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H. R. 7112

IN THE SENATE OF THE UNITED STATES

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Received

AN ACT

To impose sanctions with respect to Iran, to provide for the divestment of assets in Iran by State and local governments and other entities, and to identify locations of concern with respect to transshipment, reexportation, or diversion of certain sensitive items to Iran.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Comprehensive Iran Sanctions, Accountability, and Di-
 6 vestment Act of 2008”.

7 (a) **TABLE OF CONTENTS.**—The table of contents for
 8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Support for diplomatic efforts relating to preventing Iran from acquir-
 ing nuclear weapons.

TITLE I—SANCTIONS

Sec. 101. Definitions.

Sec. 102. Clarification and expansion of definitions.

Sec. 103. Economic sanctions relating to Iran.

Sec. 104. Liability of parent companies for violations of sanctions by foreign
 subsidiaries.

Sec. 105. Increased capacity for efforts to combat unlawful or terrorist financ-
 ing.

Sec. 106. Reporting requirements.

Sec. 107. Sense of Congress regarding the imposition of sanctions on the Cen-
 tral Bank of Iran.

Sec. 108. Rule of construction.

Sec. 109. Temporary increase in fee for certain consular services.

**TITLE II—DIVESTMENT FROM CERTAIN COMPANIES THAT
 INVEST IN IRAN**

Sec. 201. Definitions.

Sec. 202. Authority of State and local governments to divest from certain com-
 panies that invest in Iran.

Sec. 203. Safe harbor for changes of investment policies by asset managers.

Sec. 204. Sense of Congress regarding certain ERISA plan investments.

**TITLE III—PREVENTION OF TRANSSHIPMENT, REEXPORTATION,
 OR DIVERSION OF SENSITIVE ITEMS TO IRAN**

Sec. 301. Definitions.

Sec. 302. Identification of locations of concern with respect to transshipment,
 reexportation, or diversion of certain items to Iran.

Sec. 303. Destinations of Possible Diversion Concern and Destinations of Di-
 version Concern.

Sec. 304. Report on expanding diversion concern system to countries other than
 Iran.

TITLE IV—EFFECTIVE DATE; SUNSET

Sec. 401. Effective date; sunset.

1 **SEC. 2. SUPPORT FOR DIPLOMATIC EFFORTS RELATING TO**
2 **PREVENTING IRAN FROM ACQUIRING NU-**
3 **CLEAR WEAPONS.**

4 (a) SUPPORT FOR INTERNATIONAL DIPLOMATIC EF-
5 FORTS.—It is the sense of the Congress that—

6 (1) the United States should use diplomatic and
7 economic means to resolve the Iranian nuclear prob-
8 lem;

9 (2) the United States should continue to sup-
10 port efforts in the International Atomic Energy
11 Agency and the United Nations Security Council to
12 bring about an end to Iran’s uranium enrichment
13 program and its nuclear weapons program; and

14 (3)(A) United Nations Security Council Resolu-
15 tion 1737 was a useful first step toward pressing
16 Iran to end its nuclear weapons program; and

17 (B) in light of Iran’s continued defiance of the
18 international community, the United Nations Secu-
19 rity Council should adopt additional measures
20 against Iran, including measures to prohibit invest-
21 ments in Iran’s energy sector.

22 (b) PEACEFUL EFFORTS BY THE UNITED STATES.—
23 Nothing in this Act shall be construed as authorizing the

1 use of force or the use of the United States Armed Forces
2 against Iran.

3 **TITLE I—SANCTIONS**

4 **SEC. 101. DEFINITIONS.**

5 In this title:

6 (1) **AGRICULTURAL COMMODITY.**—The term
7 “agricultural commodity” has the meaning given
8 that term in section 102 of the Agricultural Trade
9 Act of 1978 (7 U.S.C. 5602).

10 (2) **APPROPRIATE CONGRESSIONAL COMMIT-**
11 **TEES.**—The term “appropriate congressional com-
12 mittees” has the meaning given that term in section
13 14(2) of the Iran Sanctions Act of 1996 (Public
14 Law 104–172; 50 U.S.C. 1701 note).

15 (3) **EXECUTIVE AGENCY.**—The term “executive
16 agency” has the meaning given that term in section
17 4 of the Office of Federal Procurement Policy Act
18 (41 U.S.C. 403).

19 (4) **FAMILY MEMBER.**—The term “family mem-
20 ber” means, with respect to an individual, the
21 spouse, children, grandchildren, or parents of the in-
22 dividual.

23 (5) **INFORMATION AND INFORMATIONAL MATE-**
24 **RIALS.**—The term “information and informational
25 materials”—

1 (A) means information and informational
2 materials described in section 203(b)(3) of the
3 International Emergency Economic Powers Act
4 (50 U.S.C. 1702(b)(3)); and

5 (B) does not include information or infor-
6 mational materials—

7 (i) the exportation of which is other-
8 wise controlled—

9 (I) under section 5 of the Export
10 Administration Act of 1979 (50
11 U.S.C. App. 2404) (as in effect pur-
12 suant to the International Emergency
13 Economic Powers Act (50 U.S.C.
14 1701 et seq.)); or

15 (II) under section 6 of that Act
16 (50 U.S.C. App. 2405), to the extent
17 that such controls promote the non-
18 proliferation or antiterrorism policies
19 of the United States; or

20 (ii) with respect to which acts are pro-
21 hibited by chapter 37 of title 18, United
22 States Code.

23 (6) INVESTMENT.—The term “investment” has
24 the meaning given that term in section 14(9) of the

1 Iran Sanctions Act of 1996 (Public Law 104–172;
2 50 U.S.C. 1701 note).

3 (7) IRANIAN DIPLOMATS AND REPRESENTA-
4 TIVES OF OTHER GOVERNMENT AND MILITARY OR
5 QUASI-GOVERNMENTAL INSTITUTIONS OF IRAN.—
6 The term “Iranian diplomats and representatives of
7 other government and military or quasi-govern-
8 mental institutions of Iran” has the meaning given
9 that term in section 14(11) of the Iran Sanctions
10 Act of 1996 (50 U.S.C. 1701 note).

11 (8) MEDICAL DEVICE.—The term “medical de-
12 vice” has the meaning given the term “device” in
13 section 201 of the Federal Food, Drug, and Cos-
14 metic Act (21 U.S.C. 321).

15 (9) MEDICINE.—The term “medicine” has the
16 meaning given the term “drug” in section 201 of the
17 Federal Food, Drug, and Cosmetic Act (21 U.S.C.
18 321).

19 **SEC. 102. CLARIFICATION AND EXPANSION OF DEFINI-**
20 **TIONS.**

21 (a) PERSON.—Section 14(13)(B) of the Iran Sanc-
22 tions Act of 1996 (50 U.S.C. 1701 note) is amended—

23 (1) by inserting “financial institution, insurer,
24 underwriter, guarantor, and any other business or-

1 ganization, including any foreign subsidiary, parent,
2 or affiliate of the foregoing,” after “trust,”; and

3 (2) by inserting “, such as an export credit
4 agency” before the semicolon.

5 (b) PETROLEUM RESOURCES.—Section 14(14) of the
6 Iran Sanctions Act of 1996 (50 U.S.C. 1701 note) is
7 amended to read as follows:

8 “(14) PETROLEUM RESOURCES.—

9 “(A) PETROLEUM RESOURCES.—The term
10 ‘petroleum resources’ includes petroleum, petro-
11 leum by-products, oil or liquefied natural gas,
12 oil or liquefied natural gas tankers, and prod-
13 ucts used to construct or maintain pipelines
14 used to transport oil or compressed or liquefied
15 natural gas.

16 “(B) PETROLEUM BY-PRODUCTS.—The
17 term ‘petroleum by-products’ means gasoline,
18 kerosene, distillates, propane or butane gas, die-
19 sel fuel, residual fuel oil, and other goods classi-
20 fied in headings 2709 and 2710 of the Har-
21 monized Tariff Schedule of the United States.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect 120 days after the date of
24 the enactment of this Act.

1 **SEC. 103. ECONOMIC SANCTIONS RELATING TO IRAN.**

2 (a) IN GENERAL.—Notwithstanding any other provi-
3 sion of law, and in addition to any other sanction in effect,
4 beginning on the date that is 120 days after the date of
5 the enactment of this Act, the economic sanctions de-
6 scribed in subsection (b) shall apply with respect to Iran.

7 (b) SANCTIONS.—The sanctions described in this
8 subsection are the following:

9 (1) PROHIBITION ON IMPORTS.—

10 (A) IN GENERAL.—Except as provided in
11 subparagraph (B), no article of Iranian origin
12 may be imported directly or indirectly into the
13 United States.

14 (B) EXCEPTION.—The prohibition in sub-
15 paragraph (A) does not apply to imports from
16 Iran of information and informational mate-
17 rials.

18 (2) PROHIBITION ON EXPORTS.—

19 (A) IN GENERAL.—Except as provided in
20 subparagraph (B), no article of United States
21 origin may be exported directly or indirectly to
22 Iran.

23 (B) EXCEPTIONS.—The prohibition in sub-
24 paragraph (A) does not apply to exports to Iran
25 of—

1 (i) agricultural commodities, food,
2 medicine, or medical devices;

3 (ii) articles exported to Iran to pro-
4 vide humanitarian assistance to the people
5 of Iran;

6 (iii) information or informational ma-
7 terials; or

8 (iv) goods, services, or technologies
9 necessary to ensure the safe operation of
10 commercial passenger aircraft produced in
11 the United States if the exportation of
12 such goods, services, or technologies is ap-
13 proved by the Secretary of the Treasury, in
14 consultation with the Secretary of Com-
15 merce, pursuant to regulations for licens-
16 ing the exportation of such goods, services,
17 or technologies, if appropriate.

18 (3) FREEZING ASSETS.—

19 (A) IN GENERAL.—At such time as the
20 United States has access to the names of per-
21 sons in Iran, including Iranian diplomats and
22 representatives of other government and mili-
23 tary or quasi-governmental institutions of Iran,
24 that are determined to be subject to sanctions
25 imposed under the authority of the Inter-

1 national Emergency Economic Powers Act (50
2 U.S.C. 1701 et seq.) or any other provision of
3 law relating to the imposition of sanctions with
4 respect to Iran, the President shall take such
5 action as may be necessary to freeze imme-
6 diately the funds and other assets belonging to
7 any person so named, and any family members
8 or associates of those persons so named to
9 whom assets or property of those persons so
10 named were transferred on or after January 1,
11 2008. The action described in the preceding
12 sentence includes requiring any United States
13 financial institution that holds funds and assets
14 of a person so named to report promptly to the
15 Office of Foreign Assets Control information
16 regarding such funds and assets.

17 (B) ASSET REPORTING REQUIREMENT.—
18 Not later than 14 days after a decision is made
19 to freeze the property or assets of any person
20 under this paragraph, the President shall report
21 the name of such person to the appropriate con-
22 gressional committees.

23 (4) UNITED STATES GOVERNMENT CON-
24 TRACTS.—The head of an executive agency may not
25 procure, or enter into a contract for the procurement

1 of, any goods or services from a person that meets
2 the criteria for the imposition of sanctions under
3 section 5(a) of the Iran Sanctions Act of 1996 (Pub-
4 lic Law 104–172; 50 U.S.C. 1701 note).

5 (c) WAIVER.—The President may waive the applica-
6 tion of the sanctions described in subsection (b) if the
7 President—

8 (1) determines that such a waiver is in the na-
9 tional interest of the United States; and

10 (2) submits to the appropriate congressional
11 committees a report describing the reasons for the
12 determination.

13 **SEC. 104. LIABILITY OF PARENT COMPANIES FOR VIOLA-**
14 **TIONS OF SANCTIONS BY FOREIGN SUBSIDI-**
15 **ARIES.**

16 (a) DEFINITIONS.—In this section:

17 (1) ENTITY.—The term “entity” means a part-
18 nership, association, trust, joint venture, corpora-
19 tion, or other organization.

20 (2) OWN OR CONTROL.—The term “own or con-
21 trol” means, with respect to an entity—

22 (A) to hold more than 50 percent of the
23 equity interest by vote or value in the entity;

24 (B) to hold a majority of seats on the
25 board of directors of the entity; or

1 (C) to otherwise control the actions, poli-
2 cies, or personnel decisions of the entity.

3 (3) SUBSIDIARY.—The term “subsidiary”
4 means an entity that is owned or controlled, directly
5 or indirectly, by a United States person.

6 (4) UNITED STATES PERSON.—The term
7 “United States person” means—

8 (A) a natural person who is a citizen, resi-
9 dent, or national of the United States; and

10 (B) an entity that is organized under the
11 laws of the United States, any State or terri-
12 tory thereof, or the District of Columbia, if nat-
13 ural persons described in subparagraph (A) own
14 or control the entity.

15 (b) IN GENERAL.—A United States person shall be
16 subject to a penalty for a violation of the provisions of
17 Executive Order 12959 (50 U.S.C. 1701 note) or Execu-
18 tive Order 13059 (50 U.S.C. 1701 note), or any other pro-
19 hibition on transactions with respect to Iran imposed
20 under the authority of the International Emergency Eco-
21 nomic Powers Act (50 U.S.C. 1701 et seq.), if—

22 (1) the President determines that the United
23 States person establishes or maintains a subsidiary
24 outside of the United States for the purpose of cir-
25 cumventing such provisions; and

1 (2) that subsidiary engages in an act that, if
2 committed in the United States or by a United
3 States person, would violate such provisions.

4 (c) WAIVER.—The President may waive the applica-
5 tion of subsection (b) if the President—

6 (1) determines that such a waiver is in the na-
7 tional interest of the United States; and

8 (2) submits to the appropriate congressional
9 committees a report describing the reasons for the
10 determination.

11 (d) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Subsection (b) shall take ef-
13 fect on the date of the enactment of this Act and
14 apply with respect to acts described in subsection
15 (b)(2) that are—

16 (A) commenced on or after the date of the
17 enactment of this Act; or

18 (B) except as provided in paragraph (2),
19 commenced before such date of enactment, if
20 such acts continue on or after such date of en-
21 actment.

22 (2) EXCEPTION.—Subsection (b) shall not
23 apply with respect to an act described in paragraph
24 (1)(B) by a subsidiary owned or controlled by a
25 United States person if the United States person di-

1 vests or terminates its business with the subsidiary
2 not later than 90 days after such date of enactment.

3 **SEC. 105. INCREASED CAPACITY FOR EFFORTS TO COMBAT**
4 **UNLAWFUL OR TERRORIST FINANCING.**

5 (a) FINDING.—Congress finds that the work of the
6 Office of Terrorism and Financial Intelligence of the De-
7 partment of the Treasury, which includes the Office of
8 Foreign Assets Control and the Financial Crimes Enforce-
9 ment Network, is critical to ensuring that the inter-
10 national financial system is not used for purposes of sup-
11 porting terrorism and developing weapons of mass de-
12 struction.

13 (b) AUTHORIZATION OF APPROPRIATIONS FOR OF-
14 FICE OF TERRORISM AND FINANCIAL INTELLIGENCE.—
15 There is authorized to be appropriated to the Secretary
16 of the Treasury for the Office of Terrorism and Financial
17 Intelligence—

18 (1) \$61,712,000 for fiscal year 2009; and

19 (2) such sums as may be necessary for each of
20 fiscal years 2010 and 2011.

21 (c) AUTHORIZATION OF APPROPRIATIONS FOR THE
22 FINANCIAL CRIMES ENFORCEMENT NETWORK.—Section
23 310(d)(1) of title 31, United States Code, is amended by
24 striking “such sums as may be necessary for fiscal years
25 2002, 2003, 2004, and 2005” and inserting “\$91,335,000

1 for fiscal year 2009 and such sums as may be necessary
2 for each of fiscal years 2010 and 2011”.

3 **SEC. 106. REPORTING REQUIREMENTS.**

4 (a) FOREIGN INVESTMENT IN IRAN.—

5 (1) IN GENERAL.—Not later than 180 days
6 after the date of the enactment of this Act, the
7 President shall submit to the appropriate congress-
8 sional committees a report on—

9 (A) any foreign investments of
10 \$20,000,000 or more made in Iran’s energy
11 sector on or after January 1, 2008, and before
12 the date on which the President submits the re-
13 port; and

14 (B) the determination of the President on
15 whether each such investment qualifies as a
16 sanctionable offense under section 5(a) of the
17 Iran Sanctions Act of 1996 (Public Law 104–
18 172; 50 U.S.C. 1701 note).

19 (2) SUBSEQUENT REPORTS.—Not later than 1
20 year after the date of the enactment of this Act, and
21 every 180 days thereafter, the President shall sub-
22 mit to the appropriate congressional committees a
23 report on—

24 (A) any foreign investments of
25 \$20,000,000 or more made in Iran’s energy

1 sector during the 180-day period preceding the
2 submission of the report; and

3 (B) the determination of the President on
4 whether each such investment qualifies as a
5 sanctionable offense under section 5(a) of the
6 Iran Sanctions Act of 1996 (Public Law 104–
7 172; 50 U.S.C. 1701 note).

8 (b) FORM OF REPORTS.—The reports required under
9 subsection (a) shall be submitted in unclassified form, but
10 may contain a classified annex.

11 **SEC. 107. SENSE OF CONGRESS REGARDING THE IMPOSI-**
12 **TION OF SANCTIONS ON THE CENTRAL BANK**
13 **OF IRAN.**

14 Congress urges the President, in the strongest terms,
15 to consider immediately using the authority of the Presi-
16 dent to impose sanctions on the Central Bank of Iran and
17 any other Iranian bank engaged in proliferation activities
18 or support of terrorist groups.

19 **SEC. 108. RULE OF CONSTRUCTION.**

20 Nothing in this title shall be construed to affect any
21 provision of title I of the Iran Freedom Support Act (Pub-
22 lic Law 109–293; 50 U.S.C. 1701 note).

1 **SEC. 109. TEMPORARY INCREASE IN FEE FOR CERTAIN**
2 **CONSULAR SERVICES.**

3 (a) INCREASE IN FEE.—Notwithstanding any other
4 provision of law, not later than 120 days after the date
5 of the enactment of this Act, the Secretary of State shall
6 increase by \$1.00 the fee or surcharge assessed under sec-
7 tion 140(a) of the Foreign Relations Authorization Act,
8 Fiscal Years 1994 and 1995 (Public Law 103–236; 8
9 U.S.C. 1351 note) over the amount of such fee or sur-
10 charge as of such date for processing machine readable
11 nonimmigrant visas and machine readable combined bor-
12 der crossing identification cards and nonimmigrant visas.

13 (b) DEPOSIT OF AMOUNTS.—Notwithstanding sec-
14 tion 140(a)(2) of the Foreign Relations Authorization Act,
15 Fiscal Years 1994 and 1995, fees collected under the au-
16 thority of subsection (a) shall be deposited in the Treasury
17 of the United States.

18 (c) DURATION OF INCREASE.—The fee increase au-
19 thorized under subsection (a) shall terminate on the date
20 that is nine months after the date on which such fee is
21 first collected.

22 **TITLE II—DIVESTMENT FROM**
23 **CERTAIN COMPANIES THAT**
24 **INVEST IN IRAN**

25 **SEC. 201. DEFINITIONS.**

26 In this title:

1 (1) ENERGY SECTOR.—The term “energy sec-
2 tor” refers to activities to develop petroleum or nat-
3 ural gas resources or nuclear power.

4 (2) FINANCIAL INSTITUTION.—The term “fi-
5 nancial institution” has the meaning given that term
6 in section 14(5) of the Iran Sanctions Act of 1996
7 (Public Law 104–172; 50 U.S.C. 1701 note).

8 (3) IRAN.—The term “Iran” includes any agen-
9 cy or instrumentality of Iran.

10 (4) PERSON.—The term “person” means—

11 (A) a natural person, corporation, com-
12 pany, business association, partnership, society,
13 trust, or any other nongovernmental entity, or-
14 ganization, or group;

15 (B) any governmental entity or instrumen-
16 tality of a government, including a multilateral
17 development institution (as defined in section
18 1701(c)(3) of the International Financial Insti-
19 tutions Act (22 U.S.C. 262r(c)(3))); and

20 (C) any successor, subunit, parent com-
21 pany, or subsidiary of any entity described in
22 subparagraph (A) or (B).

23 (5) STATE.—The term “State” means each of
24 the several States, the District of Columbia, the
25 Commonwealth of Puerto Rico, the United States

1 Virgin Islands, Guam, American Samoa, and the
2 Commonwealth of the Northern Mariana Islands.

3 (6) STATE OR LOCAL GOVERNMENT.—The term
4 “State or local government” includes—

5 (A) any State and any agency or instru-
6 mentality thereof;

7 (B) any local government within a State,
8 and any agency or instrumentality thereof;

9 (C) any other governmental instrumen-
10 tality; and

11 (D) any public institution of higher edu-
12 cation within the meaning of the Higher Edu-
13 cation Act of 1965 (20 U.S.C. 1001 et seq.).

14 **SEC. 202. AUTHORITY OF STATE AND LOCAL GOVERN-**
15 **MENTS TO DIVEST FROM CERTAIN COMPA-**
16 **NIES THAT INVEST IN IRAN.**

17 (a) SENSE OF CONGRESS.—It is the sense of Con-
18 gress that the United States Government should support
19 the decision of any State or local government to divest
20 from, or to prohibit the investment of assets of the State
21 or local government in, a person that the State or local
22 government determines poses a financial or reputational
23 risk.

24 (b) AUTHORITY TO DIVEST.—Notwithstanding any
25 other provision of law, a State or local government may

1 adopt and enforce measures that meet the requirements
2 of subsection (d) to divest the assets of the State or local
3 government from, or prohibit investment of the assets of
4 the State or local government in, any person that the
5 State or local government determines, using credible infor-
6 mation available to the public, engages in investment ac-
7 tivities in Iran described in subsection (c).

8 (c) INVESTMENT ACTIVITIES DESCRIBED.—A person
9 engages in investment activities in Iran described in this
10 subsection if the person—

11 (1) has an investment of \$20,000,000 or
12 more—

13 (A) in the energy sector of Iran; or

14 (B) in a person that provides oil or
15 liquified natural gas tankers, or products used
16 to construct or maintain pipelines used to
17 transport oil or liquified natural gas, for the en-
18 ergy sector in Iran; or

19 (2) is a financial institution that extends
20 \$20,000,000 or more in credit to another person, for
21 45 days or more, if that person will use the credit
22 to invest in the energy sector in Iran.

23 (d) REQUIREMENTS.—The requirements referred to
24 in subsection (b) that a measure taken by a State or local
25 government must meet are the following:

1 (1) NOTICE.—The State or local government
2 shall provide written notice to each person to which
3 a measure is to be applied.

4 (2) TIMING.—The measure shall apply to a per-
5 son not earlier than the date that is 90 days after
6 the date on which written notice is provided to the
7 person under paragraph (1).

8 (3) OPPORTUNITY FOR HEARING.—The State
9 or local government shall provide an opportunity to
10 comment in writing to each person to which a meas-
11 ure is to be applied. If the person demonstrates to
12 the State or local government that the person does
13 not engage in investment activities in Iran described
14 in subsection (c), the measure shall not apply to the
15 person.

16 (4) SENSE OF CONGRESS ON AVOIDING ERRO-
17 NEOUS TARGETING.—It is the sense of Congress
18 that a State or local government should not adopt
19 a measure under subsection (b) with respect to a
20 person unless the State or local government has
21 made every effort to avoid erroneously targeting the
22 person and has verified that the person engages in
23 investment activities in Iran described in subsection
24 (c).

1 (e) NOTICE TO DEPARTMENT OF JUSTICE.—Not
2 later than 30 days after adopting a measure pursuant to
3 subsection (b), a State or local government shall submit
4 written notice to the Attorney General describing the
5 measure.

6 (f) NONPREEMPTION.—A measure of a State or local
7 government authorized under subsection (b) is not pre-
8 empted by any Federal law or regulation.

9 (g) DEFINITIONS.—In this section:

10 (1) INVESTMENT.—The “investment” of assets,
11 with respect to a State or local government, in-
12 cludes—

13 (A) a commitment or contribution of as-
14 sets;

15 (B) a loan or other extension of credit; and

16 (C) the entry into or renewal of a contract
17 for goods or services.

18 (2) ASSETS.—

19 (A) IN GENERAL.—Except as provided in
20 subparagraph (B), the term “assets” refers to
21 public monies and includes any pension, retire-
22 ment, annuity, or endowment fund, or similar
23 instrument, that is controlled by a State or
24 local government.

1 (B) EXCEPTION.—The term “assets” does
2 not include employee benefit plans covered by
3 title I of the Employee Retirement Income Se-
4 curity Act of 1974 (29 U.S.C. 1001 et seq.).

5 (h) EFFECTIVE DATE.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), this section applies to measures adopted
8 by a State or local government before, on, or after
9 the date of the enactment of this Act.

10 (2) NOTICE REQUIREMENTS.—Subsections (d)
11 and (e) apply to measures adopted by a State or
12 local government on or after the date of the enact-
13 ment of this Act.

14 **SEC. 203. SAFE HARBOR FOR CHANGES OF INVESTMENT**
15 **POLICIES BY ASSET MANAGERS.**

16 (a) IN GENERAL.—Section 13(c)(1) of the Invest-
17 ment Company Act of 1940 (15 U.S.C. 80a–13(c)(1)) is
18 amended to read as follows:

19 “(1) IN GENERAL.—Notwithstanding any other
20 provision of Federal or State law, no person may
21 bring any civil, criminal, or administrative action
22 against any registered investment company, or any
23 employee, officer, director, or investment adviser
24 thereof, based solely upon the investment company
25 divesting from, or avoiding investing in, securities

1 issued by persons that the investment company de-
2 termines, using credible information available to the
3 public—

4 “(A) conduct or have direct investments in
5 business operations in Sudan described in sec-
6 tion 3(d) of the Sudan Accountability and Di-
7 vestment Act of 2007 (50 U.S.C. 1701 note); or

8 “(B) engage in investment activities in
9 Iran described in section 202(c) of the Com-
10 prehensive Iran Sanctions, Accountability, and
11 Divestment Act of 2008.”.

12 (b) SEC REGULATIONS.—Not later than 120 days
13 after the date of the enactment of this Act, the Securities
14 and Exchange Commission shall issue any revisions the
15 Commission determines to be necessary to the regulations
16 requiring disclosure by each registered investment com-
17 pany that divests itself of securities in accordance with
18 section 13(c) of the Investment Company Act of 1940 to
19 include divestments of securities in accordance with para-
20 graph (1)(B) of such section, as added by subsection (a).

21 **SEC. 204. SENSE OF CONGRESS REGARDING CERTAIN**
22 **ERISA PLAN INVESTMENTS.**

23 It is the sense of Congress that a fiduciary of an em-
24 ployee benefit plan, as defined in section 3(3) of the Em-
25 ployee Retirement Income Security Act of 1974 (29

1 U.S.C. 1002(3)), may divest plan assets from, or avoid
2 investing plan assets in, any person the fiduciary deter-
3 mines engages in investment activities in Iran described
4 in section 202(c) of this title, without breaching the re-
5 sponsibilities, obligations, or duties imposed upon the fidu-
6 ciary by section 404 of the Employee Retirement Income
7 Security Act of 1974 (29 U.S.C. 1104), if—

8 (1) the fiduciary makes such determination
9 using credible information that is available to the
10 public; and

11 (2) such divestment or avoidance of investment
12 is conducted in accordance with section 2509.94–1
13 of title 29, Code of Federal Regulations (as in effect
14 on the day before the date of the enactment of this
15 Act).

16 **TITLE III—PREVENTION OF**
17 **TRANSSHIPMENT, REEXPOR-**
18 **TATION, OR DIVERSION OF**
19 **SENSITIVE ITEMS TO IRAN**

20 **SEC. 301. DEFINITIONS.**

21 In this title:

22 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
23 **TEES.**—The term “appropriate congressional com-
24 mittees” means—

1 (A) the Committee on Banking, Housing,
2 and Urban Affairs, the Committee on Foreign
3 Relations, and the Select Committee on Intel-
4 ligence of the Senate; and

5 (B) the Committee on Financial Services,
6 the Committee on Foreign Affairs, and the Per-
7 manent Select Committee on Intelligence of the
8 House of Representatives.

9 (2) END-USER.—The term “end-user” means
10 an end-user as that term is used in the Export Ad-
11 ministration Regulations.

12 (3) ENTITY OWNED OR CONTROLLED BY THE
13 GOVERNMENT OF IRAN.—The term “entity owned or
14 controlled by the Government of Iran” includes—

15 (A) any corporation, partnership, associa-
16 tion, or other entity in which the Government
17 of Iran owns a majority or controlling interest;
18 and

19 (B) any entity that is otherwise controlled
20 by the Government of Iran.

21 (4) EXPORT ADMINISTRATION REGULATIONS.—
22 The term “Export Administration Regulations”
23 means subchapter C of chapter VII of title 15, Code
24 of Federal Regulations.

1 (5) GOVERNMENT.—The term “government”
2 includes any agency or instrumentality of a govern-
3 ment.

4 (6) IRAN.—The term “Iran” includes any agen-
5 cy or instrumentality of Iran.

6 (7) STATE SPONSOR OF TERRORISM.—The term
7 “state sponsor of terrorism” means any country the
8 government of which the Secretary of State has de-
9 termined, pursuant to—

10 (A) section 6(j)(1)(A) of the Export Ad-
11 ministration Act of 1979 (50 U.S.C. App.
12 2405(j)(1)(A)) (or any successor thereto),

13 (B) section 40(d) of the Arms Export Con-
14 trol Act (22 U.S.C. 2780(d)), or

15 (C) section 620A(a) of the Foreign Assist-
16 ance Act of 1961 (22 U.S.C. 2371(a)),

17 is a government that has repeatedly provided sup-
18 port for acts of international terrorism.

19 (8) TRANSSHIPMENT, REEXPORTATION, OR DI-
20 VERSION.—The term “transshipment, reexportation,
21 or diversion” means the exportation, directly or indi-
22 rectly, by any means, of items that originated in the
23 United States to an end-user whose identity cannot
24 be verified or to an entity owned or controlled by the

1 Government of Iran in violation of the laws or regu-
2 lations of the United States, including by—

3 (A) shipping such items through 1 or more
4 foreign countries; or

5 (B) by using false information regarding
6 the country of origin of such items.

7 **SEC. 302. IDENTIFICATION OF LOCATIONS OF CONCERN**
8 **WITH RESPECT TO TRANSSHIPMENT, RE-**
9 **EXPORTATION, OR DIVERSION OF CERTAIN**
10 **ITEMS TO IRAN.**

11 Not later than 180 days after the date of the enact-
12 ment of this Act, and annually thereafter, the Director
13 of National Intelligence shall submit to the Secretary of
14 Commerce, the Secretary of State, the Secretary of the
15 Treasury, and the appropriate congressional committees
16 a report that identifies all countries that the Director de-
17 termines are of concern with respect to transshipment, re-
18 exportation, or diversion of items subject to the provisions
19 of the Export Administration Regulations to an entity
20 owned or controlled by the Government of Iran.

21 **SEC. 303. DESTINATIONS OF POSSIBLE DIVERSION CON-**
22 **CERN AND DESTINATIONS OF DIVERSION**
23 **CONCERN.**

24 (a) DESTINATIONS OF POSSIBLE DIVERSION CON-
25 CERN.—

1 (1) DESIGNATION.—The Secretary of Com-
2 merce shall designate a country as a Destination of
3 Possible Diversion Concern if the Secretary, in con-
4 sultation with the Secretary of State and the Sec-
5 retary of the Treasury, determines that such des-
6 ignation is appropriate to carry out activities to
7 strengthen the export control systems of that coun-
8 try based on criteria that include—

9 (A) the volume of items that originated in
10 the United States that are transported through
11 the country to end-users whose identities cannot
12 be verified;

13 (B) the inadequacy of the export and reex-
14 port controls of the country;

15 (C) the unwillingness or demonstrated in-
16 ability of the government of the country to con-
17 trol diversion activities; and

18 (D) the unwillingness or inability of the
19 government of the country to cooperate with the
20 United States in interdiction efforts.

21 (2) STRENGTHENING EXPORT CONTROL SYS-
22 TEMS OF DESTINATIONS OF POSSIBLE DIVERSION
23 CONCERN.—If the Secretary of Commerce designates
24 a country as a Destination of Possible Diversion
25 Concern under paragraph (1), the United States

1 shall initiate government-to-government activities de-
2 scribed in paragraph (3) to strengthen the export
3 control systems of the country.

4 (3) GOVERNMENT-TO-GOVERNMENT ACTIVITIES
5 DESCRIBED.—The government-to-government activi-
6 ties described in this paragraph include—

7 (A) cooperation by agencies and depart-
8 ments of the United States with counterpart
9 agencies and departments in a country des-
10 ignated as a Destination of Possible Diversion
11 Concern under paragraph (1) to—

12 (i) develop or strengthen export con-
13 trol systems in the country;

14 (ii) strengthen cooperation and facili-
15 tate enforcement of export control systems
16 in the country; and

17 (iii) promote information and data ex-
18 changes among agencies of the country
19 and with the United States; and

20 (B) efforts by the Office of International
21 Programs of the Department of Commerce to
22 strengthen the export control systems of the
23 country to—

24 (i) facilitate legitimate trade in high-
25 technology goods; and

1 (ii) prevent terrorists and state spon-
2 sors of terrorism, including Iran, from ob-
3 taining nuclear, biological, and chemical
4 weapons, defense technologies, components
5 for improvised explosive devices, and other
6 defense items.

7 (b) DESTINATIONS OF DIVERSION CONCERN.—

8 (1) DESIGNATION.—The Secretary of Com-
9 merce shall designate a country as a Destination of
10 Diversion Concern if the Secretary, in consultation
11 with the Secretary of State and the Secretary of the
12 Treasury, determines—

13 (A) that the government of the country is
14 directly involved in transshipment, reexport-
15 ation, or diversion of items that originated in
16 the United States to end-users whose identities
17 cannot be verified or to entities owned or con-
18 trolled by the Government of Iran; or

19 (B) 12 months after the Secretary of Com-
20 merce designates the country as a Destination
21 of Possible Diversion Concern under subsection
22 (a)(1), that the country has failed—

23 (i) to cooperate with the government-
24 to-government activities initiated by the
25 United States under subsection (a)(2); or

1 (ii) based on the criteria described in
2 subsection (a)(1), to adequately strengthen
3 the export control systems of the country.

4 (2) LICENSING CONTROLS WITH RESPECT TO
5 DESTINATIONS OF DIVERSION CONCERN.—

6 (A) REPORT ON SUSPECT ITEMS.—

7 (i) IN GENERAL.—Not later than 45
8 days after the date of the enactment of
9 this Act, the Secretary of Commerce, in
10 consultation with the Director of National
11 Intelligence, the Secretary of State, and
12 the Secretary of the Treasury, shall submit
13 to the appropriate congressional commit-
14 tees a report containing a list of items
15 that, if the items were transshipped, reex-
16 ported, or diverted to Iran, could con-
17 tribute to—

18 (I) Iran obtaining nuclear, bio-
19 logical, or chemical weapons, defense
20 technologies, components for impro-
21 vised explosive devices, or other de-
22 fense items; or

23 (II) support by Iran for acts of
24 international terrorism.

1 (ii) CONSIDERATIONS FOR LIST.—In
2 developing the list required under clause
3 (i), the Secretary of Commerce shall con-
4 sider—

5 (I) the items subject to licensing
6 requirements under section 742.8 of
7 title 15, Code of Federal Regulations
8 (or any corresponding similar regula-
9 tion or ruling) and other existing li-
10 censing requirements; and

11 (II) the items added to the list of
12 items for which a license is required
13 for exportation to North Korea by the
14 final rule of the Bureau of Export Ad-
15 ministration of the Department of
16 Commerce issued on June 19, 2000
17 (65 Fed. Reg. 38148; relating to ex-
18 port restrictions on North Korea).

19 (B) LICENSING REQUIREMENT.—Not later
20 than 180 days after the date of the enactment
21 of this Act, the Secretary of Commerce shall re-
22 quire a license to export an item on the list re-
23 quired under subparagraph (A)(i) to a country
24 designated as a Destination of Diversion Con-
25 cern.

1 (3) WAIVER.—The President may waive the im-
2 position of the licensing requirement under para-
3 graph (2)(B) with respect to a country designated as
4 a Destination of Diversion Concern if the Presi-
5 dent—

6 (A) determines that such a waiver is in the
7 national interest of the United States; and

8 (B) submits to the appropriate congres-
9 sional committees a report describing the rea-
10 sons for the determination.

11 (c) TERMINATION OF DESIGNATION.—The designa-
12 tion of a country as a Destination of Possible Diversion
13 Concern or a Destination of Diversion Concern shall ter-
14 minate on the date on which the Secretary of Commerce
15 determines, based on the criteria described in subpara-
16 graphs (A) through (D) of subsection (a)(1), and certifies
17 to Congress and the President that the country has ade-
18 quately strengthened the export control systems of the
19 country to prevent transshipment, reexportation, and di-
20 version of items through the country to end-users whose
21 identities cannot be verified or to entities owned or con-
22 trolled by the Government of Iran.

23 (d) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated such sums as may be
25 necessary to carry out this section.

1 **SEC. 304. REPORT ON EXPANDING DIVERSION CONCERN**
2 **SYSTEM TO COUNTRIES OTHER THAN IRAN.**

3 Not later than 180 days after the date of the enact-
4 ment of this Act, the Director of National Intelligence, in
5 consultation with the Secretary of Commerce, the Sec-
6 retary of State, and the Secretary of the Treasury, shall
7 submit to the appropriate congressional committees a re-
8 port that—

9 (1) identifies any country that the Director de-
10 termines may be transshipping, reexporting, or di-
11 verting items subject to the provisions of the Export
12 Administration Regulations to another country if
13 such other country—

14 (A) is seeking to obtain nuclear, biological,
15 or chemical weapons, defense technologies, com-
16 ponents for improvised explosive devices, or
17 other defense items; or

18 (B) provides support for acts of inter-
19 national terrorism; and

20 (2) assesses the feasibility and advisability of
21 expanding the system established under section 303
22 for designating countries as Destinations of Possible
23 Diversion Concern and Destinations of Diversion
24 Concern to include countries identified under para-
25 graph (1).

1 **TITLE IV—EFFECTIVE DATE;**
2 **SUNSET**

3 **SEC. 401. EFFECTIVE DATE; SUNSET.**

4 (a) **EFFECTIVE DATE.**—Except as provided in sec-
5 tions 102, 103, 104 and 202, this Act and the amend-
6 ments made by this Act take effect on the date of the
7 enactment of this Act.

8 (b) **SUNSET.**—The provisions of this Act shall termi-
9 nate on the date that is 30 days after the date on which
10 the President certifies to Congress that—

11 (1) the Government of Iran has ceased pro-
12 viding support for acts of international terrorism
13 and no longer satisfies the requirements for designa-
14 tion as a state sponsor of terrorism under—

15 (A) section 6(j)(1)(A) of the Export Ad-
16 ministration Act of 1979 (50 U.S.C. App.
17 2405(j)(1)(A)) (or any successor thereto);

18 (B) section 40(d) of the Arms Export Con-
19 trol Act (22 U.S.C. 2780(d)); or

20 (C) section 620A(a) of the Foreign Assist-
21 ance Act of 1961 (22 U.S.C. 2371(a)); and

22 (2) Iran has ceased the pursuit, acquisition,
23 and development of nuclear, biological, and chemical

1 weapons and ballistic missiles and ballistic missile
2 launch technology.

Passed the House of Representatives September 26,
2008.

Attest: LORRAINE C. MILLER,
Clerk.