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Before the House Financial Services Subcommittee on Oversight and Investigations

Chairwoman Kelly, Ranking Member Gutierrez and distinguished members of the Subcommittee, thank you for this opportunity to discuss the Administration's efforts to combat the financial underpinnings of the proliferation of weapons of mass destruction (WMD). The Office of Foreign Assets Control (OFAC), through the leadership and guidance of Treasury's Office of Terrorism and Financial Intelligence (TFI), is responsible for implementing the President's Executive Order targeting WMD proliferators and their support structures (Executive Order 13382). The Office of Intelligence Analysis (OIA), established in 2004, provides considerable support and expertise to this effort as well.

In addition to a brief general discussion of OFAC's sanctions authorities and programs, my testimony today will review the background, scope and process by which OFAC, in conjunction with other executive branch departments and agencies, carries out Executive Order 13382. I will also discuss, to the extent possible given the short period in which this program has been in effect, our assessment of its impact to date. Although the obvious sensitivities of the WMD program preclude, in an open forum, my ability to provide detailed information, I believe it is important to review with the Committee the steps Treasury and OFAC are taking to help protect American citizens from the threat of weapons of mass destruction. I thank you for your longstanding leadership and support in fostering an on-going dialogue on this and other national security issues that affect all Americans.

Mission and Jurisdiction

OFAC, through its workforce of approximately 125 staff, is dedicated to carrying out the complex mission of administering and enforcing economic sanctions based on U.S. foreign policy and national security goals.

OFAC administers approximately 30 economic sanctions programs against foreign countries, targeted regimes, and entities and individuals, including residual enforcement actions associated with programs that have been lifted. Although these many programs differ in terms of their scope and application, they all involve the exercise of the President's national emergency powers to impose controls on transactions and trade and to freeze foreign assets that come within the jurisdiction of the United States. Most of the programs administered and enforced by OFAC presently arise from the President's authorities under the International Emergency Economic Powers Act (IEEPA), the Trading with the Enemy Act (TWEA), the Foreign Narcotics Kingpin Designation Act (Kingpin Act), and the United Nations Participation Act (UNPA). In administering and enforcing these economic sanctions, it is imperative that OFAC maintain a close working relationship with other federal departments and agencies in order to ensure both that these programs are implemented in a manner consistent with U.S. national security and foreign policy interests and that they are enforced effectively. To fulfill its mission, OFAC works directly with the Departments of State (State); Commerce; and Justice, including the Federal Bureau of Investigation and the Drug Enforcement Administration; the Department of Homeland Security's U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement; the Department of Defense; bank regulatory agencies; and other law enforcement and intelligence community agencies.

I would also note, Madam Chair, that all of the programs we administer require that we work closely with a broad range of industries. We are presently making efforts to expand and improve our communication with our diverse constituencies, ranging from the financial and services sectors to manufacturing and agricultural industries. In turn, the cooperation we receive from U.S. corporations in complying with sanctions is generally excellent.

I would now like to turn to the primary reason we are gathered here today: to discuss Executive Order 13382, the President's new Order targeting proliferators of WMD and their supporters. I will provide you with some background on circumstances leading to the issuance of the new Order, its objectives, its implementation by OFAC, the impact we are seeing from it, and what future impact we aim to achieve based on our experience in other economic sanctions programs.

Background to Executive Order 13382

In the aftermath of the September 11, 2001 attacks, the horrifying prospect of WMD falling into the hands of terrorists or rogue regimes has become all the more real to each of us. Recent events involving the nuclear weapons programs of North Korea and Iran demonstrate the challenge we face. The exposure of the WMD proliferation network

headed by A. Q. Khan - father of Pakistan's nuclear bomb and, more recently, nuclear technology dealer to Libya, Iran, and North Korea - provided the world with a concrete example of how a network of individuals, with access to sensitive technology and expert knowledge, motivated by greed and personal ambition, can endanger our security by peddling WMD-related wares to rogue regimes.

Prior to the President issuing the new Order, the U.S. government had imposed a variety of other sanctions to counter the proliferation of WMD. For example, Executive Order 12938 of November 14, 1994, as amended by Executive Order 13094 of July 28, 1998, authorized the Secretary of State to impose certain measures against foreign entities and individuals determined to have contributed materially to the proliferation efforts of any foreign country, project, or entity of proliferation concern. The measures that the Secretary of State may choose to impose under Executive Order 12938, as amended, are a ban on U.S. government procurement from designated foreign parties; a ban on U.S. government assistance to designated foreign parties; and a ban on imports into the United States from designated foreign parties. The ban on imports called for in Executive Order 12938 is implemented by OFAC through the Weapons of Mass Destruction Trade Control Regulations, 31 C.F.R. Part 539.

With very real threats confronting us, however, the question for policy makers was whether we were doing all we could to address these threats. In examining the existing arsenal of financial sanctions tools available to combat proliferation, the President and others, including the members of the Silberman-Robb WMD Commission, believed that more could be done. Recognizing the need for additional financial sanctions tools to combat the threat posed by proliferation networks, the President issued Executive Order 13382 on June 29, 2005.

Overview of Executive Order 13382

In the broadest sense, Executive Order 13382 adds powerful tools - a broad based transactions prohibition and an asset freeze - to the array of options available to combat WMD trafficking. The strong new blocking (freezing) provisions imposed by the President apply to property and interests in property of entities and individuals designated under the Order. By prohibiting U.S. persons from engaging in transactions with entities and individuals targeted by the Order, we can effectively deny proliferators and their supporters access to the U.S. financial and commercial systems, cutting them off from the benefits of our economy and trade. An essential element to understanding the importance of the President's new Order is that it provides us with broad new authorities to target not only those engaged in proliferation activities, but also the network of entities and individuals providing support or services to proliferators. As part of issuing Executive Order 13382, in June 2005, the President also identified and targeted eight entities in North Korea, Iran, and Syria, thereby prohibiting U.S. persons from engaging in transactions with them and requiring any assets of those entities within the control of U.S. persons to be frozen. The President also authorized the Secretary of State and the

Secretary of the Treasury to designate additional proliferators of WMD and their supporters under the new authorities provided by the Order.

This new sanctions program also underscores the President's commitment to work with our international partners to foster cooperative efforts against WMD proliferation, including those undertaken through the Proliferation Security Initiative (PSI). In addition, we hope that this program can provide a model for other nations to draw upon as they develop their own laws to stem the flow of financial and other support for proliferation activities as called for in United Nations Security Council Resolution 1540. Moreover, the G-8 has been even more specific in its call for action; in July 2005, at the Gleneagles Summit, G-8 leaders called on countries to enhance "efforts to combat proliferation networks and illicit financial flows by developing, on an appropriate legal basis, co-operative procedures to identify, track and freeze relevant financial transactions and assets." In this regard, Treasury, State, and other federal agencies have been engaged in aggressive international outreach in order to promote this important concept.

Targets Identified by the President in the Annex to Executive Order 13382

The eight entities initially identified by the President, based on evidentiary packages developed by OFAC investigators in close cooperation with colleagues in various agencies, reflect some of our government's primary proliferation concerns, namely the development of WMD and their means of delivery.

With respect to North Korea, the President designated three entities involved in proliferation:

- The **Korea Mining Development Trading Corporation (KOMID)** is Pyongyang's premier arms dealer and main exporter of goods and equipment related to ballistic missiles and conventional weapons. KOMID offices are located in multiple countries with the main goal of facilitating weapons sales while seeking new customers for its weapons. U.S. sanctions for trading in missile technology have been repeatedly applied to the KOMID organization in the past ten years.
- The North Korean defense conglomerate **Korea Ryonbong General Corporation** specializes in acquisition for North Korean defense industries and support to Pyongyang's military-related sales. It is identified in export control watch lists in the United States and among U.S. allies. The Ryonbong trade group has been a focus of U.S. and allied efforts to stop the proliferation of controlled materials and weapons related goods, particularly ballistic missiles.
- **Tanchon Commercial Bank**, headquartered in Pyongyang, inherited from the Korea Changgwang Credit Bank Corporation (KCCBC) the role as the main North Korean financial agent for sales of conventional arms, ballistic missiles, and goods related to the assembly and manufacture of such weapons. Since the late 1980s, Tanchon's predecessor, KCCBC, collected revenue from weapons-related sales that were concentrated in a handful of countries mainly located in the Mid-East and several African

states. These revenues provide North Korea with a significant portion of its export earnings and financially aid Pyongyang's own weapons development and arms-related purchases.

With respect to Iran, the President designated four entities in the annex to Executive Order 13382:

- **The Atomic Energy Organization of Iran (AEOI)**, which reports directly to the Iranian President, is the main Iranian institute for research and development activities in the field of nuclear technology, including Iran's centrifuge enrichment program and experimental laser enrichment of uranium program, and manages Iran's overall nuclear program.
- **The Aerospace Industries Organization (AIO)**, a subsidiary of the Iranian Ministry of Defense and Armed Forces Logistics, is the overall manager and coordinator of Iran's missile program. AIO oversees all of Iran's missile industries.
- **The Shahid Hemmat Industrial Group (SHIG)** is responsible for Iran's ballistic missile programs, most notably the Shahab series of medium range ballistic missiles which are based on the North Korean-designed No Dong missile. The Shahab is capable of carrying chemical, nuclear, and biological warheads and has a range of at least 1500 kilometers. SHIG has received help from China and North Korea in the development of this missile.
- **The Shahid Bakeri Industrial Group (SBIG)** is an affiliate of Iran's AIO. SBIG is also involved in Iran's missile programs. Among the weapons SBIG produces are the Fateh-110 missile, with a range of 200 kilometers, and the Fajr rocket systems, a series of North Korean-designed rockets produced under license by SBIG with ranges of between 40 and 100 kilometers. Both systems are capable of being armed with at least chemical warheads.

With respect to Syria, the President designated the Scientific Studies and Research Center (SSRC). SSRC is the Syrian government agency responsible for developing and producing non-conventional weapons and the missiles to deliver them. SSRC also has an overtly promoted civilian research function; however, its activities focus substantively on the development of biological and chemical weapons.

Executive Order 13382 Designation Criteria and OFAC's Approach

By publicly designating entities and individuals that engage in proliferation activities and those that support them, the WMD sanctions program is designed to complement existing proliferation-related authorities by blocking proliferators' assets and prohibiting U.S. persons from engaging in transactions with them. In taking these steps we aim to:

- **Expose** their activities publicly, removing the veil of legitimacy behind which proliferators and their supporters hide. Through public designation we intend to inform

third parties, who may be unwittingly facilitating proliferation through what they believe to be legitimate business activity, of their association with WMD proliferators and deter others from engaging in business with proliferators.

- **Isolate** proliferators financially and commercially by denying them access to the benefits of trade and transactions with the United States; and
- **Disrupt and impede** the operations of WMD proliferators and their supporters.

While the public identification of these entities by the President, which exposes their illegitimate activities to the light of public scrutiny, is very important, OFAC's continuing role as part of administering the sanctions program is to look behind these entities. For our investigators, the entities named by the President represent a starting point as we seek to unravel the support networks that enable these entities to function. In addition, the subsequent designation of any entity or individual serves as an additional basis for aggressive investigation by OFAC in pursuit of designating additional parties. We refer to these as derivative designations, and it is this approach - targeting the broader support network - that has, over time, proved to be a critical factor behind successful designations in many OFAC-administered programs.

I would like to spend a few moments explaining how we are implementing this new Executive Order and where we intend to go with it. As you already know, the Order blocks the property and interests in property in the United States, or in the possession or control of U.S. persons, of:

- (1) Those listed in the Annex to the Order (i.e., the eight organizations originally identified by the President)
- (2) Any foreign entity or individual determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of WMD or their means of delivery (including missiles capable of delivering such weapons) by any entity or individual or foreign country of proliferation concern;
- (3) Any entity or individual determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, proliferation-related activities or any entity or individual whose property has been blocked pursuant to the Order; and
- (4) Any entity or individual determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any blocked party.

What does this mean in practical terms and how do we strive to implement it successfully? The simplified answer, as I mentioned earlier, is that we target the underlying support networks of identified proliferators. With decades of experience in administering and enforcing dozens of economic sanctions programs, one lesson is clear to OFAC: true success is based not on isolated designation actions, actions undertaken only once with no follow-up. Quite the contrary - our greatest areas of success have been based on sustained, aggressive action over time that evolves and adapts to match the ever-changing methods of our adversaries. As we apply the designation criteria of the Order to strike our adversaries again and again, we disrupt their attempts to disguise their illicit activities in the stream of legitimate commerce. In the context of this new program, this means we target not only the missile or bomb maker, but also the procurement fronts, the brokers and middlemen, the logistical apparatus used to move dangerous weapons to market, and the financiers that provide the financial mechanisms that facilitate proliferation activities.

Designations to Date under Executive Order 13382

Though an open forum does not permit me to give you details of our ongoing investigations, I can assure you that more designations are on the way. Despite the fact that this new program came mid-budget cycle, OFAC has committed substantial resources to the effort. We have also leveraged resources from OIA and sister agencies. As a result of this commitment, since the end of June 2005, OFAC has already designated ten additional entities under the new authorities provided by the Order. In addition to continuing OFAC's efforts in this critical area, the President's FY2007 Budget provides for ten additional positions to continue to implement and administer E.O. 13382 as well as 15 additional positions for other areas of OFAC.

On October 21, 2005, Treasury announced the designation of eight North Korean entities that were determined to be owned or controlled by, or acting for or on behalf of, two North Korean entities named by the President. More specifically, we determined that KOMID, which was identified by the President, is the parent company of two Pyongyang-based entities, Hesong Trading Corporation and Tosong Technology Trading Corporation. These direct associations met the criteria for designation because the entities are owned or controlled by, or act or purport to act for or on behalf of, KOMID. In addition, we determined that Korea Ryonbong General Corporation, also named in the annex to the Order, is the parent company of six Pyongyang-based entities: Korea Complex Equipment Import Corporation, Korea International Chemical Joint Venture Company, Korea Kwangsong Trading Corporation, Korea Pugang Trading Corporation, Korea Ryongwang Trading Corporation, and Korea Ryonha Machinery Joint Venture Corporation. As subsidiaries of KOMID and Korea Ryonbong General Corporation, many of these entities have engaged in proliferation-related transactions.

On January 4, 2006, we announced the designation of two Tehran-based entities - Novin Energy Company and Mesbah Energy Company - that we determined are owned or controlled by, or acting for or on behalf of, the Atomic Energy Organization of Iran (AEOI), an entity named by the President in the annex to the Order. Novin has

transferred millions of dollars on behalf of the AEOI to entities associated with Iran's nuclear program. Novin is owned and operated by the AEOI and is located at an address associated with AEOI. Mesbah is a state-owned company subordinate to the AEOI. Through its role as a front for the AEOI, Mesbah has been used to procure products for Iran's heavy water project. Heavy water is essential for Iran's heavy-water-moderated reactor, which will provide Iran with a potential source of plutonium well suited for nuclear weapons. Heavy water is believed to have no credible use in Iran's civilian nuclear power program, which is based on light-water reactor technology.

The Designation Process

As previously discussed, one of the primary components in the implementation of this program is the need to investigate WMD proliferators and their networks of front companies and individuals. Those investigations lead to the compilation of an administrative record that serves as the factual basis for designating targets under the broad authorities provided by the new Executive Order. Although simplified for purposes of discussion, we follow a three-step process in accomplishing this task, which consists of:

- 1) identifying the target;
- 2) construction and deconfliction of an evidentiary package; and
- 3) public announcement of the designation.

Let me walk you through these three broad stages in more detail. Like our colleagues in law enforcement and the intelligence community, we follow leads. Those leads may present themselves in a variety of ways, ranging from highly classified intelligence reporting, tips received from the public, and law enforcement referrals, to open source media reports. In pursuing any lead, our investigators consider whether the lead may be a candidate for designation by reviewing the information they can identify in the context of whether it fits within the criteria of the Executive Order and appears sufficient to meet the required evidentiary burden. In addition, investigators, assisted by the information and expertise of our interagency partners, consider whether designation of the candidate would actually assist in disrupting or impeding the activities of a larger target, such as a proliferation network. If the initial investigation of a lead shows promise, then OFAC investigators move into the second stage of the designation process - the evidentiary process.

In the WMD proliferation context, as well as our other programs, such as the highly successful counter-narcotics programs, we engage in "all-source" investigation and research and, quite often, extensive field work. By "all-source" investigation, I mean to say that our investigators seek to use any and all information available to them. Historically, this has included corporate records, from both open sources and those that

may be seized in the course of law enforcement or intelligence operations, law enforcement reports redacted to protect sources, foreign law enforcement reports gained through cooperation in the field with foreign counterparts, foreign and domestic indictments or court transcripts, and intelligence reports from across the spectrum of the intelligence community. An additional source of information, which has proved to be key to our efforts in other programs, is source statements derived from debriefings conducted by U.S. law enforcement investigators and OFAC investigators. This very sensitive information requires excellent cooperation between OFAC and its law enforcement colleagues combined with careful implementation.

Of course, in reviewing these evidentiary sources, we are also sorting through reams of information for facts and data that permit us to conclude, as a legal matter, that there is a reasonable basis for believing that a target meets the specific criteria for designation under the terms of the Executive Order. For example, for a targeted entity we would typically look for information that substantiates ownership or control by another designated party or that a target is acting for or on behalf of, or providing material, financial, technological or other support for, or goods or services in support of, a designated party. To help us assess ownership or control we ask such questions as: Who are the shareholders? Who are the officers, directors, or managers? What is the entity's current address? What is its taxpayer ID number?

Similarly, for individuals, we look for information indicating that they are acting for, or on behalf of, or providing material support to a designated party. To help us assess this, we try to understand their exact relationships with designated parties. Moreover, and this cannot be overstated, in order to make our sanctions effective, we have to have adequate unclassified identifiers for our targets that can be included in publication of the designation. This is essential in order to enable the private sector to distinguish among individuals and companies with similar names, so that they can interdict or reject transactions that are prohibited by the designation while, at the same time, avoiding interference with their ability to process their normal business transactions efficiently and effectively. There will be occasions when we need to proceed without particular bits of information, but ideally our identifiers will include a target's known aliases and such information as date of birth, place of birth, address, passport numbers, or other national identification numbers.

Once this evidence is collected, our investigators draft an evidentiary document summarizing the various exhibits acquired through their investigation and research. This "summary" document - which can run into hundreds of pages of text and supporting exhibits - meticulously lays out how the information provides us with reason to believe that the target meets the specific criteria for designation. Once drafted, the evidentiary packages undergo internal review by senior OFAC investigators, and a back and forth process of editing and the collection of additional evidence begins.

After an evidentiary package has been thoroughly reviewed within OFAC, it is then reviewed for legality by Treasury's attorneys. Based on the feedback from the attorneys, who are examining the case to ensure that among other things we have met our

evidentiary threshold and our investigators may engage in further investigation and research and revise the package to address any legal concerns. The Department of Justice's Civil Division, which represents OFAC in court if our designations are challenged by our targets, also gives the case a thorough legal review.

The next formal stage of our evidentiary process involves interagency coordination. In most of our cases, it is somewhat misleading to present this as a distinct stage because we are normally very engaged with colleagues, in a variety of agencies, throughout the investigation process. In fact, initial targets are suggested through an interagency working group, and closely coordinated and vetted within appropriate agencies in the early stages of development. Depending on the amount of intelligence involved in constructing a case, we also work closely with colleagues in OIA and from elsewhere in the intelligence community to develop our case. Nonetheless, we do go through a more formal coordination phase designed to de-conflict our proposed designations with the operational and policy interests of other agencies, and to ensure that the targets are consistent with and further the strategic national security and foreign policy goals of the United States. In fact, such coordination is required by the language of Executive Order 13382. The Order specifically directs that designations by Treasury or State be undertaken in consultation with one another, as well as in consultation with Justice and other relevant agencies.

Interagency coordination is clearly a critical part of the process because it ensures that our public designation of entities and individuals comprising a network do not jeopardize the ongoing operations of our colleagues in the law enforcement or the intelligence communities, and are consistent with our government's foreign policy and national security objectives and interests. We are acutely mindful of the importance of ensuring that we do not compromise sensitive sources or methods that would harm our national interest, and that our actions are coordinated with ongoing diplomatic efforts in order to achieve effectively our national security and foreign policy objectives. Our experience is that any potential conflicts can be fully and successfully resolved by fostering the early and ongoing working-level contacts between our investigators and their counterparts in the law enforcement and the intelligence communities.

Once this very thorough interagency review process has been completed, the final evidentiary package is presented for my signature. Among my chief concerns in reviewing a completed evidentiary package is verifying that we have, in fact, received concurrences from our interagency colleagues. Moreover, at the same time that the package is moving to me for my consideration, two other important processes are in motion.

First, OFAC's team of compliance officers and information technology professionals are working closely with our investigators to prepare the information about a target for possible public release. If I approve the proposed designation and sign a related blocking order, our team moves into action to push the critical information on the target - the names, the aliases, the locations, the identifying information such as dates of birth, passport numbers, national identification numbers, etc. - to the public through OFAC's

List of Specially Designated Nationals and Blocked Persons (SDN list). This list is used by thousands of companies around the country and around the world to screen real-time transactions and accounts for the possible involvement of one of our targets.

The second process, which is similarly complex, arises when our investigators become aware of a designation target having a presence in the United States. If such a presence is detected, our investigators from both the Designation Investigations Division and our Enforcement Division work to prepare an operation to block any property that can be identified. Often this involves serving blocking orders or cease and desist orders on U.S. persons involved with a designation target. It can also involve blocking homes, commercially leased space, and vehicles, possibly at several locations throughout the country. As you can imagine, informing someone that they can no longer deal in blocked property - which may mean they have to cease doing business or apply to OFAC for a license to continue residing in a now-blocked property - can elicit a strong response. For the protection of all involved, we closely coordinate our domestic enforcement operations with law enforcement officers from other federal agencies and local authorities. At times, we are also able to coordinate our action with a law enforcement action, such as the execution of a search warrant.

Impact of OFAC Designations

Although the sanctions program established by Executive Order 13382 is in its early stages, and while I am limited in what I can say in this public forum, I am pleased to be able to assure you that we are already seeing a true impact on our targets.

More importantly, our successes in many other programs, especially our highly effective counter-narcotics programs, provide us with a roadmap for effectively implementing new programs called for by the President or the Congress. The lesson we have learned, in more than 10 years of work in the narcotics arena, is that success is not the result of limited, isolated action. It is the result of aggressive implementation sustained over a period of years. It is grounded in tenacious follow-up to previous designations, adapting our target list to meet the ever-changing face of our adversary, and it is based on targeting the entire network. Though our resources are relatively limited, I believe that OFAC, Treasury and our interagency partners have the experience and tenacity to make our new WMD proliferation program successful.

Again, thank you for this opportunity to address OFAC's role in the new WMD sanctions program. I look forward to answering any questions you may have at this time.