbus deal was initially valued at \$27 billion.

Mr. SCHWEIKERT. Okay. So now we have \$27 billion. Airport improvements, runways, fuel delivery systems, fire suppression, all the list of the other infrastructure that goes when you have updated a fleet, updated the types. Everything from the jet ways—

Mr. LORBER. Yes.

Mr. SCHWEIKERT. —will have to all be updated. Has there been any estimate of how much additional infrastructure borrowing there will be needed?

Mr. LORBER. Not that I have seen as public source or have been released by Iranian authorities, who I think would be responsible for that.

Mr. SCHWEIKERT. Okay. So we are already basically at just our quick calculation here, we know there is somewhere around \$52 billion.

Mr. LORBER. It is actually more than that because there are other airline companies or other airplane companies that are selling airlines to Iran, too. Embraer I know—

Mr. SCHWEIKERT. Okay. Embraer?

Mr. LORBER. —ACP and a couple other smaller ones.

Mr. SCHWEIKERT. Okay. So do we have a guess of the total if we were to look back a decade from now how much international borrowing would ultimately come from, let us call this opening up.

Mr. LORBER. If I had to back of the envelope guess I would say probably between \$65 and \$70 billion.

Mr. SCHWEIKERT. Okay. So just for the fun of it let us use the 70 because it is an easy number. So \$70 billion and how much of that is going to come from the international marketplace? Almost all of it.

Mr. LORBER. I would assume, yes.

Mr. SCHWEIKERT. If for the three panel members, are we comfortable that this is money that is substantially going to be inbound capital into Iran?

Mr. GOLDMAN. Presumably some portion would be.

Mr. SCHWEIKERT. Okay.

Mr. GOLDMAN. I couldn't speak to what portion.

Mr. SCHWEIKERT. Okay, but we are sort of doing a thought experiment here. What is the risk premium? What is the threat to the

financial markets of the world when at any given moment a bad actor, international sanctions come back.

How do you insure this sort of debt? How do you actually design an understanding of the risk mechanics on it? Are, is Iran going to be paying some huge interest rate premium because of their risk profile?

Mr. LORBER. So there is—

Mr. GOLDMAN. Oh, go ahead.

Mr. LORBER. This is actually exactly the reason that most of the major global financial institutions have not gone back into Iran is that they don't—for a variety of reasons, but one important one is that they do not know how to appropriately price that risk.

Mr. SCHWEIKERT. Okay. So—

Mr. LORBER. Financial—

Mr. SCHWEIKERT. —so are they going to have to use alternative sources of capital to raise \$70 billion?

Mr. LORBER. I think that is exactly why I think Iran is trying to go to smaller banks with less U.S. sanctions exposure in order to try to sort of create a hodge podge financing scheme to pay for the sales.

Mr. SCHWEIKERT. Okay. Now—

Mr. DUBOWITZ. Congressman, it is also why the Export-Import Bank and other export development banks in Europe, for example, are probably going to have to backstop these deals because the private financial institutions are not willing to risk their money. So instead you are going to risk taxpayer money on this.

Mr. SCHWEIKERT. So functionally then you have just sanctified with populations in the Western world a guarantee on the risk premium of a regime that we already know is an international bad actor? I guess where I am going from this is, look, other members of the committee have done a much better job than I can on the types of bad acts that we believe come through the regime.

My concern is do you hand \$70 billion, whether it be taxpayer guaranteed dollars or smaller institutions that you would have to at least conceptualize would be much more fragile if all of a sudden there becomes, oh, sanctions went back on because of this bad act and the Iranian government because these are functionally an Iranian-owned airline, government-owned airline, says, well, fine. We are just not going to pay our debt.

Mr. DUBOWITZ. Yes. There is going to be—

Mr. LORBER. Congressman, you are absolutely right that the financing I think is going to be the trickiest piece of the puzzle should Boeing decide to actually proceed with the sale.

Mr. SCHWEIKERT. And I want to keep this in context of even beyond Boeing. The—

Mr. GOLDMAN. Absolutely.

Mr. SCHWEIKERT. The savings, the capital, the infrastructure we have built to finance our society in the West is now going to functionally be financing—

Mr. GOLDMAN. Right.

Mr. DUBOWITZ. Yes.

Mr. SCHWEIKERT. —really dodgy debt. And yet the number, the hundreds and hundreds of hours we have in this committee screaming at each—excuse me—discussing with each other—on we

don't believe we should finance this type of bad actor called Wall Street, or we shouldn't finance this or finance this. If you actually take the types of rhetoric that have been in this room—

Mr. GOLDMAN. Yes.

Mr. SCHWEIKERT. —the discussion we are having here should be absurd on the financing. So look, that is the benchmark I am laying down.

I yield back, Mr. Chairman.

Mr. GOLDMAN. Congressman, I would just note—

Mr. SCHWEIKERT. I'm sorry. It—

Chairman HUIZENGA. The gentleman's time has expired.

Mr. GOLDMAN. \$70 billion—

Chairman HUIZENGA. So far, there is no yelling. That is good.

But with that, the Chair does recognize Mr. Heck of Washington for 5 minutes.

Mr. HECK. Thank you, Mr. Chairman. I would like to begin by correcting the record of my own remarks that I delivered at the top of this discussion in which I asserted that it was self-evident what we were really doing here today was relitigating passage of the JCPOA notwithstanding the fact that this proposed transaction is fully legal, fully compliant and scandal-free.

But it is also pretty clear to me by the remarks made by several people that it is a red herring to relitigate reauthorization of the Export-Import Bank despite the fact that both the Export-Import Bank and Boeing have asserted clearly, explicitly and definitively that the EX-IM will not be involved. Let us get that on the record.

One of my premises is that passage of this package of bills, which would effectively block this transaction, would have no effect insofar as Airbus would just fill the void. So we wouldn't have a real world effect and that that would cost America a lot of jobs.

The U.S. Department of Commerce estimates that for every billion in exports, 6,000 jobs are created. So we are talking about 100,000 jobs.

Some of my friends who are supportive of this package of bills respond, well, no, Denny. That is not true because the Office of Foreign Asset Control would not authorize the Airbus sale because more than 10 percent of the content of them would come from G.E. engines.

However, Mr. Goldman, I think I prefer to direct this to you. Sir, I recognize that you are a legal expert on trade sanctions, but doesn't it seem plausible if not likely that given that both Rolls Royce and CFM, a combined G.E. and French-based company make engines that would be suitable for this Airbus frame would just fill this void, especially given the fact that the magnitude of this sale would make it kind of a smart financial and economic move? And that therefore Airbus would find a way to rejigger production to in fact fill the void?

Mr. GOLDMAN. Congressman, I can't speak to the requirements of Airbus planes. I understand though that they do presently contain greater than 10 percent U.S. parts, therefore they require a license from OFAC. And it is my understanding that that license application is pending.

Mr. HECK. And that you have no opinion on whether or not if they did not approve it that the market would do what the market

often does, which is just adapt by having either Rolls Royce or the CFM?

All right. Let me go to another point.

Mr. LORBER. Congressman, can I—

Mr. HECK. No, because I have other questions.

Mr. Goldman, I read your testimony essentially to be the world is safer as a consequence of Iran not acquiring nuclear weapons under the JCPOA and that generally speaking therefore we are better off with the JCPOA to monitor this so that the world is safer, not more dangerous. Is that fair?

Mr. GOLDMAN. That is my belief, Congressman. And I would note that the U.S. Government retains all of the tools at its disposal including sanctions to address all of the other malicious behavior on the part of the Iranian government that we abhor, its support for terrorism, its cyberattacks, its human rights abuses.

And that several times this year the Administration has imposed sanctions on Iranian entities for ballistic missile procurement and other misdeeds.

Mr. HECK. Okay. So let us take this one step further. If the transaction, fully legal, fully compliant, scandal-free goes through, given a sales or a service and part contract that would be a part of that sale, not speaking to Dr. Foster's inquiry about leverage.

But doesn't it seem more plausible to you that American employees of an American company or contractors of an American company providing either parts replacement or servicing on the part of the purchase by Iran would give us a better opportunity to discover whether or not there had been some adaptation of that airplane for a sanctionable purpose?

As opposed to if there are no eyes on these aircraft over time?

Mr. GOLDMAN. That would be my assumption, as would my assumption be that the monitoring and reporting conditions that could be imposed in a license or in Boeing's contract with Iran—

Mr. HECK. Okay. So that is a clear answer to my question. So let me just summarize. Passage of these bills which would effectively block this sale will cost America up to 100,000 jobs and render both the world and the immediate geographic region of Iran, where they do bad things, fully acknowledge, less safe? Fewer jobs, less safe.

With that I yield back the balance.

Chairman HUIZENGA. The gentleman's time has expired.

The Chair now recognizes and welcomes Mr. Royce from California, chairman of the House Foreign Affairs Committee.

Mr. ROYCE. Thank you, Mr. Chairman, and I thank the panel here. Let me begin with this question because I am going to the June 2011 Treasury designation of Iran Air that it was used by the Iranian Revolutionary Guard Corps and Iran's Ministry of Defense to transport military-related equipment.

Iran Air has shipped military-related equipment on behalf of the IRGC, says the report, "since 2006. And in 2008 Iran Air shipped aircraft-related raw materials to a Ministry of Defense-associated company, including titanium sheets, which have dual use military applications and can be used in support of advanced weapons programs."

It further stated that “rockets or missiles have been transported via Iran Air passenger aircraft.” So I would ask Mr. Dubowitz, from what you know has Iran Air continued in its process of engagement here in prohibited activities related to Iran’s support for terrorism to include the transport of conventional weapons and ballistic missiles within the last 2 years? Do we have the intel on that or information about it?

Mr. DUBOWITZ. Chairman Royce, in fact just last month three Iran Air flights went from the IRGC’s resupply base in Iran to Damascus. So that illicit activity continues.

Mr. ROYCE. So in terms of the question, has Iran provided weapons to the Syrian government using Iran Air? I take it the answer is probably—

Mr. DUBOWITZ. It appears to be so unless they are ferrying civilians on sightseeing tours from a resupply base from the IRGC. And probably we need to look into that.

Mr. ROYCE. So has Iran Air engaged in activities within the last 2 years in support of the Iranian Revolutionary Guard Corps?

Mr. DUBOWITZ. Yes.

Mr. ROYCE. Okay. Now my second question, last question has to do with the ownership status because despite these clearly terrorism-related designations, the Administration removed sanctions on Iran as part of the nuclear deal as we all know.

And in addition, Iran Air has not been designated as being owned or controlled by the government of Iran despite the fact that we have seen little evidence that Iran Air has either been privatized or changed its ownership structure.

So Mr. Lorber or Mr. Dubowitz, I would ask what is Iran Air’s ownership structure? Is it still owned or controlled by the government of Iran? And are any members of the—and I guess this would be of great interest to me, of the Iranian Revolutionary Guard Corps specifically designated nationals, shadow SDNs, or other political exposed persons in any of the senior management positions?

Mr. DUBOWITZ. So Chairman Royce, Iran Air is still used by the Revolutionary Guards. Iran was designated in 2011 because it was being used by the Revolutionary Guards.

There is every evidence it continues to be used by the Revolutionary Guards. And there was no reason it was delisted since that was not part of a nuclear agreement. And there is no reason why it should remain unlisted.

And I just would note one other thing very quickly. There are four other airlines being used by the Revolutionary Guards that remain sanctioned. And there are no—as we have no ability to stop Iran Air from transferring leasing or reselling those aircraft to four other Revolutionary Guard aircraft.

Mr. ROYCE. Mr. Lorber?

Mr. LORBER. Thank you, Chairman Royce. I would also add to that that there is a provision of secondary sanctions regulations which are still in force that prohibit foreign companies from doing business not just with Iran Air but also with agents and affiliates of the IRGC.

So if Iran Air is transporting goods on behalf of the IRGC it is an agent and an affiliate and therefore entities doing business with it are also subject to U.S. secondary sanctions.

Mr. ROYCE. And Mr. Dubowitz, when was that last flight or the last three flights that you referenced?

Mr. DUBOWITZ. It was—

Mr. ROYCE. —to Damascus?

Mr. DUBOWITZ. —June the 9th.

Mr. ROYCE. June the 9th.

Mr. DUBOWITZ. One month ago.

Mr. ROYCE. Okay. My time is expiring. I—

Chairman HUIZENGA. But will the gentleman yield?

Mr. ROYCE. I will yield.

Chairman HUIZENGA. Thank you. I appreciate that.

Mr. Lorber, I just wanted to give you a quick opportunity. Mr. Heck had a line of questioning that you wanted to jump in on and I thought you could take this last 30 seconds?

Mr. LORBER. Thank you, Chairman. It was to your point, Representative Heck, as to whether or not the market would prevail and whether they could, for example, simply swap out engines from European manufacturers.

It would depend on the type of aircraft, but my understanding is that aircraft engines are generally manufactured specifically for a particular aircraft. And so there might not be, for example, a different manufacturer to be able to swap in an aircraft very easily. Thank you.

Chairman HUIZENGA. All right. The gentleman's time has expired.

Mr. ROYCE. I think—Mr. Dubowitz, were you seeking time to reply on that as well?

Mr. DUBOWITZ. Yes. I just wanted to add as well that—and it gets to a previous question before. My big concern is that we may face in the coming years a \$70 billion Iran bailout where the U.S. taxpayer is going to have to stand behind all of the unpaid debts from Iran Air and other Iranian airlines.

So when you think about jobs and exposure of the U.S. economy, I would hate to have U.S. taxpayers have to step up for a \$70 billion bailout when Iran reneges on its commitments or alternatively we have to snapback sanctions because of Iranian cheating—

Mr. ROYCE. I thank the panel. My time has expired. Thank you.

Chairman HUIZENGA. The gentleman's time has expired.

With that, the Chair recognizes the ranking member of the full Financial Services Committee, Ms. Waters, for 5 minutes.

Ms. WATERS. Thank you, Mr. Chairman.

To Mr. Goldman and Mr. Lorber, I would like to raise this question to the two of you. Although the Iran deal clearly commits the U.S. to license the sale of commercial passenger aircraft and related parts and services to Iran, the deal also makes clear that any license for the sale of passenger aircraft will, "include appropriate conditions to ensure that licensed activities do not involve, and no licensed aircraft goods or services are resold or re-transferred to any person on the Special Designated National list."

So I would welcome the views of any of the witnesses, really, with respect to what kind of conditions should be included in any potential license to ensure that aircraft sales do not involve persons subject to U.S. sanctions.

Mr. GOLDMAN. Thank you, Congresswoman. I would divide the types of leverage that we might have should Boeing continue down this path and sell aircraft into two different categories. One are business dynamics, and those include the ongoing contracts for maintenance services and spare parts, as well as the length of time required to actually deliver the planes.

The second are both licensing and contractual conditions. Contractual conditions to address a concern that Mr. Dubowitz raised might include things like liquidated damages provisions if Iran Air violates the terms of the contracts, prepayment requirements, large down payments, escrow arrangements, things like this that would prevent financing for this type of deal should it go through from being a burden on any financial institution sufficiently large to constitute a systemic concern.

From the licensing perspective, you could include requirements that any company selling aircraft into Iran describe due diligence processes, issue ongoing reports, potentially even contain route restrictions, certainly full clarity and transparency as to the banking and financing arrangements involved, things like this.

Ms. WATERS. Let me just deviate for a minute and say that my greatest desire is to avoid a nuclear disaster in this world. And so I was very pleased when we finally reached an agreement with Iran that I believe will allow us to avoid a nuclear disaster and would create better relationships and allow us to live in this world even if there are some different philosophies about religion, about life in general.

Don't you think it is worth it to honor this agreement and let it go forward and make it work for the good of all of us rather than try and pick it apart and undo the hard work that has been done by all of the nations that were involved in this agreement? Don't you think it is better to give it a chance? Anybody.

Mr. GOLDMAN. Congresswoman, while I share the concerns that everybody has articulated about Iran's malicious and destabilizing activities throughout the world, I do agree with you that the limitations imposed on its nuclear program by the JCPOA are significant and I would not want to see as long as Iran is adhering to the terms of the agreement I would not want to see anything jeopardize the ability of the United States to uphold its end of the bargain.

Ms. WATERS. Anyone else?

Mr. DUBOWITZ. Congresswoman—yes. If I could answer that? I agree with you that we should uphold the agreement. The agreement allows us to put in provisions in the licensing structure that I think are sensible.

For example, how about a provision that says none of Iran's airlines are designated by the U.S. Government for malign activities, and only after the U.S. Government can certify that has taken place should these sales be allowed to proceed.

I would also add—and I am not sure if you were here when we talked about this, but today Chancellor Merkel rose in the Bundestag and made it very clear that according to German intelligence Iran is violating the JCPOA by procuring missile and nuclear technology from Germany in contravention of the procurement channel

that they are supposed to be using and that they agreed to under the terms of the JCPOA.

So we had the ability in the agreement to put in sensible restrictions on the licensing. At the same time, Iran is today flagrantly violating their requirement.

Ms. WATERS. Have we done our own verification?

Mr. DUBOWITZ. Of what, Congresswoman.

Ms. WATERS. Of what you just described, about Ms. Merkel—

Mr. DUBOWITZ. I don't know if the CIA has. This was based on a German intelligence report that Chancellor Merkel referred to.

Ms. WATERS. This is I believe a six-nation agreement. And where we are supposed to be cooperating and if one nation has some complaints I don't know what the agreement says, but it would make good sense to me if we would come together and there would be verification before we attempted to do anything to modify or undermine the agreement. Does that make good sense?

Mr. DUBOWITZ. In fact, it makes good sense. So I would call the German ambassador and I would ask him about Chancellor Merkel's speech. I would ask him about German intelligence findings that the Iranians are contravening the JCPOA.

And I would also have Congress use its statutory authority to provide requirements that are allowed by the JCPOA to ensure that we are not transferring Boeing aircraft to the Revolutionary Guards to be used to kill Syrian women and children. I think that is our obligation.

Chairman HUIZENGA. —the gentlelady's time has expired.

Ms. WATERS. I think it is how and when.

Chairman HUIZENGA. The gentlelady's time has expired.

Ms. WATERS. Thank you. I yield back.

Chairman HUIZENGA. All right. We are minute over, but thank you for yielding back.

With that, the Chair recognizes Mr. Pittenger of North Carolina for 5 minutes.

Mr. PITTENGER. Thank you, Mr. Chairman, for this important hearing. I would like to clarify, Mr. Dubowitz, right over here to your right, good morning. Angela Merkel and Germany, they were a central player in the JCPOA agreement. Is that correct?

Mr. DUBOWITZ. Yes, sir.

Mr. PITTENGER. In fact, she was a strong advocate of this agreement. Was that not correct?

Mr. DUBOWITZ. That is correct.

Mr. PITTENGER. So in that spirit of her advocacy, her judgment was counted on and followed and applauded by this Administration. Is that not correct?

Mr. DUBOWITZ. That is correct.

Mr. PITTENGER. To that end, now we learn that she finds that Iran is breaching this agreement by their own intelligence. Yes, we do need to follow up with our own intelligence, but it seems to me that the better part of wisdom is to appreciate the leadership that she gave at that time at the formation of this agreement and the leadership that she is showing today. Would that make sense to you?

Mr. DUBOWITZ. Congressman, it makes sense, and I think what it reveals is something more profound. As we set up this very so-

phisticated procurement channel that would provide all the checks and balances to make sure the Iranians don't engage in illicit activity, everybody agreed to it. The Iranians were supposed to use the procurement channel to buy things legally.

What have they done? They have gone around the procurement channel, and according to Angela Merkel, they are procuring nuclear and missile technology illicitly in Germany. So when we all talk about these great sophisticated monitoring schemes that we are going to set up for Boeing aircraft, we should keep that in mind.

The Iranians have a long rap sheet of sanctions evasion and illicit activity. They don't stick to sophisticated monitoring regimes. They in fact violate them egregiously.

Mr. PITTENGER. So the same person who was a strong advocate for this agreement now is the one who is stating we have a major problem.

Mr. DUBOWITZ. She is saying according to German intelligence the Iranians are illicitly procuring missile and nuclear technology in her country.

Mr. PITTENGER. Thank you.

With Iran receiving these 200 aircraft, up to 200, what you do you believe will be the effect in terms of regional instability of the impact, and not only in Syria, but in Iraq, Libya, Yemen, Sudan, all—the entire region where there is enormous instability? And you find a more provocative Iran? Could you kind of outline to us what your concerns may be?

Mr. DUBOWITZ. So my concern is that Iran is going to get upwards of about 500 aircraft.

Mr. PITTENGER. Hmm.

Mr. DUBOWITZ. Iran Air needs 36. So that leaves the remaining 464 aircraft, if my math is right, for other airlines who are sanctioned by the U.S. Government to use them.

Now, some percentage will be used for civilian flights, but if past is prologue they are going to use some percentage of those for military transport of Revolutionary Guard fighters, Hezbollah militants, missile technology and weapons to continue to destabilize the Middle East and contribute to what we have already seen, which is the slaughter of Syrians and the instability in Iraq, the arming of the Houthis in Yemen and an environment that suits the JCPOA. It has not gotten better but it actually has gotten worse.

Mr. PITTENGER. Mr. Lorber, would you like to comment on this?

Mr. LORBER. Thank you, Representative. Yes, I think that Mr. Dubowitz is exactly right.

I think that the stated need for the number of aircraft seems a bit exaggerated for civilian purposes and that at the very least what you would continue to see is with the delivery of aircraft if they are used for illicit activities the sustaining of Iran's position in Lebanon, the sustaining of Iran's position in Syria in a way that we have seen over the past few years, longer than the past few years but in particular in Syria in the past few years, has helped prop up Syrian President Bashar Assad and contributed significantly to frankly the large scale death of Syrian civilians.

Mr. PITTENGER. Mr. Goldman, if Chancellor Merkel's assessment is correct and is validated, do you believe that that warrants us no longer being obligated to this agreement?

Mr. GOLDMAN. Congressman, I have not unfortunately had a chance to read her speech.

Mr. PITTENGER. If she has, if what she has stated is correct what would your—

Mr. GOLDMAN. If Iran violates its commitments under the JCPOA we should take appropriate action, absolutely.

Mr. PITTENGER. Yes, sir. Do you also concur with the role that Iran can plan in terms of instability in the region?

Mr. GOLDMAN. Iran is certainly a destructive influence throughout the region.

Mr. PITTENGER. Thank you.

I yield back.

Chairman HUIZENGA. The gentleman yields back.

The Chair now recognizes Mr. Sherman of California for 5 minutes.

Mr. SHERMAN. I want to thank the chairman for allowing me to participate although I am not a member of this subcommittee. Iran Air continues to support the Iran Revolutionary Guard force, its Quds forces and Assad and Hezbollah and other terrorist groups.

We should at a minimum not license the sale of the aircraft knowing that they are going to go to an airline that is likely to use them to support terrorism.

The United States designated Air Iran under Executive Order 13382 in June 2011, that is President Obama's executive order, for providing material support to the Iran Revolutionary Guard Corps. There is no reason to believe that Iran Air is going to change its conduct.

But we have to visualize how much blood is on the hands of Iran Air. Think of that boy on the beach in Turkey fleeing the deaths in Syria.

Hundreds of thousands of people killed, millions of people internally displaced, millions of people made so desperate that they are willing to risk their lives to flee from this civil war, all because Assad gets aid ferried to him on Air Iran. It shouldn't be on newly provided American planes.

And we should remember that in 1990 Air Iran was there as the transport arm for a terrorist case, a terrorist assassination of an opposition leader in Switzerland.

There are three bills before us. One is the easiest and that is to prohibit EX-IM Bank financing. I have been in this room. I have supported EX-IM Bank, but not if it finances the air force of the Iran Revolutionary Guard Corps.

And that is why before I voted I obtained a letter from the chairman of the EX-IM Bank saying that they do not anticipate any scenarios in which the bank would seek the necessary waiver for a transaction involving a state sponsor of terrorism. And there are three such state sponsors; one is Iran.

Without objection, I would like to put this letter into the record.

Chairman HUIZENGA. Without objection, it is so ordered.

Mr. SHERMAN. I think that legislation which locks this decision in is beneficial and it saves time over at the EX-IM Bank. They

won't even have to think about whether to seek such a waiver that they have already said that they would not seek.

The second issue is whether we should provide financing. Nothing in the JCPOA says we are supposed to finance Iran or any of its entities. If American banks make multi-billion dollar loans to Iran, two things happen.

First, that is bad prudential management by our banks, and second, those banks then have to become advocates here in Congress for the U.S.-Iranian relationship. We don't need that. We didn't promise that.

The third issue is whether we should even allow the sale of these planes. And I am focused on prohibiting Airbus and Boeing. There has been some difference here as to whether a Airbus would require a license, but there is one way to cut the Gordian Knot here. I believe that they would because of the U.S. technology.

But we could ask if there is any doubt on this we could have companion legislation. No American airline can buy a plane from any airline manufacturer that sells to Iran Air. That would eliminate any issue and make sure that this is put on an even playing field.

Finally, there is the issue of whether we have this obligation under the JCPOA. The JCPOA 5.1.1 makes it clear that we would transfer planes exclusively for civil aviation use.

Now, if Iran wants to provide \$5 billion or \$10 billion in gold to be held as a security deposit by the United States, provide U.N. monitors 24/7 on every plane, and contract that if one of these planes is used for anything that helps the Syrian regime that all that gold becomes the property of the American taxpayer, then maybe we could comply with 5.1.1.

Iran has offered none of that. We are being asked to transfer planes to a company or an entity, Iran Air, that has served as an air force for terrorism. And we are being told, oh, but just trust them or just trust that we will be able to do something if they violate.

And when Iran comes forward with a plan to guarantee that these planes are not used for terrorism or to support Assad, then we could consider changing any statute that we consider now. But I don't see any such plan being proposed by the Islamic Republic.

I yield back.

Chairman HUIZENGA. The gentleman's time has expired.

The Chair recognizes Mr. Stutzman of Indiana for 5 minutes.

Mr. STUTZMAN. Thank you, Mr. Chairman and I thank the panelists for being here today and for helping us gain some more insight on this particular transaction, which I frankly find concerning. And I would like to talk a little bit about H.R. 5608, that no EX-IM financing for Iran that Congressman Peter Roskam from Illinois has sponsored.

First of all I would just ask all of the witnesses if you would agree that the Export-Import Bank should not subsidize any aircraft exports to Iran?

Mr. DUBOWITZ. Should not.

Mr. LORBER. Should not.

Mr. STUTZMAN. Should not?

Mr. DUBOWITZ. I agree.

Mr. GOLDMAN. Should not.

Mr. STUTZMAN. So, to follow up on that position, if the Administration claims that U.S. banks should finance aircraft because the legal and reputational and regulatory risks are manageable, then what is the Administration's argument against involving the Export-Import Bank, which in 2014 devoted 40 percent of its authorizations to Boeing?

Mr. GOLDMAN. Congressman, EX-IM Bank is already prohibited by statute from financing deals involving Iran because Iran remains designated as a state sponsor of terrorism.

Mr. STUTZMAN. So, would you support 5608 then and codify that into law?

Mr. LORBER. So I think that I would support and codify in 5608 in particular because the current statutory basis for EX-IM Bank being unable to deal with a state sponsor of terrorism permits a presidential waiver.

And obviously H.R. 5608 does not allow for that waiver so it codifies and makes sure that the President cannot in certain circumstances provide for EX-IM financing for this deal.

Mr. STUTZMAN. Mr. Goldman, would you support 5608?

Mr. GOLDMAN. I do not support EX-IM Bank financing a deal like this.

Mr. STUTZMAN. Okay. Mr. Dubowitz, any comments?

Mr. DUBOWITZ. I support the bill and I would also note on the waiver issue that the President has used the waiver through the JCPOA to waive sanctions that were not nuclear sanctions. They were sanctions that were imposed for terrorism, money laundering, missile development, et cetera.

And so it is of great concern to me that the President has already used his waiver to waive sanctions that were not nuclear sanctions and that contravene his commitment to you and to Congress and the American people that he would only waive nuclear sanctions.

Mr. STUTZMAN. Well, yes. I think if we don't want taxpayers—this is what I think is really important. Can we guarantee that to the American taxpayer, that there is no backdoor deal that we have seen in previous years EX-IM has financed Boeing sales to large leasing companies abroad including China and Russia?

The end user airline for these planes were not identified. Is there a risk that Iranian carriers will lease planes from such companies including carriers that remain sanctioned? Is there some way that Export-Import financing to another entity would find its way into Iran deals?

Mr. Lorber?

Mr. LORBER. I absolutely do think that that risk exists. I know there have been considerations of finding third-party leasing companies. I am—and the concerns that EX-IM Bank could finance those as a way to facilitate the sale.

So I do think in addition that there is no guarantee that if EX-IM decides or if EX-IM finances this deal through a presidential waiver that the aircraft are for sure certainly not going to end up being used by the IRGC or its agents or affiliates to help support Iran's terrorism.

Mr. DUBOWITZ. And Congressman, I would add to that, Boeing is already punting the responsibility to the U.S. Government where

they said a few weeks ago that the U.S. Government has much greater intelligence capabilities than they have with respect to due diligence.

So they are already starting to maneuver themselves into a position where they can claim in the future, look, we don't have the intelligence capabilities to do that kind of due diligence. That is up to the U.S. Government to do.

So you could imagine a scenario of he said, she said when U.S. Government and Boeing get into a dispute in the future over who had responsibility to prevent the transfer of that aircraft to designated entities.

Mr. STUTZMAN. So do you believe then that if 5608 were to become law that that would prevent any of this potentially happening or not?

Mr. DUBOWITZ. I think with respect to this legislation at least it prevents the U.S. taxpayers from being on the hook for a \$70 billion bailout when that actually happens. With respect to some of the other pieces of legislation here, again, the certification requirement on a rehabilitation period I think makes sense.

Again, as Congressman Sherman said, Iran continues its illicit conduct. Why are we betting the farm that on the day after that deal all of a sudden Iran and the regime are going to turn to the side of good—

Mr. STUTZMAN. Right.

Mr. DUBOWITZ. —and stop conducting these illicit activities? At least give them a 5-year cooling period like we do in the criminal justice system where there is a rehabilitation period before you are “released” into the general population?

Mr. STUTZMAN. Thank you.

I yield back, Mr. Chairman.

Chairman HUIZENGA. The gentleman yields back.

Seeing we are in the first round of questioning here, we are contemplating a second round if the witnesses are able to stay. And seeing no other Members on the Democrat side, we will go back to the Republican side and recognize Mr. Guinta of New Hampshire for 5 minutes.

Mr. GUINTA. Thank you, Mr. Chairman, and thank you to the witnesses for being here today.

Are you all familiar with the letter the Treasury sent on June 7, 2016 to Senator Rubio?

Mr. GOLDMAN. I am familiar with it but don't have a copy of it in front of me.

Mr. GUINTA. Okay.

Mr. LORBER. Yes, same here.

Mr. GUINTA. Maybe before the hearing concludes, we can provide the witnesses with a copy. And I would like to make sure it is entered into the record without objection.

Chairman HUIZENGA. Without objection, it is so ordered.

Mr. GUINTA. Thank you, Mr. Chairman.

Here is my concern. It seems like there is general agreement that there should not be taxpayer-funded dollars going to support or assist Iran in any way. Is that clear? Is that in agreement, Mr. Goldman? Do you agree with that?

Mr. GOLDMAN. Yes. I agree with that.

Mr. GUINTA. I am particularly interested in your response because I have read your testimony and in your testimony you refer to the JCPOA as a "significant diplomatic accomplishment." You also then state, "Since 1984 Iran has been and remains designated as a state sponsor of terrorism," which you have stated verbally.

But then you also note a couple paragraphs later that, "Iran retains the ability to enrich uranium subject to international supervision." So I guess my question would be this.

First to Mr. Dubowitz, in your opinion has Iran lived up to the agreement?

Mr. DUBOWITZ. So again, Iran is in violation of the agreement in two ways. One, it is procuring illicit nuclear missile technology outside of the established procurement channel established by the JCPOA.

Two, it is in violation of the implementation U.N. Security Council resolution that actually implements the deal by continuing to test missiles capable of carrying a nuclear warhead. So no, in my assessment Iran is in violation both of the JCPOA and the underlying U.N. Security Council resolution.

Mr. GOLDMAN. Congressman, I believe that was in my testimony that you were reading.

Mr. GUINTA. Yes.

Mr. GOLDMAN. So the IAEA has certified that Iran is in compliance with all of its obligations under the JCPOA. It has done so on three occasions. First on implementation day and then subsequently in two quarterly reports submitted by the director general to the board of governors.

Mr. DUBOWITZ. So I would just add that the IAEA is not required to certify about Iran's missile tests so that is irrelevant. And the second issue is based on the procurement channel issue that has been raised by Chancellor Merkel, we will have to see what the IAEA's response will be, but that actually is a matter for the Joint Commission of the JCPOA, which is supposed to determine whether Iran is in violation of the provisions of the JCPOA, specifically in this case the procurement channel provision.

Mr. GUINTA. And quite honestly I am not sure that the IAEA shares or enjoys the same credibility today that it has in the past. And I know that there are members in this House on both sides of the aisle that question their capacity to provide an honest and true and fair assessment of the agreement. But that is a different debate.

I want to go back to this letter of June 6. In the second paragraph from Treasury to Senator Rubio. It says, "To be clear, until Iran has addressed other concerns we have with its behavior outside of the nuclear file, the U.S. financial system, including the branches of U.S. financial institutions abroad, will remain off limits to Iran."

Based on that, I read the last paragraph of that same letter, which says, "When we speak to the private sector, including financial institutions about the sanctions relief under the JCPOA, it is not to encourage them to do business with Iran, which is a business decision that they need to make on their own. Rather, the purpose of such discussions is to provide further clarity on what is permitted in the sanctions that remain in place."

It seems like the letter doesn't synch. The first page and second page. On the one hand they are saying a business needs to make a decision whether they are going to do business with Iran, however, on the first page of the letter it says, "We ensure that that will not occur."

So that is the concern I have with the letter from Treasury to a Senator just last month. So I think the frustration and concern relative to the need for passage of 5608 is not only necessary but it needs to expand to third-party leasing companies because there is a possibility and a potential that EX-IM could do business with Iran and they might not even know it. Was that a fair assessment, Mr. Dubowitz or Mr. Lorber?

Mr. DUBOWITZ. So correct. So not only can EX-IM do business with Iran if the President uses the national security waiver, but if you look at the last sentence of the second paragraph of that letter where it says, "without explicit authorization"—

Mr. GUINTA. Correct.

Mr. DUBOWITZ. —permits the U.S. Treasury Department to authorize—

Mr. GUINTA. Exactly. That is what I wanted.

Mr. DUBOWITZ. —the U.S. dollar through the U.S. financial system. And by the way, the letter is also not quite precise in that we do actually have jurisdiction over dollars that circulate around the world because those dollars actually originate in our financial system and return to our financial system.

And so banks are not going to put dollars in or take dollars out unless they have gotten authorization from OFAC that they won't be hit with penalties in doing so.

So the letter provides, as you would imagine, a series of outs for the Administration to do exactly what we are concerned about, which is to provide dollarized transactions for the Boeing deal and other deals as well as providing EX-IM financing to put U.S. taxpayers on the hook.

Mr. GUINTA. Thank you. I yield back.

Chairman HUIZENGA. The gentleman's time has expired.

And with the indulgence of the witnesses we would like to continue with a second round. We have a bit less of a stacked list of questions, but if there is no objection I would like to continue and recognize myself for 5 minutes.

Again, and I don't mean to harp on this, but I would love to have had Boeing here to start talking about what they are going to do if the terms of the JCPOA are not being upheld has been asserted by Angela Merkel and what does that mean? I would love to have the Administration here talking about this to find out what this would mean for this particular deal.

We have already seen bipartisan support for making sure that the indications that EX-IM has given would be codified. I think that that is a positive.

There has been some discussion about the role that the United States has in not just stopping or questioning the Boeing transaction but also the Airbus transaction and what that would mean.

And as has been pointed out by my colleague from Arizona and my colleague from California on the other side of the aisle, this

could very well be some bad prudential management decisions if we see financial institutions move forward.

And I would like to—I was starting to talk about this, Mr. Lorber, with you earlier and I want to touch on this. And I also want to go back to talk about how some of this works with leasing through other companies.

But let us talk a little bit about that financial responsibility and risk that comes with these and for these institutions that may choose to be a part of this.

Mr. LORBER. Thank you, Mr. Chairman. So I think that the risks facing financial institutions for banking is particularly—this deal in particular and then doing business in Iran more generally, are very significant.

As I mentioned in my opening statement there are at least three risks relating to sanctions, relating to illicit finance, risks that underpin the Iranian economy, and then also specifically to risks of future sanctions. So snapback, for example, or additional sanctions that are a result of Iran's continued support of terrorism or its ballistic missile tests.

In this particular case I think the primary risk that foreign financial institutions, so non-U.S. financial institutions, face is that they could be doing business with an agent or an affiliate of the IRGC and therefore lose their access to U.S. markets. I think that is a very significant risk that is frankly coloring their decision to engage or not engage in any of these types of transactions.

It is why, for example, you have seen a large number of the European banks refuse to bank the Airbus deal. You had Airbus a couple of months ago, I think it was in February, publicly pleading and telling European banks to get back in the game and yet the major ones have not moved in.

Chairman HUIZENGA. In fact and under secondary sanctions enacted in 2010, the U.S. told foreign banks you can deal with Iran or you can deal with the United States, but the choice is yours. And it—

Mr. GOLDMAN. That is not quite—

Chairman HUIZENGA. —it seems to me that maybe that also ought to apply to EX-IM and if a foreign company wants to be eligible to work with EX-IM, I don't believe it should be making profits with the Iranians. It would seem to make sense for me that would also hold especially on a leasing company's fleet. And would that not seem to be a good idea?

And I know, Mr. Goldman, you have been defending the transaction but have stated that you would not support EX-IM support of advancing that. I am curious if the three of you would care to weigh in about making sure that we can maybe belt and suspenders this particular EX-IM provision that we are talking about today?

Mr. GOLDMAN. Sure. Chairman, just to clarify one point, whether the transaction proceeds or not is a business decision that is for Boeing to make. It is clear to me that issuing licenses to Boeing should it wish to proceed with the deal is consistent with the JCPOA and consistent with U.S. law.

I would agree with my colleagues—

Chairman HUIZENGA. But you also said if we could show and demonstrate that they violated it as Angela Merkel has asserted today or we believe has asserted, then you would also support that those sanctions being re-imposed, correct?

Mr. GOLDMAN. If Iran violates the JCPOA we should take appropriate action in response absolutely.

Chairman HUIZENGA. Okay.

Mr. GOLDMAN. I am completely also in agreement that any entity, if the deal proceeds, any entity involved in that deal whether it is a bank or a leasing company or an agent, needs to steer clear of the kinds of risks that Mr. Lorber and Mr. Dubowitz have identified. And as the Treasury Department in its letter noted, there are a couple of different ways in which those risks can materialize.

The U.S. Government has jurisdiction over transactions involving U.S. persons or that touch the U.S. financial system. As the department notes, it does not have jurisdiction over physical dollars held outside the United States not in the possession of U.S. persons.

So somebody walking down the street in Johannesburg with a \$10 bill in his pocket does not for that reason alone become subject to U.S. jurisdiction.

Chairman HUIZENGA. I fully understand. I think this chairman would like to make sure that everybody watching and listening to this understands that we will be watching very closely what our financial institutions are going to be doing and trying to hold them responsible for those decisions.

My time has expired. The Chair recognizes the ranking member of the subcommittee for 5 minutes.

Ms. MOORE. Thank you, Mr. Chairman, and I am not sure I am going to use the entire 5 minutes.

I just want to reiterate how grateful I am to the witnesses for their appearance here today and for withstanding this second round of questioning. I do know that I have learned a great deal and it has been very provocative in terms of some stuff that we might really want to do with regard to tightening up on the licensing.

We have talked an awful lot about Boeing, which is an American company. We have talked a little bit more about Airbus and about the perhaps dearth of funding that Airbus would suffer were they to try to fill that void and fill the order for the Iranians.

But I am wondering, Mr. Goldman and others, if there is anything—the P5+1 agreement which includes, of course, China, France, Russia, of course us, and the U.K., Germany in the E.U., well is there anything that would prohibit China, which is being said to be developing some of these wide-body planes, could China fulfill the commitment under the JCPOA to supply aircraft?

Mr. GOLDMAN. The provision of the agreement that we have been discussing this morning, 5.1.1, speaks specifically to obligations of the United States, which are “to establish a licensing regime that could permit the issuance of licenses to sell U.S. origin aircraft, parts, equipment, services, et cetera.

I can’t off the top of my head think of any specific provision of the JCPOA that would prohibit China, Russia or any other party from selling and aircraft to Iran—

Ms. MOORE. But—

Mr. GOLDMAN. —as long as—sorry. Go right ahead.

Ms. MOORE. Right. And I guess that is my point, that this was a historic deal struck. Everybody was amazed at how we get Russia and China into this kind of international agreement.

But to the extent that there has been some sort of agreement that this was a central piece of it, is there anything that would prohibit China from filling that gap if somehow we were to legislate here in the United States, prevail against providing those? Would there be anything that would prohibit China from filling that?

Mr. GOLDMAN. So the only thing would be the remaining secondary sanctions. So for example if China sold a plane to the IRGC, the Chinese entity that it sold that plane could be subject to U.S. secondary sanctions.

Ms. MOORE. Okay.

Mr. Lorber, yes.

Mr. LORBER. There are two other points I would add to that as well. Another potential way that China could be prohibited from selling aircraft to Iran or the IRGC would be if, for example, components, as we were discussing before, of those Chinese aircraft were manufactured in the U.S. or contained U.S. technology.

And in sort of the interconnected globalized manufacturing world that is fairly likely so you have to actually look at the underlying technology and components.

The one other point I would also make is that just from a technical and feasible perspective the likelihood that China and Russia in the short term anyway can deploy attractive wide-bodied aircraft that Iran is going to want to buy probably in the next 5 years I think is fairly low. But after that I think it is a very valid point.

Mr. DUBOWITZ. And Congresswoman, I would just add to this. What we are really talking about here from a humanitarian point of view is can we get safe, non-corrupt, compliant, transparent airlines to fly in and out of Iran to service Iranians? And I would just note again that today 44 percent of the flights are provided by Gulf and Turkish Airlines.

In the past few months Air France, British Airways, Lufthansa and Alitalia have all resumed service to Iran, both international and domestic routes. And there are reportedly nearly 30 carriers operating in Iran.

So a good alternative to this would be encouraged, transparent compliance, legal airlines with a good safety record to service the Iranian market, but have a period of time where we are not actually allowing our companies to provide aircraft to the Iranians to set up their own domestic fleet when we have outstanding concerns about how that fleet will be used in corrupt, non-transparent, non-compliant, illicit ways.

Ms. MOORE. Okay. Well, thank you.

I would yield back the balance of my time. Thank you, gentlemen.

Chairman HUIZENGA. The gentlelady yields back.

With that, the Chair recognizes Mr. Stutzman of Indiana for 5 minutes.

Mr. STUTZMAN. Thank you, Mr. Chairman, and I just want to go back again to H.R. 5608. A report last month revealed that Iran

was able to purchase Boeings even before sanctions were lifted thanks to backdoor deals with foreign airlines.

And I am just reading a part of this report that was uncovered, that these backdoor dealings were uncovered by International Business Times. Sales data obtained by IBT shows that seven Iranian airlines purchased a combined 23 or more Boeing and Airbus aircraft before the historic nuclear deal between Iran and the U.S. was signed in October.

So while Iranian citizens were suffering under U.S. and European sanctions that affected a range of goods, the country's airline industry bypassed U.S. export laws and purchased aircraft through international intermediaries.

And it goes on down to describe how flights disappear from tracking systems once they enter Syrian airspace, but radar reveals that they have landed in Damascus and are, according to David Cohen, the U.S. under secretary for Terrorism and Financial Intelligence, "ferrying Islamic Revolutionary Guard Corps along with weapons and funds."

So it appears that there is plenty of evidence out there. So doesn't this just underline the risk that U.S. aircraft can find their way into Iranian hands even if they haven't subsidized by EX-IM in an unrelated transaction?

Mr. DUBOWITZ. It not only underscores that, Congressman, but it also shows because the U.S. Treasury Department, as I mentioned, in May 2015 it actually sanctioned some of those illicit purchases. And despite those sanctions Iran continued to fly those airlines.

It also underscores that the Iranians have for years used false transponders, not only for planes but for the national Marine Tanker Company for the Islamic Republic of Iran shipping lines in order to actually hide their deceptive behavior. And they are continuing to do so as of June the 9th.

So this is the issue that you have an Iranian industry, the airline industry, that has been historically and is currently engaged in illicit and deceptive conduct and yet we are being asked to support through EX-IM a multi, multi-billion dollar deal using the U.S. taxpayer money on the hope and the prayer that somehow it is all going to change for the better. And I think that is an enormous risk for the U.S. economy.

Mr. STUTZMAN. So, Mr. Chairman, I am trying to understand—we go back to what the Administration has said regarding the U.S. banks financing aircraft. So it is okay for accountholders at U.S. banks to do the dirty work where obviously we are not giving Export-Import Bank legal means to participate in any of these transactions when we do know that there is some backdoor dealings.

Mr. Chairman, I guess I just conclude that it seems to me that this—I appreciate your hearing of this particular transaction but we need to continue to dig even deeper and ask more questions.

So I don't know what the intelligence from the White House—or what our intelligence departments and what the White House—what does the White House say when they have evidence of this that doesn't that cause them some concern to pause or to do something about it, I guess is frankly what I am asking.

Why do we move forward with this deal with Iran and doing more business with them when we know they are more than likely messing with the equipment and continuing to move around the Middle East supporting terrorism?

Mr. DUBOWITZ. Congressman, I mentioned earlier in my testimony this notion of a nuclear snapback. And I think what it has done is it has deterred the White House from actually using sanctions at all to push back in any meaningful way against Iran's malign behavior because Iran has set up a dynamic where they keep threatening to walk away from the deal if we take any steps against their malign activity.

Mr. STUTZMAN. Yes.

Mr. DUBOWITZ. And so the White House has gotten ourselves in a position which I fear the next President is going to have to try to unwind where we can't even use non-nuclear sanctions against terrorism, against missiles, against the illegal procurement of nuclear missile technology or planes or any kinds of sanctionable activity.

The White House is actually not using non-nuclear sanctions. There have been no human rights sanctions since the JCPOA. There have been a handful of procurement sanctions relating to missiles that do nothing because the Iranians can reconstitute those sanctions.

There have been no terrorism sanctions. So the White House actually I am afraid today for whatever reason, lives in fear that the Iranians will walk away from the deal if we do anything.

Mr. STUTZMAN. Yes.

Mr. DUBOWITZ. That is a very troubling dynamic that I think the next President is going to have to deal with in ways that I hope won't paralyze his or her statecraft.

Mr. LORBER. I would just add to that.

Mr. STUTZMAN. Sure.

Mr. LORBER. I think we are potentially even beyond a position of just refraining from engaging in enforcement action. Our designations as a result of Iran's behavior and to the point now where we are significantly concerned that, based on Iranian officials' comments that they are not seeing the economic benefits of the deal and therefore they are considering walking away.

And so you move from sort of what was promised to be an aggressive enforcement posture almost to a situation where you have the United States actively trying to go out and assure European companies, for example, that they can absolutely go back into Iran, basically being a cheerleader.

Mr. STUTZMAN. I thank the witnesses for your insight and the information on this today.

Chairman HUIZENGA. The gentleman's time has expired, and the Chair duly notes that the gentleman from Indiana I think is correct. There are a number of questions that remain and should be pursued with the Administration and others.

The Chair now recognizes Mr. Perlmutter of Colorado for 5 minutes.

Mr. PERLMUTTER. Thanks again, Mr. Chairman, and thanks for this hearing. It has been very interesting, gentlemen. Appreciate your testimony. I want to correct my calling the chancellor the

prime minister so let us get that out of the way. That has been bothering me for the last half hour. So I am sorry about that.

And Mr. Goldman, I would like to ask you a couple questions I didn't get a chance to ask you. So, Mr. Dubowitz and I were sort of jousting about breaches and anticipatory repudiation and who has violated this and who has violated that.

Now, under the agreement there is some kind of dispute resolution process, is there not?

Mr. GOLDMAN. Under the JCPOA there—

Mr. PERLMUTTER. Yes.

Mr. GOLDMAN. —is a dispute resolution process.

Mr. PERLMUTTER. So I am calling JCPOA—

Mr. GOLDMAN. Yes.

Mr. PERLMUTTER. —the agreement. You guys can use the letters. I am going to call it the agreement.

Mr. GOLDMAN. Great.

Mr. PERLMUTTER. Is there?

Mr. GOLDMAN. Yes.

Mr. PERLMUTTER. Okay. And do you know if that provision has been in any way exercised or by any of the parties in connection with the chancellor's comments? Has Germany done anything? Has China? Has the U.S.?

Mr. GOLDMAN. To my knowledge no, but—and I was not aware of the chancellor's speech. According to Mr. Dubowitz it took place today, so—

Mr. PERLMUTTER. So and I guess that then turns to a couple of housekeeping items I would ask of you, Mr. Dubowitz. Do you have a copy of her remarks? Do you have a text of her remarks?

Mr. DUBOWITZ. Congressman, I have the text. I also have the German intelligence report on which her assessment is based.

Mr. PERLMUTTER. So you have the 317-page report?

Mr. DUBOWITZ. I do.

Mr. PERLMUTTER. Okay.

Mr. GOLDMAN. In German and a—

Mr. PERLMUTTER. I would rather have it in English.

Mr. DUBOWITZ. I was about to say and a summary of it in English.

Mr. PERLMUTTER. Okay. Mr. Chairman, if we could have those things be part of the record since there has been such extensive conversation about them? If you could provide those to us—

Mr. DUBOWITZ. Sure. It would be my pleasure.

Mr. PERLMUTTER. —would you do that?

Chairman HUIZENGA. Yes. We will be getting to that as we wrap up about written additional questions and so we can probably orchestrate that, get a written question and for them to request that. I think there are going to be a number of other inquiries that the Chair plans to do as well with the Germans.

Mr. DUBOWITZ. And Congressman, could I just add to this? The chancellor, in her speech, is not making a determination based on what the JCPOA says. She is not making a determination based on the dispute resolution mechanism.

I am assuming that she is going to then reach out to her partners and maybe they will then invoke this joint commission that

Mr. Goldman talked about. She is merely presenting the evidence of the German intelligence services that have been—

Mr. PERLMUTTER. Right. And that is why I am asking you for a copy of her text, but you and I were sort of talking about breaches and who has responsibility—

Mr. DUBOWITZ. Right.

Mr. PERLMUTTER. —to do what. And at this point the dispute resolution mechanism has not been invoked.

Mr. DUBOWITZ. To the best of our knowledge—it may have been done so privately and we don't know, but there has been no public reporting on any invocation of it.

Mr. PERLMUTTER. Okay. So let us go back, Mr. Goldman, if I could to you on the licensing process. So where are we in the licensing process to actually conduct a sale of one, two or 20 planes?

Mr. GOLDMAN. So my understanding is that Boeing was issued a license I believe in March to conduct the negotiations. Several weeks ago they announced that there had been a Memorandum of Understanding, a Memorandum of Agreement reached for the Iran Air. In order to actually consummate the sale there would need to be another license issued and I don't know where that stands with OFAC.

Mr. PERLMUTTER. And each of us I think has some level of skepticism, some level of suspicion. These have been two very different countries, the United States and Iran, for a lot of years where there hasn't been any dialogue or any conversation other than saber rattling.

What kinds of things would you expect to see in the license to make sure that planes are not available for any kind of illicit or illegal activities under the agreements or under any of our other sanction legislation or regulations?

Mr. GOLDMAN. So I might expect to see requests about the type of due diligence Boeing did, a description of what the financing arrangements are, perhaps some reporting requirements, things of that nature.

And then I think there is a second category of conditions which would be the conditions that exist in any contract between Boeing and whatever its Iranian counterparty would be.

I would think that there would be terms in that contract to ameliorate some of the financial risks that Mr. Dubowitz and other of your colleagues have identified this morning.

Those would involve things like liquidated damages provisions, perhaps requirements for upfront payments or escrow payments of things of the like to ensure that in the event Iran violates its undertakings under the JCPOA or the contracts, that they stand not to reap a windfall.

Mr. PERLMUTTER. Okay. And I thank you.

I would yield back, but with this closing remark, Mr. Chairman. There has been a lot of discussion, a lot of kind of interesting conversation, a lot of it at this point conjecture and I think we have to do some additional research into these kinds of things. And I thank you very much.

Chairman HUIZENGA. I appreciate that, and the Chair duly notes that it sounds like we have tentative support for another hearing about this.

Mr. PERLMUTTER. Sure.

[Laughter]

Chairman HUIZENGA. Which I think would actually be an excellent question. We need to hear from Treasury. Has Germany reached out? We need to hear from OFAC. What are their timeframes? What is their process that they would go through both for Boeing and for Airbus in this situation.

So it seems to me that there are a number of unanswered questions, but gentlemen, thank you. You have spent a tremendous amount of time and given us a lot of education about a number of questions that have been put forward today. And I would like to thank our witnesses for their testimony.

Mr. Dubowitz, you can anticipate a question from the Chair for a copy of the report both in German and the English summary. And so it is the report and I am sorry, Mr. Perlmutter, what else had you—

Mr. PERLMUTTER. And the text of the speech.

Chairman HUIZENGA. And the text of the speech. Well, I think that will be—

Mr. DUBOWITZ. Mr. Chairman, if I could just add to that, I would also want to send for the record, if it is okay, the evidence that there are still \$50 billion in outstanding judgments against Iran on behalf of victims of terrorism that the Iranians are refusing to pay.

They are challenging the \$1.7 billion decision of the U.S. Supreme Court to hand over monies to American victims of the Khobar Towers, the Marine barracks bombing, so it is very interesting.

We are talking about \$50 billion, \$60 billion that the Iranians are going to get and yet they refuse to not only pay victims of Iranian terrorism, they are taking us to the international court of justice challenging that. I would like to just add that to the record.

Chairman HUIZENGA. The Chair duly notes that and the Chair will be asking you that question formally for you to respond to.

The Chair notes that some Members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

And with that, again I would like to say thank you to our witnesses for your time here today and the attention of our Members on this very important issue.

With that, we are adjourned.

[Whereupon, at 12:15 p.m., the hearing was adjourned.]

A P P E N D I X

July 7, 2016

Congressional Testimony

**The Implications of U.S. Aircraft Sales
to Iran**

Mark Dubowitz
Executive Director
Center on Sanctions and Illicit Finance
Foundation for Defense of Democracies

Hearing before House Financial Services Committee
Monetary Policy and Trade Subcommittee

Washington, DC
July 7, 2016



Mark Dubowitz

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Chairman Huizenga, Vice Chairman Mulvaney, Ranking Member Moore, members of the Committee, on behalf of the Foundation for Defense of Democracies and its Center on Sanctions and Illicit Finance, thank you for the opportunity to testify.

Executive Summary

As we approach the one-year anniversary of the announcement of the Joint Comprehensive Plan of Action (JCPOA), many of the concerns of those who opposed the deal have indeed come to pass: an increase in Iran's malign activities, an Obama administration reluctant to use non-nuclear sanctions to punish and deter these activities, and an Iranian regime for whom the JCPOA was not the end of negotiations but merely the beginning.

The JCPOA was objectively a very good deal for Tehran: It preserved essential elements of the country's nuclear infrastructure and placed only temporary, limited restrictions on its nuclear ambitions, which start expiring in 2023. In exchange, Iran got the complete dismantlement of many of the most impactful U.S. and international economic sanctions, which already has helped trigger an economic recovery.¹

In January, the accord proceeded as scheduled. Iran mothballed some of its nuclear infrastructure and got the coveted stamp of approval from the International Atomic Energy Agency. Following that, Washington and the Europeans terminated or suspended a slew of punishing economic sanctions and even agreed to hand over access to \$100 billion in blocked Iranian assets.²

Even this was not enough for the Islamic Republic. "On paper the United States allows foreign banks to deal with Iran, but in practice they create Iranophobia so no one does business with Iran," thundered Supreme Leader Ali Khamenei.³ Iran demanded greater sanctions relief or it would walk away from the nuclear deal.

The administration acquiesced to these demands. Secretary of State John Kerry rushed overseas on an international invest-in-Tehran "road show."⁴ Banks simply need to "do their normal due

¹ Mark Dubowitz, Annie Fixler & Rachel Ziemba, "Don't Buy the Spin: Iran is Getting Economic Relief," *Foundation for Defense of Democracies & Roubini Global Economics*, June 15, 2016.

(<http://www.defenddemocracy.org/media-hit/dubowitz-mark-dont-buy-the-spin-iran-is-getting-economic-relief/>)
² Adam Szubin, "Written Testimony," *Hearing before the Senate Committee on Banking, Housing, and Urban Affairs*, August 5, 2016. (<https://www.treasury.gov/press-center/press-releases/Pages/jl0144.aspx>); Brian Murphy, "Iran claims \$100 billion now freed in major step as sanctions roll back," *The Washington Post*, February 1, 2016. (https://www.washingtonpost.com/world/iran-claims-100-billion-now-freed-in-major-step-as-sanctions-roll-back/2016/02/01/edfc23ca-c8e5-11e5-a7b2-5a2f824b02c9_story.html); Mark Dubowitz, Annie Fixler, and Rachel Ziemba, "Iran's Mysteriously Shrinking Reserves: Estimating the Value of Tehran's Foreign Assets," *Foundation for Defense of Democracies and Roubini Global Economics*, September 2015.

(http://www.defenddemocracy.org/content/uploads/publications/FDDRoubini_Report_Irans_mysterious_shrinking_reserves.pdf); "Iran to have access to over \$100 billion when deal implemented: U.S. officials," *Reuters*, July 14, 2015. (<http://www.reuters.com/article/us-iran-nuclear-usa-details-idUSKCN0PO14D20150714>)

³ "Iran's Supreme Leader says U.S. lifted sanctions only on paper," *Reuters*, April 27, 2016.

(<http://www.reuters.com/article/us-iran-economy-khamenei-idUSKCN0X00RK>)

⁴ David Brunnstrom, "Kerry seeks to soothe European bank nerves over Iran trade," *Reuters*, May 12, 2016. (<http://www.reuters.com/article/us-iran-banks-kerry-idUSKCN0Y30QJ>); Felicia Schwartz, "Kerry Tries to Drum Up Some Business in Europe for Iran," *The Wall Street Journal*, May 10, 2016. (<http://www.wsj.com/articles/kerry-tries-to-drum-up-some-business-in-europe-for-iran-1462902185>)

Mark Dubowitz

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diligence and know who they're dealing with," Kerry told reporters.⁵ But the banks know that there is no "normal due diligence" in a country as corrupt as the Islamic Republic.

In an attempt to assuage their concerns further, Kerry's staff briefed State Department reporters on a plan to issue a license to permit foreign banks to use dollars when processing transactions with their Iranian counterparts⁶ – a concession never explicitly negotiated as part of the nuclear deal. This prompted a backlash in Congress that had Treasury Department officials scrambling to issue guidance that Washington is not permitting Iranian access to the U.S. financial system, even as they left open the possibility of offshore dollar clearing.⁷

More recently, Boeing and Iran Air announced a deal worth an estimated \$25 billion to sell and lease aircraft. This represents a multi-billion dollar bet by President Barack Obama that the economic benefits from the JCPOA will moderate Iran's behavior before the nuclear restrictions start expiring.

Yet Boeing is signing a deal with an Iranian aviation company and an industry complicit in the regime's weapons proliferation and destabilizing adventurism. Boeing and those banking this deal face a due diligence nightmare. They cannot prevent their planes from being used by Iran's Islamic Revolutionary Guard Corps (IRGC), for example, for deadly airlifts to Syria's Bashar al-Assad and Lebanese Hezbollah.

This deal is unnecessary: Iranian citizens and foreign travelers to Iran have alternatives.

Over the past five years, Gulf and Turkish airlines were primarily responsible for the growth in the Iranian aviation market, with an increase in their routes by nearly 60 percent over the past three years.⁸ European airlines also announced a resumption of flights to Tehran following the lifting of sanctions.⁹

Iranian citizens need not rely on Iran Air or Mahan Air – companies racked with corruption and implicated in a range of illegal activities – but can look to more reliable foreign companies to

⁵ Josh Lederman, "US says Iran open for business, but Europe's banks disagree," *Associated Press*, May 12, 2016. (<http://bigstory.ap.org/article/73fd6c11e9b6474896cf59a4fc3ba108/us-says-banks-wont-be-punished-lawful-business-iran>)

⁶ "New U.S. sanctions concession to Iran may be in works: AP," *Associated Press*, March 31, 2016. (<http://www.cbsnews.com/news/new-us-sanctions-concession-to-iran-may-be-in-works-ap/>); Bradley Klapper and Matthew Lee, "Officials: US considers easing ban on dollars to help Iran," *Associated Press*, March 31, 2016. (<http://bigstory.ap.org/article/d527e4f64b464801a2ed4573a13b4627/officials-us-mulls-new-rules-dollars-help-iran>)

⁷ Karoun Demirjian, "Treasury sanctions chief warns even tightest U.S. policy can't keep every dollar out of Iran," *The Washington Post*, May 26, 2016. (<https://www.washingtonpost.com/news/powerpost/wp/2016/05/26/treasury-sanctions-chief-warns-even-tightest-u-s-policy-cant-keep-every-dollar-out-of-iran/>)

⁸ "Window on Iran's aviation market," *OAG*, 2016. (<http://www.oag.com/window-on-irans-aviation-market-0>)

⁹ "Iran: European airlines set to resume flights to Tehran," *Associated Press*, January 28, 2016. (<http://www.foxnews.com/travel/2016/01/28/iran-european-airlines-set-to-resume-flights-to-tehran.html>); Lizzie Porter, "British Airways to relaunch direct London to Iran flights in July," *The Telegraph* (UK), February 3, 2016. (<http://www.telegraph.co.uk/travel/destinations/middle-east/iran/articles/British-Airways-to-relaunch-direct-London-to-Iran-flights-in-July/>); Gary Raynaldo, "European airlines fly back into competitive Iran market," *LinkedIn*, April 19, 2016. (<https://www.linkedin.com/pulse/european-airlines-fly-back-competitive-iran-market-gary-raynaldo>)

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meet their travel needs. Indeed, corruption plagues Iran's aviation industry; safety challenges reportedly have been the result of corruption and mismanagement, not U.S. sanctions. The Boeing deal may end up benefitting the still U.S.-sanctioned and IRGC-controlled Mahan Air, which has become the largest international carrier to and from Iran, as well as other sanctioned airlines supporting the IRGC and the Assad regime.

In addition to implicating U.S. companies in Iran's malign activities, the Boeing deal also undermines the Obama administration's much-touted economic "snapback" mechanism for enforcing the JCPOA. Iran targeted the Europeans to block any transatlantic re-imposition of sanctions by signing a similar deal with Boeing's competitor Airbus and with ATR, a joint venture between Airbus and Italy's Finmeccanica. French and Italian financial institutions and export credit agencies will finance these purchases, with a combined value of close to 30 billion dollars.¹⁰

From Iran's perspective, this is a smart strategy: Snapping back sanctions would cause American and European aviation companies and banks to lose billions of dollars in unpaid contracts. The aircraft companies and banks would surely lobby the White House and European capitals against restoring sanctions against Tehran, or at least seek reassurances that the aviation and financial sectors would be spared. In other words, with these deals, Iran can further exploit the tension between national security and Western commercial interests.

The Boeing deal comes at a time when the Obama administration has failed to push back against Iran's malign activities, including support for terrorism, human rights abuses, and other destabilizing activities in Syria, Iraq, Yemen, Lebanon, and other countries across the Middle East. It underscores the deterrence power of Iran's "nuclear snapback," wherein Tehran will threaten nuclear escalation if the world powers try to force it back into compliance with the agreement or impose sanctions against its non-nuclear malign activities.

The Boeing deal only serves to increase the Iranian regime's leverage over the nuclear deal while diminishing the American appetite for rigorous enforcement. Before the aviation deal is permitted to move ahead, Congress should maintain pressure on the Iranian regime to change its behavior by linking the sale to demonstrable changes in the behavior that prompted sanctions in the first place.

Specifically, I recommend that Congress consider taking the following steps:

1. Require presidential certification that commercial planes are only being used for civil aviation end-use.
2. Prohibit any U.S. financial institution, including the Export-Import Bank, from financing any trade with Tehran while Iran remains a state sponsor of terrorism.

¹⁰ Robert Wall, "Iran to Buy up to 40 ATR Turboprop Planes," *The Wall Street Journal*, February 1, 2016. (<http://www.wsj.com/articles/iran-to-buy-up-to-40-atr-turboprop-planes-1454330448>)

3. Protect the integrity of the U.S. dollar from Iranian illicit finance by codifying existing restrictions, reporting on financial institutions involved in dollarization, and linking the termination of these measures to the end of Iranian support for terrorism and missile development as well as compensation for victims of Iranian terrorism.
4. Reauthorize the Iran Sanctions Act, an important foundation of the sanctions architecture and legislation based on both Iran's nuclear program and its support for international terrorism.

If the deal is permitted to proceed without these requirements, the Obama administration will in effect make one of America's most respected companies and the banks that finance this deal accomplices to the world's leading state sponsor of terrorism.

Introduction

During last summer's congressional review period, Obama administration officials pledged that the United States would continue to enforce non-nuclear sanctions and oppose the full range of Iran's illicit and dangerous activities.

However, many of us raised concerns that Iran would view any imposition of sanctions as a violation of the deal and grounds to "snapback" its nuclear program,¹¹ and that those threats would in effect prevent Washington from imposing new non-nuclear sanctions. This is what I called Iran's "nuclear snapback."

Since the conclusion of the JPCOA, in fear of the nuclear snapback, the Obama administration has missed numerous opportunities to push back against Iran's malign activities, including support for terrorism, human rights abuses, and other destabilizing activities in Syria, Iraq, Yemen, Lebanon, and other countries across the Middle East. The administration has only issued a handful of new designations,¹² including an ineffectual targeting of Iran's missile procurement networks. Tehran can easily reconstitute these networks, and therefore the designations do not impose the kind of economic costs needed to change Tehran's calculus.

The administration also has failed to enforce human rights sanctions against Iran. Indeed, since the JCPOA was concluded last summer, the administration has designated no individuals or entities for human rights abuses, and only three designations since Hassan Rouhani took power in the summer of 2013.¹³

¹¹ 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/>)

¹² U.S. Department of the Treasury, Office of Foreign Assets Control, "Counter Terrorism Designations; Non-proliferation Designations," March 24, 2016. (<https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20160324.aspx>); U.S. Department of the Treasury, Office of Foreign Assets Control, "Non-proliferation Designations," January 17, 2016. (<https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20160117.aspx>)

¹³ U.S. Department of the Treasury, Press Release, "Treasury Sanctions Iranian Official for Human Rights Abuses," May 23, 2014. (<https://www.treasury.gov/press-center/press-releases/Pages/j12411.aspx>); U.S. Department of the

Those of us who were critical of the deal also raised concerns that Iran would view the JCPOA not as the end of the negotiations, but as the beginning, and demand ever-greater sanctions relief, as we have indeed seen.¹⁴

We have witnessed the Iranian government's full-court press to persuade the United States to green-light Iran's access to U.S. dollar transactions,¹⁵ an action which would go beyond the sanctions relief promised by the nuclear agreement.¹⁶

Iranian Central Bank Governor Valiollah Seif has publicly criticized the U.S. for "not honor[ing] its] obligations" and explicitly called for the U.S. to change its laws to allow Iran to access the U.S. financial system.¹⁷ Supreme Leader Ali Khamenei has argued that the United States has "removed the sanctions in paper only" and blames the U.S. for the fact that global banks are keeping Iran at arm's length.¹⁸

Statements by administration officials that it is America's responsibility to ensure that Iran "get[s] the benefits that they are supposed to get," according to Secretary Kerry,¹⁹ are very problematic. The administration is allowing Iran to hold the U.S. responsible for delivering financial and economic outcomes and for providing ever-greater sanctions relief in order to persuade Iran to keep to the JCPOA. This was a position that the Treasury Department rejected during the JCPOA negotiations. Now, however, the State Department is effectively acting as Iran's trade promotion and business development authority.

The proposed \$25-billion deal between Boeing and the Islamic Republic is an example of how the administration continues to undermine American leverage to address Iran's long rap sheet of illicit and nefarious activities. This business deal threatens to enhance Tehran's ability to engage

Treasury, Press Release, "Treasury Designates Additional Individuals and Entities Under Iran-related Authorities," December 30, 2014. (<https://www.treasury.gov/press-center/press-releases/Pages/j19731.aspx>)

¹⁴ Guy Faulconbridge, "Iran calls on U.S. to reassure European banks over trade with Tehran," *Reuters*, February 4, 2016. (<http://www.reuters.com/article/us-iran-britain-trade-idUSKCN0VD2K2>); "Iran's Supreme Leader says U.S. lifted sanctions only on paper," *Reuters*, April 27, 2016. (<http://www.reuters.com/article/us-iran-economy-khamenei-idUSKCN0X00RK>); Robin Wright, "Iran's Javad Zarif on the Fraying Nuclear Deal, U.S. Relations, and Holocaust Cartoons," *The New Yorker*, April 25, 2016. (<http://www.newyorker.com/news/news-desk/irans-javad-zarif-on-the-fraying-nuclear-deal-u-s-relations-and-holocaust-cartoons>); Jay Solomon, Asa Fitch, and Benoit Faucon, "Iran's Central Bank Chief Warns Banking-Access Issues Jeopardize Nuclear Deal," *The Wall Street Journal*, April 15, 2016. ([http://www.wsj.com/articles/irans-central-bank-chief-warns-banking-access-issues-jeopardize-nuclear-deal-1460745930#~:h=ZHCJ-dQfzyZaA](http://www.wsj.com/articles/irans-central-bank-chief-warns-banking-access-issues-jeopardize-nuclear-deal-1460745930#:~:h=ZHCJ-dQfzyZaA))

¹⁵ "New U.S. sanctions concession to Iran may be in works: AP," *Associated Press*, March 31, 2016. (<http://www.cbsnews.com/news/new-us-sanctions-concession-to-iran-may-be-in-works-ap/>)

¹⁶ U.S. Department of the Treasury, "Frequently Asked Questions Relating to the Lifting of Certain U.S. Sanctions Under the Joint Comprehensive Plan of Action (JCPOA) on Implementation Day," issued January 16, 2016, updated March 24, 2016. (https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa_faqs.pdf)

¹⁷ Valiollah Seif, "A Conversation With Valiollah Seif," *Council on Foreign Relations*, April 15, 2016. (<http://www.cfr.org/global/conversation-valiollah-seif/p37733>)

¹⁸ Aresu Egbali and Margherita Stancati, "Iran's Supreme Leader Says Sanctions Still Affecting Country's Economy," *The Wall Street Journal*, March 20, 2016. (<http://www.wsj.com/articles/irans-supreme-leader-says-sanctions-still-affecting-countrys-economy-1458502695>)

¹⁹ John Kerry, "Remarks After Meeting Iranian Foreign Minister Zarif," *United Nations*, April 19, 2016. (<http://www.state.gov/secretary/remarks/2016/04/255977.htm>)

in dangerous conduct and to provide Iran with greater deterrence power to prevent Washington from combatting Iran's destabilizing behavior.

Boeing's Proposed Sale and Iran's Malign Activities

Last month, Boeing and Iran announced a preliminary agreement for the sale of 80 aircraft, valued at \$25 billion.²⁰ The announcement follows a similar multi-billion dollar deal with Airbus for 118 aircraft mere days after the U.S. and EU lifted sanctions,²¹ and an Iran Air announcement that it will be purchasing as many as 40 turboprops from French-Italian company ATR.²² Iran's transport minister has said that Iran's aviation industry needs 500 new planes over the next decade, and companies are lining up to meet this demand.²³

These sales are legal under U.S. and EU laws because the JCPOA lifted sanctions on Iran Air²⁴ and permitted the "sale of commercial passenger aircraft and related parts and services to Iran," provided they are "for exclusively civil aviation end-use."²⁵ Export licenses are still required for individual sales, but the Treasury Department issued a general license allowing companies to engage in preliminary discussions.²⁶

Ostensibly, these sales address safety issues that have plagued Iran's aviation industry. Tehran blames the United States for preventing it from purchasing the equipment to service its fleets, leading to numerous airplane crashes. Preliminary research by my FDD colleague Emanuele Ottolenghi, however, indicates that Iran's aviation safety challenges were the result of corruption and mismanagement, not U.S. sanctions. Between 2000 and 2009, five of the seven major crashes of civilian aircraft involved Russian (or Soviet) aircraft not subject to U.S. sanctions.²⁷ Since 2000, more than half of all commercial aviation crashes involved Russian (or Soviet) planes, indicating a more widespread problem than simply a lack of parts for Western aircraft.²⁸ A *Los Angeles Times* report from September 2009 quoted an industry expert accusing "politically motivated regulators of failing to adequately inspect and publicize aviation accidents,

²⁰ Jon Ostrower and Doug Cameron, "Proposed Boeing-Iran Air Deal Involves 80 Jets," *The Wall Street Journal*, June 23, 2016. (<http://www.wsj.com/articles/proposed-boeing-iran-air-deal-involves-80-jets-1466701529>)

²¹ Airbus, Press Release, "Iran selects Airbus for its civil aviation renewal," January 28, 2016.

(<http://www.airbus.com/presscentre/pressreleases/press-release-detail/detail/iran-deal/>)

²² Robert Wall, "Iran to Buy up to 40 ATR Turboprop Planes," *The Wall Street Journal*, February 1, 2016.

(<http://www.wsj.com/articles/iran-to-buy-up-to-40-atr-turboprop-planes-1454330448>)

²³ Fred Pleitgen and Jim Boulden, "Iran wants to buy 500 planes and resume flights to U.S.," *CNN*, January 25, 2016. (<http://money.cnn.com/2016/01/25/news/iran-planes-tourism-us-flights/>)

²⁴ Joint Comprehensive Plan of Action, Attachment 3, July 14, 2015. (http://ec.europa.eu/statement-ccas/docs/iran_agreement/annex_1_attachments_en.pdf)

²⁵ Joint Comprehensive Plan of Action, Annex II – Sanctions related commitments, July 14, 2015, section 5.1.1. (http://ec.europa.eu/statement-ccas/docs/iran_agreement/annex_2_sanctions_related_commitments_en.pdf)

²⁶ U.S. Department of the Treasury, Office of Foreign Assets Control "General License I: Authorizing Certain Transactions Related to the Negotiation of, and Entry into, Contingent Contracts for Activities Eligible for Authorization Under the Statement of Licensing Policy for Activities Related to the Export or Re-export to Iran of Commercial Passenger Aircraft and Related Parts and Services," March 24, 2016.

(https://www.treasury.gov/resource-center/sanctions/Programs/Documents/iran_gli.pdf)

²⁷ "TIMELINE - Recent major plane crashes involving Iran," *Reuters*, July 15, 2009.

(<http://in.reuters.com/article/idINIndia-41053520090715>)

²⁸ "List of Iranian Aviation Accidents and Incidents," *Wikipedia*, June 7, 2016.

(https://en.wikipedia.org/wiki/List_of_Iranian_Aviation_Accidents_and_Incidents)

and of bending rules to accommodate well-connected airlines.” The article cites a series of problems within the industry, including a lack of transparent investigations according to international standards and that “rules are bent to accommodate airlines with safety lapses.”²⁹

Iranian citizens and foreign travelers to Iran have alternatives: Over the past five years, Gulf and Turkish airlines were primarily responsible for the growth in the Iranian aviation market, according to a study by OAG, an air travel intelligence company.³⁰ The study notes that Gulf and Turkish carriers have increased their routes by nearly 60 percent over the past three years, operating mostly from their hubs to primary and secondary airports in Iran and serving both local demand and international travel. They together provided 44 percent of international capacity in 2015. These international airlines recognize that there is significant opportunity in the Iranian market to provide dependable, high-quality service.

After sanctions were lifted, European airlines also announced resumed service between Europe and Tehran.³¹ Air France resumed flights in April after a seven year hiatus; British Airways is re-launching daily flights between London and Tehran after a four year suspension; and Lufthansa and Alitalia never ceased service to Iran even during the height of sanctions. There are reportedly nearly 30 foreign carriers operating in Iran.

Iranian citizens need not rely on Iran Air or Mahan Air – companies racked with corruption and illegal activities – but can look to foreign companies to meet their travel needs.

Of greatest concern for the Boeing deal, however, given its role in supporting the IRGC and the Assad regime, is the still U.S.-sanctioned Mahan Air, which last surpassed Iran Air to become the largest carrier to and from Iran.

While Boeing’s sale to Iran Air is legal (with proper licensing), the sale is risky and unwise because Iran Air has a long history of illicit activities. In June 2010, the United Nations Security Council cautioned that Iran Air’s cargo division may be involved in sanctions evasion.³² Washington designated the airline a year later for providing material support and services to the IRGC and Ministry of Defense.³³ At the time, Treasury noted, “Rockets or missiles have been transported via Iran Air passenger aircraft, and IRGC officers occasionally take control over Iran Air flights carrying special IRGC-related cargo ... carried aboard a commercial Iran Air aircraft,

²⁹ Borzou Daragahi, “Iran’s aviation regulation seen as a factor in air crashes,” *Los Angeles Times*, September 15, 2009. (<http://articles.latimes.com/2009/sep/15/world/fg-iran-aviation15>)

³⁰ “Window on Iran’s aviation market,” *OAG*, 2016. (<http://www.oag.com/window-on-irans-aviation-market-0>)

³¹ “Iran: European airlines set to resume flights to Tehran,” *Associated Press*, January 28, 2016. (<http://www.foxnews.com/travel/2016/01/28/iran-european-airlines-set-to-resume-flights-to-tehran.html>); Lizzie Porter, “British Airways to relaunch direct London to Iran flights in July,” *The Telegraph* (UK), February 3, 2016. (<http://www.telegraph.co.uk/travel/destinations/middle-east/iran/articles/British-Airways-to-relaunch-direct-London-to-Iran-flights-in-July/>); Gary Raynaldo, “European airlines fly back into competitive Iran market,” *LinkedIn*, April 19, 2016. (<https://www.linkedin.com/pulse/european-airlines-fly-back-competitive-iran-market-gary-raynaldo>)

³² United Nations Security Council, Resolution 1929, June 9, 2010, page 7. (https://www.iaea.org/sites/default/files/unsc_res1929-2010.pdf)

³³ U.S. Department of the Treasury, “Fact Sheet: Treasury Sanctions Major Iranian Commercial Entities,” June 23, 2011. (<https://www.treasury.gov/press-center/press-releases/Pages/tg1217.aspx>)

including to Syria.”³⁴ Iran Air not only flaunted the UN global arms embargo, it violated civil aviation rules by allowing the Guard to “disguise and manifest such shipments as medicine and generic spare parts.”³⁵

As a result of the nuclear deal, the U.S. lifted sanctions against Iran Air, despite the fact that the original designations were not related to Iran’s nuclear program and despite the administration’s commitment to retain non-nuclear sanctions.

But when asked why sanctions were lifted, State Department Spokesman John Kirby did not argue that Iran Air’s behavior had changed,³⁶ nor that the IRGC is no longer using the airline to ship weapons to Syria. Instead, he said merely that the administration was comfortable with its decision, though he was “not at liberty to go into the reasons behind” the de-listing.³⁷

And it seems that Iran Air is not keeping out of trouble. Three times in June, Iran Air flew routes known to be used to resupply Syrian President Assad.³⁸ As recently as June 9, an Iran Air jet landed in Abadan, Iran, the logistical hub of the Revolutionary Guard’s airlifts to Assad and Hezbollah.³⁹ After a little over an hour on the tarmac, it continued to Syria. Iran Air regularly flies to Damascus with its planes’ transponders broadcasting an outdated Najaf-Tehran flight number, making it appear that the flights were between Iran and Iraq.⁴⁰ This is a familiar technique that Iran used in hiding the illicit behavior of the Islamic Republic of Iran Shipping Lines (IRISL) and National Iranian Tanker Company (NITC) when they, too, used to turn off transponders or change their naming and registration markings to avoid detection.⁴¹

Congress should require the administration to investigate these flights and remind Boeing, Airbus, and any banks financing these deals, that they run the risk that the IRGC may use any new planes sold to Iran Air to aid the Syrian war effort. If it is proven that the IRGC or other designated entities used Iran Air to ship weapons to Syria, Iran Air could face new sanctions. And any licenses for aircraft sales would be revoked, potentially leaving Boeing or financial institutions holding the tab.

³⁴ Ibid

³⁵ Ibid

³⁶ “Boeing’s historic deal with Iran rests on shaky foundations,” *Associated Press*, June 23, 2016.

(<http://www.foxnews.com/us/2016/06/23/boeing-historic-deal-with-iran-rests-on-shaky-foundations.html>)

³⁷ John Kirby, “Daily Press Briefing,” *U.S. Department of State*, June 23, 2016.

(<http://www.state.gov/r/pa/prs/dpb/2016/06/259015.htm>)

³⁸ Emanuele Ottolenghi, “The risks of the Iran-Boeing deal,” *The Hill*, June 21, 2016.

(<http://thehill.com/blogs/pundits-blog/international/284269-the-risks-of-the-iran-boeing-deal>)

³⁹ @cottolenghi, “Iran Air flying Abadan to Damascus. Less than 6 months after JCPOA implementation, Iran Air running #SyriaExpress,” *Twitter*, June 9, 2016. (<https://twitter.com/cottolenghi/status/741034437341786112>)

⁴⁰ “Flight IR-3486 from Al Najaf to Tehran,” *EasyFly Club*, accessed July 5, 2016. (<http://easyfly.club/flights/iran-air/1ad6/ir-3486>)

⁴¹ For example, “Global Advisory to the Maritime Industry Regarding the Islamic Republic of Iran Shipping Lines,” *Office of Foreign Assets Control*, July 19, 2012. (https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ofac_irisl_advisory_07192012.pdf); U.S. Department of the Treasury, Press Release, “Fact Sheet: Treasury Designates Iranian Entities Tied to the IRGC and IRISL,” December 21, 2010. (<https://www.treasury.gov/press-center/press-releases/Pages/tg1010.aspx>); David Cohen, “Iran Sanctions: Ensuring Robust Enforcement, and Assessing Next Steps,” *Testimony before the Senate Committee on Banking, Housing, and Urban Affairs*, June 4, 2013. (http://www.banking.senate.gov/public/_cache/files/c6ae9124-e150-4bce-8f9d-b36d5359722f/23C6AE00CC53D93492511CC744028B5E.cohentestimony6413.pdf)

Even if Iran Air itself ceases its involvement in the IRGC's war effort and support for terrorism, Mahan Air and other Iranian airlines, Caspian, Meraj and Pouya (aka Yas Air), remain under sanctions for ferrying illicit cargo to the Assad regime, Iranian clients in the Levant, and/or supporting the Revolutionary Guard.⁴² Mahan Air has become the Revolutionary Guard's primary conduit for transporting weapons and military personnel to Syria.⁴³ These deliveries enable Assad and Hezbollah to continue their slaughter of hundreds of thousands of Syrians, emboldening the Islamic State and fueling a refugee crisis that is destabilizing Europe.

It is unlikely that Iran Air will retain all of the aircraft it purchases, and instead will transfer, resell, or lease them to sanctioned airlines. Iran Air does not have the capacity to absorb the large orders it is placing. Its fleet currently stands at only 36 aircraft,⁴⁴ but its orders from Boeing and Airbus top 200 planes. Even Iran Air's management claims that the company wants to "maintain ... current schedules" and modernize its existing systems for the next three years.⁴⁵ Even if Iran Air doubles the size of its fleet, that leaves 130 planes that the company may resell or lease to Mahan Air or the other sanctioned airlines.

Once Boeing delivers the planes to Iran Air, the company and the U.S. government have little recourse to prevent Iran Air from reselling the planes. Treasury can cancel the license, prohibiting any additional sales, and the U.S. government can designate the individual planes, but the May 2015 transfer of nine planes from an Iraqi airline to Mahan shows the limits of these actions. Even though Treasury designated the planes involved in that previous sanctions violation,⁴⁶ the aircraft are flying to major European destinations and receiving ground services.⁴⁷

If an illegal resale or lease takes place, the U.S. government may also be hamstrung not only by its concern that Iran will walk away from the nuclear deal in response to sanctions, but by Iranian threats to walk away from its debts to U.S. companies and banks. These threats and the lucrative terms of the sale are likely to motivate the company to oppose any return to sanctions, and any banks that finance the deal are likely to join forces with Boeing to protect their investments.

In previous testimonies, I warned that Iran will use the threat of a nuclear snapback to deter the use of both nuclear and non-nuclear sanctions and to divide the United States and Europe. Once

⁴² U.S. Department of the Treasury, Press Release, "Treasury Targets Networks Linked to Iran," August 29, 2014. (<https://www.treasury.gov/press-center/press-releases/Pages/jl2618.aspx>)

⁴³ U.S. Department of the Treasury, Press Release, "Treasury Designates Iranian Commercial Airline Linked to Iran's Support for Terrorism," October 12, 2011. (<https://www.treasury.gov/press-center/press-releases/Pages/tg1322.aspx>)

⁴⁴ "Profile," *Iran Air*, accessed July 5, 2016. (<http://www.iranair.it/english/profile.shtml>)

⁴⁵ "Bigger than Dubai? Iran is targeting more than fleet renewal after the lifting of aviation sanctions," *The Economist*, February 4, 2016. (<http://www.economist.com/blogs/gulliver/2016/02/bigger-dubai>)

⁴⁶ U.S. Department of Treasury, Press release, "Treasury Department targets those involved in Iranian scheme to purchase planes," May 21, 2015. (<https://www.treasury.gov/press-center/press-releases/Pages/jl10061.aspx>)

⁴⁷ Plane tracking data available upon request. Based on public information, FDD has identified the following ground services providers who are servicing Mahan Air: Aerotech FMS Pvt. Ltd. (New Delhi, India), Air China Cargo (China), AHS Group (Munich and Köln, Germany), Airport Handling (Milan, Italy), Aviator (London Gatwick, United Kingdom), DUS Airport Cargo (Düsseldorf, Germany), Havaş (Istanbul Ataturk and Ankara, Turkey), SAS Ground Services UK Ltd. (Manchester, United Kingdom), and Swissport International Ltd. (Moscow, Russia).

European companies are sufficiently invested in Iran's lucrative markets, any Iranian violations of the deal are likely to provoke disagreements between Washington and its European allies. Indeed, why would the Europeans agree to new sanctions when they have big money on the line? But now, if a major U.S. company and banks are also invested in Iran, Tehran will not even need the transatlantic divide. Business lobbies on both sides of the Atlantic will oppose any return to sanctions.

In backing the Boeing deal, the Obama administration is increasing the Iranian regime's leverage and diminishing its own power to enforce the nuclear deal. That, and the specter of one of America's most respected companies and its financial partners unwittingly abetting the leading state sponsor of terrorism, is why this Boeing deal should not be allowed to take off.

Financial Institutions Face Enormous Due Diligence Challenges

The deal between Boeing and Iran risks implicating major U.S. companies in the Islamic Republic's support for terrorism and regional adventurism. Boeing and any bank contemplating financing the deal will face enormous due diligence challenges to ensure proper end-use of these planes. Given Iran Air's continued resupply flights to Assad and Hezbollah operations in Syria and the still-designated Mahan Air's role as "IRGC Air," it is not surprising that major banks are not stepping forward yet to finance the deal.

And so Iran wants the United States to reassure and even force banks to reengage with it. Under the JCPOA in paragraph 29, the United States committed to "refrain[ing] from any policy specifically intended to directly and adversely affect the normalisation of trade and economic relations."⁴⁸ Iran is interpreting this to mean that the U.S. cannot implement terrorism or other non-nuclear sanctions and that Washington must strong-arm skittish multilateral companies and global banks to return to Iran.

A tough-minded American administration would argue that there is a big difference between not interfering with commercial relations and actively advocating for banks and companies to enter the Iranian market. Indeed, the burden ought to remain on Iran to stop using its aircraft for illicit purposes if they want access to new aircraft, and to address its pattern of illicit conduct and terror financing to convince the global financial system that it has turned a corner.

The deal is a microcosm of the illicit finance risks that remain regardless of the nuclear deal. Even as Iran has agreed to temporarily constrain some of its nuclear activities, it has not addressed the full range of nefarious conduct that prompted U.S. and international sanctions. Iran's illicit financial conduct continues. Even as the Financial Action Task Force suspended for one year its call for countries to impose mandatory countermeasures against Iran, the global anti-money laundering and counter terrorism financial standards body kept Iran on its "blacklist," along with North Korea, and noted that Iran continues to pose terrorist financing risks and is a threat to the international financial system.⁴⁹

⁴⁸ Joint Comprehensive Plan of Action, July 14, 2015, paragraph 29. (http://eeas.europa.eu/statements-eeas/docs/iran_agreement/iran_joint-comprehensive-plan-of-action_en.pdf)

⁴⁹ Financial Action Task Force, "Public Statement – 24 June 2016," June 24, 2016. (<http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/public-statement-june-2016.html>)

One of the primary due diligence challenges that companies and banks are facing is ensuring that their Iranian partners are not owned or controlled by designated entities. Given the pervasive influence of the IRGC throughout the Iranian economy, including in Iran's aircraft sector, this challenge is enormous.

In addition to implementing the regime's policies to support terrorism and destabilize its neighbors, the IRGC has become a dominant force in the Iranian economy, and Iran's "most powerful economic actor," according to the U.S. Treasury.⁵⁰ 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.⁵¹

The IRGC controls at least 30 percent of the Iranian economy,⁵² is a major player in Iran's aircraft industry through Mahan Air and Iran's other designated airlines, and is heavily involved in Iran's financial sector and in the defense production, construction, and Iran's energy sectors, according to the U.S. government.⁵³ The IRGC's control over strategic sectors of the Iranian economy means that any foreign firms interested in doing business with Iran will have to do business with the Guard.⁵⁴

Even as banks and companies try to implement strict due diligence processes to protect themselves against unwittingly supporting Iran's illicit activities, the regime is engaged in a

⁵⁰ 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>)

⁵¹ U.S. Department of State, Office of the Spokesperson, Media Note, "Joint Statement on Iran Sanctions," June 23, 2011. (<http://www.state.gov/r/pa/prs/ps/2011/06/166814.htm>); U.S. Department of State, Media Note, "Treasury Targets Iran's Islamic Revolutionary Guard Corps," February 10, 2010. (<http://www.state.gov/r/pa/prs/ps/2010/02/136595.htm>); U.S. Department of the Treasury, Press Release, "Fact Sheet: Treasury Sanctions Major Iranian Commercial Entities," June 23, 2011. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1217.aspx>)

⁵² Greg Bruno, Jayshree Bajoria, and Jonathan Masters, "Iran's Revolutionary Guard," *Council on Foreign Relations*, June 14, 2013. (<http://www.cfr.org/iran/irans-revolutionary-guards/p14324>); Emanuele Ottolenghi and Saeed Ghasseminejad, "Who Really Controls Iran's Economy?" *The National Interest*, May 20, 2015. (<http://nationalinterest.org/feature/who-really-controls-irans-economy-12925>); Frederic Wehrey, Jerrold D. Green, Brian Nichiporuk, Alireza Nader, Lydia Hansell, Rasool Nafisi, and S. R. Bohandy, "The Rise of the Pasdaran: Assessing the Domestic Roles of Iran's Islamic Revolutionary Guards Corps," *The RAND Corporation*, 2009. (http://www.rand.org/content/dam/rand/pubs/monographs/2008/RAND_MG821.pdf); Mark Gregory, "Expanding Business Empire of Iran's Revolutionary Guards," *BBC* (UK), July 26, 2010. (<http://www.bbc.com/news/world-middle-east-10743580>)

⁵³ 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>)

⁵⁴ 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 FDD colleague Emanuele Ottolenghi before the House Foreign Affairs Middle East and North Africa Subcommittee. Emanuele Ottolenghi, "The Iran Nuclear Deal and its Impact on Iran's Islamic Revolutionary Guards Corps," *Testimony before the House Foreign Affairs Middle East and North Africa Subcommittee*, September 17, 2015. (<http://docs.house.gov/meetings/FA/FA13/20150917/103958/HHRG-114-FA13-Wstate-OttolenghiE-20150917.pdf>); In the coming weeks, FDD will also be publishing a comprehensive study building on this testimony and providing innovative policy ideas for Congress on ways to use economic pressure against the Revolutionary Guards.

robust effort to legitimize its financial sector without addressing its decades-long rap sheet of financial crimes. Iran's strategy is three-pronged, involving denial, deception, and new demands. Iran followed this same pattern during the nuclear negotiations: denying weaponization efforts, deceiving the international community about its illicit nuclear activities, and escalating its demands for more sanctions relief and fewer nuclear constraints. On the financial track, Tehran is following the same strategy. Iranian leaders are denying both their illicit financial conduct and the IRGC's pervasive control of the Iranian economy, they are attempting to deceive the international community about this ongoing illicit conduct, and now they are demanding new sanctions relief and concessions to legitimize their financial sector.

Dollarization and the Long-Term Implications of Aircraft Sales

The financing of Boeing's aircraft sales through access to the U.S. dollar is central to Iran's demands for economic legitimacy. Tehran wants U.S. banks to finance the Boeing deal and for the administration to permit the transaction to transit the U.S. financial system or take place through offshore dollar clearing facilities. Iran wants to get the planes now, pay later, borrow the money from Western lenders, and secure its access to dollarized transactions – a benefit never authorized under the terms of the nuclear deal.

Specific classes of dollarized transactions are already permitted. In general, U.S. banks are permitted "to process transfers of funds to or from Iran ... [if the] underlying transaction ... has been authorized by a specific or general license," according to Treasury's Iranian Transactions and Sanctions Regulations.⁵⁵ But Iran wants the U.S. government to specifically authorize payments for aircraft sales in dollars. With each class of transactions that are dollarized, Iran is slowly undermining the ban on Iranian access to the U.S. financial system.

In 2008, Treasury banned Iran's last access point to the U.S. financial system by prohibiting what are referred to as "U-turn" transactions, which are transactions between a foreign bank and an Iranian bank that briefly transit the U.S. financial system in order to dollarize the transaction.⁵⁶ At the time, Treasury's Office of Foreign Assets Control noted that the purpose of the action was "to further protect the U.S. financial system from the threat of illicit finance posed by Iran and its banks."⁵⁷

Since that time, Iran's illicit financial activities have continued. In November 2011, Treasury issued a finding under Section 311 of the USA PATRIOT Act that Iran (and its entire financial sector, including its central bank) was a "jurisdiction of primary money laundering concern."⁵⁸

⁵⁵ "Title 31: Money and Finance: Treasury, Part 560—Iranian Transactions and Sanctions Regulations," §560.516 Transfers of funds involving Iran, *Electronic Code of Federal Regulations*, May 5, 2016. <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=116314f3fa7cc31e414670ca6ab97006&mc=true&n=pt31.3.560&r=PART&ty=HTML>

⁵⁶ U.S. Department of the Treasury, Press Release, "Fact Sheet: Treasury Strengthens Preventive Measures Against Iran," November 6, 2008. (<https://www.treasury.gov/press-center/press-releases/Pages/hp1258.aspx>)

⁵⁷ U.S. Department of the Treasury, Office of Foreign Assets Control, "Iranian Transactions Regulations," *Federal Register*, November 10, 2008. (<https://www.gpo.gov/fdsys/pkg/FR-2008-11-10/pdf/E8-26642.pdf>)

⁵⁸ 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>)

The entire country's financial system posed "illicit finance risks for the global financial system."⁵⁹

Now Iran wants direct – or, at a minimum, indirect – access to the U.S. dollar because the dollar is the preferred currency for global trade, and use of the world's most liquid and most dependable currency will legitimize its financial sector. But permitting Iran access to the U.S. dollar would contradict repeated administration promises to Congress, and goes beyond any commitments made to Iran under the JCPOA.⁶⁰

The administration may argue that the Boeing deal and additional sanctions relief will empower moderate forces in Iran so that they can push back against hardline elements who want to pursue policies antithetical to U.S. interests. President Obama, fearful that Rouhani and the nuclear deal he negotiated might not survive the next Iranian presidential election in 2017, has committed himself to Rouhani's re-election. This is an unwarranted fear: In the Islamic Republic's rigged election process, every Iranian president since the early 1980s, including the reformist Mohammad Khatami and the firebrand Mahmoud Ahmadinejad, served two terms. Nevertheless, to help Rouhani, Obama has now decided to encourage billions of dollars of transactions like the Boeing deal and to oppose any sanctions that limit Iranian economic growth, including those permitted under the JCPOA.

The analysis that President Rouhani represents a moderate wing fails to appreciate the Iranian political system and atmosphere. After Rouhani's ascension to power, he was hailed as a man of the system who nevertheless wanted to make fundamental changes that would gradually bring greater freedom to Iranian society and politics. This assessment ignores the evidence. Former CIA Director Leon Panetta explained that the intelligence community's assessment is the Iranian regime is not meaningfully divided into "moderate" and "hardline" camps.⁶¹ Or, as former Under Secretary of State and U.S. negotiator in the Iran talks Wendy Sherman noted, "There are hardliners in Iran, and then there are hard-hardliners in Iran. Rouhani is not a moderate, he is a hard-liner."⁶²

Last year, my colleagues at the Foundation for Defense of Democracies conducted an in-depth study of his writings, speeches, and autobiography. Their research revealed that his "politics aren't reformist"; his priority is to "ensure the regime's continuing dominion." He is "a founding father of Iran's theocracy and its nuclear-weapons program."⁶³ As just one example, Rouhani

⁵⁹ 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>)

⁶⁰ U.S. Department of the Treasury, "Frequently Asked Questions Relating to the Lifting of Certain U.S. Sanctions Under the Joint Comprehensive Plan of Action (JCPOA) on Implementation Day," issued January 16, 2016, updated March 24, 2016. (https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa_faqs.pdf)

⁶¹ David Samuels, "The Aspiring Novelist Who Became Obama's Foreign-Policy Guru," *The New York Times Magazine*, May 5, 2016. (http://www.nytimes.com/2016/05/08/magazine/the-aspiring-novelist-who-became-obamas-foreign-policy-guru.html?_r=2)

⁶² Matthew Riley, "Lead U.S. negotiator of Iran deal Sherman analyzes the agreement," *The Duke Chronicle*, February 5, 2016. (<http://www.dukechronicle.com/article/2016/02/lead-u-s-negotiator-of-iran-deal-sherman-analyzes-the-agreement>)

⁶³ Reuel Marc Gerecht and Ali Alfoneh, "Persian Truths and American Self-Deception: Hassan Rouhani, Muhammad-Javad Zarif, and Ali Khamenei in Their Own Words," *Foundation for Defense of Democracies*, March 24, 2015. (<http://www.defenddemocracy.org/media-hit/persian-truths-and-american-self-deception/>)

supported crushing student protests in 1999 and called for the execution of those agitating for greater freedom.⁶⁴

The administration might argue that the West needs to provide economic incentives for Tehran to comply with the nuclear deal and that providing additional sanctions relief will encourage Iran to moderate its behavior on a host of other, non-nuclear issues. The post-JCPOA record of hostage taking, terrorism, regional aggression, and illegal arms deals, as well as a financial sector that remains rotten to the core, contradicts this optimistic assessment.

The Islamic Republic continues to commit serious human rights abuses,⁶⁵ and Iran's support for Syrian President Assad reached new levels in the last year, including the provision of IRGC ground forces, weaponry, intelligence, telecommunications, and financial support.⁶⁶ The Syrian regime itself is "little more than a puppet" of the Iranian regime and the IRGC.⁶⁷ Since the announcement of the JCPOA, Iran has four times tested ballistic missiles capable of carrying nuclear warheads in violation of UN Security Council resolutions.⁶⁸

If the United States provides dollarized access now, and in the future Iran conducts another ballistic missile test or executes more dissidents or provides more weapons to the Assad regime in Syria, the next administration will not be able to revoke Iran's access to dollarized transactions. Tehran will argue, convincingly, that Washington provided this sanctions relief under the JCPOA, so it cannot re-impose this sanction for non-nuclear reasons later.⁶⁹ Iran will threaten to walk away from the deal and deploy its own "nuclear snapback." This will effectively paralyze America's Iran policy as even the minimalist instrument of coercion, the non-nuclear sanction, will be increasingly neutralized.

⁶⁴ Sohrab Ahmari, "Behind Iran's 'Moderate' New Leader," *The Wall Street Journal*, June 16, 2013.

(<http://www.wsj.com/articles/SB10001424127887323566804578549262039104552>); Hassan Rouhani, "Remarks before the Iranian Majlis," *Translation provided by BBC World Media Watch*, July 14, 1999.

(<http://news.bbc.co.uk/2/hi/world/monitoring/394731.stm>)

⁶⁵ United Nations Human Rights Council, "Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran," March 10, 2016. (<http://shaheedoniran.org/wp-content/uploads/2016/03/SR-Report-HRC2016FF.pdf>); United Nations General Assembly, "Situation of human rights in the Islamic Republic of Iran," October 6, 2015. (<http://shaheedoniran.org/wp-content/uploads/2015/10/SR-Report-Iran-Oct2015.pdf>)

⁶⁶ Max Peck, "Doubling Down on Damascus: Iran's Military Surge to Save the Assad Regime," *Foundation for Defense of Democracies*, January 11, 2016.

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

⁶⁷ Shiar Youssef, "Iran in Syria: From an Ally of the Regime to Occupying Force," *Naame Shaame*, 2nd Edition, April 2016, page 10. (<http://www.naameshaam.org/naame-shaam-releases-updated-report-on-irans-role-in-syria/>)

⁶⁸ Sam Wilkins, "Iran Tests New Precision-Guided Ballistic Missile," *Reuters*, October 11, 2015.

(<http://www.reuters.com/article/2015/10/11/us-iran-military-missiles-idUSKCN0S505L20151011>); Bradley Klapper, "US official says Iran tested ballistic missile last month, at least 2nd time since nuke deal," *Associated Press*, December 8, 2015. (<http://www.usnews.com/news/politics/articles/2015/12/08/us-official-iran-tested-ballistic-missile-last-month>); Nasser Karimi, "Iran test-fires ballistic missile, latest after nuclear deal," *Associated Press*, May 9, 2016. (<http://www.bigstory.ap.org/article/5cb0901c025a4cfb93c4fb08558d68c0/iran-test-fires-ballistic-missile-latest-after-nuclear-deal>)

⁶⁹ Example derived from analysis of our colleague at FDD's Center on Sanctions and Illicit Finance, Eric Lorber. Eric B. Lorber, "FPI Conference Call on Implications of Granting Iran Access to U.S. Financial Market," *Foreign Policy Initiative*, April 7, 2016. (<http://www.foreignpolicyi.org/content/transcript-fpi-conference-call-implications-granting-iran-access-us-financial-market>)

On July 20, 2015, Iran informed the UN Security Council that it may “reconsider its commitments” under the agreement if “new sanctions” are imposed “irrespective of whether such new sanctions are introduced on nuclear related or other grounds.”⁷⁰ Iran will use this threat to deter the use of both nuclear and non-nuclear sanctions by dividing the United States and Europe. Would Europe agree to Washington’s plan to withdraw U.S. dollar access if, for example, Boeing or Airbus planes were used for supplying weapons to Assad? This is doubtful given that Tehran would threaten to return to its nuclear activities, including large-scale uranium enrichment, putting not just American and European investments but the entire nuclear deal in jeopardy.

Congress should reject all attempts to give Iran direct or indirect access to the U.S. dollar, including for the financing of the Boeing deal. Iran did not explicitly negotiate this concession as part of the JCPOA and should not now be given a unilateral concession of this magnitude – particularly given its continued record of illicit behavior.

Recommendations

If the Obama administration grants Iran access to the world’s most important currency, U.S. sanctions will be severely undermined. Tehran will receive yet another significant and unilateral concession. And Washington will have lost critical leverage to target Iran’s terror finance, missile activities, destabilizing regional aggression, systemic human rights abuses, and the financial and military backing of the Assad regime. The next president’s ability to target Iran’s malign activities with non-nuclear sanctions will be much more difficult if billions of dollarized transactions are green-lighted.

The same is true if the Boeing deal goes through. The next administration’s leverage and flexibility to combat Iran’s malign activities will be significantly hampered if, every step along the way, business and banks jump in to protect their \$25 billion investment. And once the deal is signed, initial planes are delivered, and the money changes hands, Iran will have considerable freedom to use the aircraft in illegal ways. As a result, Congress should block the deal until Iran stops using its aircraft for malign activities. If Iran wants to modernize its aging fleet and become a regional and global aviation hub, the regime must change its behavior and stop using its civilian aircraft to further its regional aggression.

Instead of bending to Iranian demands, Washington and its partners should be pushing Tehran to end its many illicit activities. The world needs to hold the Islamic Republic accountable. Legitimacy for Iran’s financial sector and aviation industry cannot be granted without a dramatic change in the Iranian regime’s respect for international norms and financial transparency. Congress can lead the charge, as it has done in the past, by increasing pressure on the regime to change its behavior.

⁷⁰ 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/>)

1. Require presidential certification that commercial planes are only being used for civil aviation end-use.

This committee is reviewing important legislation aimed at preventing Iran from misusing U.S.-made aircraft. Given Iran's history of sanctions evasion, support for terrorism, and aid to the Bashar Assad regime in Syria, Congress is right to be concerned.

Sales of new aircraft to Iran should only move forward once Iran has demonstrated that it will no longer use civilian aircraft for malign purposes and that none of the aircraft will end up in the hands of sanctioned entities. Before any sales are licensed, Congress should require the president to certify that none of Iran's commercial planes are being used for purposes other than exclusively civil aviation end-use. The certification should then include at least a five-year waiting period after which new planes should be sold only on a trial basis with only a small number of planes delivered per year with full payment made by Iran in cash at the time of delivery.

If any evidence surfaces that Iran Air has resold, leased, or transferred these planes to designated entities or that any Iranian airline is using commercial planes to support the war in Syria or for any other malign purposes, all licenses should be revoked and all deals automatically cancelled. In the interim, as discussed above, Turkish and Gulf airlines are increasing their domestic and international routes for Iranian citizens.⁷¹ European airlines are also re-opening routes between Europe and Tehran.⁷² All of these carriers remain better alternatives than Iranian airlines that are plagued with corruption and implicated in a range of malign activities – as long as the presidential certification cannot be made.

2. Prohibit any U.S. financial institution, including the Export-Import Bank, from financing any trade with Tehran while Iran remains a state sponsor of terrorism.

Iran remains the leading state sponsor of terrorism, according to the State Department's annual report, released last month.⁷³ Iran's terrorism financing poses a threat to the integrity of the U.S. and global financial system. Therefore, in addition to the certifications that Iran is not misusing its commercial aircraft, Congress should prohibit Treasury from licensing U.S. financial institutions to facilitate any trade (including the Boeing deal) with Iran while it remains a state sponsor of terrorism. No U.S. bank should be permitted to finance the Boeing deal, given the risks discussed above that any financing arrangement exposes American companies and banks to billions of dollars of unpaid contracts and makes them accomplices in a lobbying effort against snapback sanctions.

⁷¹ "Window on Iran's aviation market," *OAG*, 2016. (<http://www.oag.com/window-on-irans-aviation-market-0>)

⁷² "Iran: European airlines set to resume flights to Tehran," *Associated Press*, January 28, 2016. (<http://www.foxnews.com/travel/2016/01/28/iran-european-airlines-set-to-resume-flights-to-tehran.html>); Lizzie Porter, "British Airways to relaunch direct London to Iran flights in July," *The Telegraph* (UK), February 3, 2016. (<http://www.telegraph.co.uk/travel/destinations/middle-east/iran/articles/British-Airways-to-relaunch-direct-London-to-Iran-flights-in-July/>); Gary Raynaldo, "European airlines fly back into competitive Iran market," *LinkedIn*, April 19, 2016. (<https://www.linkedin.com/pulse/european-airlines-fly-back-competitive-iran-market-gary-raynaldo>)

⁷³ Justin Siferell, "Special Briefing: Country Reports on Terrorism," *U.S. Department of State*, June 2, 2016. (<http://www.state.gov/r/pa/prs/ps/2016/06/258013.htm>)

Additionally, the Export-Import bank should not provide any financing for trade with Iran while the country remains a state sponsor of terrorism. The U.S. government should not be using U.S. taxpayer funds to guarantee trade with the leading state sponsor of terrorism. Congress should emphasize that it is prohibited for Ex-Im to provide any guarantees or credit for any trade with the government of Iran or any Iranian entity. The Foreign Assistance Act of 1961 prohibits Ex-Im bank from providing such financing, but the legislation contains a national security interest waiver.⁷⁴ Congress should consider ways to limit the president's ability to use this waiver.

3. Protect the integrity of the U.S. dollar from Iranian illicit finance.

After Treasury designated Iran as a jurisdiction of primary money laundering concern, Congress included a prohibition in Section 1245(c) of the National Defense Authorization Act of 2012 stipulating, "The President shall, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block and prohibit all transactions in all property and interests in property of an Iranian financial institution if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person."⁷⁵ Section 1245(b) also codified the Section 311 finding that Iran is a jurisdiction of primary money laundering concern.

Congress can strengthen and clarify this provision by stating that it is prohibited for any U.S. financial institution to process any transactions for Iranian entities, even when such "transfer was by order of a non-Iranian foreign bank from its own account in a domestic bank to an account held by a domestic bank for a non-Iranian foreign bank."⁷⁶ Congress should also state that it is prohibited for a U.S. financial institution to provide dollars for off-shore clearing facilities if any party to the transaction anywhere in the financial chain is an Iranian entity.

Congress should require the Treasury Department to report on all financial institutions involved in giving Iran direct or indirect access to the U.S. dollar with details on institutions, transactions, counterparties, and mechanisms. Congress furthermore should authorize mandatory sanctions on any offshore large value payment system that provides dollar-clearing services in any transactions involving an Iranian party. The termination of these prohibitions should be linked to a certification from the president that Iran is no longer involved in supporting terrorism and illicit missile development and that the Iranian regime has addressed its outstanding obligations to compensate victims of Iranian terrorism.

⁷⁴ Foreign Assistance Act of 1961, Pub. L. 87-195, codified as amended, U.S.C. § 620A.

(<https://www.usaid.gov/sites/default/files/documents/1868/faa.pdf>)

⁷⁵ National Defense Authorization Act for Fiscal Year 2012, Pub. L. 112-81, U.S.C. § 1245, page 351.

(https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ndaa_publaw.pdf)

⁷⁶ U.S. Department of the Treasury, Office of Foreign Assets Control, "Iranian Transactions Regulations," *Federal Register*, November 10, 2008. (<https://www.gpo.gov/fdsys/pkg/FR-2008-11-10/pdf/E8-26642.pdf>)

4. Reauthorize the Iran Sanctions Act, an important foundation of the sanctions architecture

While the Obama administration has suspended sanctions on key segments of the Iranian economy according to the JCPOA, only Congress can formally lift many of these sanctions. The administration has also pledged to “snap” sanctions back into place if Tehran violates the terms of the agreement. At the end of this year, however, the Iran Sanctions Act (ISA) is set to expire unless lawmakers act to reauthorize it. ISA is a critical foundation of the Iran sanctions architecture and should be reauthorized. As Senator Robert Menendez (D-NJ) has noted, if ISA is not reauthorized, there will be nothing “to snapback to.”⁷⁷

Reauthorizing ISA would not violate the JCPOA, as no new sanctions would be imposed. Iran may voice objection to the reauthorization, perhaps even threatening to walk away from the agreement, but Congress should call Iran’s bluff and not allow the regime to have veto power over American laws. Furthermore, the justification for ISA is not only Iran’s nuclear program, but also its support for international terrorism. Indeed, when the bill (which at the time also authorized sanctions against Libya) was signed into law in 1996, President Bill Clinton stated that it would “help to deny those countries the money they need to finance international terrorism ... [and] limit the flow of resources necessary to obtain weapons of mass destruction.”⁷⁸

Conclusion

Even as the Obama administration is eager to provide Iran with economic inducements, Congress understands Iran’s record of terrorism financing, weapons proliferation, and regional aggression. Congress can defend both the sanctions architecture against a precipitous unwinding and U.S. companies and the U.S. financial system from unwittingly assisting Iran’s nefarious activities. The proposed deal between Boeing and Iran Air is a snapshot of the broader challenges and risks that companies and banks are facing, and the leverage that such business deals provide Iran. Congress should prevent responsible American companies and banks from unwittingly aiding the world’s leading state sponsor of terrorism.

Thank you for the opportunity to testify today. I look forward to your questions.

⁷⁷ Robert Menendez, Press Release, “Menendez Delivers Remarks on Iran Nuclear Deal at Seton Hall University’s School of Diplomacy and International Relations,” August 18, 2015. (<https://www.menendez.senate.gov/news-and-events/press/menendez-delivers-remarks-on-iran-nuclear-deal-at-seton-hall-universitys-school-of-diplomacy-and-international-relations>)

⁷⁸ Bill Clinton, “Remarks on Signing the Iran and Libya Sanctions Act of 1996 and an Exchange With Reporters,” *The White House*, August 5, 1996. (<http://www.presidency.ucsb.edu/ws/index.php?pid=53160&st=iran&st1>)

The Implications of U.S. Aircraft Sales to Iran

Testimony before the Financial Services Committee,
Subcommittee on Monetary Policy and Trade

U.S. House of Representatives

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July 7, 2016

I. Introduction

Chairman Huizenga, Vice Chairman Mulvaney, Ranking Member Moore, and distinguished members of the Financial Services Committee, Subcommittee on Monetary Policy and Trade, thank you for the opportunity to appear before you today to discuss the implications of U.S. aircraft sales to Iran.

Last year, the United States and its partners in the P5+1 realized a significant diplomatic accomplishment when they agreed to the Joint Comprehensive Plan of Action (JCPOA) with Iran.¹ In the JCPOA, Iran committed that it would never seek, develop, or acquire nuclear weapons. This agreement marks the first time in a decade that Iran accepted constraints on its nuclear program.

The agreement does not resolve all of the United States' or the international community's concerns about Iran's behavior. Indeed, Iran remains one of the principal strategic adversaries of the United States in the Middle East. Since 1984, Iran has been and remains designated as a state sponsor of terrorism; it provides substantial support to the regime of Bashar al-Assad in Syria's brutal civil war; it routinely engages in human rights abuses; and it continues its support for terrorist groups and non-state actors like Hezbollah and the Houthi rebels in Yemen that undermine the stability of governments throughout the Middle East. Until the adoption of the JCPOA last year, Iran's pursuit of an advanced nuclear program compounded the threat Iran posed to its regional neighbors and American interests in the stability of the Middle East.

Seen in this context, the JCPOA ameliorates one of the most important components of the threat from Iran—namely the menace posed by Iran's nuclear program and the possibility that its nuclear program could have been used to intensify the other ways in which Iran threatens the U.S., its allies, and its interests. Under the JCPOA, Iran agreed to relinquish a credible nuclear weapons option for at least the next decade and perhaps beyond in exchange for relief from most international and some U.S. sanctions.

While Iran retains the ability to enrich uranium subject to international supervision, the JCPOA imposed limitations on the number of centrifuges that Iran may operate; imposed limitations on the amount of enriched uranium Iran can keep in the country at any given time; and imposed limitations on permissible research and development into future nuclear capabilities. Iran also agreed to significant modifications to existing nuclear facilities, and to stringent monitoring and verification procedures, supervised by the International Atomic Energy Agency (IAEA). Left to develop its nuclear program free of international constraints, the threats posed by Iran's nuclear program and its other destabilizing activities would have been magnified. And there was a significant chance that Iran's further development of its nuclear program could have sparked a nuclear arms race throughout the Middle East.

¹ The P5+1 is the Permanent Five Members of the Security Council (China, France, the United States, United Kingdom, and Russia) plus Germany.

With the JCPOA, the threat posed by Iran's nuclear program has been dramatically reduced, while the United States and its allies retain the ability to challenge Iran's other destabilizing activities with all of the national security tools available, including sanctions. Indeed, the day after the JCPOA's Implementation Day, the U.S. imposed sanctions on 11 individuals and entities responsible for supporting Iran's ballistic missile program.² In March, individuals were designated for providing support to Iran's ballistic missile program and to Iran's Mahan Air, which itself was designated for providing support to the Islamic Revolutionary Guard Corps—Qods Force (IRGC—QF).³ And the Treasury Department has taken several actions to target the financial support networks of Hezbollah, including through the publication of regulations to implement the Hezbollah International Financing Prevention Act of 2015.⁴

The JCPOA imposes meaningful limitations on Iran's nuclear program, lengthening the time needed for Iran to "break out" to a nuclear weapon from an estimated two to three months at the time the JCPOA was signed, to one year under the terms of the agreement.⁵ The JCPOA also engages a wide range of countries—including Russia and China—in the vision of a world in which Iran's nuclear program is limited by agreement among the international community. As long as Iran adheres to the terms of the agreement, the JCPOA has significant value in the U.S.'s overall national security strategy, even while the U.S. acts to limit Iran's malign influence through other means. And for the credibility of American commitments in a range of contexts the United States must adhere to the agreements it strikes with adversaries and allies alike as long as its counterparts do so as well. We must, therefore, work to maintain the integrity and viability of the JCPOA and resist efforts to undermine it so long as Iran fulfills its end of the bargain.

II. The Road to the JCPOA

Agreement by the P5+1 and Iran to the JCPOA was the culmination of a broad multi-year campaign that used sanctions and other forms of coercive diplomacy to incentivize Iran to engage in negotiations over its nuclear program. While the United States led this effort, it worked closely with allies and partners around the world. And Congress and the Executive Branch—across both the Bush and Obama administrations—played complementary roles in generating the leverage necessary to reach an agreement. Iran's own economic challenges, stemming from a range of sources, also increased its incentives to agree to limits on its nuclear program in exchange for sanctions relief.

² "Treasury Sanctions Those Involved in Ballistic Missile Procurement for Iran," U.S. Department of the Treasury, press release, January 17, 2016, <https://www.treasury.gov/press-center/press-releases/Pages/jl0322.aspx>.

³ "Treasury Sanctions Supporters of Iran's Ballistic Missile Program and Terrorism-Designated Mahan Air," U.S. Department of the Treasury, press release, March 24, 2016, <https://www.treasury.gov/press-center/press-releases/Pages/jl0395.aspx>.

⁴ Publication of the Hizballah International Financing Prevention Act of 2015 Related Sanctions Regulations; Counter Terrorism Designations Updates; Syria Designations Updates," U.S. Department of the Treasury, April 15, 2016, <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20160415.aspx>.

⁵ "The Historic Deal that Will Prevent Iran from Acquiring a Nuclear Weapon," The White House, Jan. 16, 2016, <https://www.whitehouse.gov/issues/foreign-policy/iran-deal>.

The pressure campaign on Iran to change its calculations about its nuclear program had three main components—U.S. sanctions that set the standard both for generating leverage against Iran and for revealing Iran’s deceptive conduct; complementary actions taken by our allies and partners, particularly the EU; and restrictions embodied in U.N. Security Council Resolutions. By the end of 2013 the combined efforts of these parties culminated in an interim agreement between Iran and the P5+1, the Joint Plan of Action (JPOA). The JPOA provided Iran limited sanctions relief in exchange for freezing its nuclear program while a permanent agreement was negotiated. The JPOA was renewed several times until July 2015 when the JCPOA was finally agreed.

The campaign of pressure against Iran began in earnest in the 2005-2007 period, when the U.S. adopted authorities to impose sanctions on WMD proliferators. In 2007 the U.S. designated Iranian state-owned Bank Sepah for facilitating the procurement of material needed for missiles capable of carrying weapons of mass destruction.⁶ Later that year, the Treasury Department designated the Islamic Revolutionary Guard Corps (IRGC), Banks Melli and Mellat, and several other entities for involvement in Iran’s WMD and ballistic missile programs.⁷

The U.S. strategy to impose pressure on Iran over its WMD program accelerated substantially in 2010 with the Comprehensive Iran Sanctions Accountability and Divestment Act of 2010 (CISADA), which modified the Iran Sanctions Act and adopted a robust regime of secondary sanctions focused on Iran’s WMD activities and activity of the IRGC. CISADA effectively presented a stark choice to companies around the world—you can do business with designated Iranian entities or do business in the United States, but you cannot do both. CISADA was followed by a number of other legislative and executive measures in subsequent years, such as the FY 2012 National Defense Authorization Act and several others, which made it exceedingly difficult for Iranian entities to function as members of the international commercial system.

The U.S. conducted its sanctions campaign in partnership with others around the world. U.N. Security Council Resolutions starting with UNSCR 1737 in 2006 established an international foundation for the isolation of Iran. And at the same time as the U.S. adopted CISADA, the U.N. Security Council adopted UNSCR 1929, which substantially increased pressure on Iran. In the years since 2005 and especially after 2010, America’s allies and partners banded together to restrict Iran’s access to the international financial system to incentivize it to negotiate regarding its nuclear program. Countries in the EU, as well as others including Japan, Canada, the UAE, and Australia curtailed their dealings with Iran. This was part of a significant coordinated diplomatic effort on the part of the

⁶ “Iran’s Bank Sepah Designated by Treasury Sepah Facilitating Iran’s Weapons Program,” Press Release, U.S. Department of the Treasury, Jan. 9, 2007, <https://www.treasury.gov/press-center/press-releases/Pages/hp219.aspx>.

⁷ “Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism,” Press Release, U.S. Department of the Treasury, Oct. 25, 2007, <https://www.treasury.gov/press-center/press-releases/Pages/hp644.aspx>.

administration and its partners to increase the pressure on Iran, helped significantly by legislation adopted by Congress.

Collaborative efforts with partners were critical to the success of the negotiations that led to the JCPOA, and those partners joined with the United States because they shared the U.S. goal of preventing Iran from obtaining a nuclear weapons program. Now that Iran has committed in the JCPOA to dismantle significant parts of its nuclear program, preserving the JCPOA—the framework in which Iran made those concessions—is an important American interest. Forcing Iran to unilaterally capitulate was never a realistic goal of the sanctions campaign, and sanctions were not imposed for their own sake. The objective was to generate the leverage needed to change Iran’s calculations about its nuclear program, which led to the agreed-upon Joint Comprehensive Plan of Action. Should the U.S. or others depart from their obligations under the JCPOA, Iran will likely feel empowered to do so as well—an outcome that disserves American national interests.

III. Iran’s Commitments Under the JCPOA

The P5+1 and Iran implemented their respective commitments under the JCPOA on January 16, 2016, “Implementation Day.” Most important, Iran committed under the JCPOA that “under no circumstances” will it “ever seek, develop or acquire any nuclear weapons,”⁸ and that with time, Iran’s nuclear program will develop into “a commercial programme for exclusively peaceful purposes, consistent with international nonproliferation norms.”⁹ More specifically, the P5+1 was only obligated to lift certain sanctions imposed on Iran after the International Atomic Energy Agency (IAEA) verified that Iran has fulfilled its nuclear-related commitments. And on Implementation Day, the IAEA certified that Iran did fulfill those commitments, including:

- That Iran rendered calandria in the Arak Heavy Water Research Reactor inoperable by filling openings with concrete such that it will not be usable for a future nuclear application;¹⁰
- That Iran had no more than 130 metric tonnes of nuclear grade heavy water (or equivalent);¹¹
- That Iran had no more than 5,060 IR-1 centrifuges installed at Natanz;
- That Iran was not enriching Uranium above 3.67% at its declared nuclear facilities;
- That Iran had imposed limitations on its centrifuge research and development activities;
- That Iran limited the number of operating centrifuges and other nuclear-related activities at the Fordow Fuel Enrichment Plant;

⁸ Joint Comprehensive Plan of Action at 2, Vienna, Jul. 14, 2015 [hereinafter “JCPOA”].

⁹ *Id.*

¹⁰ *Id.* at Annex I, B.3

¹¹ Report by the Director General, International Atomic Energy Agency, *Verification and Monitoring in the Islamic Republic of Iran in light of United Nations Security Council Resolution 2231 (2015)*, IAEA Doc. GOV/INF/2016/1 (Jan. 16, 2016), <https://www.iaea.org/sites/default/files/gov-inf-2016-1.pdf>.

- That Iran had a stockpile of no more than 300 kg of UF₆ enriched up to 3.67% U-235 (or the equivalent in different chemical forms);
- That Iran will apply the Additional Protocol to its Safeguard Agreement;
- That Iran has implemented a range of transparency measures related to the broad scope of its nuclear-related activities; and
- That Iran has committed to facilitating a long-term IAEA monitoring presence in supervision of its nuclear program.

Since Implementation Day, the Director General of the IAEA has issued two quarterly reports to the IAEA's Board of Governors on its activities to verify and monitor Iran's compliance with the JCPOA, the latest of which was submitted on May 27, 2016.¹² The reports raised no concerns about Iran's compliance with the JCPOA. Approximately six months after Implementation Day, there is therefore no evidence that Iran has materially breached the agreement.

IV. U.S. Sanctions After the JCPOA

In exchange for Iran's concessions on its nuclear program the P5+1 agreed to lift or modify a number of its sanctions on Iran. These include significant portions of the EU's Iran sanctions regime as well as the bulk of the U.N.'s Iran sanctions program. Many of the most important changes, however, are those that occurred to the U.S. sanctions regime. In the JCPOA, the U.S. committed to lift nuclear-related secondary sanctions on Iran, which constitute most of the secondary sanctions it has on Iran, while it retained (with a few exceptions) its primary sanctions program.

Secondary sanctions are those that apply to foreign individuals and entities that may have U.S. business relationships, but are not otherwise subject to U.S. jurisdiction. The secondary sanctions that were eliminated would have imposed consequences on foreign companies that engaged in banking, insurance, or a range of other types of relationships with Iranian entities linked to proliferation prior to the JCPOA. The goal of relaxing sanctions in this way was to facilitate the ability of non-U.S. companies, including non-U.S. banks, to re-engage with Iran. In exchange for this relief, Iran agreed to the significant limitations on its nuclear program described above. These limitations make a critical contribution to the global security environment by ensuring that if Iran adheres to the terms of the deal, it will take at least one year from a decision to build a nuclear weapon for it to "break out" to produce enough weapon-usable material for use in a device. While nuclear-related secondary sanctions were suspended as a result of the JCPOA, some secondary sanctions do remain, including those that could be used to target foreign entities doing business with the IRGC or other Iranian individuals or entities on OFAC's Specially Designated Nationals (SDN) list.

But despite the many secondary sanctions on Iran that were lifted, most primary U.S. sanctions remain, with broad reach. Primary sanctions are those that apply to individuals

¹² Report by the Director General, International Atomic Energy Agency, *Verification and Monitoring in the Islamic Republic of Iran in light of United Nations Security Council Resolution 2231 (2015)*, IAEA Doc. GOV/2016/23 (May 27, 2016), <https://www.iaea.org/sites/default/files/16/06/gov2016-23.pdf>.

and entities subject to U.S. jurisdiction, and the U.S. primary sanctions on Iran, including a near-comprehensive trade embargo, remain the strictest in the world even after the JCPOA. A common way in which U.S. jurisdiction is triggered is when U.S. Dollar-denominated transactions clear through the U.S. financial system. That almost all significant U.S. Dollar-denominated transactions anywhere in the world clear through the United States means that anyone conducting those transactions (including, for example, to purchase Iranian oil) is subject to U.S. sanctions.¹³ Even for those who are not legally bound by U.S. sanctions, the size and importance of the U.S. financial system, and the reputational risk involved in doing business with Iran, means that banks and companies around the world often adhere to U.S. sanctions even if they are not obligated to do so.¹⁴ The U.S. sets the tone for sanctions compliance and enforcement globally.

Although the U.S. primary sanctions regime generally bars persons subject to U.S. jurisdiction from doing business with Iran, the JCPOA included three main exceptions to that general rule (there have long been exceptions to sanctions against Iran for the provision of humanitarian goods, among others). These three exceptions entailed the creation of licensing mechanisms so that: 1) U.S. persons can import Iranian-origin carpets and foodstuffs;¹⁵ 2) U.S.-owned or -controlled foreign entities can engage in certain transactions with Iranian individuals or entities (with some limitations); and 3) U.S. persons with a license may sell commercial passenger aircraft and related parts and services to Iran, but the licenses issued “will include appropriate conditions to ensure that licensed activities do not involve ... any person on the SDN list.”¹⁶

This is the provision of the JCPOA that would allow Boeing and Airbus to sell aircraft, and aircraft parts and maintenance services to Iran, many of which will be used to ensure the airworthiness of Iranian planes—a humanitarian goal in its own right insofar as it protects the ability of ordinary Iranians to travel safely. In considering the appropriateness of any agreement to sell aircraft to Iran for commercial use, it is important to focus on conditions designed to ensure that those sales don’t involve prohibited parties.

V. Continuing Challenges with Respect to Iran

As we can see, therefore, the strategic relationship and financial landscape with respect to Iran remain complex. Strategically, Iran’s support for terrorism, the regime of Bashar al-Assad in Syria, and groups that destabilize a range of U.S. allies and partners in the Middle East, mean that Iran remains an adversary of the United States. With respect to

¹³ Shortly after Implementation Day, Iran attempted to denominate oil transactions in Euros, which would minimize the likelihood the transactions would be subject to U.S. jurisdiction. Nidhi Verma, *Exclusive: Iran Wants Euro Payment for New and Outstanding Oil Sales*—Source, REUTERS, Feb. 8, 2016, <http://www.reuters.com/article/us-oil-iran-exclusive-idUSKCN0VE21S>.

¹⁴ The most common ways to trigger a jurisdictional link to the United States include the involvement of U.S. citizens or lawful permanent residents in transactions, the involvement of companies organized under the laws of the United States or any state, the involvement of people physically inside the United States, or clearing U.S. Dollar-denominated transactions through the U.S.

¹⁵ Iranian Transactions and Sanctions Regulations, 31 CFR § 560.534.

¹⁶ JCPOA Annex II at §5.1.1 n. 12.

the commercial landscape, the P5+1 provided Iran relief from nuclear-related sanctions in exchange for significant constraints on its nuclear program. But global enterprises rightly remain wary of conducting business in Iran. This is because U.S. sanctions on Iran were only partially lifted, because Iran has not developed a meaningful anti-money laundering and counter-terrorist financing (AML/CFT) regime, because of Iran's history of corruption, and because of concerns about the soundness of its banking system, among many others.

There are several specific financial sector risks involved in doing business in Iran, including risks associated with its ongoing support for terrorism. Despite recent government actions that suggest a revised approach to corruption,¹⁷ Iran's record on this issue will continue to make foreign businesses wary. The Financial Action Task Force (FATF), the global AML/CFT standard-setting body, recently retained its identification of Iran's strategic deficiencies in AML/CFT regulation, but suspended its call for countermeasures against Iran in light of Iran's adoption of a strategic plan to address failings in its financial regulatory system.¹⁸ While this measure recognizes Iran's high-level political commitment to improving some problems in its financial system, it has not undertaken enough change to provide the assurance that international investors need to commit to major deals with Iran. The opacity that characterizes much of the Iranian economic and political system makes it very challenging to do business there with confidence that foreign companies can avoid transactions with prohibited parties.

This is a particular risk with respect to the IRGC, which controls large portions of the Iranian economy in ways that might not always be obvious, and against whom U.S. secondary sanctions remain in place. Entities choosing to do business in Iran must be confident that they are not engaging in prohibited transactions with the IRGC or other still-designated entities, but achieving that level of assurance will be very difficult.

They must also guard against the risk that goods or services provided to Iran under the terms of the JCPOA, including aircraft, are diverted from permissible commercial purposes to nefarious ends. There is always a chance that this will take place. And that is why it is important to establish the kinds of conditions and monitoring and verification procedures that will allow companies to proceed with JCPOA-compliant business with as much confidence as possible. This requires effective due diligence, creative contractual terms and licensing conditions, ongoing monitoring, and a collaborative relationship between government and private sector. It is also incumbent on the U.S. Government to monitor the situation closely to ensure that any diversion from legitimate ends is detected in a timely manner and that appropriate enforcement actions are taken.

The mixed record of international commercial engagement with Iran since Implementation Day reflects the challenges involved. After the JCPOA was signed in 2015 there was some initial enthusiasm about re-engaging with Iran. During the first half

¹⁷ Shirzad Bozorgmehr and Joshua Berlinger, *Iranian Billionaire Sentenced to Death*, CNN, Mar. 8, 2016, <http://www.cnn.com/2016/03/06/middleeast/babak-zanjani-death-sentence/>.

¹⁸ Public Statement, Financial Action Task Force (June 24, 2016), <http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/public-statement-june-2016.html>.

of 2016, for example, there were reciprocal visits between the President of Iran and Prime Minister of Italy, during which a number of commercial deals were reportedly signed.¹⁹ But there has also been reluctance on the part of the international commercial community, particularly among the large global banks, to re-engage.²⁰ They are wary of residual sanctions, a difficult commercial climate, and the reputational risks entailed with doing business in a country that engages in widespread human rights abuses and support for terrorism.²¹ Indeed, the U.S. government's finding that Iran is a jurisdiction of primary money laundering concern remains on the books. In light of this situation, reports about the business that has taken place suggest that it is facilitated by smaller European or Turkish banks that have limited connectivity to the U.S. financial system.²²

VI. Conclusion: A Path Forward

The protection of American interests in the Middle East depends on our ability to pursue two paths simultaneously with respect to Iran. First, as long as Iran maintains the integrity and viability of the JCPOA, the P5+1 must do so as well. The JCPOA put meaningful agreed-upon limits on Iran's nuclear program for the first time. Without such limits, Iran would be constrained only by its ability to obtain the inputs needed for a nuclear weapons program, and could be checked only by the willingness of the international community to take extreme measures to stop it. The JCPOA therefore serves a significant American strategic interest by binding Iran to a framework limiting its nuclear program to which Iran itself agreed. We should do what we can to ensure that the JCPOA continues to serve that function, and for the sake of American credibility as well as the viability of the deal, should not stand in the way of Iran obtaining the relief to which the P5+1 committed in the JCPOA.

The U.S. has fulfilled its end of the bargain by lifting nuclear-related secondary sanctions, and establishing the licensing regimes needed for U.S. persons to sell aircraft and related parts and services to Iran, to purchase Iranian foodstuffs and carpets, and to allow foreign subsidiaries of U.S. companies to do business there in certain circumstances. While it is undoubtedly risky for companies to engage in this kind of business, it is clearly permitted by the JCPOA.

With respect to permissible Iran-linked business there is an important role for the government and the private sector to play in monitoring that activity to ensure it stays within the bounds established by the JCPOA. Congress is very well-suited to perform this oversight function—to monitor, to hold hearings, to request information, and to

¹⁹ Nasser Karimi, *Iran and Italy Sign Several Deals During Visit by PM Renzi*, THE ASSOCIATED PRESS, Apr. 12, 2016, <http://bigstory.ap.org/article/0a37f20a0a0045dd9ca74196456d68cf/iran-and-italy-sign-several-deals-during-visit-pm-renzi>.

²⁰ Carol Morello, *Asian and European Banks are Still Shunning Iran—And Tehran Blames the U.S.*, WASH. POST, May 10, 2016, https://www.washingtonpost.com/world/national-security/asian-and-european-banks-are-still-shunning-iran--and-tehran-blames-the-us/2016/05/10/82a5a2c4-138e-11e6-8967-7ac733c56f12_story.html?tid=a_inl.

²¹ Stuart A. Levey, *A Peculiar Message About Iran for European Banks*, WALL ST. J., May 12, 2016, <http://www.wsj.com/articles/kerrys-peculiar-message-about-iran-for-european-banks-1463093348>

²² Benoit Faucon, *Iran's Oil Deals Hit Banking Snag*, WALL ST. J., May 26, 2016.

ensure that all parties to the JCPOA scrupulously adhere to its terms. This goes for Iran, in the conduct of those nuclear activities that the agreement allows it to retain, and for those companies that choose to re-engage in permissible Iran-linked business. Ultimately whether companies choose to do business in Iran is a commercial decision that each will make on its own terms.

Second, the United States and its allies and partners must continue to maintain pressure on Iran so that it changes the behavior that is inimical to U.S. interests—its support for terrorism, repressive regimes, and human rights abuses inside Iran and outside of it. The U.S. and its allies retain a wide range of tools with which to do this, including all of the traditional tools of statecraft—coercive diplomacy, sanctions, and military and diplomatic alliances. The U.S. in particular retains the ability to impose extremely powerful non-nuclear secondary sanctions on parties that engage in business activities with Iranian SDNs, among others.

The challenge for the government and the private sector, for the administration and for Congress, is great. All must work together to ensure the integrity and viability of the JCPOA as an effective mechanism for constraining Iran's nuclear ambitions. But all must work together, too, to use all available means to protect American interests and to limit Iran's malign influence throughout the Middle East and the world.



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Testimony before the
**House Committee on Financial Services,
Subcommittee on Monetary Policy and Trade**

The Implications of U.S. Aircraft Sales to Iran

July 7, 2016

Eric Lorber
Financial Integrity Network

July 7, 2016

Chairman Huizenga, Vice Chairman Mulvaney, Ranking Member Moore, and distinguished members of the Committee on Financial Services, Subcommittee on Monetary Policy and Trade, I am honored to appear before you today to discuss the implications of U.S. aircraft sales to Iran. In particular, I would like to focus my testimony on the threat Iran still poses, both to the region and to the international financial community, the risks in providing commercial aircraft to Iran, as well as how to best mitigate those risks. In addition, I will also speak directly to the three legislative proposals circulated by Committee staff.

As we approach the one-year anniversary of the signing of the Joint Comprehensive Plan of Action (“JCPOA”) between Iran and the P5+1, it is as important as ever to carefully examine the consequences of that agreement and Iran’s continued destabilizing activities in the region, and to remain vigilant in ensuring that Iran is limited in its ability to support terrorist forces and corrupt the international financial system.

While the JCPOA has arguably curbed Iran’s nuclear activities in the short run, the Islamic Republic continues to send fighters to Syria, develop ballistic missiles in violation of United Nations Security Council Resolutions, and openly support Hezbollah, which is well known to have killed Americans and remains designated as a Specially Designated Global Terrorist, as well as other terrorist groups and militant proxies. In short, Iran remains a threat to regional stability in the Middle East and to our key allies such as Israel.

In addition—and of particular importance to this Committee—Iran poses a special threat to the global financial system. Beginning in the early 2000s, the United States and the international community more broadly recognized this threat and began actively cutting Iranian banks out of global financial markets and limiting Iran’s ability to use the international financial system to finance its proliferation and terrorist activities.

Make no mistake. Though Iran has signed the JCPOA and begun implementing it, Iran has not changed the underlying criminal activity that has led respectable financial institutions across the world to refuse to do business in Iran or with clients doing substantial amount of business there. Indeed, one marked development in the past year has been the international financial community’s unwillingness to re-enter the Iranian market, even if legally permitted to do so.

Yet as we approach the one-year anniversary of the JCPOA and despite these serious risks, we are seeing increasing interest from Western companies to legally re-enter Iranian markets. In particular, pursuant to a Statement of Licensing Policy issued by the Office of Foreign Assets Control (“OFAC”) at the United States Department of the Treasury, both Boeing and Airbus have recently struck agreements to sell aircraft to Iran, contingent on securing approval from the United States Government.¹ While these sales were clearly contemplated under the JCPOA, the sale of such aircraft to Iran, and in particular to Iran Air, raises serious concerns that such planes will be used to traffic illicit arms and militants to Syria in support of Syrian President Bashar al-Assad, to Hezbollah in Lebanon, and to militants in Yemen. This fear is warranted: as recent research has shown, Iran Air—as well as still-designated entities like Mahan Air—regularly flies

¹ See, e.g., Rick Gladstone, “Boeing Offers Details on Iran Deal, Saying All Was Done Legally,” *The New York Times*, June 23, 2016. See also Robert Wall, “Iran Faces Financial Hurdles for Airbus Offers,” *Wall Street Journal*, June 1, 2016.



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commercial aircraft to Syria and Lebanon that are known to—or suspected of—transporting arms, cash from illicit activities, or foreign militants.²

At the same time, there are legitimate public policy reasons to at least consider approving these sales. In particular, Iran's commercial aviation safety record is dismal and new Boeing and Airbus aircraft and maintenance would likely reduce these horrible catastrophes that risk the lives of ordinary Iranian citizens.³

Yet any licenses issued by the Treasury Department permitting the sale of aircraft by Boeing and Airbus to Iran Air or any other government entity or private company in Iran risk not only providing the Islamic Republic with new ways to support Hezbollah and President Assad, but also of potentially signaling to the international financial community that it may be acceptable to return to doing business in the Islamic Republic, despite the fact that the underlying international security and financial crimes compliance ("FCC") risks remain.

This Committee is right to consider legislation significantly restricting the sale of these aircraft. In any prospective sale of aircraft to Iran, the impetus must remain on Iran to prove that it is not and will not use them for illicit or dangerous purposes. In the following testimony, I suggest ways the Committee can modify the current legislative proposals to continue to pressure Iran.

Further, the United States should not be a cheerleader for these deals and should not actively help facilitate them. It is one thing to say to private industry that it can do permissible business that was bargained for in the JCPOA. It is quite another to proactively tell U.S. and foreign financial institutions—through a specific licensing process—that they can bank such activities.⁴ Given Iran's history of abusing the international financial system, the United States should refrain from providing legal authorization to any financial institution that wants to re-enter Iranian markets in all but the rarest of circumstances.

I will focus my comments today on four main areas. First, I will discuss the threats posed to the international financial system by Iran's continued support for terrorism and proliferation, as well as the general risks facing any companies considering doing business in the Islamic Republic. Second, I will touch on the specific real and regulatory risks that Boeing and Airbus face when

² See, e.g., Emanuele Ottolenghi, "The Risks of The Iran-Boeing Deal," *The Hill*, June 21, 2016, <http://www.defenddemocracy.org/media-hit/emanuele-ottolenghi-the-risks-of-the-iran-boeing-deal/>. See also "Fact Sheet: Treasury Targets Commercial Infrastructure of IRGC, Exposes Continued IRGC Support for Terrorism," United States Department of the Treasury Press Release, June 23, 2011. Available at <https://www.treasury.gov/press-center/press-releases/Pages/tg1217.aspx>.

³ See, e.g., Mary Fall Wade, "The Boeing-Iran Air Deal: Limited in Scope and Motivated by Safety Concerns," *Iran Matters Blog at the Belfer Center at Harvard University*, Aug. 5, 2014, available at <http://iranmatters.belfercenter.org/blog/boeing-iran-air-deal-limited-scope-and-motivated-safety-considerations>

⁴ A close reading of OFAC's Statement of Licensing Policy suggests that specific licenses for U.S. financial institutions to provide financial services for these contracts suggests that they were not intended to be included under the terms of the Policy, and therefore likely not bargained for during the JCPOA negotiations. In particular, the Policy provides for specific licenses to be issued to "provide associated services, including warranty, maintenance, and repair services for all the foregoing [airplane sales] . . ." Based on this language, it is unclear whether financial services would be categorized as "associated services," and given the other services mentioned (e.g., warranty, maintenance, and repair services), it seems unlikely that the negotiators and drafters meant to include financial services as an associated service.



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deciding whether to sell aircraft and associated services to Iran Air and other Iranian entities, as well as any financial institutions that decide to provide financial services related to the agreements. Third, I will discuss the legitimate safety concerns with the Iranian airline fleet that and how these concerns must be balanced against the financial crime and illicit activity risks inherent in providing these planes to Iran. Fourth, I will comment directly on the three proposed pieces of legislation.

Iran's Illicit Activity

Because of the regime's continued illicit activities, as well as the opacity of its economy, international business and bankers face real risks when considering returning to Iranian markets.

The sanctions and pressure campaign that eventually brought Iran to the table and led to the signing of the JCPOA was, in large part, premised on Iran's use of its financial and commercial system for illicit purposes, namely its proliferation activity, support for terrorist groups, general lack of anti-money laundering ("AML") controls, and corruption endemic to the regime itself. Highlighting these activities and shortcomings, the United States and its partners were able to convince the international business community—and in particular the international banking community—to stop doing business with Iran. In effect, no reputable bank wanted to be helping Iran develop its nuclear weapons program or aiding in its support of terrorist groups. Through arguments premised on reputation—and the direct threat of enforcement actions—policymakers were able to convince the private sector that doing business in Iran was just too dangerous.

This approach reduced Iranian access to the international financial system more and more over time. And the Iranians only hastened this process. As a way to ensure continued funding for illicit activities, Iranian actors substituted legitimate business transactions with illicit ones by funneling them through similar conduits. The Iranian regime often tried to hide the nature of its transactions and the identities of the government entities involved. This led international financial institutions to increasingly view doing transactions with Iranian actors as high-risk and to generally decide that the rewards of doing such business were not worth the risks.

At the same time, the Iranian military was taking greater control of the nation's economy through the Islamic Revolutionary Guard Corps ("IRGC"). The IRGC has embedded itself into Iran's economy, ultimately building what has been called a veritable business empire.⁵ The reach of the IRGC's economic empire now extends to majority stakes in infrastructure companies, shipping and transport, beverage companies, and food and agriculture companies.⁶

In 2006, the IRGC acquired control of the Iranian telecommunications sector, and it began to control more elements of the nation's energy sector, including the development of pipelines and the valuable South Pars oil field. Some estimates note that the IRGC controls between 25 and

⁵ Frederic Wehrey, Jerrold D. Green, Brian Nichiporuk, Alireza Nader, Lydia Hansell, Rasool Nafisi, & S. R. Bohandy, *The Rise of the Pasdaran: Assessing the Domestic Roles of Iran's Islamic Revolutionary Guards Corps* (Washington, DC: RAND Corporation, 2009).

⁶ Emanuele Ottolenghi, *The Pasdaran: Inside Iran's Islamic Revolutionary Guard Corps* (Washington, DC: Foundation for Defense of Democracies, 2011) at 44–45.



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40 percent of Iran's gross domestic product.⁷ The IRGC is deeply involved in building Iran's infrastructure, pursuing projects such as deep-water ports and underground facilities important to Iran's defense and economy. These projects and industries give the IRGC political power and access to profits and capital, which have grown over time.

The IRGC is also actively engaged in—and often times the driving force behind—Iran's most destabilizing activities, with responsibilities related to the development of weapons of mass destruction, missile systems, and overseas operations. It and its affiliates have been responsible for all the activities—weapons proliferation, terrorist support, and militant activity—for which Iran was sanctioned in the past.

As part of past efforts to exclude Iran from the financial system, the U.S. Treasury made the argument directly to banks and companies around the world that it was too risky to do business with Iran, since it was almost impossible to accurately determine who the banks' real customers actually were. In addition, starting in 2006 and 2007, the United States designated IRGC entities and Bank Melli, Bank Mellat, and Bank Saderat as proliferators of weapons of mass destruction. Treasury Department officials also conducted an outreach campaign to European and Asian financial institutions, noting how dangerous it was from a reputational risk perspective to be seen as doing business with such illicit financial institutions and actors.⁸

At the same time as targeting these entities for their proliferation-related activity, the United States continued to focus aggressively on Iranian individuals and organizations engaged in terrorism-related activities, designating a number of IRGC-related entities for their continued support of terrorism, as well as large Iranian banks such as Bank Saderat.⁹ In addition, in 2008 the United States revoked the U-turn exception for Iran, which had previously allowed foreign financial institutions to facilitate transactions for Iranian persons in U.S. dollars.¹⁰ This action made it significantly more difficult for Iranian persons to conduct transactions in U.S. dollars.

Building off of these designations and its cooperation with European and Asian financial institutions, in 2010 the United States began significantly expanding the scope of its Iran sanctions program to more comprehensively target Iran's ability to conduct financial transactions in non-U.S. markets. Beginning in 2010 with the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 ("CISADA"), the United States threatened to shut off access to U.S. financial markets for those foreign financial institutions conducting business with certain Iranian companies and financial institutions.¹¹ These so-called secondary sanctions were aimed at closing a key gap in the U.S. effort to prevent Iranian illicit activities and to damage its economy. Prior to the imposition of CISADA, non-U.S. persons could conduct certain transactions with

⁷ *Id.* at 43.

⁸ Peter Feaver and Eric Lorber, "Coercive Diplomacy: Evaluating the Consequences of Financial Sanctions" (Legatum Institute, November 2010) at 28-30.

⁹ See Juan Zarate, "Harnessing the Financial Furies: Smart Financial Power and National Security," *The Washington Quarterly*, Vol. 32, No. 4 (2009) at 53.

¹⁰ Transactions involving the transfer of funds from a foreign bank that pass through a U.S. financial institution and are then immediately transferred out to a second foreign bank are referred as U-turn transactions. Steven Weisman, "U.S. Puts the Squeeze on Financing in Iran and North Korea," *The New York Times*, October 16, 2006, http://www.nytimes.com/2006/10/16/world/americas/16iht-sanctions.3173938.html?_r=1&.

¹¹ See Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010.



designated Iranian persons, assuming the United States had no jurisdiction over the activity. As a way to prevent Iran from engaging in these transactions, the United States put a choice to those non-U.S. persons doing such business: either do business with Iran, or in the United States, but not both. In particular, it threatened to force U.S. financial institutions to close correspondent accounts held by these non-U.S. persons in the United States.¹² Importantly, these secondary sanctions were substantively different from designations that required the blocking or freezing of designated entities; rather, U.S. authorities would simply prevent targeted non-U.S. entities from enjoying access to U.S. markets.

The United States continued this campaign to prevent foreign financial institutions and companies from doing business with designated entities in Iran. For example, in 2011, the United States Department of the Treasury designated Iran as a jurisdiction of primary money laundering concern. While this designation was never promulgated as a final rule by the Treasury Department, it put foreign financial institutions on notice that conducting transactions in Iran was risky and could result in being cut off from U.S. markets.

And while the JCPOA has relaxed certain sanctions related to the development of Iran's nuclear program, the underlying risks of illicit conduct remain. For example, as recently as February 19, 2016, the Financial Action Task Force ("FATF") issued a statement warning that Iran's "failure to address the risk of terrorist financing" poses a "serious threat ... to the integrity of the international financial system."¹³ The international community continues to recognize that Iran—regardless of the status of its nuclear program—poses a real and serious threat to the integrity of the global financial system. Indeed, the FATF, while suspending the imposition of mandatory countermeasures for one year to try to coax Iran into reforming its decrepit jurisdictional AML and CFT controls, recently decided to keep Iran on its so-called "Black List" to ensure that financial institutions around the world understand the serious risks that exist with doing business in Iran.¹⁴

The Risks of Doing Business in Iran

On January 16, 2016, the United States, the European Union, the United Nations, and other countries unwound a substantial number of sanctions on the Islamic Republic of Iran as part of

¹² A correspondent account is "an account established for a foreign financial institution to receive deposits from, or to make payments or other disbursements on behalf of, the foreign financial institution, or to handle other financial transactions related to such foreign financial institution." 31 C.F.R. § 1010.605(c)(1)(i). Correspondent banking is a financial relationship in which a bank maintains an account with a financial institution in another country in order to enjoy access to that country's currency or financial sector. In this case, non-U.S. financial institutions have such accounts with U.S. banks in order to transact in dollars. Closing these accounts would make it significantly more difficult for these non-U.S. financial firms to access U.S. dollars or financial markets. See, e.g., Samuel Rubinfeld and Eyk Henning, "Commerzbank Settles Allegations of Sanctions, Money-Laundering Violations," *The Wall Street Journal*, March 12, 2015, <http://www.wsj.com/articles/commerzbank-to-settle-u-s-allegations-of-sanctions-and-money-laundering-violations-1426177346>.

¹³ "FATF Public Statement," *Financial Action Task Force*, Feb. 19, 2016. Available at <http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/public-statement-february-2016.html>.

¹⁴ Mark Dubowitz and Toby Dershowitz, "Risky Business in Iran," *Forbes*, June 28, 2016, <http://www.forbes.com/sites/realspin/2016/06/28/risky-business-in-iran/#95318072a37d>.



their obligations under the JCPOA.¹⁵ Most notably, many EU and UN sanctions, as well as many U.S. “secondary” sanctions, will no longer remain in force. “Primary” U.S. sanctions programs barring almost all U.S. persons from doing Iran-linked business remain.¹⁶

In the wake of Implementation Day and with remaining sanctions and financial crime concerns, important questions exist regarding what doing business in or with Iran now means and how to evaluate and manage such risk.

As Iran attempts to reintegrate into the world economy, many challenges remain for companies considering doing business in the Islamic Republic, with Iranian counterparties, or supporting customers operating in Iran. Dealing with the spectrum of risk – financial crime, regulatory, reputational, and policy – in the Islamic Republic will require that U.S., European, Asian, Middle Eastern, and other firms clearly understand the patchwork of sanctions that will remain in place on the country, as well as many of the systemic issues, such as corruption, impacting various Iranian business sectors. Companies must also factor the risk that sanctions may “snap back” in the medium or long term into their business decisions.

This complicated risk environment has dissuaded most legitimate companies from re-entering and investing in the Iranian economy. While Iranian markets may appear attractive, companies considering transacting with persons in Iran or doing business in Iran are proceeding with caution. Companies considering doing business in Iran or with Iranian persons must contend with at least eight sanctions and financial crimes-related risks:

1. **Primary U.S. Sanctions.** Most U.S. primary sanctions, which broadly prohibit U.S. persons from conducting transactions in Iran, with persons resident in Iran, or with the Government of Iran, will remain in force. These U.S. primary sanctions pose significant risks for any multinational company considering doing business in Iran. U.S. jurisdiction is broad and U.S. regulators can use it to target transactions that may not initially appear to touch U.S. markets or involve U.S. persons.

U.S. jurisdiction applies to all U.S. individuals (including U.S. citizens and permanent resident aliens, wherever located, as well as persons located in the United States) and entities (including any entity located or operating in the United States, organized under the laws of the United States, as well as foreign branches of U.S. entities). Further, the United States may impose penalties (civil or criminal) on any foreign person who *causes* a U.S. person to violate sanctions regulations.¹⁷

¹⁵ This section draws heavily from the recent Financial Integrity Network Policy Alert. “Post-Implementation Day Risks of Doing Business in Iran,” *Financial Integrity Network Policy Alert*, Mar. 2016. Available at <http://www.financialintegritynetwork.net/policy-alerts.html>.

¹⁶ Primary sanctions are those that apply directly to (1) the activities of U.S. persons (including persons located in the United States), (2) non-U.S. persons who cause U.S. persons to violate U.S. sanctions regulations, (3) activities taking place within the United States, and (4) transfers of U.S.-regulated goods, services, and technologies. Secondary sanctions apply to non-U.S. persons where the United States lacks jurisdiction to impose primary sanctions. Such sanctions often include privileging a company’s access to U.S. markets on compliance with U.S. sanctions regulations.

¹⁷ See 50 U.S.C. § 1705.



For example, if a Middle Eastern, European, or Asian financial institution conducts transactions on behalf of an Iranian company and the transaction involves a U.S. bank or a correspondent account located in the United States, U.S. regulators will likely have jurisdiction over the transaction and can impose *penalties* on the non-U.S. financial institution. Similarly, if a Middle Eastern exporting company with U.S. offices relies on those offices for back office functions for transactions related to Iran or with an Iranian, the U.S. offices providing back office support will be engaged in the prohibited exportation of services to Iran (and can be subject to OFAC penalties). Where the Middle Eastern entity caused the U.S. offices to provide the services without knowledge of the Iranian nexus, U.S. regulators could impose fines on that Middle Eastern entity for causing the U.S. offices to violate the sanctions.

Even those U.S. companies taking advantage of the new General License H – which permits foreign subsidiaries of U.S. companies to engage in certain activities in Iran – will face significant sanctions-related risks. While these subsidiaries may be allowed to conduct those activities, if the U.S. parent company is involved in any Iran-related business or transactions, it will likely be exposed to U.S. primary sanctions.¹⁸ Multinational companies must build a firewall between U.S. parents and any foreign subsidiary doing business with Iranian persons or in Iran, which may be difficult to effectively do in practice

Because the breadth of U.S. jurisdiction is expansive, companies based in Europe and Asia must be aware that any engagement with Iran may still expose them to remaining U.S. sanctions. Companies, particularly ones operating across borders, have to pay careful attention to whether they may be subject to U.S. jurisdiction, which might pose one of the most pressing regulatory risks that any company considering entering Iranian markets will face.

2. ***Remaining U.S. Secondary Sanctions.*** Foreign businesses considering doing business in Iran will continue to face the risk of violating remaining “secondary sanctions” on Iran, which prohibit foreign financial institutions and other non-U.S. headquartered companies from doing certain business with Iran. While many of the secondary sanctions imposed since 2010 have been unwound,¹⁹ non-U.S. persons are still at risk for violating

¹⁸ Note that U.S. parent companies are permitted to establish policies and procedures that allow these foreign subsidiaries to conduct business in Iran and with Iranian persons, though after the initial decision to re-engage in Iran-related business and the establishment of procedures for doing so, U.S. persons cannot be involved in the activities of their foreign subsidiaries relating to transactions with Iranian persons or in Iran. Similarly, U.S. companies can make their automated computing, accounting, and communications systems available for their subsidiaries conducting permitted activities in Iran. In effect, this permits foreign subsidiaries doing permitted business in Iran to continue to use the same computer systems as their parent companies. Note however that provision does not allow U.S. parents to otherwise be involved in those activities in any way.

¹⁹ Following Implementation Day, non-U.S. entities can now conduct certain transactions with:

- The financial and banking industry in Iran, including maintaining correspondent accounts for non OFAC-designated Iranian financial institutions, the provision of financial messaging services, dealing in the rial and in Iranian sovereign debt, and issuing credit cards for Iranians;
- Insurance-related activities consistent with the JCPOA, including payment of claims to non-U.S. persons;
- The energy industry;



remaining U.S. secondary sanctions if they engage in transactions with any one of more than 200 people and entities listed as Specially Designated Nationals (“SDNs”) including the IRGC and its affiliates.

These restrictions pose additional and significant risks because under U.S. law, entities owned or controlled 50% or more by designated persons—so-called “shadow SDNs”—are by law also considered SDNs. For example, if a foreign financial institution processes transactions on behalf of an entity that is owned or controlled by the IRGC (whether or not that entity is listed on national or international lists of designated parties) it could be subject to U.S. secondary sanctions. This creates significant risk for financial institutions and other companies wishing to do business in Iran, given that the IRGC controls a significant portion of the economy. This risk is further exacerbated by Iranian attempts to create a “gold rush” psychology in the marketplace and to muddy the waters regarding what restrictions may apply to specific transactions. We should expect Iranian customers and counterparties to alter ownership interests, names of entities, and ownership structures in an attempt to hide links to designated parties. This would match past practices of sanctions evasion and obfuscation of financial transactions.

Determining whether a customer, partner, or counterparty is owned or controlled by a designated person will be a challenging task, further complicated by the fact that the Office of Foreign Assets Control at the United States Department of the Treasury has provided limited guidance on how companies looking to do business in Iran can determine whether they are inadvertently doing business with the IRGC. OFAC recommends only that “a person considering business in Iran or with Iranian persons conduct due diligence sufficient to ensure that it is not knowingly engaging in transactions with the IRGC or other Iranian or Iran-related persons on the SDN List and keep records documenting that due diligence.” Businesses looking to enter the Iranian market must make their own determinations about what constitutes “sufficient” due diligence without more precise guidance and while the structure of civil and criminal penalties for sanctions violations remains in place.

Further, non-U.S. persons still need to be aware of remaining U.S. export controls. For example, restrictions still apply regarding the facilitation of Iranian acquisition or development of weapons of mass destruction. In addition, transfers of certain potential dual-use materials must be approved via the procurement channel established by the JCPOA. U.S. origin goods, technology, and services also are subject to the Export Administration Regulations, which retain prohibitions on exports and re-exports to Iran.

3. ***Remaining EU and UN Sanctions.*** While most EU and UN sanctions on Iran have been unwound, a number of important restrictions remain in place.²⁰ Under EU law, trade

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- Shipping, shipbuilding, and port operations;
 - Precious and raw/semi-finished metals dealers; and
 - The automotive industry, insofar as non-U.S. goods, technology, and services are involved.

²⁰ Under EU law, several engagements previously prohibited, including associated services, are now allowed so long as they avoid dealing with listed Iranian persons:



restrictions on the sale, export, provision, or servicing of goods deemed to be “internal repression equipment,” or used for “telecommunications surveillance and interception,” remain in place. Likewise, the EU will continue to impose asset freezes and prohibitions on business and trade with individuals and entities designated for committing human rights abuses and restrictions on the trade of certain items related to nuclear proliferation.

UN Security Council Resolutions that imposed sanctions on Iran for its nuclear program were terminated on Implementation Day. Thus, the United Nations no longer imposes limits on providing insurance and reinsurance products to Iranian entities, and no longer prohibits the opening of new Iranian bank branches or subsidiaries outside Iran (nor is there a mirrored prohibition on entities from UN member states doing the same within Iran). However, a UN arms embargo and UN sanctions on Iran’s ballistic missile program remain in place. Further, some individuals designated by the UN for participating in nuclear and ballistic missile programs will remain designated.²¹ The recent missile tests and Iranian promises for more simply exacerbate the risk that additional sanctions will be applied.

4. ***Likely Additional Sanctions.*** Businesses interested in entering Iran should be aware that additional designations and sanctions are likely as the United States Congress continues to focus on illicit Iranian behavior and as Iran continues with activities such as ballistic missile testing and the provision of support to terrorist groups. Congress has explored additional sanctions legislation, in particular related to more stringent sanctions tied to the IRGC and its ownership and control interests. Though the Administration will resist actions that appear to re-impose lifted sanctions, both the House of Representatives and the Senate appear interested in pursuing legislation that directly or indirectly impacts Iran, including the recent legislation imposing additional sanctions on Hezbollah.

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- Financial, banking, and insurance measures involving Iranian entities—including the provision of insurance to Iranian oil and gas shipments—are now permitted by EU law and do not require prior authorization;
 - The import, purchase, swap, and transport crude oil and petroleum products, gas, and petrochemical products from Iran, and the export of equipment to Iran for use in the energy industry are now permitted;
 - Engagements with the Iranian shipping, shipbuilding, and transport sectors are no longer restricted;
 - Trade with Iran involving gold, other precious metals, banknotes, and coinage is now permissible;
 - While the sale or transfer of certain graphite and raw/semi-finished metals to any Iranian entity is no longer prohibited, such activity is subject to an authorization regime; and
 - While the sale or transfer of Enterprise Resource Planning software to any Iranian entity for use in activities consistent with the JCPOA is no longer prohibited, such activity is subject to an authorization regime.

Like the United States, the EU has also delisted certain entities that are thus no longer subject to its asset freeze, prohibition to make funds available, and visa ban. However, certain financial institutions such as Ansar Bank, Bank Saderat Iran, Bank Saderat PLC, Bank Sepah, Bank Sepah International, and Mehr Bank remain listed by the EU.

²¹ Pursuant to the terms of United Nations Security Council Resolution (UNSCR) 2231 (2015) (which endorsed the JCPOA), all prior United Nations Security Council Resolutions mandating sanctions on Iran — namely, UNSCR 1696 (2006), 1737 (2007), 1747 (2007), 1803 (2008), 1835 (2008), 1929 (2010), and 2224 (2015) — were formally terminated upon receipt of the IAEA’s report verifying that Iran has met its nuclear-related obligations under the JCPOA. Through UNSCR 2231, the UN continues to impose certain restrictions on nuclear, conventional arms, and ballistic missile-related activities involving Iran.



The Administration has been inclined to demonstrate its willingness to sanction non-nuclear Iranian behavior, both to stave off additional congressional action and address Iranian threats to U.S. interests. It has not wanted, however, to impose sanctions or financial measures that would allow Iran to claim that the United States had violated the terms of the JCPOA. Since Implementation Day, the Treasury Department has twice used ballistic missile-related designations – in January 2016, designating 11 entities and individuals involved in procurement on behalf of Iran’s ballistic missile program, and then again on March 2016, designating additional parties tied to the missile program. Companies are aware that additional Iranian individuals, companies, and related networks could be designated, effectively requiring an end to any financial or commercial relationship.

This risk increases as Iran engages in activities that spur additional U.S. and possibly EU sanctions. In addition to its support to terrorist groups and the Assad regime, its ballistic missile program, and human rights abuses, there are other risks attendant to doing business with Iran. Iran’s link with North Korea, and in particular its cooperation on proliferation and ballistic missile-related issues, increases the likelihood that the United States and the European Union will impose additional sanctions on the Islamic Republic. For example, in late January, France requested the European Union consider imposing additional sanctions on Iran for its continued ballistic missile activities.

5. ***Iran’s Potential Cheating on the JCPOA.*** If the United States or other members of the P5+1 conclude that Iran is cheating on its obligations under the JCPOA, they can snap back many of the sanctions into place. In the context of any potential snapback, OFAC has made clear that there will be no “grandfather” clause for pending transactions, meaning foreign companies doing business in Iran would need to very quickly wind down their operations, potentially at a significant loss. While the Obama Administration will be unlikely to push for a comprehensive snapback of sanctions unless there is a serious, material breach of the JCPOA, Treasury Department officials have made it clear that they have developed more limited snap back mechanisms in the case that Iran pushes the envelope and engages in activities that violate its obligations. Similarly, depending on the outcome of the U.S. presidential election in November 2016, candidates have expressed a desire to re-impose sanctions on Iran. Such action could pose serious risks for foreign companies doing business in the Islamic Republic.
6. ***Sanctions Violations Enforcement Posture.*** The United States Department of the Treasury has indicated it will continue to aggressively enforce regulations remaining in place. For example, acting Under Secretary of the Treasury for Terrorism and Financial Intelligence Adam Szubin noted following Implementation Day that “[w]e have consistently made clear that the United States will vigorously press sanctions against Iranian activities outside of the Joint Comprehensive Plan of Action – including those related to Iran’s support for terrorism, regional destabilization, human rights abuses, and ballistic missile program.” Indeed, the day after JCPOA Implementation Day, the U.S. government imposed sanctions on entities and individuals in the Middle East and Asia for supporting Iran’s ballistic missile program. These types of sanctions will be used to help demonstrate to Iran and U.S. allies that the United States remains prepared to use



economic measures to enforce existing sanctions. In addition, Iran's history of using a variety of financial and commercial measures to hide its hand to evade sanctions and the scrutiny of the international community adds additional risk that sanctions may be applied.

7. ***Regulatory Risk from Multiple Enforcement Agencies.*** From a regulatory and enforcement perspective, it is important to note that the Treasury Department and OFAC are not the only arbiters of sanctions violations and requirements. The United States Department of Justice, the Securities and Exchange Commission, state prosecutors, and various New York authorities, such as the Department of Financial Services, will all play a significant role in how existing sanctions regulations and related laws are enforced. Local authorities may elect to take a more aggressive enforcement posture with respect to sanctions violations, which would fall outside of the federal government's control. Any company considering doing business in Iran or with Iranian individuals or entities will need to pay close attention to the regulatory and enforcement postures taken by these other government agencies.
8. ***Financial Crimes Risks in Iran.*** Though the recent business attention on Iran has understandably focused on sanctions-related issues, banks and businesses must remember that other financial crimes concerns in the Islamic Republic remain pervasive. In particular, the nature of the Iranian economy and the role of the government within the economy present serious risks related to bribery and corruption, money laundering, and illicit financing. Iran ranked 130 of 175 countries in Transparency International's Corruption Perceptions Index as of 2015.

In 2011, the U.S. identified Iran as a state of primary money laundering concern pursuant to Section 311 of the USA PATRIOT Act. The FATF first raised concerns over Iran's lack of a comprehensive anti-money laundering/countering the financing of terrorism (AML/CFT) framework in 2007, and it still urges Iran to meaningfully address AML/CFT deficiencies. OFAC also has made it clear that activity inconsistent with a wide range of Executive Orders imposing sanctions on Iran (including for providing support to terrorism, undermining the stability of Yemen, and other behaviors) could still subject U.S. and non-U.S. persons to sanctions.

As some of the sanctions on Iran are unwound, many European, Asian, and Middle Eastern companies understandably want to re-engage in the Iranian economy. The risk appetites of companies will likely vary by sector, with large oil, aerospace, auto, infrastructure, and equipment companies likely more willing to enter Iranian markets more quickly and with a higher tolerance for risk.

However, these risks are a significant part of the reason that the world's most reputable financial institutions have been unwilling to return to Iran. When speaking with the world's largest and most respected banks, the response to the partial unwinding of sanctions on Iran has been remarkably uniform: while banks recognize that there are commercial opportunities in the country, the real and regulatory risks remain far too high to consider re-entering the market. Indeed, as Stuart Levey, the former Undersecretary of the Treasury for Terrorism and Financial



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Intelligence and now the Chief Legal Officer of HSBC recently remarked in a *Wall Street Journal* op-ed:

Washington has warned repeatedly that the Islamic Revolutionary Guard Corps controls broad swaths of the Iranian economy. The IRGC remains sanctioned by both the U.S. and the EU because of the central role it plays in Iran's illicit conduct. When the U.S., EU, and U.N. removed sanctions from several hundred Iranian banks and companies, there were no assurances that the conduct of those banks and companies had changed. . . . Our decisions will be driven by the financial-crime risks and the underlying conduct. For these reasons, HSBC has no intention of doing any new business involving Iran. Governments can lift sanctions, but the private sector is still responsible for managing its own risk and no doubt will be held accountable if it falls short.²²

Risks Facing Boeing

Given the opacity of Iran's economy and the likelihood that Iranian companies with whom Western firms are doing business are owned or controlled by designated parties, the risks Western firms face in dealing directly or indirectly with supporters of terrorism, human rights abuses, and weapons proliferation remain high.

In the case of Boeing's proposed sale of up to \$25 billion worth of new aircraft and associated services, these risks are even higher. In late June, Boeing agreed to a Memorandum of Understanding with Iran Air to sell aircraft to the Iranian company.²³ While execution of the contract is contingent on U.S. Government approval, the United States Department of the Treasury is likely to grant the necessary specific licenses, as such sales were contemplated as part of the JCPOA negotiations and were the primary reason for OFAC's issuance of its new Statement of Licensing Policy related to aircraft sales to Iran.²⁴

But unlike the situation faced by many European companies eager to re-enter Iran but uncertain as to whether their counterparties are owned or controlled by the IRGC or other designated parties, in this case Iran Air is well known to have engaged in illicit activities on behalf of the regime. Iran Air was designated by the United States Department of the Treasury in 2011 for serving as one of the primary transportation tools of the IRGC. According to the Treasury announcement at the time:

²² Stuart Levey, "Kerry's Peculiar Message About Iran for European Banks," *Wall Street Journal*, May 12, 2016, <http://www.wsj.com/articles/kerrys-peculiar-message-about-iran-for-european-banks-1463093348>.

²³ Robert Wall, "Boeing Signs Deal to Sell Jets to Iran's State Airline," *Wall Street Journal*, June 21, 2016.

²⁴ The OFAC Licensing Policy states, "Consistent with U.S. foreign policy and the United States' commitment with respect to sanctions reflected in Section 5.1.1. of Annex II to the Joint Comprehensive Plan of Action of July 14, 2015 (JCPOA), the following Statement of Licensing Policy establishes a favorable licensing policy under which U.S. and non-U.S. persons may request specific authorization from OFAC to engage in transactions for the sale of commercial passenger aircraft and related parts and services to Iran, provided such transactions do not involve any person on OFAC's Specially Designated Nationals and Blocked Persons ('SDN List'). . . . [S]pecific licenses may be issued on a case-by-case basis . . . provided that licensed items and services are used exclusively for commercial passenger aviation." Note that this same language is contained in Annex II of the JCPOA.



Iran Air has provided support and services to [Iran's Ministry of Defense and Armed Forces Logistics] MODAFL and the IRGC through the transport and/or transfer of goods for, or on behalf of, these entities. On numerous occasions since 2000, Iran Air shipped military-related electronic parts and mechanical equipment on behalf of MODAFL. . . . Iran Air has shipped military-related equipment on behalf of the IRGC since 2006, and in September and November 2008, Iran Air shipped aircraft-related raw materials to a MODAFL-associated company, including titanium sheets, which have dual-use military applications and can be used in support of advanced weapons programs. Rockets or missiles have been transported via Iran Air passenger aircraft, and IRGC officers occasionally take control over Iran Air flights carrying special IRGC-related cargo. The IRGC is also known to disguise and manifest such shipments as medicine and generic spare parts, and IRGC officers have discouraged Iran Air pilots from inspecting potentially dangerous IRGC-related cargo being carried aboard a commercial Iran Air aircraft, including to Syria. Additionally, commercial Iran Air flights have also been used to transport missile or rocket components to Syria.²⁵

While Iran Air was de-designated as part of the JCPOA, the illicit activity that led to the designation does not appear to have changed. According to Emanuele Ottolenghi at the Foundation for Defense of Democracies, who systematically tracks Iran Air flight destinations for indications that the company is sending illicit goods or fighters to Syria and Lebanon, "Iran Air planes recently flew known resupply routes to Syria – on June 9 from Abadan while using the Tehran-Damascus flight number, and on June 8 and 15 from Tehran while using the now-defunct Najaf-Tehran flight number."²⁶ Given Iran Air's historical record of supporting the IRGC, President Assad, and Hezbollah, in addition to recent indications that it has not changed such activity, Boeing risks selling aircraft and associated parts and services that will be directly used by designated parties for sanctionable purposes.²⁷ Further, Iran has a long history of employing sanctions evasion techniques, meaning that even if Boeing believes Iran Air is employing these aircraft for commercial purposes, the airline could be surreptitiously using them to support illicit activity.

These risks are also likely the reason that Boeing and Airbus have reportedly had significant difficulty finding financial institutions to provide the necessary financing for these sales. Wolfsberg Group banks have been highly reluctant to provide financial services on either of these two proposed deals, in large part because of the illicit financing risks that remain in Iran.²⁸

²⁵ "Fact Sheet: Treasury Targets Commercial Infrastructure of IRGC, Exposes Continued IRGC Support for Terrorism," United States Department of the Treasury Press Release, June 23, 2011. Available at <https://www.treasury.gov/press-center/press-releases/Pages/tg1217.aspx>.

²⁶ Emanuele Ottolenghi, "The Risks of The Iran-Boeing Deal," *The Hill*, June 21, 2016. <http://www.defenddemocracy.org/media-hit/emanuele-ottolenghi-the-risks-of-the-iran-boeing-deal/>.

²⁷ Note too that even if Boeing were to sell these aircraft or services to other Iranian airlines—or if Iran Air were to lease these aircraft to other Iranian airlines—significant risks would remain. As the Treasury Department has detailed, many of Iran's airlines also assist the regime in transporting weapons and other illicit goods.

²⁸ The Wolfsberg Group banks include: Banco Santander, Bank of America, Bank of Tokyo-Mitsubishi UFJ, Barclays, HSBC, Citigroup, Credit Suisse, Deutsche Bank, Goldman Sachs, J.P. Morgan Chase, Societe Generale, Standard Chartered, and UBS.



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Indeed, in February of this year Airbus executives publicly pleaded with European banks to provide financing to facilitate Airbus's proposed \$27 billion sale of 118 aircraft to Iran.²⁹

Financial firms' fears are well founded: one of the most powerful sanctions provisions still in place following Implementation Day is §104(c)(2)(E)(i) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010. This provision prohibits opening or maintaining U.S. correspondent or payable through accounts for foreign financial institutions found to have knowingly facilitated a transaction or provided financial services to the Iranian Revolutionary Guard Corps, its agents or affiliates, or any other person designated in connection with proliferation of WMDs or delivery systems or support for terrorism. In this case, if Iran Air, working on behalf of the IRGC, used these commercial airliners to deliver arms or personnel to Syria or to Hezbollah, whichever foreign bank providing such services to the seller of the airplanes could potentially lose its correspondent account access to the United States, a virtual death sentence for global banks.

Given these risks, absent explicit U.S. legal assurances that financing such transactions is permitted, reputable financial institutions in the United States and Europe will likely remain on the sidelines and continue exercising an abundance of caution when asked to provide services in connection with these airplane sales.

On this point, moreover, some analysts believe that if Boeing and Airbus were to secure banking services from reputable financial institutions for these agreements, this would signal a change in banks' risk appetite for re-entering the Iranian market; in effect, securing such financial services could serve as a bellwether and would be the start of the return of significant levels of financial services in connection with Iranian business. While this risk exists—and is almost certainly what Iran is hoping to achieve as part of a broader strategy of financial integration without changing its underlying illicit conduct—what is perhaps most striking with the signing of these large contract terms is that, despite the huge dollar figures, reputable banks remain unwilling to provide services related to them. This reluctance—combined with numerous conversations with many of these financial institutions' executive staffs and compliance officers—suggests that the likelihood of large financial institutions returning to bank Iran-related business remains low.

The bottom line is that international financial institutions are rightly concerned about doing business with Iran generally, and in particular if the counterparty in the transaction is Iran Air or another Iranian entity that has been previously designated and likely continues to engage in prohibited activity. The impetus should be on Iran to clean up Iran Air's act and ensure that it is not providing assistance, directly or indirectly, to designated entities like the IRGC. Until it does, financial institutions and respected U.S. and European companies should be reluctant about entering into any deals with Iran Air or similar companies.

Safety for Iran's Aviation Sector

²⁹ Fabio Benedetti Valentini and Ladane Nasser, "Europe's Banks are Staying Out of Iran," *Bloomberg*, May 2, 2016, <http://www.bloomberg.com/news/articles/2016-05-03/europe-s-banks-haunted-by-u-s-fines-forgo-iran-deals-amid-boom>.



While selling aircraft to Iran pose significant risks that this equipment will be used to support Syrian President Bashar al-Assad, Hezbollah, or Houthi forces in Yemen, there are also legitimate reasons, both economic and more importantly safety, for Iran to acquire new commercial aircraft. Most notably, the Iranian commercial airline industry's safety record in recent decades has been abysmal, due in part to the antiquated nature of its Western fleet and the fact that it has had rely on sub-standard Russian planes.

Four out of 40 fatal crashes of the Russian-made Tupolev Tu-154 have occurred inside Iran, killing almost 450 people.³⁰ Iran's attempt to use Ukrainian planes while working towards aviation self-sufficiency has caused fatalities as well: "The decade and a half following Antonov's decision to license production of its An-140 to Iran has seen no more than a dozen IrAn-140s roll off the assembly line, no fewer than four accidents involving the type and a regulatory ban on all flight operations by the aircraft."³¹ The failure of the IrAn-140 dashed the hopes of Mahmoud Ahmadinejad's minister of roads and transportation, who asserted that the project would help Iran "compete with the foreigners" and achieve "independence from trade with Western powers."³²

According to one report, "[i]n the last 25 years there have been more than 200 accidents involving Iranian planes, resulting in 2000 deaths and many more debilitating injuries. With this abysmal safety record, the odds an Iranian air passenger will die on a flight are 100 times higher than those for passengers on the world's major carriers."³³

While the risks of doing business with Iran Air remain high, especially considering the company's past and likely continued support for terrorism, there are certain legitimate reasons to sell these aircraft to companies in the Islamic Republic. As discussed below, there may be ways to structure contracts to limit Iran's ability to use these aircraft for nefarious purposes, including by requiring verification that the aircraft are not being used for such activities. However, Congress and the Administration should clearly understand that such measures may be limited in reach and ultimately unable to stem Iran's illicit use of these aircraft.

Congressional Opportunities

This Committee has an important role to play in ensuring that Iran is unable to continue supporting Syrian President Bashar al-Assad and Hezbollah and engaging in destabilizing activities in the region. Congress should work to ensure that the impetus remains on Iran to clean up its financial act and cease attempting to use legitimate channels of business—such as connections to the international financial system and the purchase of commercial aircraft—for illicit purposes.

³⁰ Fred Weir, "Iran airline crash: What's the Russian jet's safety record?" *Christian Science Monitor*, July 15, 2009, <http://www.csmonitor.com/World/Global-News/2009/0715/iran-airline-crash-whats-the-russian-jets-safety-record>.

³¹ "How Iran's aerospace dream began and ended with the licence-built IrAn-140," *Flight Global*, Nov. 25, 2014, available at <https://www.flightglobal.com/news/articles/analysis-how-iran39s-aerospace-dream-began-and-ended-with-the-licence-built-406044/>.

³² "Iranian Airplane Crashes Expose Weaknesses in 'Self-Sufficiency,'" *Al-Monitor*, Aug. 21, 2014, available at <http://www.al-monitor.com/pulse/originals/2014/08/iran-airplane-crash-sanctions-parts-sufficiency.html>.

³³ Amir Handjani, "Sanctions Cause Iranian Airplane Crashes," *The Hill*, Aug. 20, 2014, <http://thehill.com/blogs/congress-blog/foreign-policy/215406-sanctions-cause-iranian-airplane-crashes>.



The three proposals put forth today, H.R. 5608 (“the Ex-Im Prohibition Bill”), a bill to prohibit U.S. financial institutions from providing banking services related to airplane sales (“Financial Institutions Prohibition Bill”), and a bill to prohibit OFAC from providing specific licenses to airplane companies such as Boeing to sell and service this equipment (“Aircraft Licensing Prohibition Bill”), are carefully calibrated to keep the pressure on Iran and ensure that U.S. equipment and taxpayer dollars are not used to support President Assad or Hezbollah’s terrorist activities. The Ex-Im Prohibition Bill and the Financial Institutions Prohibition Bill in particular make it clear that the United States, while honoring its obligations under the JCPOA, will not provide Iran with additional, un-bargained-for benefits such as direct financing of these sales.

Aircraft Licensing Prohibition Bill

This legislative proposal, which prohibits OFAC from issuing a specific license under the guidelines suggested by OFAC’s “Statement of Licensing Policy for Activities Related to the Export Or Re-Export to Iran of Commercial Passenger Aircraft and Related Parts and Services,” firmly keeps the pressure on Iran to curtail its support of terrorism, and in particular its use of commercial airplanes to support such activities. By denying OFAC the authority to issue such specific licenses—which would apply to any potential sale by Boeing but also to other sales where U.S. primary sanctions jurisdiction is implicated, including likely in the context of the Airbus sale given the amount of U.S. origin goods that make up sophisticated Airbus aircraft—the legislation would effectively be signaling to Iran that using commercial aircraft to support terrorism will have serious consequences. Note however that a legislative proposal that completely blocks the sale of U.S. aircraft to Iran may violate U.S. obligations under the JCPOA. In particular, under Section 5.1 of Annex II of the JCPOA, “[t]he United States *commits to* . . . Allow for the sale of commercial passenger aircraft and related parts and services to Iran by licensing the (i) export, re-export, sale, lease or transfer to Iran of commercial passenger aircraft for exclusively civil aviation end-use, (ii) export, re-export, sale, lease or transfer to Iran of spare parts and components for commercial passenger aircraft, and (iii) provision of associated serviced, including warranty, maintenance, and repair services and safety-related inspections, for all the foregoing, provided that licensed items and services are used exclusively for commercial passenger aviation.” By prohibiting such sales, the United States may be in breach of its obligations.

An amended legislative proposal could ensure that the United States was not in breach of the JCPOA and would also address a core issue that policymakers have encountered in recent years: how to effectively unwind sanctions in exchange for a change in behavior. In the case of preventing these sales to Iran Air, the logic is clear: Iran Air has supported—and may continue to be supporting—terrorism. We want that activity to stop, and are unwilling to allow the sale of aircraft to Iran Air unless it does. However, if Iran Air stops its support for terrorism and ceases engaging in sanctionable activities in an independently verifiable way, the United States should also be prepared to put these aircraft sales back on the table. Otherwise, Iran Air has no incentive to stop working closely with the IRGC and other designated parties.

While this legislative proposal currently—and rightly—puts pressure on Iran Air to change its activities, it does not yet provide a way to lift that pressure if Iran Air independently and



verifiably changes its activity. One way to achieve such relief would be to simply repeal the legislation if it can be verified that Iran Air—and any of its affiliates—are no longer engaged in sanctionable activity.

Another way would be to add additional language into this legislative proposal specifying that OFAC could not provide specific licenses for aircraft sales to Iran Air or any other Iranian airplane company until it had been independently verified that the ultimate end user of the aircraft was not engaged in a range of sanctionable activity under U.S. law, such as providing arms and other support to Syria or Hezbollah or aiding in sanctions evasion. In addition, the legislation could specify that the license would need to be immediately revoked if at any point during the delivery of the aircraft or associated maintenance services (which would likely be a necessary part of any sale of aircraft), it was independently determined that the ultimate end users of the aircraft were engaged in such activity.³⁴ In this way, the legislation could keep the pressure directly on Iran Air to both verify that it had ceased its illicit activities before providing these planes and that it would not go back to engaging in illicit conduct once it had the planes and parts in its possession. Such an approach would also have the added benefits of incentivizing Iran Air to change its behavior and would potentially improve the safety record of the country's aging fleet. An additional benefit of this approach would be to ensure that the United States remained committed to its legal obligations under the JCPOA.

A third approach would be to require that the contract itself be structured in a particular way that put the impetus on Iran Air to continually prove that it is no longer engaged in illicit activity. For example, OFAC could require Boeing and Airbus to stagger the delivery of the aircraft and make subsequent deliveries contingent on independent verification that they are not being used for sanctionable activities. Likewise, OFAC could require that the contract be structured to limit future delivery on where the planes are permitted to fly (for example, a contractual limitation saying that the planes cannot be flown to Damascus and that if any delivered aircraft are detected to have violated such a provision, the remainder of the contract would be void). Similarly, OFAC could require that the contract be structured to require Iran Air to prepay funds into an escrow account, whereby Iran Air would forfeit those funds if they misused any of the aircraft. Elements of these contractual requirements could be added to the legislation, for example by requiring that any specific license granted by OFAC must require that the contract contain these provisions.

While these suggested modifications to the legislative proposal may strengthen our ability to change Iran Air's illicit behavior, Congress and the Administration should recognize that even

³⁴ Note that Annex II of the JCPOA, footnote 12, broadly specifies similar requirements. However, passing legislation requiring OFAC issue specific licenses only if these requirements are fulfilled will ensure that these strict conditions will be met. The relevant language in footnote 12 reads "Licenses issued in furtherance of Section 5.1.1 will include appropriate conditions to ensure that licensed activities do not involve, and no licensed aircraft, goods, or services are re-sold or re-transferred to, any person on the SDN list. Should the United States determine that licensed aircraft, goods, or services have been used for purposes other than exclusively civil aviation end-use, or have been re-sold or re-transferred to persons on the SDN List, the United States would view this as grounds to cease performing its commitments under Section 5.1.1 in whole or in part."



Eric Lorber
Financial Integrity Network

July 7, 2016

with rigorous monitoring and an aggressive enforcement posture, serious risks still remain that Iran will use these planes for nefarious activities. Nevertheless, if implementation of the JCPOA is viewed as an ongoing and long-term process, then the United States should be thinking creatively about how to use targeted sanctions unwinding as a way to achieve its strategic goals. Such proposed modifications to this legislative proposal—which would permit specific licenses *only if* Iran Air ceases its support for terrorism and related activities and continues to refrain from providing such support, might actually force the Iranian regime to make some hard choices about not using its airlines to facilitate illicit or dangerous activities. This targeted unwinding could advance the strategic goal that Iran not misuse its airlines and financial system to benefit terrorists or proxies or to intensify its nefarious international behavior.

Financial Institutions Prohibition Bill

This legislative proposal, which prohibits OFAC from authorizing a transaction by a U.S. financial institution ordinarily incident to the export or re-export of a commercial passenger aircraft to the Islamic Republic of Iran, likewise ensures that the financing for such a sale cannot be conducted by a U.S. financial institution. It is one thing to consider permitting the sale of commercial aircraft to Iran under the OFAC Statement of Licensing Policy, which was bargained for in the JCPOA. It is another to proactively tell U.S. and foreign financial institutions—through a specific or general licensing process—that they can bank such activities. Given Iran’s history of abusing the international financial system, the United States should refrain from providing legal authorization to any financial institution that wants to re-enter Iranian markets in all but the rarest of circumstances (e.g., providing financing for the shipment of humanitarian goods).

While this legislative proposal appropriately ensures that U.S. financial institutions will be unable to provide financial services for these contracts, it leaves open two significant gaps.

First, OFAC already issued General License I, which allows for U.S. persons to enter into and engage in all transactions ordinarily incident to the negotiation of, and entry into, contracts eligible for authorization under the Statement of Licensing Policy. Such language could cover associated financial services. As currently written, it is unclear whether the legislative proposal would nullify a general license that is already in force. To foreclose this option, the Committee may want to amend this legislative proposal in a way to nullifies General License I.

Second, the proposed legislative language leaves open a significant gap for foreign financial institutions to provide such services. For example, the language only prohibits OFAC from authorizing a transaction by a U.S. financial institution. Under this language, a foreign financial institution could apply for and receive a specific license from OFAC to provide these banking services. In order to close this loophole, this Committee may want to consider changing this language to read, “The Secretary of the Treasury may not authorize a transaction by a U.S. financial institution (as defined under section 561.309 of title 31, Code of Federal Regulations) that is ordinarily incident to the export or re-export of a commercial passenger aircraft to the Islamic Republic of Iran or any transaction involving a foreign financial institution and having a U.S. nexus that is ordinarily incident to the export or re-export of a commercial passenger aircraft to the Islamic Republic of Iran.” This modification will ensure that the U.S. financial



system is not used in a transaction with or on behalf of Iran, either by a U.S. financial institution or by a foreign financial institution where a U.S. nexus exists.

Ex-Im Prohibition Bill

H.R. 5608 prohibits the Ex-Im Bank from guaranteeing, insuring, or extending credit involving any entity that does business with the Government of Iran or an entity that is created under Iranian law. As noted in the context of the Financial Institutions Prohibition Bill, while the United States should fulfill its obligations under the JCPOA, it should not be proactively encouraging companies to do business in Iran, particularly given the real and regulatory risks that exist in the country.³⁵ The JCPOA does not obligate the United States to encourage businesses to begin transacting there, and the United States should not be in a position of encouraging foreign companies to go into Iran while simultaneously telling U.S. firms that they cannot do business there because of Iran's continued support for terrorism, its human rights abuses, and its ballistic missile proliferation.

Beyond not encouraging firms to do business in Iran, the United States should not be in the business of providing taxpayer dollars to subsidize contracts with Iran. As discussed, Iran continues to support terrorism and other illicit activities, and the real possibility exists that the regime will use these aircraft for nefarious purposes. While it is one thing to consider permitting U.S. companies to sell these aircraft to Iran with strict limitations on how they can be used, it is wholly another to use U.S. taxpayer dollars to help subsidize the sale. The American people should not have their hard-earned money spent in a way that could end up lining the pockets of the IRGC or propping up Syrian President Bashar al-Assad.

H.R. 5608 will appropriately prevent the Ex-Im Bank from providing these financial benefits to Iran. However, the legislative proposal could be amended to ensure that it prevents the activities Congress is rightly concerned about while not being overbroad.

First, as currently written, the language of the proposal may not block the provision of financing related to the sale of Boeing aircraft to Iran Air. For example, the language prohibits such benefits in connection with a transaction involving "an entity that is created under Iranian law." It is unclear whether this phrase would include, for example, an Iranian LLC or a foreign subsidiary of an Iranian LLC. The Committee should consider adjusting this language and providing a definition for what constitutes an entity created under Iranian law in order to ensure that Iran will not be able to use sophisticated corporate structures to evade the prohibition.

Second, the legislative proposal prohibits the Ex-Im Bank from providing financial services in connection with any transaction dealing with the Government of Iran, an entity created under

³⁵ Some within the United States Government have taken the opposite view, encouraging increased economic integration with Iran. In recent months, U.S. Secretary of State John Kerry has reportedly met with European financial institutions to encourage them to do permissible business in Iran. See, Silvia Sciorilli Borrelli, "EU Banks to Meet John Kerry to Discuss Iran Business," *Politico*, May 20, 2016, <http://www.politico.eu/article/eu-banks-to-meet-john-kerry-to-discuss-iran-business-europe-sanctions/>. These financial institutions—which clearly recognize the risks of doing business in the jurisdiction—have remained reluctant to move into Iranian markets and continue to refrain from doing business there.



Eric Lorber
Financial Integrity Network

July 7, 2016

Iranian law, or an operation in Iran. This language prohibits Ex-Im Bank financing for significantly more transactions than aircraft sales to Iran. While understandable, there could be certain situations in which Ex-Im financing would be appropriate and acceptable (e.g., Ex-Im Bank financing related to humanitarian exports to Iran). The Committee may want to adjust the language of this legislative proposal to ensure that, in some circumstances, the Ex-Im Bank could provide assistance.

Moving Forward

As we approach the one-year anniversary of the JCPOA, Congress's role in pressuring Iran to cease its support for terrorism, ballistic missile development, and human rights abuses remains as important as ever. While sanctions on Iran have been partially unwound, real and regulatory risks remain in the country, and the private sector must exercise extreme caution when considering doing business with Iran or with Iranian persons.

Boeing's proposed sale of commercial aircraft to Iran Air in particular presents significant risks that such equipment will be used for illicit purposes. Congress can and should take steps to limit that risk as much as possible. These legislative proposals are steps in that direction, and with minor modifications, they can help the United States shape Iran's behavior and limit its ability to use this equipment for illicit purposes.

Thank you for your time. I look forward to your questions.





Tim Keating
Senior Vice President
Government Operations

The Boeing Company
929 Long Bridge Drive, MC 7949-5929
Arlington, VA 22204-4208

July 6, 2016

The Honorable Bill Huizenga
Chairman
House Financial Services Subcommittee on Monetary Policy & Trade
1217 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Huizenga:

I am writing with regard to the invitation I received to testify before your subcommittee on July 7th on the "Implications of U.S. Aircraft Sales to Iran." Unfortunately, I will not be able to attend.

As part of the ongoing dialog with the Congress over the last year or more, I would refer you to the attached letter that I sent to Chairman Hensarling and Representative Roskam on June 23rd. In that response we addressed their most recent inquiry about the potential for commercial aircraft sales to Iran under the terms of the Joint Comprehensive Plan of Action ("JCPOA").

As you will see, our June 23rd response provided context about the commercial passenger aircraft provision in the nuclear accord and confirms that Boeing and Iran Air have entered into a Memorandum of Agreement. That agreement expressed the airline's intent to purchase 80 commercial passenger aircraft and seek assistance from Boeing in the lease of 29 additional passenger aircraft from other parties.

Since this is not a final contract with Iran Air, it would be premature to speculate about other terms and conditions. Rest assured, we are methodically adhering to the U.S. Government's licensing process. We remain in close coordination with the Government, including our applications for the requisite additional authorizations to move forward. Of course, we will continue to do so in accordance with the established processes and would never proceed without the requisite authorizations in place. That stated, I would encourage you to reach out to the Departments of State and Treasury for additional information in these matters.

Furthermore, as we clearly stated in the aforementioned correspondence, Boeing will not be seeking any participation from the U.S. Export-Import Bank which is prohibited from any dealings with Iran as a general matter of law.

Sincerely,

Timothy Keating

cc: The Honorable Gwen Moore
Attachment: as stated



Tim Keating
 Senior Vice President
 Government Operations

The Boeing Company
 3800 Long Bridge Drive, Bldg. 2000
 Arlington, VA 22202-4308

June 23, 2016

The Honorable Peter Roskam
 U.S. House of Representatives
 2246 Rayburn House Office Building
 Washington, D.C. 20515

The Honorable Jeb Hensarling
 U.S. House of Representatives
 2228 Rayburn House Office Building
 Washington, D.C. 20515

Dear Congressman Roskam and Congressman Hensarling,

Thank you for your letter of June 16th to Mr. Dennis Muilenburg, our Chief Executive Officer, regarding business activities with Iran Air. Mr. Muilenburg asked me to respond as part of our ongoing dialog with the U.S. Congress on the Iran matter, including past engagements with Representative Roskam and his staff.

As you know, the Boeing Company ("Boeing") has been working in the closest possible consultation with the U.S. Government over the last twenty-odd months as the Administration negotiated what ultimately resulted in the Joint Comprehensive Plan of Action or JCPOA, the nuclear agreement with Iran. From the outset of that consultation with Boeing, the Administration made it clear that implementation of the JCPOA was critical to the national security interest of the United States. Moreover, it was made clear to us in those consultations that the ability to provide Iranian airlines with U.S. and European replacement commercial passenger aircraft for their aging fleets was key and essential to reaching closure on the agreement. The Administration reported that this view was shared by our European Allies as part of that same negotiation. All of this is well known to your offices as part of the U.S. Congressional review of the JCPOA prior to its implementation.

As of this date, we can confirm that Boeing has signed a Memorandum of Agreement ("MOA") with Iran Air expressing the airline's intent to purchase 80 Boeing commercial passenger airplanes with a list price value of \$17.6 billion. Deliveries are scheduled to start in 2017 and run through 2025. The MOA also expresses Boeing's intent to help Iran Air lease 29 new 737s. The Administration is well aware of these facts and remains up to date with regard to our ongoing discussions with Iran Air.

Boeing negotiated the MOA under the authority of the U.S. Government following its determination that Iran had met its obligations under the JCPOA. Boeing will continue to follow the lead of the U.S. Government with regard to working with Iran's airlines, and any and all contracts with them will be contingent upon continued approval. And, as we have stated repeatedly, should the U.S. Government reinstate sanctions against the sale of commercial passenger airplanes to Iranian airlines, we will cease all sales and delivery activities as required by U.S. law.



In your letter, you posed several questions which seem to focus on due diligence with regard to the contemplated authorized transactions. As we told Representative Roskam in our meeting with him on April 21st, we have a vigorous compliance mechanism at Boeing with regard to the screening of all parties with which we do business. However, as we also explained in that same meeting, our company, like all U.S. persons, relies upon the information promulgated by the U.S. Government through the various listing of prohibited parties for the information needed to conduct our due diligence effort. We could not, as a corporation, be reasonably expected to have better intelligence resources than that of the U.S. Government. Therefore, we do rely upon the Government to provide the information needed for us to remain compliant. That shall remain the case both prior to and after any sales take place. You can be assured that if at any time we become aware that any party with which we are conducting business is no longer approved by the U.S. Government that we will cease doing business with that party and take all appropriate steps that would follow, in accordance with the appropriate U.S. Government authorizations.

Finally, as to financial matters posed in your letter, we have not reached any decisions on how payment from Iranian airlines will be effected and are working closely with the Administration on that point as well. And, as you know, the U.S. Export-Import Bank is prohibited from any dealings with Iran, so that agency will not be a financing option that is pursued by the customer, Iran Air. In closing, let me be clear, the Boeing Company will make no effort to involve the Export-Import Bank of the United States in any capacity with regard to doing business with Iranian airlines.

We trust that this response will allay your concerns and continue to look forward to an open dialog with you both.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tim Keating". The signature is fluid and cursive, with a large initial "T" and "K".

Tim Keating



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

June 7, 2016

The Honorable Marco Rubio
United States Senate
Washington, D.C. 20510

Dear Senator Rubio:

Thank you for your letter seeking assurances regarding Iranian access to U.S. dollars. To be clear, the U.S. Department of the Treasury is not working on behalf of Iran to enable Iranian access to U.S. dollars elsewhere in the international financial system, nor are we assisting Iran in gaining access to dollar payment systems outside the U.S. financial system. The administration has not been and is not planning to grant Iran access to the U.S. financial system.

Treasury does not exercise sanctions jurisdiction over transactions denominated in U.S. dollars; rather, we exercise jurisdiction over transactions involving U.S. persons or that transit the U.S. financial system. The free flow of the U.S. dollar, as the international currency of choice for international trade, works in the broader economic, financial, and strategic interests of the United States. As a practical matter, most U.S.-dollar-denominated transactions worldwide transit the United States and therefore are under our jurisdiction. To be clear, until Iran has addressed other concerns we have with its behavior outside of the nuclear file, the U.S. financial system (including the branches of U.S. financial institutions abroad) will remain off limits to Iran and U.S. persons will not be able to provide financial services or products to Iran without explicit authorization.

We have expressly stated this throughout public guidance we issued on the JCPOA Implementation Day. I would draw your attention in particular to the frequently asked questions (FAQs) A.3, C.6, C.7, C.14, and M. 9, which reiterate the sanctions that remain in place (A.3 and C.14), and the facts that (i) U.S. persons remain broadly prohibited from engaging in transactions or dealings with Iran unless the activities are exempt from regulation or authorized by OFAC (A.3 and M.9), (ii) the U-turn is not being reinstated (C.6), and (iii) foreign financial institutions cannot clear U.S. dollar transactions involving Iranian persons through U.S. persons or the U.S. financial system (C.7). These FAQs have been on OFAC's website since Implementation Day and can be found here https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa_faqs.pdf. I also attach a copy for your reference.


As you note, Iran is a high-risk jurisdiction and has been designated as such by the international standard setting body on anti-money laundering and counterterrorist financing — the Financial Action Task Force (FATF). In addition, the guidance we released on Implementation Day

expressly states that the JCPOA does not impact the November 2011 finding by Treasury's Financial Crimes Enforcement Network that Iran is a Jurisdiction of Primary Money Laundering Concern (see FAQ C.14). The concerns that remain regarding Iran's economy, such as transparency issues, corruption, and regulatory obstacles, have given businesses and banks pause when considering whether to engage with Iran. We have been clear with audiences here and abroad that Iran has a lot of work to do to address these areas of concern if it wants to attract investment and trade. We are encouraging our European partners to make clear to Iran that Iran must address the shortcomings in its financial system if it wants to reintegrate into the international economy.

It is in our national security interest to ensure the Joint Comprehensive Plan of Action (JCPOA) works as intended. Iran has upheld its end of the deal, and we must uphold ours. The United States has fulfilled its commitments under the JCPOA to lift certain nuclear-related secondary sanctions and authorize certain activities in exchange for Iran verifiably living up to its commitments in the JCPOA. To that end, we published over 80 pages of guidance related to the sanctions that were lifted on Implementation Day of the JCPOA, as well as to the sanctions that remain in place. In addition, since Implementation Day, Treasury, in coordination with the Department of State, has engaged in outreach to government counterparts and private sector actors around the world to explain what sanctions have been lifted and what sanctions remain in place. When we speak to the private sector, including financial institutions, about the sanctions relief under the JCPOA, it is not to encourage them to do business with Iran, which is a business decision they need to make on their own. Rather the purpose of such discussions is to provide further clarity on what is permitted and the sanctions that remain in place, including those related to Iran's support for terrorism, its ballistic missile program, its human rights abuses, and its destabilizing activities in the region.

We appreciate your interest in this matter. If you have any questions please contact me or have your staff contact Luke Ballman, Office of Legislative Affairs, at (202) 622-1900.

Sincerely,



Thomas Patrick Maloney
Senior Advisor, Office of Legislative Affairs

Enclosure

Identical letter sent to:
The Honorable Mark Kirk



EXPORT-IMPORT BANK
OF THE UNITED STATES

FRED P. HOCHBERG

CHAIRMAN & PRESIDENT

November 4, 2015

The Honorable Brad Sherman
2242 Rayburn House Office Building
United States House of Representatives
Washington, DC 20515

Dear Congressman Sherman:

Pursuant to applicable law, the Export-Import Bank of the United States does not finance any transactions for designated state sponsors of terrorism. As you know, transactions involving the three existing state sponsors of terrorism – the Republic of Sudan, the Islamic Republic of Iran, and the Syrian Arab Republic – are already subject to numerous additional restrictions. As Chairman and President of the Export-Import Bank of the United States, I do not anticipate any scenario in which the Bank would seek a waiver from the President of the United States as contemplated by (i) section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or (ii) the Arms Export Control Act (22 U.S.C. 2780(g)), in connection with a transaction involving a country designated as a state sponsor of terrorism, or any transaction involving any person from any such countries.

Sincerely,

A handwritten signature in dark ink, reading "Fred P. Hochberg". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Fred P. Hochberg
Chairman and President

2015 Annual Report on the Protection of the Constitution

Facts and Trends



2015 Annual Report on the Protection of the Constitution

Facts and trends

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Politically motivated crime¹

In 2015, the BKA registered 38,981 offences in the category of politically motivated crime, an increase of 19.2% over the previous year (2014: 32,700). This figure includes 13,687 propaganda offences (35.1%; 2014: 12,543, 38.4%). The total number of politically motivated crimes includes violent offences, the number of which rose from 3,368 in 2014 to 4,402 in 2015. Of the total, 29,681 criminal offences (76.1%) were found to have an extremist background (2014: 23,909 or 73.1%). Of these, 604 (2014: 912) could not be assigned to any specific category.

The following aspects should be noted:

- dramatic rise in the number of violent right-wing extremist crimes with a xenophobic background; the percentage of violent criminal offences against accommodation centres for asylum applicants more than quintupled,
- enormous increase in the number of violent criminal offences with a left-wing extremist background.

In detail:

In the area of **right-wing politically motivated crime**, 21,933 (2014: 16,559) criminal offences with an extremist background were recorded. With 1,408 (2014: 990) registered cases, the number of violent criminal offences with a right-wing extremist background increased by 42.2%. At 918, the number of violent crimes directed at foreigners (2014: 512) was the highest since the current definition of politically motivated crime was introduced in 2001. Also, the number of violent crimes against actual or supposed left-wing extremists increased to 252 (2014: 139), while the number of crimes directed at other political opponents rose to 82 (2014: 60). In 2015, there were eight attempted homicides motivated by right-wing extremism (2014: one).

In the area of **left-wing politically motivated crime**, 5,620 (2014: 4,424) criminal offences with an extremist background were recorded; out of those, 1,608 (2014: 995) were violent criminal offences. The number of violent criminal offences with a left-wing extremist background that were directed against the police and security authorities increased dramati-

ly to 1,032 (2014: 623). The number of violent criminal offences against actual or supposed right-wing extremists also increased to 833 (2014: 367). In the category "Violent criminal offences against the State, its institutions and symbols" the trend is the same with a total of 572 (2014: 326) registered offences in 2015. In 2015, there were eight attempted homicides motivated by left-wing extremism (2014: seven).

In the category of **politically motivated crime by foreigners**, 1,524 (2014: 2,014) criminal offences were classified as having an extremist background, including 235 (2014: 259) violent offences. The total number of criminal offences in this category thus decreased by 24.3%, while the number of violent crimes declined by only 9.3%. In 2015, there were three (2014: six) attempted homicides by foreigners with an extremist background.

Right-wing extremism

By the end of 2015, the number of right-wing extremist sympathizers totalled 22,600, after subtracting multiple memberships (2014: 21,000). For the first time in years, this number had risen. More than one-quarter of all right-wing extremists are neo-Nazis; the size of the neo-Nazi scene rose slightly compared to last year, to about 5,800 persons (2014: 5,600). The number of subculture-oriented right-wing extremists also grew considerably in 2015, to 8,200 (2014: 7,200). This means that subculture-oriented right-wing extremists continue to make up the largest share of right-wing extremist sympathizers, at more than 35%.

Right-wing extremist following ¹		
	2014	2015
Subculture-oriented right-wing extremists	7,200	8,200
Neo-Nazis	5,600	5,800
Political party membership	6,850	6,650
Nationaldemokratische Partei Deutschlands (NPD, National-Democratic Party of Germany)	5,200	5,200
DIE RECHTE (The Right)	500	650
Bürgerbewegung pro NRW ² (pro NRW, Civic Movement for North Rhine-Westphalia)	950	500
Der III. Weg (The Third Way)	200	300
Other right-wing extremist organizations	2,500	3,200
Total	22,150	23,850
after subtracting multiple memberships	21,000	22,600
Violence-oriented right-wing extremists	10,500	11,800

¹ Some of these figures are estimated and rounded off.
² In late 2015, pro Köln, the Civic Movement for Cologne, seceded from pro NRW. Its members are included in the number of members of other right-wing extremist organizations.

At 1,408, the number of violent offences motivated by right-wing extremism rose significantly in 2015 compared to the previous year (990). Together with the increasing number of violence-oriented right-wing

extremists (2014: 10,500; 2015: 11,800), this clearly illustrates the threat posed by this spectrum. More than half of all right-wing extremists can now be considered violence-oriented.

In spring 2015, it became obvious how intense right-wing extremist militancy had become. This intensity then continued to rise: Politicians and journalists were threatened, arson attacks were carried out against accommodation centres for refugees, and there were even cases of attempted homicide.

The enormous rise in right-wing extremist violence and the increasing acceptance of right-wing extremism had a particular influence during the reporting year. The increasing number of refugees led to anti-asylum agitation which became the dominant topic of 2015. This agitation is characterized by its right-wing extremist nature and the acceptance of violence and militancy among parts of the population.

However, a large number of right-wing extremist violent offences related to the refugee issue were not committed by organized right-wing extremists. So far, no indications have been found that violent offences are coordinated at central, regional or supraregional level by right-wing extremists. The majority of offenders had not committed right-wing extremist offences before. About two-thirds of all identified suspects had not yet attracted attention by committing politically motivated criminal offences or being part of the right-wing extremist scene.

Social networks play an important role in agitation and radicalization processes. Uninhibited hate speech on the Internet can lead to individual or collective radicalization. Groups that are purely virtual in the beginning consolidate and become radicalized on the Internet, and then carry out actions in the real world. By taking executive measures against members of the Oldschool Society, the security authorities managed to dismantle a group that was suspected of pursuing right-wing terrorist goals. However, given the charged atmosphere and the anti-refugee mood, there is a continued risk that similar groups may form or that radicalized individuals may commit serious acts of violence.

A vast amount of hate speech can be found on relevant websites or in comments and posts on social networks, ranging from racist and humiliating

comments about migrants to fantasies of violence. The words that are used, especially on the Internet, demonstrate that the debate is getting more and more heated. In some cases, people even openly promote violence. There are, for example, many websites that contain fantasies of violence and comments that dehumanize foreigners and political opponents.

The Internet platform "Altermedia Deutschland" played a key role in spreading right-wing extremist propaganda. The Federal Minister of the Interior therefore banned this platform on 27 January 2016 because it was used to spread racist, xenophobic, anti-Semitic and Islamophobic contents. The Office of the Federal Public Prosecutor initiated proceedings against the platform's five operators on suspicion of forming a criminal organization.

Hate speech creates the pressure to take immediate action. Right-wing extremists aggravate the situation by spreading their ideology and warning of alienation and the threat of "race extinction". This provides fertile soil for militancy and violence. This becomes particularly obvious when it comes to the numbers of criminal and violent offences committed against accommodation centres for asylum applicants and motivated by right-wing extremism. While 170 criminal offences (including 25 violent offences) were committed in 2014, more than five times as many (894 criminal offences, including 153 violent offences) were registered in 2015.

In 2015, the number of right-wing extremist arson attacks against collective accommodation centres for asylum applicants also increased to 75 (2014: 5). This means that more than half of all arson attacks motivated by right-wing extremism were directed against housing for asylum seekers. While a preliminary assessment has revealed that the vast majority of criminal offences was committed spontaneously by persons living in the immediate vicinity, some violent offences demonstrate a high level of preparation and planning.

Another focus of right-wing extremist violence is attacks on political opponents, left-wing extremists, representatives of the state, journalists and those helping refugees. It is not because of their ethnic origin, but because of their political attitude that persons vilified as "enemies of the people" become the target of aggressive right-wing extremist agitation and violence.

Increased self-confidence among right-wing extremists, which is the result of anti-asylum agitation, raises the potential for violence between right-wing and left-wing extremists. When planning their activities, right-wing extremists already make provisions for clashes with left-wing counter-demonstrators. They clearly accept the risk of escalating violence, and sometimes even do their utmost to make sure that the situation actually does escalate.

Jihadist attacks in Europe repeatedly prompt right-wing extremists to spread their propaganda and try to dramatize the threat situation by portraying it as an ethnic-cultural conflict. Even though no immediate action by violence-oriented right-wing extremists against Salafists was registered in the reporting year, there is a considerable potential for conflict and radicalization.

As a result of the current asylum debate, the right-wing extremist scene managed to mobilize a much larger number of supporters and sympathizers for their rallies than in previous years. In 2015, 95,200 persons attended right-wing extremist demonstrations or those mainly coordinated by right-wing extremists (2014: 20,610). However, not all of these participants can be considered members of the right-wing extremist scene. About 80% of all right-wing extremist demonstrations focused on immigration, asylum and refugees.

The right-wing extremist scene currently seems to be on the rise. It is mobilizing more and more people and addresses issues that are also discussed by the wider public. It provides protests with infrastructure and, where desired, is willing to adopt a different rhetoric or to step up its agitation efforts. Right-wing extremists portray themselves as being part of a popular movement that they want to radicalize and that is meant to oppose the political system.

In 2015, the consolidation efforts of the Nationaldemokratische Partei Deutschlands (NPD) bore fruit. Under its new national chairman Frank Franz, the NPD settled a protracted dispute among its leaders about the party's goals and objectives, improved its internal and external communication and enhanced its ability to mobilize followers.

Last year, the NPD took advantage of the refugee issue as the central and predominant topic of agitation to attack the political order. The party combines the refugee issue with its theoretical principles: In its view, the admission of migrants violates its idea of an ethnically homogeneous community. When protesting against asylum applicants and accommodation centres, the NPD demonstrated tactical flexibility: On the one hand, it pretended to care about the worries of local residents. Yet on the other hand, it stirred up hatred against immigrants, especially in social networks.

If the NPD were banned, its neo-Nazi members could turn to Die Rechte and Der III. Weg. Both parties succeeded in expanding their structures in the reporting year. Last but not least, they hope to gain importance and recruit new activists on the basis of anti-asylum agitation. Increasing membership of these two parties shows that persons belonging to the neo-Nazi spectrum accept the party's organizational form and are willing to become more involved.

In the reporting year, Die Rechte focused its activities on the asylum problem. In North Rhine-Westphalia, it regularly held vigils and set up information stalls to agitate, sometimes in a highly aggressive manner, against existing and planned refugee housing. During rallies, party officials made slanderous comments about politicians, refugees and their supporters.

The right-wing extremist party Der III. Weg is active mainly in Rhineland-Palatinate and Bavaria. Furthermore, it tried to expand its structures, particularly in Saxony and Brandenburg, in the reporting year. The party's propaganda focuses on anti-asylum agitation.

In 2015, the development of pro NRW was largely characterized by internal disputes, which led to the secession of the pro Köln and the departure of numerous high-ranking party officials. The loss of this regional stronghold limited the viability of pro NRW at district and state level.

With their xenophobic agitation and their sometimes aggressive rhetoric, right-wing extremist parties aggravate an already heated and highly emotional debate. Individuals may therefore get the impression that a much larger number of persons welcome or at least approve more radical or violent action.

Left-wing extremism

At the end of 2015 the number of active left-wing extremists totalled 26,700 (after subtracting multiple memberships) and had thus decreased slightly compared to 2014 (27,200).

As in previous years, there was a slight decline in membership of Marxist–Leninist and other legalist left-wing extremist groups (2015: 20,300; 2014: 21,100).

The number of violence-oriented left-wing extremists rose slightly, by contrast, and totalled 7,700 at the end of 2015 (2014: 7,600), of whom 6,300 were autonomists (2014: 6,100).

Left-wing extremist following ¹		
	2014	2015
Autonomists	6,100	6,300
Anarchists	800	800
Marxist–Leninists and other left-wing extremists	21,100	20,300
Total	28,000	27,400
after subtracting multiple member-ships	27,200	26,700
of which violence-oriented left-wing extremists	7,600	7,700

¹ Some of these figures are estimated and rounded off.

The number of left-wing extremist motivated acts of violence rose by nearly two-thirds in 2015 to a total of 1,608 (2014: 995). This increase can essentially be attributed to the following:

The number of violence-oriented autonomists has increased. Moreover, there was a marked escalation in both their activities and level of aggression; in particular there was a sharp increase in the number of attacks against the police as well as violent confrontations between left-wing and right-wing or purported right-wing extremists. There were riots at major events, some of them quite serious, for instance on the day of the official opening of the new European Central Bank (ECB) building in

Frankfurt am Main on 18 March 2015. Of the eight attempted homicides recorded in 2015 (2014: seven), four were directed against police officers during the protests against the ECB.

These examples illustrate the readiness to use violence on the part of those in the left-wing extremist scene, which can range from damaging property to committing bodily injury and attempted homicide.

Violent left-wing extremism is primarily an urban phenomenon, with activists mainly operating in metropolitan areas. Violence-oriented left-wing extremists are concentrated in the city-states of Berlin and Hamburg as well as in Leipzig, where the majority of the left-wing extremist sympathisers live. This is where a large proportion of offences by violent left-wing extremists is committed, including serious violent crimes. It is in urban areas that the left-wing extremist scene is able to mobilise a great many followers and where there is a great capacity for action and readiness to use violence. That applies in particular to those city districts in which left-wing extremists have their own shops and occupy houses, which they regard as their very own domain.

The drastic increase in left-wing extremist acts of violence to the highest level since the system of defining politically motivated crime was introduced in 2001 has gone hand in hand with a rise in the level of aggression and intensity of the violence in recent years.

Again and again it is especially police officers (as representatives of the hated "apparatus of repression") who come under attack. The readiness to injure police officers has increased. Perpetrators are willing to take the risk not only of inflicting serious physical injuries but also of someone being killed. These attacks are usually carried out during demonstrations. Attacks against the police and against actual or purported right-wing extremists are widely accepted in the violent left-wing extremist scene.

Autonomist militancy, i.e. street rioting during demonstrations or largescale events, seeks direct confrontation with the police and political opponents. One important goal of action-oriented left-wing extremists continues to be the prevention of right-wing extremist events, including by means of direct confrontation. Participants are attacked while en route to demonstrations or their access routes are obstructed, for example.

The number of “mass militant” activities dropped in 2014, though the same cannot be said for 2015. Particular mention should be made of the violence which occurred during the opening of the new ECB building in Frankfurt am Main and during a right-wing demonstration in Leipzig.

While mobilising sympathisers to protest against the ECB in Frankfurt am Main on 18 March 2015 the Blockupy-Bündnis (Blockupy alliance), on the whole a largely non-extremist movement, called on supporters to carry out “multifarious protests”, ranging from organising a demonstration to symbolic actions to obstructing access roads. The goal was to prevent or at least obstruct for a long time, the festivities to mark the opening of the new ECB building. The authorised rally on the evening of 18 March 2015 attended by 17,000 demonstrators was largely peaceful, but autonomists had already vandalised Frankfurt city centre in the early hours of that morning, burning barricades and damaging numerous shops and other buildings. At the height of the rioting a police station in Frankfurt city centre was attacked and four police cars were set on fire. More than 150 police officers were injured during the riots.

The right-wing extremist scene had announced a demonstration which was to be held in the Connewitz district of Leipzig on 12 December 2015; left-wing extremists called on their followers to carry out counteractions. Violent left-wing extremists started a street riot, threw stones, bottles and fireworks at the police and injured 69 officers. What is noteworthy about these attacks is that they were primarily directed against the police. The right-wing extremists’ rally was, on the other hand, only of secondary importance.

A key feature of the left-wing extremist agenda is forging alliances and campaign work (notably in the context of large-scale events), particularly in light of the current lack of sympathisers and organisational structures in the scene. The objective is often to establish as broad a social alliance as possible which reaches beyond the extremist spectrum and is firmly rooted in regional and local structures. A key element is networking at international level.

Three big campaigns dominated the left-wing extremist scene in 2015: One against the festivities to mark the opening of the new ECB building

in March, another against the G7 Summit in Elmau in Bavaria in June, and the “End of the Road” campaign against lignite opencast mining in Garzweiler in North Rhine-Westphalia and in the Lausitz region of Brandenburg. The last is yet another example of the left-wing extremist scene’s successful attempts to take up current affairs in the context of action alliances and to establish them as a focus of agitation within the extremist scene.

While the events during the opening of the new ECB building and the “End of the Road” campaign against lignite opencast mining were broadly discussed in some parts of the scene and deemed an overall success, there was hardly any response to any of the activities directed against the G7 Summit in Elmau.

All in all, these three campaigns show that the left-wing extremist scene’s strategy of building alliances is in fact quite successful. Those organising protests fall back on a broad spectrum of left-wing extremist fields of activity, and “civil disobedience” (the form of action typically chosen by violence-oriented left-wing extremists) is regarded as providing legitimisation for violent riots. Activities to mobilise followers from diverse spectrums is thus used both to propagate own political goals as well as to engage in militancy.

Nonetheless, the ongoing loss of significance of left-wing extremist positions, which manifests itself in social marginalisation and the inability to interconnect, has triggered a debate about the ideological and strategic foundations of left-wing extremism. This debate continued in 2015. Although no one in the left-wing extremist scene calls its basic orientation and premises into question, the debate has nevertheless led to strategic changes and a reassessment of the ideological basis.

As part of a process of restructuring, violence-oriented left-wing extremists are attempting to overcome the fragmentation in the scene and to achieve both social and political relevance by establishing structures throughout Germany. These efforts to adopt new organisational structures while at the same time retaining militant strategies and how they are communicated (“no militancy for militancy’s sake”) have gained momentum since 2014.

The “... ums Ganze!” (uG, “... all or nothing!”) alliance and the Interventionistische Linke (IL, Interventionist Left) are currently the most successful players in this restructuring of the left-wing extremist scene.

The uG alliance, a network of independent local autonomist groups, has around 250 sympathisers. The individual groups are independent at local level but act in concert in the context of action alliances and at large-scale events, at which they all go by the label of “...all or nothing!”. The alliance is committed to militancy as a strategic element of an organised movement. Its aim is to be able to combine those forces inherent in the individual local groups in order to be capable of acting together at regional level. The alliance was able to increase the degree of its organisation in the period under review.

The IL, formally established in 2005, is ideologically undogmatic. It aims to combine a mass base (with the corresponding opportunities for intervention) with militancy. The controlled process of developing from a network into an organisation, which was publicised in an “interim paper” in 2014, continued in 2015.

While left-wing extremist political parties such as the Deutsche Kommunistische Partei (DKP, German Communist Party) and the Marxistisch-Leninistische Partei Deutschlands (MLPD, Marxist-Leninist Party of Germany) are of no relevance whatsoever for violent left-wing extremism, violent Marxist, Leninist and anti-imperialist groups are undertaking increasing efforts to network their structures at national level.

The [3A]*Revolutionäres Bündnis ([3A]*Revolutionary Alliance) explicitly allies itself with Communism and was one of the key players in the “Stop G7” action alliance which protested against the G7 Summit in Elmau in June 2015. The Alliance was also involved in protests at the opening of the new ECB building in Frankfurt am Main on 18 March 2015.

The more Trotskyist-oriented Neue antikapitalistische Organisation (NaO, New Anti-Capitalist Organisation) has since 2014 been stepping up efforts to also network with autonomist groups, though with little success to date. In contrast to the IL and the uG alliance, the NaO seeks to “breathe new life into Marxism and the workers’ movement”. Neverthe-

less, these groups are all in agreement that a revolution is imperative, though impossible in the near term.

The Marxist-Leninist Perspektive Kommunismus (Communist Perspective) was established in 2014 by six organisations from the violent left-wing extremist spectrum. It aims to “establish socialism to create a free, a Communist, classless society”. They claim that this can only be achieved by means of the revolutionary destruction of the existing state and social order.

Islamism/Islamist terrorism

For lack of confirmed information on the number of adherents of several Islamist organisations and groups acting on a nationwide level, a reliable statement about the total number of Islamists in Germany cannot be given.

Islamist following ¹		
Organisations ²	2014	2015
Core al-Qaeda Al-Qaeda in the Islamic Maghreb (AQIM) Al-Qaeda in the Arabian Peninsula (AQAP) Al-Shabab Jabhat al-Nusra (JaN) Al-Qaeda in the Indian Sub-Continent (AQIS)	no hard numbers	no hard numbers
Islamic State (IS)	no hard numbers	no hard numbers
Salafist Movements	7,000	8,350
Hezbollah	950	950
Harakat al-Muqawama al-Islamiya (HAMAS)	300	300
North Caucasus Separatist Movement (NCSM)	220	200
Turkish Hezbollah (TH)	360	360
Hizb ut-Tahrir (HuT)	300	320
Muslim Brotherhood (MB)/Islamische Gemeinschaft in Deutschland e.V. (IGD)	1,000	1,040
Tablighi Jama'at (TJ)	700	650
Islamisches Zentrum Hamburg e.V. (IZH)	no hard numbers	no hard numbers
Milli Görüş movement and affiliated associations	no hard numbers	no hard numbers
Others ³	2,060	1,950

- | | |
|---|------------------------------------------------------------------------------------------------------------|
| 1 | The figures refer to Germany and are partly estimated and rounded off. |
| 2 | The list includes – in a systematic order – terrorist organisations and those which refrain from violence. |
| 3 | Other organisations whose membership/adherent figures are relevant to the Islamist following. |

Particularly the following of associations regarded as belonging to the Millî Görüş movement – including the Islamische Gemeinschaft Millî Görüş e.V. (IGMG) – can only be roughly estimated. Altogether, the Millî Görüş movement has several tens of thousands of followers. The number of extremist followers is estimated to amount to up to 10,000 individuals.

The term "Islamism" refers to a form of political extremism. Invoking Islam, Islamism aims at the partial or complete abolition of the free democratic basic order of the Federal Republic of Germany. Islamism is based on the conviction that religion, in this case Islam, is not only a personal and private affair but rules social life and the political order or regulates at least part of it. Islamism postulates the existence of a divinely ordained – and therefore "true" and absolute – order which is above all orders made by man. With their interpretation of Islam, Islamists are in conflict with principles established in Germany's Basic Law, in particular the sovereignty of the people, the separation of state and religion, the freedom of speech, and equal rights in general. Anti-Semitism is also an essential ideological element of Islamism.

The generic term "Islamism" comprises several tendencies and movements which differ as to their ideological premises, their geographic orientation, and their strategies and means.

Jihadist groups like the Islamic State (IS) and Al-Qaeda, for example, consider terrorist violence used against "nonbelievers" and so-called corrupt regimes to be indispensable in their fight for a "theocracy". Their terrorist agenda is a global one and poses a threat to the international community of states.

Especially the attacks in Paris (France) in late 2015, which IS claimed responsibility for, have faced Europe with a **new dimension of terror**. It has to be assumed that IS is planning further attacks in Europe, including Germany. The German military involvement in Syria and Iraq is reason enough for IS to justify the use of violence against German interests.

Besides IS – and those declaring their allegiance to IS – as the currently most serious threat to the West, Al-Qaeda, too, continues to propagate the fight against the West as its top priority and is still in a position to follow up its hateful words with deadly actions, as was illustrated by the attack against the satirical magazine Charlie Hebdo in Paris on 7 January 2015.

Threats of attacks mainly emanate from

- self-radicalising lone perpetrators and very small groups
- returnees from jihad areas
- individuals prevented from leaving Germany and
- long-term sleepers placed by terrorist organisations.

Given the continuous immigration into Germany, it also has to be assumed that active or former members, supporters, and sympathisers of terrorist organisations as well as individuals with an extremist orientation and/or Islamistically motivated war criminals may be among the refugees.

By the end of 2015, intelligence was available on more than 780 individuals having travelled towards Syria/Iraq in order to participate in combat there on behalf of the IS and other terrorist groups, or in order to support such groups in other ways. Despite the continuing IS propaganda aimed at making adherents emigrate to the Caliphate and selectively addressing sympathisers in Western countries, the number of departures declined in 2015 in comparison with the previous year. The reasons for this decline are unclear: Besides the growing number of Islamists from Germany losing their lives in Syria and Iraq, the deteriorating military situation there together with the disastrous humanitarian situation might have influenced this development. The decline in departures, however, does not mean that the risk posed by Jihadists has diminished.

This is clearly illustrated by the **jihadist propaganda** which, disregarding borders, makes Jihadism grow also in the West. This propaganda still substantially contributes to the radicalisation especially of young people. Since the period of radicalisation before an active involvement in the militant fight is becoming ever shorter, both the fight against terrorism/jihadism and the early prevention of Islamism continue to be an urgent task. The IS dominates the jihadist propaganda. Texts, photo se-

ries, and video or audio messages are published on a daily basis. The publications, all of them lavish productions, are aimed at a young and media-oriented audience. The IS is also omnipresent in social networks.

Islamism in Germany enjoys undiminished popularity. A particularly strong increase in followers can be observed with **Salafism**, the tendency within Islamism which – unlike the Islamist organisations that have been established in Germany for many years – does not have to respect the traditions and structures brought along from (former) countries of origin. In late 2015, the number of adherents amounted to 8,350 (7,000 in the previous year).

The **Koran distribution campaign LIES! (READ!)** run by the Salafist association Die Wahre Religion (DWR, The True Religion) has been – from a Salafist point of view – a success. Under the cover of proselytising efforts, the activities were continued with unbroken vigour in 2015. Meanwhile, c. 3 millions of Koran copies have been distributed. The campaign which is steadily expanding in Germany and abroad has met with an increased public awareness and is particularly attractive to young people. Among those who participate in the actions of the LIES! campaign are i.a. individuals who belong to the jihadist spectrum or have been in contact with the jihadist scene and, in some cases, are intent right from the beginning on radicalising and recruiting others for a jihadist purpose. There is a growing number of indications regarding individuals who participated in the Koran distribution first and participated in combat in Syria afterwards.

Islamist organisations in Germany see the tide of refugees from Syria and Iraq as a chance to gain new followers by winning refugees over to their extremist ideology under the cover of humanitarian aid. Such activities are likely to increase in future. The contacts Salafists or Islamists make with refugees will remain relevant to Germany's domestic intelligence services. It has to be found out to what extent Islamist organisations or individuals restrict their activities to humanitarian aid or exploit them for spreading an Islamist ideology. Particular attention has to be paid to so-called unaccompanied young refugees since, due to their situation, they are likely to be particularly susceptible to Islamist promises.

A starting point for Salafists/Islamists trying to make contact with refugees, might be **anti-Semitism**, which is not only an integral part of all

manifestations of Islamism but is generally likely to reinforce latent anti-Semitic resentments with many Muslims, particularly in Middle Eastern countries. There is a wide range of anti-Semitism within Islamism. It includes theories about Jewish world conspiracies (e.g. in the Milli Gazete magazine ascribed to circles regarded as belonging to the Milli-Görüş movement) as well as propaganda for and support of the fight against Israel (e.g. by HAMAS and Hizb Allah) and even attacks against (supposed) Jews and Jewish institutions all over the world, called for by jihadist groups (e.g. the attack against a Jewish supermarket in Paris on 9 January 2015 considered to have been committed by an IS follower).

The followers of Islamist-terrorist groups like HAMAS and Hizb Allah striving for the abolition of the Jewish state of Israel are focussed on their regions of origin which is where they commit most of their terrorist acts of violence.

Legalist tendencies like the Milli Görüş movement try to impose an order they consider to be in conformity with Islam by exerting political and social influence.

Extremist efforts of foreigners posing a threat to security (excluding Islamism)

The number of members and adherents of non-Islamist extremist organisations of foreigners has changed only slightly compared to the previous year and amounts to 29,050 individuals (2014: 29,330 individuals). The largest part, i.e. 17,550 individuals, belongs to left-wing extremist groups of foreigners, while 10,000 individuals are affiliated to right-wing extremist groups of foreigners, and 1,500 individuals have to be considered members or adherents of violence-oriented separatist groups of foreigners.

Members and adherents of extremist organisations of foreigners^{1,2} (excluding Islamism)		
	2014	2015
Left-wing extremists	17,550	17,550
including:		
Kurdistan Workers' Party (PKK)	14,000	14,000
Revolutionary People's Liberation Party-Front (DHKP-C)	650	650
Turkish Communist Party / Marxists-Leninists (TKP/ML)	1,300	1,300
Marxist-Leninist Communist Party (MLKP)	600	600
Others	1,000	1,000
Separatists	1,780	1,500
including:		
Liberation Tigers of Tamil Eelam (LTTE)	1,000	1,000
Extremist Sikhs	780	500
Right-wing extremists	10,000	10,000
Total	29,330	29,050

1 Figures refer to Germany; they are partly estimated and rounded.
2 Figures also include members / sympathisers of the groups which have been banned.

For the very most part, the political agitation of the extremist organisations of foreigners as well as their respective level of militancy depend on the political developments in their home countries. It is therefore not easy to make any predictions about a group's tendencies and relevance for Germany's internal security. As a rule, the adherents living in Germany are given politico-strategical guidelines by the organisations in their respective home countries, and they are ready to consistently implement them.

As in the previous years, the **Kurdistan Workers' Party PKK** (which has by far the greatest potential for action and campaigning among the secular extremist organisations of foreigners), the **Revolutionary People's Liberation Party – Front DHKP-C** (due to its overt commitment to armed struggle), and the **Ülkücü movement** (due to its militant denial of the principle of equality) continue to be of particular relevance to Germany's internal security. The essential aspects of their ideological and political orientations remain unchanged.

Although the Kurds are among those suffering from the civil war in Syria as well as from the unstable situation in Iraq, the PKK in particular might benefit from that situation in political terms. At least since the advance of the terrorist militia Islamic State (IS) in 2014, the world has felt deep sympathy for the Kurdish fate. The founding of the Democratic Autonomy in Rojava (part of North Syria with Kurdish population) is a significant step on PKK's way towards a democratic confederation of autonomous entities across national borders.

Indeed, this might even result in separatist efforts. The Syrian border city of Kobanê has become a synonym for the determination of Kurds and other groups threatened by the IS to defend themselves. This ensures increasing support and approval for the PKK, which is considered the defender of the Kurds' lives (quite often, no attention is paid to the fact that other Kurdish militias participate in the conflict, too). The PKK exploits its improved reputation to call even more vehemently than before for the ban imposed on its activities in Germany to be lifted. The organisation wants to free itself from the stigma of a banned organisation, and in doing so, meets with support from the left-wing extremist spectrum.

The PKK's clinging to the armed struggle in Turkey, its indifference concerning militancy and violence in Europe, in particular its continuous recruitment activities for the guerrilla, as well as its opaque decision-making processes and lacking democratic structures are pushed into the background, though. The end of the peace process in Turkey and the massive armed clashes between the PKK guerrilla and Turkish national forces have caused uncertainty also with regard to the PKK's future orientation in Europe: a return to militant forms of action is possible at any time.

The PKK continues to be the largest extremist organisation of foreigners in Germany in terms of members and efficiency. The current situation in Turkey and the other Kurdish settlement areas may well trigger proxy fights between PKK adherents and right-wing extremist Turks or Islamists. This is a permanent threat to Germany's internal security. The aggressive atmosphere can result in spontaneous acts of violence at any moment. The severe bodily harm inflicted on a Kurd in Hanover on 12 September 2015 substantiates a threat dimension not even ruling out fatal victims.

Despite its display of "democratisation efforts", the PKK's party line and activities are not determined by the apparently legal organisational structures, like in particular, the umbrella organisation of PKK-oriented associations in Germany, NAV-DEM, but rather by the PKK's leadership.

PKK continues to be able and prepared, if necessary, to use violence in Germany at least in isolated cases or to tolerate acts of violence carried out by its young adherents. Though peaceful events prevailed in Europe also in 2015, violence remains an option of the PKK ideology. Against the background of the escalating violence in Turkey, a return of the PKK to militant forms of action cannot be ruled out.

The DHKP-C still propagates the necessity of terrorist violence in Turkey and has continued its series of attacks against the Turkish state and US imperialism in 2015. In Germany, the DHKP-C operates via its cover organisation Anatolian Federation especially regarding prisoners' care and the political field of anti-racism. Although the DHKP-C considers Germany a safe haven, its death cult events, staged in commemoration of the so-called martyrs (members who died in terrorist acts in Turkey), show

that also in Germany its organisational units support the party line, including the terrorist option.

The attacks mounted by DHKP-C activists in Turkey throughout 2015 show the high intensity and relentlessness of the organisation's violent pursuit of its aims. To implement such attacks, the safe haven and logistical supply base provided by DHKP-C structures in Western Europe, particularly in Germany, are indispensable. The DHKP-C is not likely to jeopardise this by carrying out militant activities in our country.

The nationalist and racist – and thus right-wing extremist – *Ülkücü* ideology based on an idealisation of Turkey and Turkishness by simultaneously denigrating other ethnic groups is mainly represented in Germany by the umbrella organisation *Föderation der Türkisch-Demokratischen Idealistenvereine in Deutschland e.V.* (Federation of Associations of Turkish Democratic Idealists in Germany regd. assoc.) and its mostly non-organised young followers. While the umbrella organisation tries to act in compliance with the law on the surface, its young followers offensively propagate their racism via the Internet and do not only call for violence in a radical way but occasionally even carry out acts of violence against other ethnic groups.

In Turkish migrant circles, the *Ülkücü* ideology encourages the development of a nationalist and racist youth movement. Conflicts in Turkey, particularly in connection with its Kurdish policy, are brought into Germany. The young followers of the *Ülkücü* movement bring along the potential for armed clashes.

The often warlike clashes in their home countries provoke an understandably high level of emotionality with many migrants. Extremists try to exploit this for their purposes and instrumentalise rallies. They stir up an aggressive mood that often results in militancy and violence against rival groups or the police, particularly between PKK followers and right-wing extremist Turks as well as individuals the PKK followers consider to be members of the Salafist spectrum.

On the whole, clashes between rival extremist groups at demonstrations and rallies pose a permanent threat to internal security.

Espionage and other intelligence activities

Foreign intelligence services invest a lot of organisational and financial effort to engage in espionage activities against Germany. Germany is of interest in its role as a geopolitical player, as a member of NATO and the EU and on account of its economic strength and innovative businesses. Oppositional groups from foreign intelligence services' home countries are another target of espionage activities in Germany.

Now as before the Russian Federation, the People's Republic of China and the Islamic Republic of Iran are the major players behind espionage activities directed against Germany. Apart from that, however, intelligence activities of other countries (also from the West) are increasingly in the focus of our counterintelligence efforts.

States which strive to gain an edge in military (particularly strategic) or economic and technological contexts do not hesitate to procure the necessary information secretly and illegally by violating applicable law. The consequences for our country range from a weakening of our negotiating positions to high material and economic damage and a potential impairment of Germany's national sovereignty.

The priority areas of the intelligence services' activities are dictated by their governments' political agendas.

Russian espionage continues to be essentially influenced by the conflict between the West and Russia in regard to Ukraine. Not least, the Russian services are also attempting to present their point of view to the public and to use their contacts to exert influence.

The interest of the Russian intelligence services continues to be focused on the traditional target areas: politics, industry, science, the energy industry, technology and the military. The Ukraine conflict has, however, resulted in a clear shift of their priorities: This issue with all its political, economic and military ramifications is increasingly in the focus of their intelligence activities. Russia's primary interest is to obtain early information on the stance taken on the Ukraine crisis by the Federal Government, the political parties and institutions, on the way they intend to handle it and on their future policy towards Russia.

Apart from intelligence gathering the services also attempt to influence decision-makers and public opinion in Germany according to their interests. In this context it is of particular interest for them to get an insight into decision-making processes and to find out to what extent it is (still) possible to influence them.

Also, Russia increasingly disseminates pro-Russian propaganda through various public media (TV and radio stations, the Internet, high-profile events, etc.). For example, in their German-language broadcasts, Russian international broadcasting stations which are close to the Russian government present facts in a way which reflects a pro-Russian view. In most of these cases it is, however, hardly possible to prove a direct involvement of the Russian intelligence services.

The **Chinese services** have an important role to play when it comes to implementing the Chinese government's policy guidelines, which are aimed at ensuring territorial integrity and protecting the Chinese Communist Party's (CCP) hegemony, at expanding China's geopolitical and military power positions and at modernizing China's national economy. For this reason the intelligence services' activities abroad are primarily focused on gathering intelligence about the opposition to the system, political decision-making processes and on obtaining technological know-how.

A substantial part of the spying activities in Germany is directed against efforts that – in the eyes of the Chinese government – jeopardise the Communist Party's monopoly on power and China's national unity. This includes the ethnic minorities of the Uighurs and Tibetans, the Falun Gong movement, the democracy movement and proponents of sovereignty for Taiwan. These groups and organisations are defamed by the Chinese authorities as the "Five Poisons."

The activities of the Chinese intelligence services are also focused on German interests: politics, the military, industry, science and technology. The intelligence services are involved in the ambitious longterm programme to modernise the Chinese economy; in this context, their intelligence activities are aimed at gathering sensitive industrial intelligence for example concerning product innovations and current research findings.

The Chinese services have recently increased their efforts to recruit individuals from Western countries as informers or agents. In addition, intelligence officers from China travel to Germany and its neighbouring countries to carry out their activities. Also political think-tanks are increasingly being used for intelligence purposes. Furthermore, there are indications of combined HUMINT- and SIGINT activities on the part of Chinese intelligence services.

Now as before, the activities of the **Iranian intelligence services** are focused on spying out and suppressing opposition movements at home and abroad. In addition, the services gather political, industrial and scientific intelligence in Western countries.

The negotiations on Iran's nuclear programme agreed between the international community and Iran in November 2013 were concluded on 14 July 2015 with the adoption of the Joint Comprehensive Plan of Action whereby Iran accepted the imposition of substantial restrictions and controls on its nuclear programme. In return, the Comprehensive Plan of Action provides for the progressive lifting of the sanctions that had been imposed on Iran because of its nuclear programme.

Nevertheless, the illegal proliferation-sensitive procurement activities in Germany registered by the Federal Office for the Protection of the Constitution persisted in 2015 at what is, even by international standards, a quantitatively high level. This holds true in particular with regard to items which can be used in the field of nuclear technology. The Federal Office for the Protection of the Constitution also registered a further increase in the already considerable procurement efforts in connection with Iran's ambitious missile technology program which could among other things potentially serve to deliver nuclear weapons. Against this backdrop it is safe to expect that Iran will continue its intensive procurement activities in Germany using clandestine methods to achieve its objectives.

Owing to the development of information and communication technologies, **espionage methods** are also constantly evolving. "Electronic attacks" in particular have become an important method used by foreign intelligence services. Furthermore, the intensity of espionage has multiplied ever since cyberspace is being used for espionage activities.

The attackers identified by the German authorities come primarily from China and Russia, although there are also other countries whose intelligence services have the necessary resources and capabilities to carry out "electronic attacks". In 2015 for example, the German authorities were able for the first time to attribute a number of "electronic attacks" to what were thought to be Iranian sources.

However, "electronic attacks" may be used not only for espionage but also for sabotage purposes. This is a threat in particular with regard to what are known as critical infrastructures. The increasing effectiveness of digital espionage has not, however, led to any loss in the importance of human sources. Instead, both forms of espionage complement each other thus producing an increased threat potential. The potential targets of espionage activities therefore need to safeguard their protected property both against attempted attacks from outside and against disloyal employees in their own organisations ("insider attacks") who are recruited, blackmailed or even specifically infiltrated into the organisation by foreign intelligence services.

Numerous agencies cooperate at the national and at the international levels to counter the threats emanating from "electronic attacks". The National Cyber Response Centre, in which the Federal Office for the Protection of the Constitution plays a key role, was set up to improve the cooperation between the competent agencies. The National Cyber Response Centre aims to optimise operational cooperation and to improve the coordination of protective and defensive measures against potential IT incidents.

In the past, however, it was often difficult to achieve intensified and permanent cooperation with national organisations in industry and research that are potential targets of espionage activities. In order to improve this situation, the Federal Office for the Protection of the Constitution in 2014 established a regular exchange of information with central contact persons in industry and the research community; this exchange is organised on the basis of working groups, associations or information platforms, each of which involves a host of businesses or institutions from a specific sector or field. This makes it possible for example to swift-

ly disseminate information to improve the self-protection of potential target organisations in a targeted fashion to a specific target group. Innovative and technology-driven medium-sized businesses are a core target group of the economic security policies of the authorities for the protection of the Constitution.

To **effectively protect the economy** the government, associations and businesses need to work together. A milestone on the way towards cooperation is the "Economic Security Initiative" coordinated and supported by the Federal Ministry of the Interior. Expert groups with the participation of government and industry have developed action targets and projects to achieve them. The aim is primarily to improve networking, intensify the information exchange between government authorities and industry and to strengthen the business community's sense of responsibility for protecting its know-how.

The Scientology Organisation (SO)

The Scientology Organisation (SO) continues to push for expansion but as in previous years, these efforts were largely unsuccessful in 2015, too. As in 2014, membership currently stands at between 3,000 and 4,000 members. Now as before, the SO branches in Berlin and Hamburg are the only ones that have the status of an "ideal org".

The SO adheres to its fundamental ideological orientation and strategy and to its familiar forms of agitation and continues to be guided by the writings of its founder L. Ron Hubbard, who died in 1986. The Scientologist ideology violates the free democratic basic order in that it restricts essential fundamental and human rights.

The SO relies increasingly on Internet services and social networks such as Twitter, YouTube and Facebook to disseminate its ideology, to polish its image and to recruit new members. Furthermore, the organization runs various campaigns to attract new prospective members and reduce reservations about the SO. An example in this context is the SO's drug prevention activities that are implemented by the association "*Sag NEIN zu Drogen - Sag JA zum Leben*" (Say NO to drugs - say YES to life). The association organised a promotional tour from 20 to 27 June 2015 ("drug prevention tour") from Munich to Berlin, setting up information stands in various cities.

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German intelligence: Iran seeks illegal nuclear technology

Germany's Merkel says Iran violating UN missile regulations.



German Chancellor Angela Merkel. (photo credit:REUTERS)

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Germany's domestic intelligence agency said in its annual report Thursday that Iran continues to seek illicit missile technology, which Western governments have long feared can be used for the delivery of nuclear weapons.

The revelation may place Iran in violation of a provision of the Joint Comprehensive Plan of Action, which requires Iran to submit to a procurement task force all purchase requests for "nuclear direct-use goods." But Iran fought successfully to exclude all mention of its missile program from the landmark nuclear deal, and argues that, despite separate international sanctions on that program, it has legitimate and non-nuclear related military purposes.

According to the intelligence report, the Islamic Republic of Iran continued "illegal proliferation- sensitive procurement activities in Germany registered by the Federal Office for the Protection of the Constitution persisted in 2015 at what is, even by international standards, a quantitatively high level. This holds true in particular with regard to items which can be used in the field of nuclear technology."

The German domestic intelligence report also stated "a further increase in the already considerable procurement efforts in connection with Iran's ambitious missile technology program which could among other things potentially serve to deliver nuclear weapons.

Against this backdrop it is safe to expect that Iran will continue its intensive procurement activities in Germany using clandestine methods to achieve its objectives."

The German intelligence report's finding coincide with German Chancellor Angel Merkel's statement today in the Bundestag that Iran violated the United Nations Security Council's anti-missile development regulations.

Merkel said Thursday "Iran continued unabated to develop its rocket program in conflict with the relevant provisions of the UN Security Council." She also said NATO's anti-missile system targets Iran's rocket program and was "developed purely for defense."

NATO has put in place a defensive missile shield in Romania. A second shield is set to be deployed in Poland. The NATO anti-rocket systems have created frictions with Russia's President Vladimir Putin. The Russian leader sees the missile system as an encroachment on Russia's sphere of interests.
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