

**DEPARTMENT OF THE TREASURY**

**Financial Crimes Enforcement Network (FinCEN)**

**31 CFR Part 1010**

**RIN 1506-AB42**

**Imposition of Fifth Special Measure against the Islamic Republic of Iran as a Jurisdiction of Primary Money Laundering Concern**

**AGENCY:** Financial Crimes Enforcement Network, (“FinCEN”), Treasury.

**ACTION:** Final rule.

**SUMMARY:** FinCEN is issuing this final rule, pursuant to Section 311 of the USA PATRIOT Act, to prohibit the opening or maintaining of correspondent accounts in the United States for, or on behalf of, Iranian financial institutions, and the use of foreign financial institutions’ correspondent accounts at covered U.S. financial institutions to process transactions involving Iranian financial institutions.

**DATES:** This final rule is effective [INSERT DATE THAT IS TEN DAYS AFTER PUBLICATION].

**FOR FURTHER INFORMATION CONTACT:** The FinCEN Resource Center, (800) 949–2732, refer to FDMS Docket No. FinCEN-2019-0002.

**SUPPLEMENTARY INFORMATION:**

**I. Statutory Provisions**

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 (USA PATRIOT Act). Title III of the USA PATRIOT Act amended the anti-money laundering (AML) provisions of the Bank Secrecy Act

(BSA), codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury (Secretary) to administer the BSA and its implementing regulations has been delegated to FinCEN.

Section 311 of the USA PATRIOT Act (Section 311), codified at 31 U.S.C. 5318A, grants FinCEN the authority, upon finding that reasonable grounds exist for concluding that a jurisdiction outside of the United States, one or more financial institutions operating outside of the United States, one or more classes of transactions within or involving a jurisdiction outside of the United States, or one or more types of accounts is of primary money laundering concern, to require domestic financial institutions and domestic financial agencies to take certain “special measures.” The five special measures enumerated in Section 311 are preventative safeguards that defend the U.S. financial system from money laundering and terrorist financing. FinCEN may impose one or more of these special measures in order to protect the U.S. financial system from these threats. Special measures one through four, codified at 31 U.S.C. 5318A(b)(1)–(b)(4), impose additional recordkeeping, information collection, and reporting requirements on covered U.S. financial institutions. The fifth special measure, codified at 31 U.S.C. 5318A(b)(5), allows FinCEN to prohibit, or impose conditions on, the opening or maintaining in the U.S. of correspondent or payable-through accounts for, or on behalf of, a foreign bank, if such correspondent account or payable-through account involves the foreign jurisdiction, financial institution, class of transaction, or type of account found to be of primary money laundering concern.

Before making a finding that reasonable grounds exist for concluding that a jurisdiction is of primary money laundering concern, the Secretary is required to consult with both the Secretary of State and the Attorney General.<sup>1</sup> The Secretary must also consider such information as the Secretary determines to be relevant, including the following potentially relevant factors:

- (i) evidence that organized criminal groups, international terrorists, or entities involved in the proliferation of weapons of mass destruction (“WMD”) or missiles have transacted business in that jurisdiction;
- (ii) the extent to which that jurisdiction or financial institutions operating in that jurisdiction offer bank secrecy or special regulatory advantages to nonresidents or nondomiciliaries of that jurisdiction;
- (iii) the substance and quality of administration of the bank supervisory and counter-money laundering laws of that jurisdiction;
- (iv) the relationship between the volume of financial transactions occurring in that jurisdiction and the size of the economy of the jurisdiction;
- (v) the extent to which that jurisdiction is characterized as an offshore banking or secrecy haven by credible international organizations or multilateral expert groups;
- (vi) whether the United States has a mutual legal assistance treaty with that jurisdiction, and the experience of U.S. law enforcement officials and regulatory officials in obtaining information about transactions originating in or routed through or to such jurisdiction; and

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<sup>1</sup> 31 U.S.C. 5318A(c)(1).

- (vii) the extent to which that jurisdiction is characterized by high levels of official or institutional corruption.

Upon finding that a jurisdiction is of primary money laundering concern, the Secretary may require covered financial institutions to take one or more special measures. In selecting which special measure(s) to take, the Secretary “shall consult with the Chairman of the Board of Governors of the Federal Reserve System, any other appropriate federal banking agency (as defined in Section 3 of the Federal Deposit Insurance Act), the Secretary of State, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the National Credit Union Administration Board, and at the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find appropriate.”<sup>2</sup> In imposing the fifth special measure, the Secretary must do so “in consultation with the Secretary of State, the Attorney General, and the Chairman of the Board of Governors of the Federal Reserve System.”<sup>3</sup>

In addition, in selecting which special measure(s) to take, the Secretary shall consider the following factors:

- whether similar action has been or is being taken by other nations or multilateral groups;
- whether the imposition of any particular special measure would create a significant competitive disadvantage, including any undue cost or burden associated with compliance, for financial institutions organized or licensed in the United States;

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<sup>2</sup> 31 U.S.C. 5318A(a)(4)(A).

<sup>3</sup> 31 U.S.C. 5318A(b)(5).

- the extent to which the action or the timing of the action would have a significant adverse systemic impact on the international payment, clearance, and settlement system, or on legitimate business activities involving the particular jurisdiction, institution, class of transactions, or type of account; and
- the effect of the action on U.S. national security and foreign policy.<sup>4</sup>

## **II. Public Participation**

FinCEN's decision to take this action as a final rule is consistent with the Administrative Procedure Act (APA) and in the interest of U.S. foreign policy. Section 311's fifth special measure "may be imposed only by regulation."<sup>5</sup> The APA exempts regulations involving "a military or foreign affairs function of the United States" from its requirements for notice of proposed rulemaking, the opportunity for public participation, and a 30 day delay in effective date.<sup>6</sup> As set forth in more detail below, this rule imposes a special measure with regard to the jurisdiction of the Islamic Republic of Iran (Iran). Iran is the subject of a national emergency declaration identifying it as an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and is the subject of multiple Executive Orders identifying it as a supporter of terrorism as well as other malign activities.<sup>7</sup> The special measure described herein relates to important foreign policy goals of the U.S. government, namely to deny the Iranian regime resources to support terrorism, develop nuclear weapons and/or the proliferation of weapons of mass destruction, advance its ballistic missile program, oppress the Iranian

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<sup>4</sup> 31 U.S.C. 5318A(a)(4)(B).

<sup>5</sup> 31 U.S.C. 5318A(a)(2)(C).

<sup>6</sup> 5 U.S.C. 553(a)(1).

<sup>7</sup> *See, e.g.*, E.O. 12957, "Prohibiting Certain Transactions With Respect to the Development of Iranian Petroleum Resources" (1995); E.O. 13848, "Reimposing Certain Sanctions With Respect to Iran" (2018); E.O. 13876, "Imposing Sanctions With Respect to Iran" (2019).

people, and fuel conflicts in Syria, Afghanistan, Yemen and elsewhere. Rapid imposition of the fifth special measure pursuant to Section 311, without any procedural delays caused by soliciting public comments concerning U.S. foreign policy, will further protect the U.S. financial system from Iran by ensuring that U.S. financial institutions are not exposed to Iran's ongoing illicit finance activities, including its support for international terrorism. Because this rule involves a foreign affairs function, it is exempt from the provisions of the APA requiring notice of proposed rulemaking, the opportunity for public participation, and a 30 day delay in effective date. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) does not apply. To ensure orderly implementation, FinCEN will delay its effective date until [INSERT DATE THAT IS TEN DAYS AFTER PUBLICATION].

### **III. Summary of the Final Rule**

This final rule sets forth (i) FinCEN's finding that Iran is a jurisdiction of primary money laundering concern pursuant to Section 311, and (ii) FinCEN's imposition of a prohibition under the fifth special measure on the opening or maintaining of correspondent accounts in the United States for, or on behalf of, Iranian financial institutions, and the use of foreign financial institutions' correspondent accounts at covered U.S. financial institutions to process transactions involving Iranian financial institutions.

### **IV. Treasury Actions Involving Iran**

The U.S. Department of the Treasury (Treasury) has taken numerous actions to publicly highlight and counter Iran's malign activities, including implementation of a multitude of sanctions programs and issuance of several advisories. On November 5,

2018, the United States fully re-imposed the sanctions on Iran that had been lifted or waived under the Joint Comprehensive Plan of Action (JCPOA).<sup>8</sup> However, Iran has continued to evade these sanctions, fund terror and destabilizing activities, and advance its ballistic missile development. As a result, Treasury and the U.S. Department of State (State Department) have continued imposing sanctions on Iranian persons, as well as persons in third countries who have continued to transact with Iran, or who have acted for or on behalf of designated Iranian persons.

On November 28, 2011, FinCEN issued an NPRM announcing its finding that Iran was a jurisdiction of primary money laundering concern pursuant to Section 311, and its proposed implementation of the fifth special measure.<sup>9 10</sup>

## **V. Finding Iran to be a Jurisdiction of Primary Money Laundering Concern**

Based on information available to FinCEN, including both public and non-public reporting,<sup>11</sup> and after considering the factors listed in the 311 statute and performing the requisite interagency consultations with the Secretary of State and Attorney General as required by 31 U.S.C. 5318A(c)(1), FinCEN finds that reasonable grounds exist for concluding that Iran is a jurisdiction of primary money laundering concern. While FinCEN has considered all factors set forth in Section 5318A(c)(2)(A), a discussion of those factors most relevant to this finding follows.

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<sup>8</sup> The JCPOA was finalized on July 14, 2015, between the U.S., China, France, Germany, Russia, the United Kingdom, the European Union, and Iran to ensure that Iran's nuclear program would be exclusively peaceful. The U.S. announced it would cease its participation in the JCPOA on May 8, 2018.

<sup>9</sup> See 76 FR 72756 (November 25, 2011), Finding that the Islamic Republic of Iran is a Jurisdiction of Primary Money Laundering Concern.

<sup>10</sup> FinCEN intends to issue a separate document withdrawing the 2011 NPRM concurrently with issuance of this final rule.

<sup>11</sup> FinCEN may submit classified information used in support of a Section 311 finding and special measure(s) determination to a reviewing court *ex parte* and *in camera*. See Section 376 of the Intelligence Authorization Act for fiscal year 2004, Public Law 108-177 (amending U.S.C. 5318A by adding new paragraph (f)).

## **Iran's Abuse of the International Financial System**

Iran has developed covert methods for accessing the international financial system and pursuing its malign activities, including misusing banks and exchange houses, operating procurement networks that utilize front or shell companies, exploiting commercial shipping, and masking illicit transactions using senior officials, including those at the Central Bank of Iran (CBI). Iran has also used precious metals to evade sanctions and gain access to the financial system, and may in the future seek to exploit virtual currencies. These efforts often serve to fund the Islamic Revolutionary Guard Corps (IRGC), its Islamic Revolutionary Guard Corps Qods Force (IRGC-QF), Lebanese Hizballah (Hizballah), Hamas, the Taliban and other terrorist groups.<sup>12</sup>

### **Factor 1: Evidence that Organized Criminal Groups, International Terrorists, or Entities Involved in the Proliferation of Weapons of Mass Destruction or Missiles Have Transacted Business in that Jurisdiction<sup>13</sup>**

#### **a. Role of CBI Officials in Facilitating Terrorist Financing**

Senior CBI officials have played a critical role in enabling illicit networks, using their official capacity to procure hard currency and conduct transactions for the benefit of the IRGC-QF and its terrorist proxy groups. The CBI has been complicit in these activities, including providing billions of U.S. dollars (USD) and euros to the IRGC-QF, Hizballah and other terrorist organizations. Since at least 2016, the CBI has provided the

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<sup>12</sup> *Advisory on the Iranian Regime's Illicit and Malign Activities and Attempts to Exploit the Financial System*, FinCEN, October 11, 2018.

<sup>13</sup> 31 U.S.C. 5318A(c)(2) states that in making a finding that a jurisdiction is of primary money laundering concern, the Secretary shall consider in addition to such information as the Secretary determines to be relevant, the potentially relevant factors enumerated in § 5318A(c)(2)(A). Due to Iran's role as a state sponsor of terrorism and the extraterritorial nature of its malign conduct, FinCEN determined it was relevant to consider terrorism and weapons proliferation transactions with the government of Iran in addition to such transactions in the jurisdiction of Iran, as discussed in this section.



IRGC-QF with the vast majority of its foreign currency. During 2018 and early 2019, the CBI transferred several billion USD and euros from the Iranian National Development Fund (NDF) to the IRGC-QF.

In September 2019, Treasury designated the CBI and NDF under its counterterrorism authority, Executive Order (E.O.) 13224, as amended by E.O. 13886. The Iranian government established the NDF to serve the welfare of the Iranian people by allocating revenues from oil and gas sales to economic investments, but has instead used the NDF as a slush fund for the IRGC-QF, for years disbursing hundreds of millions of USD in cash to the IRGC-QF. In coordination with the CBI, the NDF provided the IRGC-QF with half a billion USD in 2017 and hundreds of millions of USD in 2018.

In November 2018, Treasury designated nine persons - including two CBI officials - involved in an international network through which Iran provided millions of barrels of oil to Syria via Russian companies, in exchange for Syria's facilitation of the movement of hundreds of millions of USD to the IRGC-QF, for onward transfer to Hizballah and Hamas.<sup>14</sup> The designations highlighted, as the Secretary stated, that “[CBI] officials continue to exploit the international financial system, and in this case even used a company whose name suggests a trade in humanitarian goods as a tool to facilitate financial transfers supporting this oil scheme.”<sup>15</sup>

The scheme was centered on Syrian national Mohammad Amer Alchwiki and his Russia-based company, Global Vision Group. Global Vision worked with Russian state-owned company Promsyrimport to facilitate shipments of Iranian oil to Syria. To assist

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<sup>14</sup> *Treasury Designates Illicit Russia-Iran Oil Network Supporting the Assad Regime, Hizballah, and Hamas*, November 20, 2018, <https://home.treasury.gov/news/press-release/sm553>.

<sup>15</sup> *Id.*

the Bashar Al-Assad regime in paying Russia for this service, Iran sent funds to Russia through Alchwiki and Global Vision. To conceal its involvement, the CBI made payments to Mir Business Bank<sup>16</sup> using Iran-based Tadbir Kish Medical and Pharmaceutical Company. Following the CBI's transfer of funds from Tadbir Kish to Global Vision, Global Vision transferred payments to Promsyrioimport.

CBI senior officials were crucial to the scheme's success. CBI International Department Director Rasul Sajjad and CBI Vice Governor for International Affairs Hossein Yaghoobi both assisted in facilitating Alchwiki's transfers. First Deputy Director of Promsyrioimport Andrey Dogaev worked closely to coordinate the sale of Iranian crude oil to Syria with Yaghoobi, who has a history of working with Hizballah in Lebanon and has coordinated financial transfers to Hizballah with IRGC-QF and Hizballah personnel. Using this scheme, the network exported millions of barrels of Iranian oil into Syria, and funneled millions of USD between the CBI and Alchwiki's Mir Bank account in Russia.<sup>17</sup>

Separately, in May 2018, in connection with a scheme to move millions of USD for the IRGC-QF, Treasury designated the then-governor of the CBI, Valiollah Seif, the assistant director of CBI's international department, Ali Tarzali, Iraq-based al-Bilad Islamic Bank, Aras Habib, Al-Bilad's Chairman and Chief Executive, and Muhammad Qasir, a Hizballah official. Treasury designated them as Specially Designated Global Terrorists (SDGTs) pursuant to E.O. 13224. Treasury stated that Seif had covertly funneled millions of USD on behalf of the IRGC-QF through al-Bilad Bank to support

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<sup>16</sup> Treasury designated Mir Business Bank on November 5, 2018. It is a wholly-owned subsidiary of Iran's Bank Melli, which was designated for acting as a conduit for payments to the IRGC-QF.

<sup>17</sup> *Treasury Designates Illicit Russia-Iran Oil Network Supporting the Assad Regime, Hizballah, and Hamas*, November 20, 2018, <https://home.treasury.gov/news/press-release/sm553>.

Hizballah's radical agenda, an action that undermined the credibility of his commitment to protecting CBI's integrity.<sup>18</sup>

Also in May 2018, Treasury, in a joint action with the United Arab Emirates (UAE), designated nine Iranian individuals and entities involved in an extensive currency exchange network that was procuring and transferring millions in USD-denominated bulk cash to the IRGC-QF to fund its malign activities and regional proxy groups. The CBI was complicit in the IRGC-QF's scheme, actively supported the network's currency conversion, and enabled it to access funds that it held in its foreign bank accounts.<sup>19</sup>

The CBI and senior CBI officials have a history of using exchange houses to conceal the origin of funds and procure foreign currency for the IRGC-QF. During periods of heightened sanctions pressures, Iran has relied heavily on third-country exchange houses and trading companies to move funds to evade sanctions. Iran uses them to act as money transmitters in processing funds transfers through the United States to third-country beneficiaries, in support of business with Iran that is in violation of U.S. sanctions targeting Iran. These third-country exchange houses or trading companies frequently lack their own U.S. Dollar accounts and instead rely on the correspondent accounts of their regional banks to access the U.S. financial system.<sup>20</sup>

Additionally, according to information provided to FinCEN, in 2017, the CBI coordinated with Hizballah to arrange a single EUR funds transfer to a Turkish bank worth over \$50 million USD.

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<sup>18</sup> *Treasury Targets Iran's Central Bank Governor and an Iraqi Bank Moving Millions of Dollars for IRGC-Qods Force*, May 15, 2018, <https://home.treasury.gov/news/press-release/sm0385>.

<sup>19</sup> *United States and United Arab Emirates Disrupt Large Scale Currency Exchange Network Transferring Millions of Dollars to the IRGC-QF*, May 10, 2018, <https://home.treasury.gov/news/press-releases/sm0383>.

<sup>20</sup> *Advisory on the Iranian Regime's Illicit and Malign Activities and Attempts to Exploit the Financial System*, FinCEN, October 11, 2018.

## **b. IRGC's Abuse of the International Financial System**

Iran is the world's leading state sponsor of terrorism, providing material support to numerous Treasury-designated terrorist groups, including Hizballah, Hamas, and the Taliban, often via its IRGC-QF. The IRGC-QF is an elite unit within the IRGC, the military and internal security force created after the Islamic Revolution. IRGC-QF personnel advise and support pro-Iranian regime factions worldwide, including several which, like Hizballah, Hamas, and the Taliban, the United States has similarly designated as terrorists.

Treasury has designated the IRGC pursuant to several E.O.s: E.O. 13382 in connection with its support to Iran's ballistic missile and nuclear programs; E.O. 13553 for serious human rights abuses by the Iranian government; E.O. 13606 in connection with grave human rights abuses; E.O. 13224 for global terrorism, and consistent with the Countering America's Adversaries Through Sanctions Act, for its support of the IRGC-QF. Treasury has designated the IRGC-QF pursuant to E.O. 13224 for providing material support to terrorist groups, including the Taliban, E.O. 13572 for support to the Syrian General Intelligence Directorate, the Assad regime's civilian intelligence service, and E.O. 13553 for serious human rights abuses by the Iranian government.

In April 2019, the State Department designated the IRGC, including the IRGC-QF, as a Foreign Terrorist Organization (FTO).<sup>21</sup> It was the first time that the United States designated a part of another government as an FTO – an action that highlighted Iran's use of terrorism as a central tool of its statecraft and an essential element of its foreign policy. The IRGC is integrally woven into the Iranian economy, operating

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<sup>21</sup> *Designation of the Islamic Republic Revolutionary Guard Corps*, April 8, 2019, <https://www.state.gov/designation-of-the-islamic-revolutionary-guard-corp/>.

institutions and front companies worldwide, so that the profits from seemingly legitimate business deals may actually fund Iranian terrorism.<sup>22</sup>

The IRGC-QF's misuse of the international financial system to enable its nefarious activities include numerous examples that have occurred in the United States. In May 2018, the United States and the UAE took joint action to disrupt an extensive currency exchange network that was procuring and transferring millions in USD-denominated bulk cash to the IRGC-QF to fund its malign activities and regional proxy groups. Treasury designated nine Iranian individuals and entities, and noted that key CBI officials supported the transfer of funds.<sup>23</sup>

On November 5, 2018, in connection with the re-imposition of U.S. nuclear-related sanctions that had been lifted or waived under the JCPOA, Treasury sanctioned over 700 individuals, entities, aircraft, and vessels in its largest ever single-day action targeting Iran. The action included the designations of more than 70 Iran-linked financial institutions and their foreign and domestic subsidiaries. Bank Melli was among those banks designated pursuant to E.O. 13224 for assisting in, sponsoring, or providing financial, material, or technological support for, or other services to or in support of, the IRGC-QF. As of 2018, the equivalent of billions of USD in funds had transited IRGC-QF controlled accounts at Bank Melli. Moreover, Bank Melli had enabled the IRGC and its affiliates to move funds into and out of Iran, while the IRGC-QF, using Bank Melli's presence in Iraq, had used Bank Melli to pay Iraqi Shia militant groups.<sup>24</sup>

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<sup>22</sup> *Intent to Designate the Islamic Revolutionary Guard Corps as a Foreign Terrorist Organization*, April 8, 2019, <https://www.state.gov/intent-to-designate-the-islamic-revolutionary-guard-corps-as-a-foreign-terrorist-organization/>.

<sup>23</sup> *United States and United Arab Emirates Disrupt Large Scale Currency Exchange Network Transferring Millions of Dollars to the IRGC-QF*, May 10, 2018, <https://home.treasury.gov/news/press-releases/sm0383>.

<sup>24</sup> *U.S. Government Fully Re-Imposes Sanctions on the Iranian Regime As Part of Unprecedented U.S. Economic Pressure Campaign*, November 5, 2018, <https://home.treasury.gov/news/press-releases/sm541>.

On November 20, 2018, Treasury designated nine individuals and entities in an international network through which the Iranian regime worked with Russian companies to provide millions of barrels of oil to the Assad regime in Syria. The Assad regime, in turn, facilitated the movement of hundreds of millions of USD to the IRGC-QF for onward transfer to Hamas and Hizballah.<sup>25</sup>

In March 2019, Treasury took action against 25 individuals and entities, including a network of Iran, UAE, and Turkey-based front companies that transferred over a billion USD and euros to the IRGC, IRGC-QF and Iran's Ministry of Defense and Armed Forces Logistics (MODAFL). The action included a designation of Ansar Bank, an Iranian bank controlled by the IRGC, and its currency exchange arm, Ansar Exchange, for providing banking services to the IRGC-QF.<sup>26</sup>

In June 2019, Treasury designated an Iraq-based IRGC-QF financial conduit, South Wealth Resources Company (SWRC), which trafficked hundreds of millions of U.S. dollars' worth of weapons to IRGC-QF-backed militias. SWRC and its two Iraqi associates covertly facilitated the IRGC-QF's access to the Iraqi financial system to evade sanctions, while also generating profits in the form of commission payments for a Treasury-designated advisor to the IRGC-QF's commander, Qasem Soleimani. Soleimani has run weapons smuggling networks, participated in bombings of Western embassies, and attempted assassinations in the region.<sup>27</sup>

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<sup>25</sup> *Treasury Designates Illicit Russia-Iran Oil Network Supporting the Assad Regime, Hizballah, and Hamas*, November 20, 2018, <https://home.treasury.gov/news/press-release/sm553>.

<sup>26</sup> *United States Disrupts Large Scale Front Company Network Transferring Hundreds of Millions of Dollars and Euros to the IRGC and Iran's Ministry of Defense*, March 26, 2019, <https://home.treasury.gov/news/press-release/sm639>.

<sup>27</sup> *Treasury Targets IRGC-Qods Force Financial Conduit in Iraq for Trafficking Weapons Worth Hundreds of Millions of Dollars*, June 12, 2019, <https://home.treasury.gov/news/press-release/sm706>.

Iran's activities include acts of attempted violence in the United States. In October 2011, pursuant to E.O. 13224, Treasury designated four senior IRGC-QF officers and Mansoor Arbabsiar, a naturalized U.S. citizen, for plotting to assassinate the Saudi Arabian Ambassador to the United States. In an example that laid bare the risks financial institutions take when transacting with Iran, payment for the assassination reached Arbabsiar from Tehran via two wire transfers totaling approximately \$100,000 USD, sent from a non-Iranian foreign bank to a U.S. bank.<sup>28</sup>

### **c. Iranian Support to Terrorists**

#### **Hizballah**

Despite its attempts to portray itself as a legitimate political entity, Hizballah is first and foremost a terrorist organization, responsible for the most American deaths by terrorism prior to the September 11, 2001 terrorist attacks. A Lebanon-based Shia militant group formed in Lebanon in 1982, Hizballah was responsible for the suicide truck bombings of the U.S. Embassy in Beirut, Lebanon in April 1983, the U.S. Marine barracks in Beirut in October 1983, the U.S. Embassy annex in Beirut in 1984, the hijacking of TWA 847 in 1985, and the Khobar Towers attack in Saudi Arabia in 1996.<sup>29</sup> Iran provides upwards of \$700 million USD annually toward Hizballah's estimated \$1 billion USD budget.

Hizballah is listed in the annex to E.O. 12947 from January 1995, "Prohibiting Transactions With Terrorists Who Threaten to Disrupt The Middle East Peace Process."

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<sup>28</sup> *Treasury Sanctions Five Individuals Tied to Iranian Plot to Assassinate the Saudi Arabian Ambassador to the United States*, October 11, 2011, <https://www.treasury.gov/press-center/press-releases/pages/tg1320.aspx>.

<sup>29</sup> *Hizballah*, Counterterrorism Guide, Office of the Director of National Intelligence, <https://www.dni.gov/nctc/groups/hizballah.html>.

The State Department designated Hizballah in October 1997 as an FTO and in October 2001 as an SDGT pursuant to E.O. 13224. Treasury issued additional sanctions against Hizballah in August 2012 pursuant to E.O. 13582 (which targets the Government of Syria and its supporters) specifically in connection with Hizballah's efforts to coordinate with the IRGC-QF in support of the Assad regime.<sup>30</sup> At the request of the IRGC-QF, Hizballah has deployed thousands of fighters into Syria in support of the Assad regime.

As recently as September 2019, Treasury took action against a large shipping network directed by and financially supporting both the IRGC-QF and Hizballah. In the past year, the IRGC-QF has moved Iranian oil worth at least hundreds of millions of USD through the network for the benefit of the Assad regime and other illicit actors. The sprawling network uses dozens of ship managers, vessels, and other facilitators and intermediaries to enable the IRGC-QF to obfuscate its involvement; to broker associated contracts, it also relies heavily on front companies and Hizballah officials (including Muhammad Qasir, designated by Treasury in November 2018 in connection with the illicit Russia-Iran oil network supporting Assad, Hizballah, and Hamas). Pursuant to E.O. 13224, Treasury identified several vessels as property in which blocked persons have an interest, and pursuant to E.O. 13224, designated 16 entities and 10 individuals, including senior IRGC-QF official and former Iranian Minister of Petroleum Rostam Qasemi, who oversees the network. Treasury Under Secretary for Terrorism and Financial Intelligence Sigal Mandelker noted that the designations demonstrated Iran's economic reliance on the terrorist groups IRGC-QF and Hizballah as financial lifelines.<sup>31</sup>

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<sup>30</sup> *Treasury Targets Hizballah for Supporting the Assad Regime*, August 10, 2012, <https://www.treasury.gov/press-center/press-releases/Pages/tg1676.aspx>.

<sup>31</sup> *Treasury Targets Wide Range of Terrorists and Their Supporters Using Enhanced Counterterrorism Sanctions Authorities*, September 10, 2019, <https://home.treasury.gov/news/press-release/sm772>.



In July 2019, Treasury designated key Hizballah political and security figures - two members of Lebanon's Parliament and one Hizballah security official - who were leveraging their positions to facilitate Hizballah's agenda and do Iran's bidding. Noting that one of the Parliament members, Amin Sherri, has been photographed with IRGC-QF Commander Soleimani, Treasury stated that Hizballah uses its operatives in Lebanon's Parliament to bolster Iran's malign activities.<sup>32</sup> Also in July 2019, Treasury designated Salman Raouf Salman pursuant to E.O. 13224. Salman, a senior member of an Hizballah organization dedicated to carrying out attacks outside Lebanon, coordinated the devastating attack in 1994 against the AMIA Jewish community center in Buenos Aires, Argentina, and has been directing terrorist operations in the Western Hemisphere ever since. The designation of Salman marked over 50 Hizballah-linked designations by Treasury since 2017.<sup>33</sup>

Hizballah is a global terrorist organization, active in Syria, Iraq, and Yemen, and Hizballah plots have been thwarted in South America, Asia, Europe, and the United States. In June 2017 in New York, Ali Kourani and Samer El Debek were arrested and charged for alleged activities on behalf of Hizballah. Kourani conducted surveillance of potential U.S. targets, including military and law enforcement facilities in New York City, and was subsequently convicted on all eight counts, which included terrorism, sanctions, and immigration-related offenses. El Debek allegedly conducted missions in

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<sup>32</sup> *Treasury Targets Iranian-Backed Hizballah Officials for Exploiting Lebanon's Political and Financial System*, July 9, 2019, <https://home.treasury.gov/news/press-release/sm724>.

<sup>33</sup> *Treasury Targets Senior Hizballah Operative for Perpetrating and Plotting Terrorist Attacks in the Western Hemisphere*, July 19, 2019, <https://home.treasury.gov/news/press-release/sm737>.

Panama to locate U.S. and Israeli Embassies and assess the vulnerabilities of the Panama Canal and the ships that transit it.<sup>34 35</sup>

According to information available to FinCEN, in early 2015, the IRGC-QF provided approximately \$20 million USD to Hizballah, over half of which was to be used for ballistic missile expenses. In 2017, the CBI coordinated with Hizballah to arrange a single EUR funds transfer to a Turkish bank worth over \$50 million USD.

More recently, and as noted in the previous section, in November 2018, Treasury designated nine persons involved in an international network through which Iran provided millions of barrels of oil to Syria via Russian companies, in exchange for Syria's facilitation of the movement of hundreds of millions of USD banknotes to the IRGC-QF for onward transfer to Hizballah and Hamas. Treasury noted at the time of the designations that Mohammad Amer Alchwiki, a central player in this scheme, was acting as a critical conduit for the transfer of the USD banknotes. Alchwiki worked with the Central Bank of Syria to coordinate transfers to Hizballah official Muhammad Qasir, in charge of the Hizballah unit responsible for weapons, technology, and other support transfers. In its press release, Treasury included a photo of a letter dated April 17, 2018, from Alchwiki and Qasir to a CBI official, confirming receipt of \$63 million USD.<sup>36</sup>

Also as noted previously, in May 2018, in connection with a scheme to move millions of USD for the IRGC-QF, Treasury designated a network that included Valiollah

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<sup>34</sup> *Bronx Man and Michigan Man Arrested for Terrorist Activities On Behalf Of Hizballah's Islamic Jihad Organization*, June 8, 2017, <https://www.justice.gov/usao-sdny/pr/bronx-man-and-michigan-man-arrested-terrorist-activities-behalf-hizballah-s-islamic>.

<sup>35</sup> *Ali Kourani Convicted in Manhattan Federal Court for Covert Terrorist Activities on Behalf of Hizballah's Islamic Jihad Organization*, May 17, 2019, <https://www.justice.gov/opa/pr/ali-kourani-convicted-manhattan-federal-court-terrorist-activities-behalf-hizballah-s>.

<sup>36</sup> *Treasury Designates Illicit Russia-Iran Oil Network Supporting the Assad Regime, Hizballah, and Hamas*, November 20, 2018, <https://home.treasury.gov/news/press-release/sm553>.

Seif, Iran's then-governor of the CBI, Iraq-based al-Bilad Islamic Bank, and Muhammad Qasir, a Hizballah official. Treasury designated them as SDGTs pursuant to E.O. 13224 after finding that Seif had covertly funneled millions of USD on behalf of the IRGC-QF through al-Bilad Bank to support Hizballah's radical agenda.<sup>37</sup>

### **Hamas**

Iran also has a history of supporting Hamas. Hamas was established in 1987 at the onset of the first Palestinian intifada. Prior to 2005, Hamas' numerous attacks on Israel included U.S. citizens as casualties. The State Department designated Hamas as an FTO in October 1997, and Treasury designated it as an SDGT pursuant to E.O. 13224 in October 2001.<sup>38</sup>

Iran provides Hamas with funds, weapons, and training. During periods of substantial Iran-Hamas collaboration, Iran's support to Hamas has been estimated to be as high as \$300 million USD per year, but at a baseline amount, is widely assessed to be in the tens of millions per year. The Iran-Hamas relationship was forged in the 1990s as part of an attempt to disrupt the Israeli-Palestinian peace process, but in 2012, their divergent positions on Syria caused a rift. Subsequently, Iran sought to rebuild the relationship, and in October 2017, Hamas leaders restored the group's relations with Iran during a visit to Tehran.<sup>39</sup>

According to information available to FinCEN, in March 2015, Hamas expressed gratitude for Iran's previous financial support, and requested that Iran resume providing

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<sup>37</sup> *Treasury Targets Iran's Central Bank Governor and an Iraqi Bank Moving Millions of Dollars for IRGC-Qods Force*, May 15, 2018, <https://home.treasury.gov/news/press-release/sm0385>.

<sup>38</sup> *Country Reports on Terrorism 2016*, U.S. Department of State, Chapter 3: State Sponsors of Terrorism, Iran, Chapter 6, Foreign Terrorist Organizations, Hamas.

<sup>39</sup> *Iran's Foreign and Defense Policies*, Congressional Research Service, R44017, Version 56, Updated October 9, 2018.

aid. In January 2016, Hamas officials in Gaza were awaiting monetary payments from the IRGC-QF. The Hamas officials expected the Iranian Government to transfer money to the IRGC-QF in Beirut, who would then transfer it onward to them. Additionally, in 2016, Hamas had received a significant sum of IRGC-QF funding via financiers in Turkey.

In August 2019, Treasury, in partnership with the Sultanate of Oman, designated financial facilitators who funneled tens of millions of USD between the IRGC-QF and Hamas's operational arm, the Izz-Al-Din Al-Qassam Brigades, for terrorist attacks originating from Gaza. The Izz-Al-Din Al-Qassam Brigades is a designated FTO and SDGT. At the center of the scheme uncovered by Treasury and Oman was Mohammad Sarur, a Lebanon-based financial operative in charge of all financial transfers between the IRGC-QF and the Izz-Al-Din Al-Qassam Brigades. Sarur was a middle-man between the IRGC-QF and Hamas and worked with Hizballah operatives to ensure the Izz-Al-Din Al-Qassam Brigades received funds. The IRGC-QF transferred over \$200 million USD to the Izz-Al-Din Al-Qassam Brigades in the past four years.<sup>40</sup>

In September 2019, in an action targeting a wide range of terrorists and their supporters using enhanced counterterrorism sanctions authorities, Treasury designated two Iran-linked Hamas officials. Pursuant to the amended counterterrorism E.O., E.O. 13224, Treasury designated Turkey-based Redin Exchange and its Deputy Head, Ismael Tash. Since at least 2017, Tash has had contact with a money transfer channel managed by Mohammad Sarur that transferred IRGC-QF money to Hamas; as of January 2019, Tash was a key player in many Iran-Hamas financial transfers. Treasury also designated

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<sup>40</sup> *Treasury Targets Facilitators Moving Millions to HAMAS in Gaza*, August 29, 2019, <https://home.treasury.gov/news/press-release/sm761>.

Zaher Jabarin, the Turkey-based head of Hamas' Finance Office. Jabarin has overseen the transfer of hundreds of thousands of USD in the West Bank to finance Hamas' terrorist activities; he has also served as a primary interlocutor between Hamas and the IRGC-QF.<sup>41</sup>

### **Taliban**

Iran seeks influence in Afghanistan in a number of ways, including by offering economic assistance and engaging the central government – but also by arming Taliban fighters and supporting pro-Iranian groups. In October 2010, then-President Hamid Karzai admitted that Iran was providing about \$2 million USD annually in cash payments to his government.<sup>42</sup> Treasury designated the Taliban as an SDGT in 2002.

In October 2018, the seven member nations of the Terrorist Financing Targeting Center (TFTC),<sup>43</sup> designated nine Taliban-associated individuals, including those facilitating Iranian support to bolster the Taliban. The Secretary described Iran's provision of support to the Taliban as yet another example of its support for terrorism, and its utter disregard for United Nations Security Council Resolutions (UNSCRs) and other international norms. Treasury noted that the action's inclusion of IRGC-QF members supporting Taliban elements highlighted the scope of Iran's regionally destabilizing behavior. Among those designated were Mohammad Ebrahim Owhadi, an IRGC-QF officer, and Abdullah Samad Faroqui, the Taliban Deputy Shadow Governor for Herat Province. In 2017, Owhadi and Faroqui reached an agreement for the IRGC-

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<sup>41</sup> *Treasury Targets Wide Range of Terrorists and Their Supporters Using Enhanced Counterterrorism Sanctions Authorities*, September 10, 2019, <https://home.treasury.gov/news/press-release/sm772>

<sup>42</sup> *Iran's Foreign and Defense Policies*, Congressional Research Service, R44017, Version 70, Updated July 23, 2019

<sup>43</sup> The seven TFTC member states are the U.S., Saudi Arabia, Bahrain, Kuwait, Oman, Qatar, and the UAE.

QF's provision of military and financial assistance to Farouqi, in exchange for Farouqi's forces attacking the Afghan government in Herat. Also designated were Esma'il Razavi, who was in charge of the training center at the IRGC-QF base in Birjand, Iran, which as of 2014, provided training, intelligence, and weapons to Taliban forces in Farah, Ghor, Badhis, and Helmand Provinces, Afghanistan. In 2008, as the senior IRGC-QF official in Birjand, Razavi's base supported anti-coalition militants in Farah and Herat. Also designated by the TFTC were Naim Barich, previously Treasury- and UN-sanctioned, who as of late 2017 was the Taliban Shadow Minister of Foreign Affairs managing Taliban relations with Iran, and Sadr Ibrahim, the leader of the Taliban's Military Commission, whom Iranian officials agreed to provide with financial and training support in order to build the Taliban's tactical and combat capabilities.<sup>44</sup>

#### **d. Entities Involved in the Proliferation of WMD or Missiles**

Under UNSCR 2231 (2015), which endorsed the JCPOA, the sale, supply, or transfer to Iran of Nuclear Suppliers Group (NSG)<sup>45</sup> -controlled items requires advance approval by the UNSC. Despite this, in July 2019, Treasury identified and acted against a network of front companies and agents involved in procuring sensitive materials - including NSG-controlled materials - without UNSC approval for sanctioned elements of Iran's nuclear program. Treasury designated seven entities and five individuals in Iran, China, and Belgium, for acting as a procurement network for Iran's Centrifuge

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<sup>44</sup> *Treasury and the Terrorist Financing Targeting Center Partners Sanction Taliban Facilitators and their Iranian Supporters*, October 23, 2018, <https://home.treasury.gov/news/press-release/sm532>.

<sup>45</sup> The NSG is a multinational export control regime that seeks to prevent nuclear proliferation by controlling the export of materials, equipment, and technology that can be used to manufacture nuclear weapons.

Technology Company, which plays a crucial role in Iran's uranium enrichment through the production of centrifuges for Atomic Energy Organization of Iran facilities.<sup>46</sup>

Additionally, in August 2019, Treasury designated two Iranian regime-linked networks pursuant to E.O. 13382 for engaging in covert procurement activities benefiting multiple Iranian military organizations. One network has used a Hong Kong-based front company to evade U.S. and international sanctions and procure tens of millions of dollars' worth of U.S. technology and electronic components on behalf of the IRGC and Iran's missile program. The other network has procured NSG-controlled aluminum alloy products on behalf of MODAFL subsidiaries.<sup>47</sup>

Iran's ongoing pursuit of ballistic missile technology is well known. In 2018, Iran conducted nine ballistic missile tests in defiance of UNSCR 2231 (2015), including the launch of short range ballistic missiles in September and October 2018, which were inconsistent with paragraph 3 of Annex B of UNSCR 2231.<sup>48</sup> The U.S. Secretary of State described Iran's test-firing of a medium-range ballistic missile capable of carrying multiple warheads in December 2018 as another violation of UNSCR 2231.<sup>49</sup> In July 2017, Iran tested a Simorgh space launch vehicle, which the United States, France, Germany, and the United Kingdom all assessed to have used technology similar to that of intercontinental ballistic missiles.<sup>50</sup> In January 2017, Iran launched a medium-range

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<sup>46</sup> *Treasury Sanctions Global Iranian Nuclear Enrichment Network*, July 18, 2019, <https://home.treasury.gov/news/press-release/sm736>.

<sup>47</sup> *Treasury Targets Procurement Networks Supporting Iran's Missile Proliferation Programs*, August 28, 2019, <https://home.treasury.gov/news/press-release/sm759>.

<sup>48</sup> *Letter from the Permanent Representative of Israel to the UN*, November 23, 2018.

<sup>49</sup> *Pompeo Condemns Iran Missile Test*, Reuters, December 1, 2018.

<sup>50</sup> *Letter from the Permanent Mission of the Federal Republic of Germany to the UN, United Kingdom Mission to the UN, and the Mission Permanente De La France Aupres Des Nations Unies to H.E. Mr. Ma Zhaoxu, Ambassador, Permanent Representative of the People's Republic of China to the UN*, November 20, 2018.

missile able to carry a payload greater than 500 kilograms in excess of 300 kilometers, making it inherently capable of delivering a nuclear explosive device. In 2016, Iran unveiled two short-range ballistic missiles and announced that it was pursuing long-range precision-guided missiles.<sup>51</sup>

In January 2018, two Iranian nationals tried to buy Kh-31 missile components in Kiev, Ukraine, which would have been a violation of the UN arms embargo on Iran. Ukraine's security service detained the men while they were in possession of the missile parts and technical documents on their use. Ukraine subsequently deported the men, one of whom was a military attaché at Iran's Embassy in Kiev.<sup>52</sup>

According to information available to FinCEN, Iran's Shahid Bakeri Industrial Group (SBIG) and Shahid Hemmat Industrial Group (SHIG), respectively its solid and liquid propellant ballistic missile producers, utilize foreign entities and networks to procure missile-related materials and technology and disguise their involvement in the process. SBIG and SHIG are listed in the annex to E.O. 13382, which targets proliferators of WMD and their supporters. Among the targets in Treasury's August 2019 designation action was the Iranian firm Ebtekar Sanat Ilya, which helped procure more than one million dollars' worth of export-controlled, military-grade electronic components for Iranian military clients – including both SBIG and SHIG.

In February 2017, Treasury designated entities and individuals that were part of the Abdollah Asgharzadeh network in connection with their procurement of dual-use and other goods on behalf of organizations involved in Iran's ballistic missile program. The

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<sup>51</sup> *Iran's Missile Proliferation: A Conversation with Special Envoy Brian Hook*, Hudson Institute, September 19, 2018.

<sup>52</sup> *Busted: Ukraine Catches Iranian Military Attaché Trying to Smuggle KH-31 Parts out of Kiev*, The National Interest, July 2, 2019.



network coordinated procurement through intermediary companies that obfuscated the true end-user of the goods, and relied on the assistance of trusted brokers based in China.<sup>53</sup>

## **Factor 2: The Extent to Which that Jurisdiction is Characterized by High Levels of Official or Institutional Corruption**

The endemic corruption of Iran's government is well-known. According to information available to FinCEN, in late 2017, IRGC officials were aware of corruption and mismanagement at an IRGC economic development firm. The officials estimated the cost of the corruption to be approximately \$5.5 billion USD – a figure which represented losses, debts, and funds required for a capital injection to facilitate the firm's dissolution.

Also according to information available to FinCEN, as of mid-January 2018, after hearing complaints about corruption in the armed forces' financial institutions, Iranian Supreme Leader Ali Hoseini Khamenei issued a directive requiring Iran's armed forces to sell the private companies they owned. However, because Khamenei permitted the armed forces to use revenue from the sales to then purchase shares in the same companies, the directive appeared to be a mere symbolic gesture to placate public pressure, not a genuine effort to lessen the IRGC's role in the economy or curb corruption.

In October 2018, Treasury designated an Iran-based network comprised of businesses providing financial support to the Basij Resistance Force, a paramilitary force subordinate to the IRGC. As noted at the time of the designation, among other malign activities, the IRGC Basij militia recruits, trains, and deploys child soldiers to fight in

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<sup>53</sup> *Treasury Sanctions Supporters of Iran's Ballistic Missile Program and Iran's Islamic Revolutionary Guard Corps-Qods Force*, February 23, 2017, <https://www.treasury.gov/press-center/press-releases/Pages/as0004.aspx>.

IRGC-fueled conflicts across the region. The Basij also employs shell companies and other measures to mask its ownership and control over a variety of multibillion-dollar business interests in Iran's automotive, mining, metals, and banking industries.<sup>54</sup>

In June 2019, Treasury designated Iran's largest and most profitable petrochemical holding group, Persian Gulf Petrochemical Industries Company, for providing financial support to Khatam al-Anbiya Construction Headquarters, the engineering arm of the IRGC. Treasury noted that the IRGC and its major holdings have a dominant presence in Iran's commercial and financial sectors, maintaining extensive economic interests in the defense, construction, aviation, oil, banking, metal, automobile, and mining industries.<sup>55</sup>

### **Factor3: The Substance and Quality of Administration of the Bank Supervisory and Counter-Money Laundering Laws of that Jurisdiction**

For more than a decade, the international community has been concerned about the deficiencies in Iran's anti-money laundering/countering the financing of terrorism (AML/CFT) program. As far back as October 11, 2007, the Financial Action Task Force (FATF) issued a statement on Iran's lack of a comprehensive AML/CFT regime, noting it represented a significant vulnerability in the international financial system. The FATF called upon Iran to urgently address its AML/CFT deficiencies, and advised financial institutions to apply enhanced due diligence.<sup>56</sup> In February 2009, the FATF elevated its call for enhanced due diligence by calling upon its members and urging all jurisdictions

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<sup>54</sup> *Treasury Designates Vast Financial Network Supporting Iranian Paramilitary Force That Recruits and Trains Child Soldiers*, October 16, 2018, <https://home.treasury.gov/news/press-release/sm524>.

<sup>55</sup> *Treasury Sanctions Iran's Largest Petrochemical Holding Group and Vast Network of Subsidiaries and Sales Agents*, June 7, 2019, <https://home.treasury.gov/news/press-release/sm703>.

<sup>56</sup> *FATF Statement on Iran*, 11 October 2007, <https://www.fincen.gov/sites/default/files/shared/FATFOct2007.pdf>.

to apply effective counter-measures to protect their financial sectors from money laundering and terrorist financing risks emanating from Iran.

In June 2016, due to Iran's adoption of, and high-level political commitment to, an Action Plan to address its strategic AML/CFT deficiencies, the FATF agreed to suspend counter-measures for 12 months in order to monitor Iran's progress in implementing its Action Plan. At the same time however, the FATF expressed its continuing concern with the terrorist financing risk emanating from Iran and the threat this posed to the international financial system, and called for financial institutions to continue applying enhanced due diligence with respect to Iran-related business relationships and transactions.<sup>57</sup> The FATF issued similar statements between October 2016 and June 2017, and in October 2018 and February 2019 identified specific types of enhanced due diligence measures to be applied against Iran-related business relationships and transactions.<sup>58</sup>

In its June 2019 and October 2019 Public Statements, the FATF noted that Iran's Action Plan had expired in January 2018 and that major items remained outstanding, including (1) adequately criminalizing terrorist financing, including by removing the exemption for designated groups "attempting to end foreign occupation, colonialism, and racism;" (2) identifying and freezing terrorist assets in line with the relevant UNSCRs; (3) ensuring an adequate and enforceable customer due diligence regime; (4) clarifying that the submission of suspicious transaction reports for attempted terrorist financing-related transactions is covered under Iran's legal framework; (5) demonstrating how

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<sup>57</sup> *Public Statement – 24 June 2016*, <https://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/public-statement-june-2016.html>.

<sup>58</sup> *Public Statement – 23 June 2017*, <https://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/public-statement-june-2017.html>.

authorities are identifying and sanctioning unlicensed money/value transfer service providers; (6) ratifying and implementing the Palermo and Terrorist Financing Conventions and clarifying the capability to provide mutual legal assistance; and (7) ensuring that financial institutions verify that wire transfers contain complete originator and beneficiary information.<sup>59 60</sup>

Due to these critical deficiencies, in June 2019, the FATF decided to call upon its members and urge all jurisdictions to increase supervisory examination for branches and subsidiaries of financial institutions based in Iran.<sup>61</sup> In October 2019, the FATF decided to call upon its members and urge all jurisdictions to introduce enhanced relevant reporting mechanisms or systematic reporting of financial transactions; and require increased external audit requirements for financial groups with respect to any of their branches and subsidiaries located in Iran.<sup>62</sup> The FATF followed this new requirement with a warning stating that if before February 2020, Iran does not enact the Palermo and Terrorist Financing Conventions in line with the FATF Standards, then the FATF will fully lift the suspension of counter-measures and call on its members and urge all jurisdictions to apply effective counter-measures.<sup>63</sup>

A number of public statements from senior Iranian government officials suggest that Iran has no real intention of adhering to international norms, including the FATF standards. On March 8, 2019, Gholamreza Mesbahi Moghaddam, senior member of

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<sup>59</sup> *Public Statement – June 2019*, <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/public-statement-june-2019.html>.

<sup>60</sup> *Public Statement – October 2019*, <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/public-statement-october-2019.html>.

<sup>61</sup> *Public Statement – June 2019*, <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/public-statement-june-2019.html>.

<sup>62</sup> *Public Statement – October 2019*, <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/public-statement-october-2019.html>.

<sup>63</sup> *Id.*

Iran's Expediency Council, the highest-level political institution after the office of the Supreme Leader, said "Passing CFT and Palermo means giving away our only remaining mechanism to bypass U.S. sanctions which is to register shell corporations in Iran and other countries to do international trade deals."<sup>64</sup> On February 1, 2019, former Iranian Defense Minister Brigadier General Ahmad Vahidi, also an Expediency Council member, said, the [FATF] recommendations threaten Iran's economy and it is a framework adopted by the global arrogance to impose restrictions on Iran and pursue the sanctions re-imposed against Tehran in smarter ways."<sup>65</sup> On September 9, 2018, Ayatollah Ahmad Jannati, secretary of Iran's powerful Guardian Council, said, "I've studied both the Persian and English versions and I soon came to the conclusion that they want to give our financial and banking information to the enemy. They want us to sanction ourselves. They want us to sanction the individuals and institutions that the enemy disagrees with. They want us to sanction the [IRGC], revolutionary institutions, and individuals."<sup>66</sup>

**Factor 4: Whether the United States Has a Mutual Legal Assistance Treaty (MLAT) with that Jurisdiction, and the Experience of U.S. Law Enforcement Officials and Regulatory Officials in Obtaining Information About Transactions Originating in or Routed through such Jurisdiction**

The United States and Iran have not had a substantive relationship since the hostage-taking of U.S. Embassy personnel by Iranians in November 1979, and subsequent severing of diplomatic relations in April 1980.

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<sup>64</sup> Mesbahi Moghaddam: *We Will Not Stop Evading Sanctions*, Iran International, March 9, 2019, <https://iranintl.com/en/iran/mesbahi-moghaddam-we-will-not-stop-evading-sanctions>.

<sup>65</sup> *Iran Warns Europe to Avoid Tying Up INSTEX to FATF*, February 5, 2019, <https://en.farsnews.com/newstext.aspx?nn=13971116000195>

<sup>66</sup> *Iran Faces Challenges in Implementing Its FATF Action Plan*, October 26, 2016, <https://www.washingtoninstitute.org/policy-analysis/view/iran-faces-challenges-in-implementing-its-fatf-action-plan>; <https://www.aryanews.com/news/20160909150648732> (original Farsi-language article)

MLATs facilitate the exchange of information and financial records with treaty partners in criminal and related matters. The State Department negotiates MLATs in cooperation with the U.S. Department of Justice. As of the date of this document, no MLAT is in force with Iran. Additionally, the Egmont Group is an international organization through which many countries' financial intelligence units (FIUs) share invaluable financial and other information useful in law enforcement and regulatory investigations. As the U.S. FIU, FinCEN is the U.S. representative to the Egmont Group. No Iranian government entity is, nor ever has been, a member of the Egmont Group.

Given the lack of any cooperative relationship generally, as well as Iran's inability to share information with the United States via an MLAT or the Egmont Group, the level of U.S.-Iran cooperation on AML/CFT matters is nonexistent. As a result, U.S. law enforcement and regulatory officials have an extremely limited ability to obtain information about transactions originating in or routed through Iran.

## **VI. Considerations in Selecting the Fifth Special Measure**

Below is a discussion of the relevant criteria FinCEN considered in selecting a prohibition under the fifth special measure with respect to Iran, after having completed the required interagency consultations with Chairman of the Board of Governors of the Federal Reserve System, the Secretary of State, the Securities and Exchange Commission, the Commodity Futures Trading Commission, and the National Credit Union Administration Board in accordance with 31 U.S.C. 5318A(a)(4)(A) and the Secretary of State, the Attorney General, and the Chairman of the Board of Governors of the Federal Reserve System in accordance with 31 U.S.C. 5318A(b)(5).

## **Whether Similar Action Has Been or Will Be Taken by Other Nations or Multilateral Groups against Iran**

FinCEN notes that two Iranian banks are currently designated by the European Union as entities subject to an asset freeze and prohibition to make funds available: Ansar Bank and Mehr Bank. FinCEN is unaware of any other nation or multilateral group that has prohibited or placed conditions on Iranian banks' correspondent banking relationships, or has plans to do so. However, as noted previously, in October 2019, the FATF decided to call upon its members and urge all jurisdictions to introduce enhanced relevant reporting mechanisms or systematic reporting of financial transactions; and require increased external audit requirements for financial groups with respect to any of their branches and subsidiaries located in Iran. The FATF followed this new requirement with a warning stating that if before February 2020, Iran does not enact the Palermo and Terrorist Financing Conventions in line with the FATF Standards, then the FATF will fully lift the suspension of counter-measures and call on its members and urge all jurisdictions to apply effective counter-measures.<sup>67</sup> Regardless of the FATF's future actions, FinCEN assesses that the correspondent account prohibition under the fifth special measure is necessary to ensure the security of the U.S. financial system and combat Iran's malign and illicit activities, including its support for international terrorism.

## **Whether the Imposition of the Fifth Special Measure Would Create a Significant Competitive Disadvantage, Including Any Undue Cost or Burden Associated with Compliance, for Financial Institutions Organized or Licensed in the United States.**

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<sup>67</sup> *Public Statement – June 2019*, <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/public-statement-june-2019.html>.

Existing sanctions programs on Iran administered by OFAC generally prohibit the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a U.S. person, wherever located, of any goods, technology, or services to Iran. As a result, U.S. financial institutions are already broadly prohibited under existing OFAC sanctions from opening or maintaining correspondent accounts for, or on behalf of, Iranian financial institutions, or conducting any financial transactions involving Iranian financial institutions unless exempt from U.S. sanctions or authorized by OFAC. In addition, as of late September 2019, 24 Iranian financial institutions had been designated under E.O. 13224, ten Iranian financial institutions under E.O. 13382, one Iranian financial institution under E.O. 13846, and one Iranian financial institution under E.O. 13553. Secondary sanctions apply to certain transactions with each of these Iranian banks.<sup>68</sup> FinCEN assesses that secondary sanctions already deter most foreign financial institutions from doing business with targeted Iranian financial institutions, and the correspondent account prohibition under the fifth special measure will create no competitive disadvantage for U.S. financial institutions.

**The Extent to Which the Action or Timing of the Action Will Have a Significant Adverse Systemic Impact on the International Payment, Clearance, and Settlement System, or on Legitimate Business Activities of Iranian Financial Institutions**

FinCEN has no information indicating that Iranian financial institutions are major participants in the international payment system or that they are relied upon by the international banking community for clearance or settlement services. Further, as of mid-November 2018, the Society for Worldwide Interbank Financial Telecommunication

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<sup>68</sup> Secondary sanctions generally are directed toward non-U.S. persons for specified conduct involving Iran that occurs entirely outside of U.S. jurisdiction, according to OFAC's website.



(SWIFT) had disconnected designated Iranian financial institutions, including the CBI, from its financial messaging service. Lastly, FinCEN assesses that most Iranian payments are made using currencies other than USD due to a long history of U.S. sanctions and actions targeting Iran. Thus, there is no reason to conclude that the imposition of a prohibition under the fifth special measure against the jurisdiction of Iran will have an adverse systemic impact on the international payment, clearance, and settlement system. FinCEN also considered the extent to which this action could have an impact on the legitimate business activities of Iranian financial institutions, and has concluded that the need to protect the U.S. financial system from Iran strongly outweighs any such impact.

### **The Effect of the Action on U.S. National Security and Foreign Policy**

FinCEN assesses that prohibiting covered financial institutions from maintaining correspondent accounts for Iranian financial institutions, and preventing Iranian financial institutions' indirect access to U.S. correspondent accounts, will enhance national security. The action serves as a measure to further prevent illicit Iranian actors from accessing the U.S. financial system. It will further the U.S. national security and foreign policy goals of thwarting and exposing illicit Iranian financial activity. Further, to the extent that other nations, particularly those that are strong U.S. trading partners, choose to transact with Iran, there is a greater risk of indirect activity occurring between U.S. financial institutions and Iran. Imposition of the fifth special measure will impose a higher standard of due diligence on U.S. financial institutions in their engagement with non-U.S. financial institutions.

### **Consideration of Alternative Special Measures**

As an alternative to a prohibition under the fifth special measure on the opening or maintenance of correspondent accounts in the United States for or on behalf of Iranian financial institutions, and the use of foreign financial institutions' correspondent accounts at covered U.S. financial institutions to process transactions involving Iranian financial institutions, FinCEN considered special measures one through four, which impose additional recordkeeping, information collection, and reporting requirements on covered U.S. financial institutions. Under special measure five, FinCEN also considered imposing conditions on the opening or maintaining of correspondent accounts as an alternative to a prohibition on the opening or maintaining of correspondent accounts.

Given the nature of the illicit finance threat, including the terrorist-finance threat, that the jurisdiction of Iran poses to the United States and the U.S. financial system, Iran's well-documented history of obscuring the true nature of its illicit finance activities, and Iran's apparent disregard of regulatory reform and enforcement measures, as evidenced by the FATF's longstanding criticisms of its inadequate AML/CFT program, FinCEN assesses that any condition, additional recordkeeping, information collection, or reporting requirement would be insufficient to guard against the risks posed by covered financial institutions that process Iran-related transactions designed to obscure the transactions' true purpose, and that are ultimately for the benefit of illicit Iranian actors or activities. Special measures one through four and the imposition of conditions under special measure five would therefore fail to prevent Iran from accessing the U.S. financial system, either directly or indirectly, through the correspondent accounts at U.S. financial institutions. FinCEN assesses that a prohibition under the fifth special measure

is the only special measure that can adequately protect the U.S. financial system from the illicit financial risk posed by Iran.

## **VII. Section-by-Section Analysis for the Imposition of a Prohibition Under the Fifth Special Measure**

### **1010.661(a) – Definitions**

#### **1. Iranian financial institution**

The final rule defines “Iranian financial institution” as any foreign financial institution, as defined at 31 CFR 1010.605(f), organized under Iranian law wherever located, including any agency, branch, office, or subsidiary of such a financial institution operating in any jurisdiction, and any branch or office within Iran of any foreign financial institution.

#### **2. Correspondent account**

The final rule defines “correspondent account” to have the same meaning as the definition contained in 31 CFR 1010.605(c). In the case of a U.S. depository institution, this broad definition includes most types of banking relationships between a U.S. depository institution and a foreign bank that are established to provide regular services, dealings, and other financial transactions, including a demand deposit, savings deposit, or other transaction or asset account, and a credit account or other extension of credit. FinCEN is using the same definition of “account” for purposes of this final rule as was established for depository institutions in the final rule implementing the provisions of Section 312 of the USA PATRIOT Act requiring enhanced due diligence for correspondent accounts maintained for certain foreign banks.<sup>69</sup> Under this definition,

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<sup>69</sup> See 31 CFR 1010.605(c)(2)(i).

“payable-through accounts” are a type of correspondent account. In the case of securities broker-dealers, futures commission merchants, introducing brokers-commodities, and investment companies that are open-end companies (“mutual funds”), FinCEN is also using the same definition of “account” for purposes of this final rule as was established for these entities in the final rule implementing the provisions of Section 312 of the USA PATRIOT Act requiring enhanced due diligence for correspondent accounts maintained for certain foreign banks.<sup>70</sup>

### **3. Covered financial institution**

The final rule defines “covered financial institution” with the same definition used in the final rule implementing the provisions of Section 312 of the USA PATRIOT Act, which in general includes the following:

- an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)));
- a commercial bank;
- an agency or branch of a foreign bank in the United States;
- a Federally-insured credit union;
- a savings association;
- a corporation acting under section 25A of the Federal Reserve Act (12 U.S.C. 611);
- a trust bank or trust company;
- a broker or dealer in securities;
- a futures commission merchant or an introducing broker-commodities; and

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<sup>70</sup> See 31 CFR 1010.605(c)(2)(ii)-(iv).

- a mutual fund.

#### **4. Foreign bank**

The final rule defines “foreign bank” to mean a bank organized under foreign law, or an agency, branch, or office located outside the United States of a bank. The term does not include an agent, agency, branch, or office within the United States of a bank organized under foreign law. This is consistent with the definition of “foreign bank” under 31 CFR 1010.100.

#### **5. Subsidiary**

The final rule defines “subsidiary” to mean a company of which more than 50 percent of the voting stock or analogous equity interest is owned by another company.

### **1010.661(b) – Prohibition on Accounts and Due Diligence Requirements for Covered Financial Institutions**

#### **1. Prohibitions on Opening or Maintaining Correspondent Accounts**

Section 1010.661(b)(1) and (2) of this final rule prohibits covered financial institutions from opening or maintaining in the United States correspondent accounts for, or on behalf of, Iranian financial institutions, unless such account is authorized by OFAC. In addition, under Section 1010.661(b)(2) of this final rule, a covered financial institution shall take reasonable steps to not process a transaction for the correspondent account of a foreign bank in the United States if such a transaction involves an Iranian financial institution, unless such transactions or payments are authorized by OFAC.

Section 1010.661(b)(2) requires covered financial institutions to take reasonable steps to not process transactions for the correspondent accounts of foreign banks in the United States involving Iranian financial institutions that are prohibited transactions.

The general licenses (i.e., those of general applicability) issued pursuant to the Iranian Transactions Sanctions Regulations (ITSR) 31 CFR Part 560 are either published in the ITSR or available on OFAC's website: <http://www.treasury.gov/resource-center/sanctions/programs/pages/iran.aspx>. To ensure that those permitted activities are available as a practical matter, correspondent accounts covered by the exception may continue to be used to conduct those permitted transactions. Such reasonable steps are described in 1010.661(b)(3), which sets forth the special due diligence requirements a covered financial institution will be required to take when it knows or has reason to believe that a transaction involves an Iranian financial institution.

## **2. Special Due Diligence for Correspondent Accounts**

As a corollary to the prohibition set forth in section 1010.661(b)(1) and (2), section 1010.661(b)(3) of the final rule will require covered financial institutions to apply to all of their foreign correspondent accounts special due diligence that is reasonably designed to guard against such accounts being used to process prohibited transactions involving Iranian financial institutions. As part of that special due diligence, covered financial institutions are required to notify those foreign correspondent account holders that the covered financial institutions know, or have reason to believe, provide services to Iranian financial institutions, that such correspondent institutions may not provide the Iranian financial institutions with access to the correspondent accounts maintained at the covered financial institutions to process prohibited transactions. A covered financial institution may satisfy this notification requirement using the following notice:

Notice: Pursuant to U.S. regulations issued under Section 311 of the USA PATRIOT Act, see 31 CFR 1010.661, we are prohibited from opening or

maintaining in the United States a correspondent account for, or on behalf of, any Iranian financial institution. The regulations also require us to notify you that you may not provide an Iranian financial institution, including any of its agencies, branches, offices, or subsidiaries, with access to the correspondent account you hold at our financial institution to process transactions that are prohibited, and not authorized or exempt, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA), any regulation, order directive or license issued pursuant thereto, or any other sanctions program administered by the Department of the Treasury's Office of Foreign Asset Control ("prohibited transactions"). If we become aware that the correspondent account you hold at our financial institution has processed any prohibited transactions involving Iranian financial institutions, including any agencies, branches, offices, or subsidiaries thereof, we will be required to take appropriate steps to prevent such access, including terminating your account.

The purpose of the notice requirement is to aid cooperation with correspondent account holders in preventing transactions involving Iranian financial institutions from accessing the U.S. financial system. FinCEN does not require or expect a covered financial institution to obtain a certification from any of its correspondent account holders that access will not be provided to comply with this notice requirement. Methods of compliance with the notice requirement could include, for example, transmitting a notice by mail, fax, or e-mail. The notice should be transmitted whenever a covered financial

institution knows or has reason to believe that a foreign correspondent account holder provides services to an Iranian financial institution.

Special due diligence also includes implementing risk-based procedures designed to identify any use of correspondent accounts to process transactions involving Iranian financial institutions. A covered financial institution is expected to apply an appropriate screening mechanism to identify a funds transfer order that on its face listed an Iranian financial institution as originator or beneficiary, or otherwise referenced an Iranian financial institution in a manner detectable under the financial institution's normal screening mechanisms. An appropriate screening mechanism could be the mechanisms used by a covered financial institution to comply with various legal requirements, such as the commercially available software programs used to comply with the economic sanctions programs administered by OFAC.

### **3. Recordkeeping and Reporting**

Section 1010.661(b)(4) of this rule clarifies that paragraph (b) of the rule does not impose any reporting requirement upon any covered financial institution that is not otherwise required by applicable law or regulation. A covered financial institution must, however, document its compliance with the notification requirement under 1010.661(b)(3)(i)(A).

### **VIII. Paperwork Reduction Act**

The collection of information contained in this final rule is being submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and has been assigned OMB Control



Number 1506-0074. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

**Description of Affected Financial Institutions:** Banks, broker-dealers in securities, futures commission merchants, introducing brokers-commodities, and mutual funds.

**Estimated Number of Affected Financial Institutions:** 23,615.<sup>71</sup>

**Estimated Average Annual Burden in Hours per Affected Financial Institution:** The estimated average burden associated with the collection of information in this final rule is two hours per affected financial institution.<sup>72</sup>

**Estimated Total Annual Burden:** 47,230 hours.

**List of Subjects in 31 CFR Part 1010:** Administrative practice and procedure, banks and banking, brokers, counter-money laundering, counter-terrorism, foreign banking.

**Authority and Issuance:** For the reasons set forth in the preamble, part 1010, chapter X of title 31 of the Code of Federal Regulations, is amended as follows:

#### **PART 1010—GENERAL PROVISIONS**

1. The authority citation for part 1010 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951-1959; 31 U.S.C. 5311-5314, 5316-5332; Title III, sec. 314 Pub. L. 107-56, 115 Stat. 307; sec. 701 Pub. L. 114-74, 129 Stat. 599.

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<sup>71</sup> This number is a total of: (1) the institutions represented in the most recent reports of the following regulators: the NCUA, who reported 5,375 institutions as of December 31, 2018 in its *Quarterly Credit Union Data Summary: 2018 Q4*, and the FDIC, who reported 5,358 FDIC-insured institutions in its *Key Statistics* as of April 25, 2019; (2) a March 2017 Government Accountability Office Report *PRIVATE DEPOSIT INSURANCE: Credit Unions Largely Complied with Disclosure Rules, but Rules Should Be Clarified*, that indicated that approximately 125 credit unions were insured privately; (3) 1,130 introducing brokers and 64 futures commodities merchants reported by the National Futures Association on its website as of March 31, 2019; (4) 3,607 securities firms as of December 31, 2018 as reported by FINRA on its website; and, (5) 7,956 U.S. mutual funds, according to the *2018 Investment Company Fact Book* published by the Investment Company Institute.

<sup>72</sup> The estimated burden is two hours per financial institution - one hour for a senior executive of the financial institution to review and approve the notice to be provided to correspondent account holders, and one hour for a compliance officer to provide notice to correspondent account holders.

2. Add § 1010.661 to read as follows:

**§ 1010.661 Special measures against Iran**

(a) Definitions. For purposes of this section:

(1) Iranian financial institution means any foreign financial institution, as defined at § 1010.605(f), organized under Iranian law wherever located, including any agency, branch, office, or subsidiary of such a financial institution operating in any jurisdiction, and any branch or office within Iran of any foreign financial institution.

(2) Correspondent account has the same meaning as provided in § 1010.605(c).

(3) Covered financial institution has the same meaning as provided in § 1010.605(e)(1).

(4) Foreign bank has the same meaning as provided in 31 CFR 1010.100.

(5) Subsidiary means a company of which more than 50 percent of the voting stock or analogous equity interest is owned by another company.

(b) Prohibition on accounts and due diligence requirements for covered financial institutions:

(1) Opening or maintaining correspondent accounts for Iranian financial institutions. A covered financial institution shall not open or maintain in the United States a correspondent account for, or on behalf of, an Iranian financial institution, unless such account is authorized by United States Department of the Treasury's Office of Foreign Assets Control (OFAC).

*Note to paragraph (b)(1) of § 1010.661: Note that covered financial institutions should block and report to OFAC any accounts that are blocked pursuant to any OFAC sanctions authority and therefore should continue to maintain such accounts in accordance with the Reporting Procedures and Penalties Regulations, 31 CFR part 501.*

(2) Prohibition on use of correspondent accounts. A covered financial institution shall take reasonable steps to not process a transaction for the correspondent account of a foreign bank in the United States if such a transaction involves an Iranian financial institution, unless the transaction is authorized by, exempt from, or not prohibited under IEEPA, any regulation, order, directive, or license issued pursuant thereto, or any other sanctions program administered by the Department of the Treasury's Office of Foreign Asset Control.

(3) Special due diligence of correspondent accounts to prohibit use.

(i) A covered financial institution shall apply special due diligence to the correspondent accounts of a foreign bank that is reasonably designed to guard against their use to process transactions involving Iranian financial institutions that are prohibited, and not authorized or exempt, pursuant to the IEEPA, any regulation, order, directive, or license issued pursuant thereto, or any other sanctions program administered by the Department of the Treasury's Office of Foreign Asset Control ("prohibited transactions"). At a minimum, that special due diligence must include:

(A) Notifying those foreign correspondent account holders that the covered financial institution knows or has reason to believe the correspondent account is being used to process transactions involving Iranian financial institutions that such prohibited transactions may not take place; and

(B) Taking reasonable steps to identify any use of its foreign correspondent accounts for prohibited transactions involving Iranian financial institutions, to the extent that such use can be determined from transactional records maintained in the covered financial institution's normal course of business.

(ii) A covered financial institution shall take a risk-based approach when deciding what, if any, other due diligence measures it reasonably must adopt to guard against the use of its foreign correspondent accounts to process prohibited transactions involving Iranian financial institutions.

(iii) A covered financial institution that knows or has reason to believe that a foreign bank's correspondent account has been or is being used to process prohibited transactions involving Iranian financial institutions shall take all appropriate steps to further investigate and prevent such access, including the notification of its correspondent account holder under paragraph (b)(3)(i)(A) of this section and, where necessary, termination of the correspondent account.

(4) Recordkeeping and reporting.

(i) A covered financial institution is required to document its compliance with the notice requirement set forth in this section.

(ii) Nothing in this section shall require a covered financial institution to report any information not otherwise required to be reported by law or regulation.

/s/

Kenneth A. Blanco  
Director  
Financial Crimes Enforcement Network

Dated: October 24, 2019