

110TH CONGRESS
1ST SESSION

H. R. 2347

To authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of \$20,000,000 or more in Iran's energy sector, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2007

Mr. FRANK of Massachusetts (for himself, Mr. LANTOS, Mr. SHERMAN, Mr. SHAYS, Mr. LYNCH, Mr. ACKERMAN, Mr. KLEIN of Florida, and Mr. WEXLER) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Education and Labor and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of \$20,000,000 or more in Iran's energy sector, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Iran Sanctions Ena-
5 bling Act of 2007".

1 **SEC. 2. FINDINGS.**

2 The Congress finds as follows:

3 (1) The Convention on the Prevention and Pun-
4 ishment of the Crime of Genocide, completed at
5 Paris, December 9, 1948 (commonly referred to as
6 the “Genocide Convention”) defines genocide as,
7 among other things, the act of killing members of a
8 national, ethnic, racial, or religious group with the
9 intent to destroy, in whole or in part, the targeted
10 group. In addition, the Genocide Convention also
11 prohibits conspiracy to commit genocide, as well as
12 “direct and public incitement to commit genocide”.

13 (2) 133 member states of the United Nations
14 have ratified the Genocide Convention and thereby
15 pledged to prosecute individuals who violate the
16 Genocide Convention’s prohibition on incitement to
17 commit genocide, as well as those individuals who
18 commit genocide directly.

19 (3) On October 27, 2005, at the World Without
20 Zionism Conference in Tehran, Iran, the President
21 of Iran, Mahmoud Ahmadinejad, called for Israel to
22 be “wiped off the map,” described Israel as “a dis-
23 graceful blot [on] the face of the Islamic world,” and
24 declared that “[a]nybody who recognizes Israel will
25 burn in the fire of the Islamic nation’s fury.” Presi-
26 dent Ahmadinejad has subsequently made similar

1 types of comments, and the Government of Iran has
2 displayed inflammatory symbols that express similar
3 intent.

4 (4) On December 23, 2006, the United Nations
5 Security Council unanimously approved Resolution
6 1737, which bans the supply of nuclear technology
7 and equipment to Iran and freezes the assets of cer-
8 tain organizations and individuals involved in Iran's
9 nuclear program, until Iran suspends its enrichment
10 of uranium, as verified by the International Atomic
11 Energy Agency.

12 (5) Following Iran's failure to comply with Res-
13 olution 1737, on March 24, 2007, the United Na-
14 tions Security Council unanimously approved Reso-
15 lution 1747, to tighten sanctions on Iran, imposing
16 a ban on arms sales and expanding the freeze on as-
17 sets, in response to the country's uranium-enrich-
18 ment activities.

19 (6) There are now signs of domestic discontent
20 within Iran, and targeted financial and economic
21 measures could produce further political pressure
22 within Iran. According to the Economist Intelligence
23 Unit, the nuclear crisis "is imposing a heavy oppor-
24 tunity cost on Iran's economic development, slowing
25 down investment in the oil, gas, and petrochemical

1 sectors, as well as in critical infrastructure projects,
2 including electricity”.

3 (7) Targeted financial measures represent one
4 of the strongest non-military tools available to con-
5 vince Tehran that it can no longer afford to engage
6 in dangerous, destabilizing activities such as its nu-
7 clear weapons program and its support for ter-
8 rorism.

9 (8) Foreign persons that have invested in Iran’s
10 energy sector, despite Iran’s support of international
11 terrorism and its nuclear program, have provided
12 additional financial means for Iran’s activities in
13 these areas, and many United States persons have
14 unknowingly invested in those same foreign persons.

15 (9) There is an increasing interest by States,
16 local governments, educational institutions, and pri-
17 vate institutions to seek to disassociate themselves
18 from companies that directly or indirectly support
19 the Government of Iran’s efforts to achieve a nu-
20 clear weapons capability.

21 (10) Policy makers and fund managers may
22 find moral, prudential, or reputational reasons to di-
23 vest from companies that accept the business risk of
24 operating in countries that are subject to inter-
25 national economic sanctions or that have business

1 relationships with countries, governments, or entities
2 with which any United States company would be
3 prohibited from dealing because of economic sanc-
4 tions imposed by the United States.

5 **SEC. 3. TRANSPARENCY IN U.S. CAPITAL MARKETS.**

6 (a) LIST OF PERSONS INVESTING IN IRAN ENERGY
7 SECTOR.—

8 (1) PUBLICATION OF LIST.—Not later than 6
9 months after the date of the enactment of this Act
10 and every 6 months thereafter, the Secretary of the
11 Treasury, in consultation with the Secretary of En-
12 ergy, the Secretary of State, the Securities and Ex-
13 change Commission, and the heads of other appro-
14 priate Federal departments and agencies, shall pub-
15 lish in the Federal Register a list of each person,
16 whether within or outside of the United States, that,
17 as of the date of the publication, has an investment
18 of more than \$20,000,000 in the energy sector in
19 Iran. The list shall include a description of the in-
20 vestment made by each such person, including the
21 dollar value, intended purpose, and status of the in-
22 vestment, as of the date of the publication.

23 (2) PRIOR NOTICE TO PERSONS.—The Sec-
24 retary of the Treasury shall, at least 30 days before
25 the list is published under paragraph (1), notify

1 each person that the Secretary intends to include on
2 the list.

3 (3) DELAY IN INCLUDING PERSONS ON THE
4 LIST.—After notifying a person under paragraph
5 (2), the Secretary of the Treasury may delay includ-
6 ing that person on the list for up to 60 days if the
7 Secretary determines and certifies to the Congress
8 that the person has taken specific and effective ac-
9 tions to terminate the involvement of the person in
10 the activities that resulted in the notification under
11 paragraph (2).

12 (4) REMOVAL OF PERSONS FROM THE LIST.—
13 The Secretary of the Treasury may remove a person
14 from the list before the next publication of the list
15 under paragraph (1) if the Secretary, in consultation
16 with, as appropriate, the Secretary of Energy, the
17 Secretary of State, the Securities and Exchange
18 Commission, and the heads of other Federal depart-
19 ments and agencies, determines that the person no
20 longer has an investment of more than \$20,000,000
21 in the energy sector in Iran.

22 (b) PUBLICATION ON WEBSITE.—The Secretary of
23 the Treasury shall maintain on the website of the Depart-
24 ment of the Treasury the names of the persons on the
25 list under subsection (a), updating the list as necessary

1 to take into account any person removed from the list
2 under subsection (a)(4).

3 (c) DEFINITION.—In this section, the term “invest-
4 ment” has the meaning given that term in section 14(9)
5 of the Iran Sanctions Act (50 U.S.C. 1701 App.):

6 **SEC. 4. AUTHORITY OF STATE AND LOCAL GOVERNMENTS**
7 **TO DIVEST FROM CERTAIN COMPANIES IN-**
8 **VESTED IN IRAN’S ENERGY SECTOR.**

9 (a) STATEMENT OF POLICY.—It is the policy of the
10 United States to support the decision of State govern-
11 ments, local governments, and educational institutions to
12 divest from, and to prohibit the investment of assets they
13 control in, persons that have investments of more than
14 \$20,000,000 in Iran’s energy sector .

15 (b) AUTHORITY TO DIVEST.—

16 (1) IN GENERAL.—Notwithstanding any other
17 provision of law, a State or local government may
18 adopt and enforce measures to divest the assets of
19 the State or local government from, or prohibit in-
20 vestment of the assets of the State or local govern-
21 ment in, persons that are included on the most re-
22 cent list published under section 3(a)(1), as modified
23 under section 3(a)(3).

24 (2) APPLICABILITY.—This subsection applies to
25 measures adopted by a State or local government be-

1 fore, on, or after the date of the enactment of this
2 Act.

3 (3) DEFINITIONS.—In this subsection:

4 (A) INVESTMENT.—The “investment” of
5 assets includes—

6 (i) a commitment or contribution of
7 assets; and

8 (ii) a loan or other extension of credit
9 of assets.

10 (B) ASSETS.—The term “assets” refers to
11 public monies and includes any pension, retire-
12 ment, annuity, or endowment fund, or similar
13 instrument, that is controlled by a State or
14 local government.

15 (C) ASSETS OF A STATE OR LOCAL GOV-
16 ERNMENT.—The term “assets of the State or
17 local government” refers to assets that the
18 State or local government controls.

19 (c) PREEMPTION.—A measure of a State or local gov-
20 ernment that is authorized by subsection (b) is not pre-
21 empted by any Federal law or regulation except to the ex-
22 tent that a person is unable to comply with both the meas-
23 ure and the Federal law or regulation.

1 **SEC. 5. SAFE HARBOR FOR CHANGES OF INVESTMENT**
2 **POLICIES BY MUTUAL FUNDS.**

3 Section 13 of the Investment Company Act of 1940
4 (15 U.S.C. 80a–13) is amended by adding at the end the
5 following new subsection:

6 “(c) **SAFE HARBOR FOR CHANGES IN INVESTMENT**
7 **POLICIES.**—Notwithstanding any other provision of Fed-
8 eral or State law, no person may bring any civil, criminal,
9 or administrative action against any registered investment
10 company or person providing services to such registered
11 investment company (including its investment adviser), or
12 any employee, officer, or director thereof, based upon the
13 investment company divesting from, or avoiding investing
14 in, securities issued by companies that are included on the
15 most recent list published under section 3(a)(1) of the
16 Iran Sanctions Enabling Act, as modified under section
17 3(b) of that Act. For purposes of this subsection the term
18 ‘person’ shall include the Federal government, any State
19 or political subdivision of a State.”.

20 **SEC. 6. SAFE HARBOR FOR CHANGES OF INVESTMENT**
21 **POLICIES BY EMPLOYEE BENEFIT PLANS.**

22 Section 502 of the Employee Retirement Income Se-
23 curity Act of 1974 (29 U.S.C. 1132) is amended by adding
24 at the end the following new subsection:

25 “(n) No person shall be treated as breaching any of
26 the responsibilities, obligations, or duties imposed upon fi-

1 duciaries by this title, and no action may be brought under
2 this section against any person, for divesting plan assets
3 from, or avoiding investing plan assets in, persons that
4 are included on the most recent list published under sec-
5 tion 3(a)(1) of the Iran Sanctions Enabling Act , as modi-
6 fied under section 3(a)(4) of such Act.”.

7 **SEC. 7. SENSE OF THE CONGRESS REGARDING THRIFT SAV-**
8 **INGS PLAN.**

9 It is the sense of the Congress that the Federal Re-
10 tirement Thrift Investment Board should initiate efforts
11 to provide a terror-free international investment option
12 among the funds of the Thrift Savings Fund that would
13 invest in stocks in which the International Stock Index
14 Investment Fund may invest under section 8438(b)(4) of
15 title 5, United States Code, other than the stock of compa-
16 nies that do business in any country the government of
17 which the Secretary of State has determined, for purposes
18 of section 6(j) of the Export Administration Act of 1979
19 (as continued in effect pursuant to the International
20 Emergency Economic Powers Act), section 40 of the Arms
21 Export Control Act, section 620A of the Foreign Assist-
22 ance Act of 1961, or other provision of law, is a govern-
23 ment that has repeatedly provided support for acts of
24 international terrorism.

1 **SEC. 8. DEFINITIONS.**

2 In this Act:

3 (1) IRAN.—the term “Iran” includes any agen-
4 cy or instrumentality of Iran.

5 (2) ENERGY SECTOR.—The term “energy sec-
6 tor” refers to activities to develop petroleum or nat-
7 ural gas resources.

8 (3) PERSON.—The term “person” means—

9 (A) a natural person as well as a corpora-
10 tion, business association, partnership, society,
11 trust, any other nongovernmental entity, orga-
12 nization, or group;

13 (B) any governmental entity or instrumen-
14 tality of a government; and

15 (C) any successor, subunit, or subsidiary of
16 any entity described in subparagraph (B) or
17 (C).

18 (4) STATE.—The term “State” includes the
19 District of Columbia, the Commonwealth or Puerto
20 Rico, the Virgin Islands, Guam, American Samoa,
21 and the Commonwealth of the Northern Mariana Is-
22 lands.

23 (5) STATE OR LOCAL GOVERNMENT.—

24 (A) IN GENERAL.—The term “State or
25 local government” includes—

1 (i) any State and any agency or in-
2 strumentality thereof;

3 (ii) any local government within a
4 State, and any agency or instrumentality
5 thereof; and

6 (iii) any public institution of higher
7 education.

8 (B) PUBLIC INSTITUTION OF HIGHER EDU-
9 CATION.—The term “public institution of high-
10 er education” means a public institution of
11 higher education within the meaning of the
12 Higher Education Act of 1965.

13 **SEC. 9. SUNSET.**

14 This Act shall terminate 30 days after the date on
15 which the President has certified to Congress that—

16 (1) the Government of Iran has ceased pro-
17 viding support for acts of international terrorism
18 and no longer satisfies the requirements for designa-
19 tion as a state-sponsor of terrorism for purposes of
20 section 6(j) of the Export Administration Act of
21 1979, section 620A of the Foreign Assistance Act of
22 1961, section 40 of the Arms Export Control Act,
23 or any other provision of law; and

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

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

