

President Obama Signs Act Enhancing Iran Sanctions

July 6, 2010

Last week, President Obama signed into law enhanced energy and financial sanctions against Iran. The new law, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (the “Act”), imposes tough new penalties aimed at persuading Iran to stop its illicit nuclear program. Targets of the Act range from business entities involved in refined petroleum sales to international banking institutions doing business with Iranian banks or Iran’s Islamic Revolutionary Guard Corps (“IRGC”).

The Senate and House acted in quick succession on Thursday, June 24th to overwhelmingly approve the Act – by 99-0 and 408-8 margins, respectively – just two weeks after the United Nations Security Council approved a fourth round of sanctions against Iran because of its refusal to abandon its uranium enrichment program. This congressional action comes after the Obama Administration’s diplomatic efforts have made little progress with respect to Iran’s nuclear program and its support of terrorist-branded Islamic groups, and sends a clear message to Iran that its pursuit of a nuclear weapons capability will not come without an economic price.

The Act strengthens the underlying Iran Sanctions Act (“ISA”), implemented in 1996, by imposing new sanctions on businesses involved in supplying Iran with refined petroleum, including gasoline and jet fuel, which Iran must import because of its weak refining ability. In addition, the Act presents foreign banks doing business with blacklisted Iranian entities with a choice – cease activities or be denied access to America’s financial system. These enhanced sanctions also:

- Expand the scope of sanctions authorized under ISA by imposing sanctions on foreign companies, including insurance, financing and shipping companies, that sell goods, services or know-how to Iran that assist in development of Iran’s energy sector;

- Ban US banks from engaging in financial transactions with foreign banks doing business with Iran's IRGC, or otherwise facilitating Iran's illicit nuclear program or its support of terrorism;
- Hold US banks accountable for actions by their foreign subsidiaries;
- Require that companies bidding on US government procurement contracts certify that they are not doing business with Iran;
- Tighten the existing US embargo on Iranian goods by curbing the number of exempted products;
- Increase substantially the criminal penalties for sanctions violations by US entities;
- Impose significant financial penalties and travel restrictions on Iran's human rights abusers.

The Act also supports divestment from certain companies that invest in Iran. For example, the Act supports the decision of government and educational institutions to divest from, and to prohibit the investment of assets they control in, entities related to Iran's energy sector.

In addition, the Act amends the Investment Company Act of 1940 to shield any registered investment company and its directors, officers, employees or advisors from civil, criminal or administrative action based on its divesting from, or avoiding investing in, Iran. Further, the Act directs the Securities and Exchange Commission to promulgate rules requiring registered investment companies to disclose such divestment decisions in their regular SEC reports. Finally, the Act expresses the sense of Congress that a fiduciary of certain employee benefit plans under ERISA may divest plan assets from, or avoid investing plan assets in, any entity that engages in prohibited investment activities in Iran without breaching ERISA responsibilities if (1) the fiduciary makes such determination using credible, publicly available information; and (2) such divestment or avoidance of investment is conducted in the interest of the plan's participants and beneficiaries.

The Act will remain in effect until President Obama certifies to Congress that Iran no longer satisfies the requirements for designation as a state-sponsor of terrorism, and has ceased its efforts to develop or acquire nuclear, biological, and chemical weapons and ballistic missiles and ballistic-missile launch technology.