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NOMINATION OF ADAM J. SZUBIN

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

ON

NOMINATION OF ADAM J. SZUBIN, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY FOR TERRORISM AND FINANCIAL CRIMES, DEPARTMENT OF THE TREASURY

SEPTEMBER 17, 2015

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NOMINATION OF ADAM J. SZUBIN, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY FOR TERRORISM AND FINANCIAL CRIMES, DEPARTMENT OF THE TREASURY

THURSDAY, SEPTEMBER 17, 2015

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10:03 a.m., in room SD–538, Dirksen Senate Office Building, Hon. Richard Shelby, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN RICHARD C. SHELBY

Chairman SHELBY. The hearing will come to order.

This morning, we will hear testimony on the nomination of Mr. Adam Szubin, of Washington, DC, to be the Under Secretary of he Treasury for Terrorism and Financial Crimes. Mr. Szubin, if confirmed, will be the third Under Secretary of the Treasury with the responsibility for the Office of Terrorism and Financial Intelligence. The Under Secretary reports directly to the Secretary.

This position, as most of us realize, is responsible for executing the dual mission of combating terrorist financing and money laundering while overseeing enforcement of the Nation's constantly evolving sanctions programs. The Under Secretary also oversees a number of separate policy, regulatory, and enforcement offices, such as the Office of Terrorism and Financial Crimes, the Office of Foreign Assets Control, the Office of Intelligence and Analysis, the Treasury Executive Office for Asset Forfeiture, and the Financial Crimes Enforcement Network.

Mr. Szubin comes to the Under Secretary's office with over 14 years of Government experience. He has participated in several international negotiations, including the President's recent Iran nuclear deal that is being considered, as you know, here in the Senate. Ironically, the nominee who has helped to assemble and to enforce the most comprehensive sanctions architecture against the world's leading state sponsor of terrorism may now be tasked by the President with dismantling a lot of it.

Given this context, today's hearing is both important and, I believe, timely. The Committee looks forward to Mr. Szubin's testimony and his responses to our questions.

Senator Brown.

STATEMENT OF SENATOR SHERROD BROWN

Senator BROWN. Thank you, Mr. Chairman. I appreciate your willingness to allow a hearing on this nomination.

Acting Treasury Under Secretary Adam Szubin has served in both Republican and Democratic administrations in senior positions relating to economic sanctions in countering terrorist financing. He is eminently qualified for this position and I welcome him here. I welcome his children, his wife, his parents, and in-law, I believe, and he will introduce them, I am sure.

Before I describe Under Secretary Szubin's superb credentials and experience, I want to underscore a point my Democratic colleagues and I have been making repeatedly to the Chairman for months—for months—about pending Banking Committee nominations. For 9 months, the Committee has failed to carry out its duty to consider and act upon the President's nominees. Before today, in this calendar year, we have not held a single nomination hearing. I am grateful for today. We have been unhappy for eight-plus months about this.

By contrast, in 2007, the seventh year of the Bush administration, when Senate and White House control were also divided, the Banking Committee held three nomination hearings before the August recess. The Senate had confirmed more than a dozen nominees coming out of this Committee.

Given all the concerns surrounding terrorist financing, you would think this nomination would be a priority. In the past, it has been. Mr. Szubin's mentor, Bush Under Secretary Stuart Levey, was confirmed by the Senate just 3 weeks after his nomination was sent to this Committee. Mr. Szubin's immediate predecessor took us two-and-a-half months to consider. Some of the pending nominees have been waiting since January just for a hearing. They deserve hearings. They deserve votes. I hope the Chairman will promptly move them through the Committee process and onto the Senate floor for consideration.

That said, I am delighted that Under Secretary Szubin is again before us this time to discuss the critical role of the Terrorism and Financial Intelligence Office of the Treasury Department and the U.S. Government's broader approach to combating terrorist financing. That office marshals the Department's intelligence and enforcement functions with the dual aims of safeguarding the financial system against illicit use and combating rogue nations, terrorist facilitators' weapons of mass destruction, proliferators, money launderers, drug kingpins, and other national security threats.

Over the last 15 years, Mr. Szubin has distinguished himself as a tough, aggressive enforcer of our Nation's sanctions laws against countries like Russia and Iran and North Korea and against money launderers, terrorists, and narco traffickers.

After earning undergraduate and law degrees with high honors, Mr. Szubin was a Fulbright Scholar in Israel before joining the Department of Justice. He served as counsel to the Deputy Attorney General. He was a trial attorney on the Terrorism Litigation Task Force, receiving the Justice Department's Special Commendation Award for his work countering terrorism.

From 2006 to 2015, he directed Treasury's Office of Foreign Assets Control, where many of us first came to know him as a thoughtful policymaker and a superb lawyer. The Anti-Defamation League in a recent letter endorsing Adam's nomination described him, quote, "as an intellectual heavyweight who has worked effectively with global partners to amplify the effects of U.S. sanctions," unquote. I could not agree with that assessment more.

I welcome him back to the Committee. I look forward, Mr. Szubin, to your testimony today. Thank you so much.

Chairman SHELBY. Thank you, Senator Brown?

Mr. Szubin, will you stand and raise your right hand. Do you swear or affirm that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. SZUBIN. I do.

Chairman SHELBY. Do you agree to appear and testify before any duly constituted committee of the Senate in the future?

Mr. SZUBIN. Yes.

Chairman SHELBY. You may be seated.

Your written testimony, Mr. Szubin, will be made part of this record in its entirety. Before you begin your oral remarks, I invite you to introduce your family members in attendance today.

STATEMENT OF ADAM J. SZUBIN, OF THE DISTRICT OF COLUMBIA, NOMINATED TO BE UNDER SECRETARY FOR TERRORISM AND FINANCIAL CRIMES, DEPARTMENT OF THE TREASURY

Mr. SZUBIN. Thank you very much, Mr. Chairman and Ranking Member Brown.

I would like to introduce first my amazing wife, Miriam, my beloved sons Nathan, Micah, and Josiah, my mother, Laurie Szubin, my father-in-law, Steven Weiner, and I want to thank in particular my wife, Miriam, for her unwavering support over the past years. This job can be a difficult one and I could not have done any part of it without her.

Chairman SHELBY. You can proceed as you wish.

Mr. SZUBIN. OK. Chairman Shelby, Ranking Member Brown, distinguished Members of the Committee, it is an honor to be appearing before this Committee today.

I am honored to have been nominated to serve as Under Secretary of the Treasury for Terrorism and Financial Crimes. I want to thank President Obama for the confidence he has placed in me and Secretary Lew for his recommendation and strong support.

I do not take this opportunity for granted. Indeed, I do not take for granted the fact that I have been allowed to serve my Government at all for the last 16 years.

My father was not born here. He was born in Poland in 1933. His parents fled the Nazis at the outbreak of World War II and were captured by the Soviet army and exiled to Siberia, where they lived out the war years. Siberia was a place of great hardship, but it turned out that their capture and exile had saved their lives. Nearly all of my father's aunts, uncles, and cousins were wiped out by the Nazis. There are today, sadly, just a few remnants of a family that should have numbered in the thousands.

My parents raised us to be vigilant against evil in the world, evil not as an abstract concept but as an all too real threat that they had seen in their lifetimes. But we were not raised in an environment of fear or anger or sadness. To the contrary, we were raised to savor life, to seek out joy, and to be aware of and grateful for the many gifts that we enjoyed.

High among those gifts was the ability to grow up in America, the *goldene medina,* or golden land, to which my father had come. He has never stopped marveling at this country, at our brilliant Constitution and legal system, our openness to new immigrants, our work ethic, and our enduring hopefulness that we can improve the world and leave it a little better for our children. For all of these, I was taught to be grateful.

So, while it is perhaps not a surprise that I sought out a career in Government service, I have been amazed that this country has allowed the child of an immigrant to take on positions of trust and to participate in shaping our national security policies. This truly is a country like no other.

I appreciate how significant the responsibilities of this office are. Eleven years ago, I followed Stuart Levey, my mentor, from the Justice Department when he was named the first Under Secretary for TFI, and I have served in Treasury and TFI ever since, as the Director of the Sanctions Office, OFAC, for 9 years, and most recently as the Acting Under Secretary for the last 6 months, overseeing the more than 700 exceptional individuals who make our organization what it is.

Congress created TFI to bring together under one roof an array of capabilities—intelligence, enforcement, regulation, and policy—to confront and challenge our adversaries on the financial battlefield. It is an easy mission to describe, but a challenging one to execute. Nonetheless, I believe the office has accomplished amazing things in its short history.

When I started at TFI, the conventional wisdom in schools of international affairs was that sanctions did not, could not work, that the targets of sanctions would always find ways to circumvent them, money being like water that would find its way downhill. Thanks to the remarkable and dedicated women and men of TFI, I do not hear that conventional wisdom as much anymore. People have seen that smart, persistent, and creative efforts, when backed by the superb support of the U.S. intelligence community, can strangle illicit organizations, shake regimes, and change their behavior.

Our efforts have been a key plank in the Government's broader efforts against terrorist groups, against murderous groups like al Qaida, ISIL, Hezbollah, and Hamas. We continue to have so much critical work ahead of us. But every bank account frozen, every charitable front exposed, every procurement company neutralized, and every fundraiser designated or deterred strikes a blow against these groups.

TFI has worked with governments and financial institutions around the world to strengthen their counterterrorism laws and procedures and to empower them to track and stop illicit money flows. The world's financial system is, in every arena and on every

continent, more transparent, more resilient than it was 10 years ago.

In the field of human rights, we have used sanctions to combat government oppression and abuse, facilitating positive changes in places like Burma, though, of course, there is still much to be done.

In the arenas of narcotics trafficking and money laundering, we have dealt once powerful cartels, like the Cali Cartel, the Sinaloa Cartel, major setbacks by exposing and bankrupting their financial holding companies and their money launderers, hitting them where it hurts most, in their wallets.

And we have used sanctions to combat North Korea's attempts to access the world's financial system, closing out front companies and banks that were willing to launder the regime's money for a cut.

When we saw Russia violate Ukraine's territorial sovereignty, we worked with our allies in Europe to devise a powerful and innovative set of sanctions that not only went after the key cronies and businessmen surrounding President Putin, but also cutoff some of Russia's largest banks and energy companies from the things they depend on—Western technology, Western financing. Even where as in this context our ultimate goals have not yet been reached, TFI is making a concrete difference in advancing our country's foreign policy.

Finally, under Stuart Levey's and then David Cohen's leadership, TFI devised and executed a strategy to dramatically intensify the pressure against the government of Iran due to a range of concerns, its illicit nuclear program chief among them. Over a steady campaign, we were able to cut Iran's banks off from the world's financial centers, badly wounding its trade and financial capabilities.

In 2010, Congress, with this Committee at its center, then dramatically advanced the effort, passing bipartisan measures that brought Iran's crude oil sales down by 60 percent, escrowed its foreign reserves, and ensured that Iran's leaders knew that it would not recover economically until it verifiably closed off all pathways to a nuclear weapon. These efforts led to the election of President Rouhani and culminated in the diplomatic process that produced the joint comprehensive plan of action. And the women and men of my office have worked incredibly hard over the past decade to build and then enforce these measures and to combat every effort to circumvent them.

Even now, as we prepare to suspend our secondary nuclear sanctions should Iran fulfill its commitments under the deal, we are simultaneously readying a battery of sanctions against Iran's activity outside of the nuclear file, its human rights abuses inside of Iran and its destabilizing activities in the region pursued through the IRGC and Qods Force, through Hezbollah and other Iranian partners and proxies in Syria, Iraq, Yemen, and beyond, and we will be building this pressure in close cooperation with our partners in Europe, Israel, and the Gulf.

None of TFI's successes would have been possible without strong bipartisan support from the House and Senate and from the Members and staff of this Committee, in particular. If confirmed, I intend to build upon the close relationship we have enjoyed with this Committee and to take on the pressing challenges ahead.

I can also commit to you that, if confirmed, I will not rest. I sit in a skiff every morning to read the latest intelligence, and the threats we face are, indeed, serious. We need to be vigilant, smart, and aggressive. And as the international landscape evolves, I am confident that TFI will remain at the forefront of our Government's efforts to protect our national security.

Thank you very much for your time and consideration. I will be glad to answer any questions that you may have.

Chairman SHELBY. Mr. Szubin, you have been acting as the Under Secretary since February of this year. In your August 5 testimony before this Committee, you agreed with former National Security Advisor Susan Rice that we can expect some portion of Iran's current frozen assets to fund more terror and other illicit activity. You concluded that Treasury's Office of Terrorism and Financial Intelligence needs to ramp up its efforts to go after Iran's illicit funding streams. How would you lead now the ramping up of such efforts?

Mr. SZUBIN. Thank you, Senator. Thank you, Mr. Chairman. It is obviously a key campaign as we move forward and one I think I will be spending a lot of my personal time on, because there are a lot of aspects to this effort. Obviously, the most visible effort is deploying new sanctions, and we have done quite a lot against Hezbollah, the Qods Force, the IRGC over recent years. I had the analysts in my office set out a link chart for me and it is over 200 companies and officers that are sanctioned, and, of course, all of them remain under sanctions, notwithstanding this deal, and those sanctions, thanks to Congress, have extraterritorial effect, by which I mean foreign banks who do business with anyone on that list do so at their own peril and the risk of being cutoff from the U.S. financial system.

But, in addition to the targeting effort to continue to go after the nodes, the networks, the officers of these terrorist groups and proxies, we have a lot to do in terms of outreach diplomatically and I think we have a lot of willing counterparts. When I talk to officials in the Gulf these, in Saudi Arabia and UAE—and my next foreign trip I expect will be to those countries—I hear a different attitude when it comes to taking on Iran's proxies, and I think there is a real opportunity there to harness that attention and to use it to disrupt a lot of money flows which have been going through places like Dubai and banks in the region.

Of course, we continue to work very closely with our counterparts in Israel and we need to do even more with Europe and beyond.

Chairman SHELBY. Since November of 2011, the entire Iranian financial system has been designated as a, quote, "primary money laundering concern" under Section 311 of the Patriot Act for reasons other than nuclear proliferation. The Financial Action Task Force has also issued numerous global warnings on Iran's money laundering and terrorist financing risk. It is my understanding that most Iranian banks will receive sanctions relief under the Iran deal. Do you expect, sir, that their deceptive financial practices will continue, and if so, what are your greatest concerns here?

Mr. SZUBIN. Well, first, Mr. Chairman, I want to note the finding that FinCEN issued with respect to Iran's banking sector remains in place. It is not affected by the JCPOA.

Chairman SHELBY. Mm-hmm.

Mr. SZUBIN. And U.S. sanctions with respect to Iran's banking sector remain untouched by the JCPOA. That means no Iranian banks can access the U.S. financial system, not to open an account, not to purchase a security, and not even to execute a dollarized transaction where a split-second's worth of business is done in a New York clearing bank. That, too, remains off limits to all Iranian banks, whether on the list or off the list.

But, with respect to how I expect to see Iran's banks perform or behave in the coming months, I think it remains to be seen. We have made very clear to Iran's leaders that if we see any banks who were removed from the list engaging in support to Hezbollah, support to the Qods Force, support to Iranian illicit ballistic missile activity, they will find themselves back onto the list, and the Iranians, I believe, understand that. So, we will have to see how they behave, but the choice will be theirs.

Chairman SHELBY. Sanctions, as you have pointed out, are crucial tools of U.S. policy. I worry that the U.S. Government is not taking maximum advantage of these tools. When thinking about maximizing sanctions affecting this in the future, I believe that we need to approach sanctions policy from both a tactical and a strategic basis for long-term planning and contingency scenarios.

In your opinion, how can the Government organize itself better and approach strategic and contingency planning for sanctions more effectively? In other words, how can we do a better job?

Mr. SZUBIN. Well, it is a question we have to ask ourselves continuously, and I can say, having been a part of TFI almost from day one, I have seen the office improve and I have seen us evolve. I think some of our greatest strides have come in our Intelligence Office, and it truly is unique in the world. I do not know of another finance ministry in any other country that has an intelligence office that is focused on using our financial expertise and using our financial information that they are really masters of to be able to track illicit flows. It is an area where our analysis has gotten so much more sophisticated and it is drawn upon by policymakers, including the White House, on a regular basis.

But in terms of what more we can do to improve, I think you are right. The longer-term strategic thinking is critical, because the world has now taken notice of how powerful these tools are, and with that, we see new and more adaptive techniques at evading sanctions and we see efforts to try to turn these tools against us. We have to be very careful with how we use these tools. We have to be judicious in how we use them. But we also have to be prepared to combat them should we see others trying to draw on these same tools to weaken our national security.

Chairman SHELBY. Senator Brown?

Senator BROWN. Yes, Chairman.

Thank you again, Mr. Szubin, for joining us. You have one of the most difficult jobs in this city serving taxpayers. When I think about the unending number of hours—it seems to be an unending number of hours—time away from your family, special thanks again to Miriam and your children, who I know you miss, and I know as you have traveled the world, especially during the Iran ne-

gotiations and put so much effort into this. Thank you again for that.

Thank you also, in meetings that I have had with you and Members have had with you and Secretary Lew and Secretary Kerry, especially, thank you for your response and putting in proactive efforts to deal with and to enhance and expand those efforts prescriptively, proactively to address the issues of Iranian financing of terrorism and what I know that you will be expecting to do and you will do, so thank you for that.

A couple of questions. I know TFI has a lot of critical national security responsibilities within its portfolio. I would like to get a sense of your priorities—sanction enforcement, countering money laundering, terrorism financing, other illicit finance issues. Describe to this Committee, if you will, your priorities, how Treasury's efforts will fit into the sort of broader Government efforts in illicit finance.

Mr. SZUBIN. Well, in terms of my priorities for the office going forward, I put Iran at the forefront, and that is not just making sure that they adhere to all their commitments where sanctions are really the "or else" that serves as a deterrent to keep them in mind, but also, of course, all of the non-nuclear activity that I referenced in my opening statement. Alongside that, our counterterrorism effort—it is why we were created, it is in our name, the Office of Terrorism and Financial Intelligence—has to be right at the forefront, as well, and particularly, of course, our efforts against ISIL, which has proposed a very serious challenge in terms of cutting off its financing.

I can say that when you look at a group like ISIL and compare it with a group like al Qaida, the financing challenges are night and day, given the territory that ISIL controls and its ability to extort funds from people in its territory and to draw on the natural resources, oil or otherwise, in the territory it controls. It is a massive challenge, but it is one that we are focused on, not just with the other members of the U.S. Government, the intelligence community, DOD, but also a huge coalition internationally, and it is one of our strengths here, is how unanimous the international community is in trying to check and constrain and ultimately defeat ISIL.

And alongside those two, I would mention cyber, which is a threat that over my time in TFI has grown more and more prominent, I think more and more worrisome. And here, too, sanctions are one part of the strategy. Law enforcement, diplomacy, intelligence, we have a whole array of tools, but thanks to President Obama's issuance of a new Executive Order, we now have the sanctions tool, as well, and where we see malicious actors targeting our infrastructure, going after U.S. companies, we now have the sanctions capability to use that both to prevent and to deter bad activity.

Senator BROWN. Thank you.

Mr. Chairman, I want to ask a question perhaps a bit more parochial, if you will. We met several times to discuss the situation with respect to remittances to Somalia from communities in the United States. The second-largest community in this country of Somalis is in Columbus, Ohio. A few months ago, we met separately

with the Prime Minister of Somalia to discuss these issues. I know you have been working to mitigate the AML concerns of banks while ensuring that terrorist financing standards are upheld and that Treasury and the World Bank are providing technical assistance to the Somali government to build its capacity in this area, but I remain very concerned about this issue.

Can you give the Committee an update on Treasury's efforts in this area and on progress toward restoring a free flow of remittances from Somalis, particularly in Columbus and Minneapolis, to Somalis in Africa?

Mr. SZUBIN. Yes. I would be happy to speak to our efforts here. I was just in Minneapolis last month on a delegation that Congressman Ellison organized to meet with the Somali remitter community, to meet with their banks, to meet with NGO's and other State and local officials, because, obviously, Minneapolis, too, has a huge concentration of Somali Americans and they are very worried.

One thing I can say is the funds flows have not stopped. They are worried because they see a pattern. They see that bank accounts have been closed. But at this point, I have been told that the funds continue to go and that remittances are arriving in Somalia.

But, the situation is far from ideal, and the worries actually are not about the remitters in the United States. The concerns with respect to money laundering and terrorist financing, of course, go to what is happening to the money when it gets to Somalia, and that is an intensely challenging issue because there is almost no central bank, almost no regulatory system when it comes to oversight of remitters or banks in Somalia.

And, so, the ability to restore confidence that will allow those remittances to flow more easily is going to depend on the efforts of the Prime Minister, and I had the opportunity to speak with him, too, when he visited. He is undertaking a lot of very serious steps, and as you noted, the World Bank, the State Department, the Treasury Department are going to do everything we can to assist him to build strength and thereby inspire confidence that funds flows are, indeed, safe when they go to Somalia.

Senator BROWN. Thank you, Mr. Chairman.

Chairman SHELBY. Senator Corker.

Senator CORKER. Thank you, Mr. Chairman, and Adam, thank you for your service to our country. I very much appreciate you telling us a little bit about your family history and your family's support. I think you know I have had tremendous support for what TFI does and the 700 people that you work with there.

And, in spite of the great work that you have done and others, David Cohen before you, I think you understand there is a bipartisan majority here that feels that not you, but the Administration squandered those efforts, and instead of ending Iran's nuclear program, we basically are allowing the industrialization of that program. Again, I know that was not your negotiation to lead, but, obviously, many of us—most of us here in a bipartisan way, very, very disappointed at that squandered opportunity, and had the President achieved what he said he wanted to do, which was to end the program, we would have 100 people here in the Senate cheer-

ing and supporting that. But that is not what has occurred. So, again, that is no reflection on you.

There are some sanctions that we put in place, the ISA Act, and it expires at the end of 2015. And I assume that since the snap-back provisions that were negotiated as part of the deal rely on the fact that there have to be sanctions to snap back to, that you would be very supportive of us extending ISA immediately so that those sanctions are there to snap back to.

Mr. SZUBIN. Thank you very much, Senator Corker, for your kind words about TFI, and I could not agree with you more about the talent and dedication of the men and women of the office.

With respect to the Iran deal, of course, you are right. I am not a diplomat and did not lead the talks, although I did have the opportunity to participate in a number of rounds, and I believe the deal to be a strong one and to have achieved the President's objectives of closing off all of the pathways for Iran to obtain a nuclear weapon for 15 years and beyond. But, I also know that that is a point on which I am not likely to convince you.

Senator CORKER. And it would be good, probably, if you did not really talk about that.

[Laughter.]

Senator CORKER. I would say that the fact is, the President said he was going to end their nuclear program, and we did not do that. We are industrializing, or agreeing to the industrialization. So, I know that they evolved in their goals over time. It is unfortunate, I would say, capitulated. I do not really want to focus with you on that because I respect your service and, hopefully, you will respect my position in disagreement.

But, what I would like to hear is that we can reauthorize with your support the sanctions that were in place under ISA and do so immediately.

Mr. SZUBIN. So, the Administration, with respect to preserving the full leverage of snap-back, I think the Administration's position has been very clear and is entirely aligned with your own, Senator. We need to have that leverage in order to deter breaches, in order to punish any breaches that occur.

With respect to the Iran Sanctions Act, my understanding is that it does not expire until the close of next year, of 2016, and the Administration's position has been that it is premature to bring up the sunset—the renewal until we get to that sunset period.

Senator CORKER. Why would that be the case?

Mr. SZUBIN. Typically——

Senator CORKER. We pass things way in advance all the time. It leads us to believe that there are concerns that maybe you all have made commitments to Iran that that is not going to be the case, so I think it is always good to have certainty. I mean, one of the reasons people rushed to pass Dodd-Frank, unfortunately, was to create certainty. Obviously, that has not been the case with Dodd-Frank. But, again, back to this, I think that it would be very good for the world to know that those sanctions are going to exist and that can provide certainty, and I would hope you would support, if we were to pass those over the next 60 days, those extensions taking place.

Mr. SZUBIN. Senator, from a sanctions perspective, the certainty is there. The Iran Sanctions Act is in effect and every aspect of it is in effect and people know we will implement it. There is no uncertainty until the provision is due to expire, and at that time, the Administration has said they are fully ready to have the conversation about renewal. But, I do want to clarify, at least from a sanctions perspective, that ISA remains in full effect notwithstanding any attempts to renew it early.

Senator CORKER. Yes. I know you are reciting the company line and I am not going to hold that personally against you, but I wish you would quit reciting the company line in that manner. It leads me to believe that, really, should we in a bipartisan way—and I think we could pass it very strongly, should we attempt to do that over the next 60 days—it leads me to believe that the Administration would oppose that, and that is very disappointing, but I think we are going to have an opportunity to see whether that is the case.

On the new sanctions you are talking about preparing, I assume that you have no objection whatsoever to us preparing sanctions ourselves, since you are doing the same, relative to terrorist acts, humanitarian, human rights issues. If we were to begin imposing those on Iran, you would have no objection if we felt like their continued terrorism, their acts inside Syria, the things that they are doing, you have no issue with us doing that.

Mr. SZUBIN. Senator, as I am sure you would expect, of course, all would depend on the content of those sanctions. To the extent that Congress is adding to the pressure against Iran's terrorist proxies and adding to our tools to be able to effectively combat them, I think that is something that the Administration would very seriously want to look at.

If the intent, though, of a sanctions effort is to try to, through a back door, take away the deal, in other words, withdraw the gives——

Senator CORKER. I understand that.

Mr. SZUBIN.——under the nuclear deal, I think that is a different story.

Senator CORKER. Yes, I understand.

Just quickly—I know I am out of time—the IRGC obviously is involved in terrorism. You would agree with that. And this is something that is, again, just being looked at presently. But, how do you feel about designating the IRGC as a foreign terrorist organization and how would it impact the deal if Congress decided to do so?

Mr. SZUBIN. The IRGC is a parent organization, has a number of subsidiaries, and it is involved almost in every bad aspect of what Iran has engaged in, whether it is the ballistic missile procurement, whether it is terrorism, whether it is regional destabilization or human rights.

Senator CORKER. Yes.

Mr. SZUBIN. We have designated the Qods Force, which is their arm that they use to support military activity and terrorist groups, under our terrorism program because it was the most apt element of the IRGC to label with the terrorist brush. The IRGC parent, though, remains designated for its human rights abuses, and that label is not coming off and those sanctions are not coming off——

Senator CORKER. But if we were to take it a step further, because I think you understand the huge, gaping hole that exists, and that is that, yes, they are a holding company, but all of their subsidiaries are going to benefit hugely from what is getting ready to happen. So, those subsidiaries flow cash up to that holding company. So, again, if we were to designate the IRGC as a foreign terrorist organization, if we did that, it would be crippling to their terrorist activities.

And, so, my question to you is, if we were to do so, it certainly would cripple them far more than what is getting ready to happen. Actually, they are going to benefit hugely. They are going to be the number one beneficiary, as a matter of fact, of these sanctions being lifted. If we were to counter their terrorist activity by sanctioning them, would you oppose that?

Mr. SZUBIN. So, perhaps I can actually offer some reassurance. The sanctions on the IRGC, the parent organization, which apply to all of their subsidiaries, are just as sweeping under our human rights designation as they would be under a terrorism designation. And, so, all of those concerns about their subsidiaries coming into revenues, those are currently prohibited. And any foreign company that does business with an IRGC subsidiary—I will just be very specific, Khatam al-Anbia, or Sepanir, which is an oil and gas sector, those are IRGC subs. They remain on our list and are not coming off——

Senator CORKER. On "our" list——

Mr. SZUBIN. On our list——

Senator CORKER. Not——

Mr. SZUBIN.——and because of Congress, there are extraterritorial consequences. That would be the same with a terrorist designation, but it is belt and suspenders, because those effects are in place right now.

Senator CORKER. So, you would not object?

Mr. SZUBIN. I do not—I cannot comment on Congress doing a designation. In my experience, it is the State Department——

Senator CORKER. Yes.

Mr. SZUBIN.——who lists entities as foreign terrorist organizations. But, certainly, we have seen the activity underneath the IRGC that easily qualifies for terrorist support. I am commenting from a legal perspective that I do not think it would affect the outcome either way.

Senator CORKER. Well, I look forward to meeting with you. I thank you for the extra time. And in spite of the fact that we disagree on the outcome of the negotiations, I really thank you for your public service.

Mr. SZUBIN. Thank you, Senator.

Chairman SHELBY. Senator Heitkamp.

Senator HEITKAMP. Thank you, Mr. Chairman, for, number one, holding this hearing and moving forward on the nomination of Mr. Szubin for Under Secretary for Terrorism and Financial Crimes. He has appeared in front of this Committee at least one time that I recall, and I have always been enormously impressed and enormously grateful that you have decided to use your obvious talents in service of this country and certainly in service of the security of this country.

I think there is a little boy in the back room, the anteroom, I do not know if that is your third son——

Mr. SZUBIN. Yes.

Senator HEITKAMP. He is quite adorable, and he is already reading. I do not know, is he, like, one or two, already reading?

[Laughter.]

Senator HEITKAMP. He takes after his dad.

I want to address an issue that I do not think has been talked about, and I share Senator Corker's concern about making sure that this country is sure and certain about terrorism sanctions. You and I have talked about this when we met. And certainly looking at human rights sanctions and making sure that the American public knows that we will continue to sanction those entities that engage in terrorist activities, that engage in human rights violations, and that we have not given up on our commitment to use sanctions in that way.

And, so, I think the continuing dialogue with this Committee, the continuing dialogue with Congress from your office and from the State Department will be critical moving forward, giving those assurances.

But, I want to probably address an issue that has not been addressed, which is crude oil exports. You and I also talked about this. And, I am deeply concerned about the policy of this country which restricts American exports of crude oil, of the oil that we produce here, for a number of reasons. Number one, I think it threatens our national energy security. I think it is not good for our consumers. It is not fundamentally fair in a free enterprise system that we are restricting exports. But, I think, in this context, it certainly gives us a wonderful opportunity to be competitive with Iranian oil that will find its way eventually into the marketplace when this agreement is—if and when this agreement is implement.

And, so, we are curious about how you see this from the standpoint of sanctions, how you would view the lifting of the oil export ban in the frame of continuing to curtail, continuing to put economic pressure on not only Iran, but also Russia and other bad actors in the world who are funding their bad actions with oil revenue from their own domestic production.

Mr. SZUBIN. Well, thank you very much, Senator. Unfortunately, the question does go beyond my area of expertise in terms of what the potential impacts would be of relaxing those restrictions and then how it would play out——

Senator HEITKAMP. But you are a really smart guy, so you could just opine for me, right?

[Laughter.]

Mr. SZUBIN. No, unfortunately. I am going to disappoint you severely on that front.

[Laughter.]

Mr. SZUBIN. But, there are others in the Administration, and I think you have been in conversation with them already, in my agency and elsewhere, who are, of course, much more conversant with this and would be happy to continue the discussion.

Senator HEITKAMP. Well, for me, this is a critical issue and it has to be viewed in the frame of what we are doing right now with overall sanctions. It has to be addressed in this context, because I

think it is a wonderful opportunity for our country to use this new growth in our energy resources for smart and better diplomacy, better power, and provide European energy security, which, I think, the lack of energy security among our allies has created a lot of economic disruption. And, so, we will continue to push for this. We will continue to push for increased and maintaining sanctions on anyone who engages in terrorism and human rights violations, and I look forward to continuing our discussion with you.

And, again, to your family who are very proud behind you—you cannot see them—I want to thank you for raising a very amazing young man who is using his talents for public service. Thank you.

Mr. SZUBIN. Thank you. Thank you, Senator.

Chairman SHELBY. Senator Cotton.

Senator COTTON. Thank you, Mr. Chairman, and thank you for taking the time to visit earlier this week. Congratulations on your nomination and congratulations to your wonderful family, as well.

I want to talk a little bit about snap-back sanctions and their effectiveness. The President has said that sanctions were not stopping Iran from advancing their nuclear program. He has said that the only alternative to this deal is war, because sanctions would not stop Iran from advancing their nuclear program, yet he has also said that snap-back sanctions will be the punishment if they violate this deal, and that punishment will be effective.

It seems to me logically contradictory to say that Iran's economy, which is currently struggling, is not going to be deterred by sanctions from advancing their nuclear program, but at some indeterminate time in the future, should they violate the deal when their economy is healthier and stronger and their conventional military is stronger, as well, that snap-back sanctions would be effective at that point. Could you help explain that seeming logical inconsistency?

Mr. SZUBIN. I would be happy to try, and, of course, I would not presume to speak for the President or what he was intending with his remarks. But, I think the point that he and many others have made is that throughout the period, let us say, from 2005 to 2010, 2011, while we were ratcheting up the sanctions, of course, Iran continued to add to its enrichment program, continued to add to its stockpile, continued to add centrifuges.

The sanctions were placing a very heavy thumb on the scale, and ultimately, I think, had a determinative impact in terms of how Iran behaved with the election of Rouhani and with their approach at the negotiating table. But the sanctions alone did not stop the enrichment. It was, of course, the concessions that they made to allow in the inspectors to export their stockpile by 98 percent, to bring down their centrifuges and infrastructure. All of those changes at the negotiating table are what are going to move us from the current 2- to 3-month breakout time to more than 12-month breakout time. And, so, it is those changes that we so desperately needed for all of us who are worried and have been worried about Iran's nuclear program.

In terms of snap-back, I think it is a very potent force for all the reasons that you have spoken about. Iran has seen firsthand that despite early years where there was a lot of bluster on Iran's part, we will become self-sufficient, economy of resistance, well, the Ira-

nian people are not looking for an economy of resistance. They are not looking for being wholly dependent on Iranian self-made goods. They are desperate for technology, for goods, for services from the West and from the rest of the world.

And, so, the threat that they could come out from under these sanctions but fall back under them if they did not abide by the deal is, I think, a very real one and that is a political one for Iran's leadership, as well.

Senator COTTON. But, if the Supreme Leader and if President Rouhani started the negotiations in part because of the economic pain the sanctions have brought, at some point in the future, maybe 6 months from now, maybe 6 years from now, if they were caught cheating, let us say they have a covert enrichment facility, their economy will be stronger. They will have demonstrated the political desire to cheat on this deal. And then we are going to reimpose the sanctions that were not enough to stop them at this point. Do you understand the logical inconsistency that I am worried about here?

Mr. SZUBIN. I am not sure. In other words, I think everyone acknowledges that the sanctions were a key, if not the key, pressure point that brought them to the table.

Senator COTTON. But not to stop the nuclear—the advances of their nuclear program.

Mr. SZUBIN. So, I think—and I hesitate here because there is a law professor in attendance—but I think we would all agree that the sanctions——

Senator COTTON. She was my professor.

[Laughter.]

Senator COTTON. She was a better professor than I was a student.

[Laughter.]

Senator COTTON. My time is running down here, so I want to move on to another topic, specifically the topic that you and Senator Corker were addressing, the Iran Sanctions Act. He was talking about advancing promptly on the reauthorization of it. I believe it expires at the end of 2016. That is mostly a political or policy question. I have more of an administrative or technical question.

Since, in Congress, as oftentimes in life, things fall up against their deadlines, from your office's standpoint, if that Act is not reauthorized until, say, the last 2 months of 2016, would that create any kind of break in the way that you administer its provisions?

Mr. SZUBIN. No.

Senator COTTON. OK. Thank you for that.

And then, finally, I want to discuss what appears to be a tension in the nuclear deal, in the Iran Threats Reduction Act. On the one hand, the Iran Threats Reduction Act says that U.S.-owned foreign subsidiaries cannot do business with Iran. On the other hand, the JCPOA suggests the President will, in fact, license those subsidiaries. Could you explain the legal underpinnings for the commitment that the JCPOA appears to have made to Iran and to those foreign-owned——

Mr. SZUBIN. Yes, Senator——

Senator COTTON.——or U.S.-controlled and -owned subsidiaries?

Mr. SZUBIN. Yes, and excuse me for the interruption. Should Iran complete all of its nuclear steps, and we are talking about something that is probably still 6 months away, part of the relief they will earn is that foreign subsidiaries, foreign incorporated subsidiaries of U.S. parents will once again be allowed to do business with Iran so long as they meet some very difficult conditions. They cannot be exporting any products from the United States. They cannot be reexporting U.S.-controlled goods. They cannot be obtaining any services from their U.S. parent. It truly has to be a stand-alone operation.

In terms of the Iran Threat Reduction Act, that provision contains the licensing authority that Treasury would anticipate using in that eventuality to allow for certain categories of activity for those foreign subsidiaries.

Senator COTTON. OK. Thank you. My time has expired.

Mr. SZUBIN. Thank you, Senator.

Chairman SHELBY. Senator Menendez.

Senator MENENDEZ. Thank you, Mr. Chairman.

Mr. Szubin, congratulations on your nomination. let me ask you, would it be fair to say that the Iran Sanctions Act was a significant tool in getting Iran to the negotiating table?

Mr. SZUBIN. I would say it was probably not one of the primary pressure points. I think Congress in CISADA, in the NDAA provisions that you were so pivotal in drafting, were far more impactful. But, certainly, it is part of the constellation that brought Iran to the table and that gave us so much leverage.

Senator MENENDEZ. Mm-hmm. So, when you refer to the 2010 in your speech, or statement before the Committee, dramatically advancing—the actions of this Committee dramatically advancing efforts on crude oil sales and whatnot, you are referring to CISADA——

Mr. SZUBIN. And the NDAA provisions.

Senator MENENDEZ.——and the NDAA provisions, which included the Iran Sanctions Act, did it not?

Mr. SZUBIN. They reference them as a penalty structure, but when I talked about crude oil, I was talking about the measures that you know so well that said you cannot do any transactions with the Central Bank of Iran, including oil payments, unless you are bringing down significantly every 6 months your purchases from Iran. That is what led Iran's exports to fall from 2.4 million barrels a day to 1.1 million barrels a day and had a very dramatic impact on their——

Senator MENENDEZ. But there is no question that the secondary nature of the sanctions under the Iran Sanctions Act was a very significant hammer at the end of the day, would that be a fair statement?

Mr. SZUBIN. I would say the penalties that are set out in the Iran Sanctions Act are then referenced in a lot of these other statutes I am talking about, and that penalty structure is a very meaningful one.

Senator MENENDEZ. Yes. So, is it—what view do you have as it relates to renewing the Iran Sanctions Act, which is up for reauthorization at the end of this coming year?

Mr. SZUBIN. So, the Administration's view is there is no need for early renewal. Of course, ISA remains in full effect until the close of next year——

Senator MENENDEZ. Right.

Mr. SZUBIN.——December of 2016——

Senator MENENDEZ. And when it lapses and collapses, then what?

Mr. SZUBIN. That is an eventuality that we are not even close to at this point, but——

Senator MENENDEZ. Well, it is an eventuality that is a certainty, because the law makes it very clear that it will expire on that date. And if we are to talk about significant snap-back as a deterrent toward violation, then it seems to me that without the law, Iran knows that the Administration does not seem to be disposed to be supportive of reauthorization of the law, even as it is with all of the waiver authority the President has. So, if I know that I can wait a year and I am not going to face that universe of sanctions, it will be meaningful to me that my further deterrent concerns will be significantly reduced.

Mr. SZUBIN. So, hopefully, I can provide some reassurance on this front. I am not aware of any discussions within the Administration that would lead to our snap-back leverage being dissipated—in a year, in 2 years, at any point. The whole structure of the deal is to keep that leverage in place, intact, to ensure that Iran adheres to its commitments, and we have been very clear with Iran on that front, as well.

Senator MENENDEZ. Well, it just seems to me that the JCPOA has language in it under the sanctions section that suggests that somehow the Administration is tied toward not supporting reauthorization, and that is not something that can tie the hands of the U.S. Congress, and I am convinced that if there was a reauthorization put on the floor, it would have a robust support, because it passed 99 to zero when it was authored. If you want deterrence, it still needs to be in existence to be a deterrent, too. And, so, I just do not get where the Administration is at on this.

Let me ask you two other questions. One is, I get a sense that if Iran violates, particularly in smaller intermediate ways, not in a big way, that we are going to largely be on our own in enforcing, to send a clear message that, in fact, violations are not acceptable. Is that a fair statement?

Mr. SZUBIN. We would certainly reach out to our foreign partners, and I think, in particular, the Europeans, who are part of the P5+1. Germany, U.K., France, as well as China and Russia, have a lot invested in this deal right now. And whereas before this deal a lot of the sanctions were United States only, at this point, the commitments that Iran would be breaking are commitments they have made not just to the United States, but to this entire——

Senator MENENDEZ. Well, I know, but the big difference is U.S. companies cannot invest because of other nonrelated nuclear sanctions. So the only companies in the world that are going to get into the Iranian market are European and other companies. Therefore, they are going to have both investments of major national companies, like Siemens, Airbus, and others. The countries themselves may use their sovereign wealth funds to invest in Iran. It is going

to be a lot harder to get them to come along with us in any sanctionable item after all of that takes place, and I think not acknowledging that is to be somewhat unreal about the consequences we are going to face moving forward.

If I may, Mr. Chairman, one last question. You know, as part of your overall portfolio and what you have been doing at OFAC is the question of enforcement of the law, the Libertad Act, which I helped write when I was in the House of Representatives, on the Castro regime. Now, I have a serious concern as to how OFAC and the Administration have interpreted a general license, and I want you to succinctly give me what is your interpretation of a general license.

Mr. SZUBIN. A general license is a standing authorization that is issued by OFAC that allows for a set of activity that would otherwise be prohibited to go on, so long as it meets all of the specified conditions. It does not do anything that a specific license does not do other than that it is an efficiency. So, rather than meet each company's application one by one, if the Government's policy is to allow, let us say, humanitarian transactions, or the export of smart phones to Iran and Sudan, we originally—OFAC originally did that through specific licenses. So manufacturers, exporters, would come in and get a license to do it. But the foreign policy was supportive of every company when they wanted to do the export——

Senator MENENDEZ. So, basically, I would say, a general license is when you got the same request and you ended up with the same result, you gave a general license for the purposes of expediency——

Mr. SZUBIN. That is right.

Senator MENENDEZ.——and efficiency.

Mr. SZUBIN. That is right.

Senator MENENDEZ. However, when a general license subverts the law, when a general license ultimately swallows up the Congressional intent, as in the case of Cuba, where you are giving a general license for the purposes of travel and where travel under even the Administration's proposals are supposed to have purposeful elements, and a general license is basically a good honor system where you do not actually go ahead and enforce whether or not the person is following the criteria under the purported purposes of that license. Then there is no way to know. You have created a huge truck for unlimited travel, not purposeful travel, because you are not enforcing purposeful travel because you are depending upon the good will of the person to say that they are going to obey.

So, this, beyond Cuba, creates a real concern for me, and I would suggest, Mr. Chairman, for the Committee, because if a general license in this case can be interpreted this way, that basically subverts the Congressional intent and the law, then what is to say that we are not going to see general licenses as it relates to Iran or any other place in which an Administration, this or any other one, is going to interpret a general license in such a way that allows them to run a Mack truck right through it and undermine the very purposes of the legislative intent and the law itself.

And I commend that to the Chair and Ranking Member's attention. I certainly, based upon the experience I have seen here, will not be supporting any legislation that creates general licenses for

this or any other Administration because it basically—I can tell you, as the author of that law, it totally undermines what was the Congressional intent.

Mr. SZUBIN. Would it be permissible just to respond briefly, and I know that——

Senator MENENDEZ. If the Chairman permits it.

Mr. SZUBIN. So, there is no ability to do with a general license what we could not do with a specific license. And in each of the instances of the travel that you are referencing, they have to hue to the 12 categories that are set out in statute in terms of purposeful travel, and they set out conditions to restrict that——

Senator MENENDEZ. But you do not check it.

Mr. SZUBIN.——not being purposeful.

Senator MENENDEZ. You do not check it. You accept an honor system. Yes, I am going under one of those 12 systems. Anybody can say that. You go, you come back, you never know whether they actually went under the 12 elements.

Mr. SZUBIN. I regret to say that, as an office with about 700 people, our ability to check in on specific licenses is also somewhat limited. In other words, when we issue a specific license to a company, we are not able to do end use checks, or in the case of travel to Cuba, to go down and ensure that they are doing what they were authorized to do.

Senator MENENDEZ. But you would be able to get up front an itinerary to determine, in fact, that that itinerary was purposeful travel as delineated. That is not something you are doing now, and it is fundamentally different. And, so, to suggest, as you suggested earlier, that a general license is for efficiency purposes is fine. That is if, you know, X is the only requirement and you meet X and, therefore, you should get a general license.

When you have 12 different criteria of what is purposeful travel and do not know what the person is doing to achieve purposeful travel—which you were doing before, travel was limited, had specific limitations to it, OFAC enforced those and very often found individuals who were outside of that field and would, therefore, have an enforceable action against them. That sends a message that you have to honestly pursue the law, not just generally use a general license as an open-ended process.

And, if it can happen here, I am concerned about where else it will happen in other sanctionable entities and places in the world, because that basically is a green light to do what you want to do and circumvent the will of the Congress.

Mr. SZUBIN. And I think, Senator, a lot of your question goes to enforcement and goes to making sure that U.S. persons know that we are going to take the sanctions seriously, and if they violate them, whether it is the terms of a general license, a specific license, or otherwise, that they are going to face real consequences. That has been, frankly, a big focus of mine during my 9 years at OFAC, and the enforcement of sanctions has never been as tough in terms of the size and volume of penalties.

But, I also agree with you that, going forward, it is going to be critically important in the Cuba program, as it is in all of our sanctions programs, to ensure that people understand what is prohib-

ited is truly prohibited and we are not going to be taking violations lightly.

Senator MENENDEZ. Thank you.

Chairman SHELBY. Senator Warren.

Senator WARREN. Thank you, Mr. Chairman, and thank you, Mr. Szubin, for your important work.

Now, you have been nominated to be in charge of sanctions enforcement and you have been serving in that role as Acting Under Secretary for Terrorism and Financial Crimes at Treasury since last February. You recently traveled to Israel to discuss implementing the deal to prevent Iran from developing nuclear weapons. Given the critical importance of implementing the Iran nuclear deal, countering Iran's terrorist financing, and performing all the other key functions of your office, I think the Senate should confirm you to this job as soon as possible.

In recent testimony before this Committee, you made clear that if we back out of this deal, the international coalition that has made sanctions so effective would fracture. And while the United States could go it alone with its own sanctions, we tried that before and we know that they are just not nearly as effective.

You also stated that most of the billions of dollars that could be released if Iran complies with the nuclear deal are held in the EU, in China, in Japan, in India, in South Korea and other foreign countries. So, the United States alone cannot prevent Iran from getting access to that money.

So, I just have one question here. I want to highlight this again. If we walk away from this deal, is it more likely or is it less likely that our international partners will continue tough sanctions, refuse to trade with Iran, or block Iran's access to frozen assets?

Mr. SZUBIN. I believe it is significantly less likely that we will see aggressive policing of sanctions if we walk away from the deal that we spent 2 years, along with our partners, negotiating.

Senator WARREN. Well, it just seems clear to me that a better path forward is to accept this agreement and maintain unity with our international partners. That way, if Iran cheats, we can respond with the strength and the support of the world behind us, which is critical for effective sanctions. So, I appreciate your work on this.

Mr. SZUBIN. Thank you, Senator.

Senator WARREN. There is one other topic I would like to address and that is human traffickers' use of the international banking system. Human trafficking is modern day slavery and it is a global business, with profits estimated to be as high as $150 billion a year. To keep those profits coming in, the human traffickers have to use banks and credit cards and money transfer companies every single day.

Now, money transmitted through the financial system for a trafficking operation falls under existing anti-money laundering laws, and these rules require financial institutions to deter money laundering and to report suspected illegal activity to law enforcement.

I know we are taking steps in this area, but I am concerned that money laundering related to human trafficking has not received as much attention by financial institutions or their regulators as, for example, drug trafficking money or terrorist financing.

So, I have legislation to ensure that the Treasury Department and other financial regulators work more closely with financial institutions to stop human traffickers' use of the banking system. I also want to add the anti-money laundering expertise that you have at Treasury to the President's Interagency Task Force to Monitor and Combat Human Trafficking in Persons.

The Treasury Department is a key agency responsible for overseeing any money laundering programs. So, I want to know if you will commit to working with me to make sure that both the regulators and the financial industry are doing everything possible to shut down financing for human trafficking.

Mr. SZUBIN. Yes. Senator, I am pleased to make that commitment. I could not agree more about the severity, and I think the escalating severity, of the threat. I think you will be pleased to hear that I was being briefed earlier this week by the Director of FinCEN, Jennifer Shasky Calvery, about their efforts, and they have seen a tremendous jump in reporting from financial institutions after FinCEN put out an advisory alerting financial institutions to sort of red flags or hallmarks of human trafficking typology. In terms of the financial transactions, they have gotten thousands of suspicious activity reports that are then accessible to and harnessed by law enforcement, State, local, around the country.

So, I think there is a lot there, but there is so much more to do, and it all starts with intelligence or law enforcement work to be able to lead us to the bad actors, and we have a lot still ahead of us.

Senator WARREN. Well, I appreciate that very much. Human traffickers need the banking system, and stronger financial regulations give us the tools to shut them down. So, this is something that I want to make sure that we make a priority. It matters to people all around the world.

So, thank you very much, Mr. Szubin.

Mr. SZUBIN. Thank you.

Chairman SHELBY. Senator Donnelly.

Senator DONNELLY. Thank you, Mr. Chairman, and Mr. Szubin, thank you and your whole family. I was going to take your boys out afterwards and turn them into Notre Dame football fans before the day is over.

[Laughter.]

Senator DONNELLY. You may have a little work to——

Mr. SZUBIN. If they are well behaved Notre Dame football fans, I would be proud to see you do it.

[Laughter.]

Senator DONNELLY. And to all your family, I know how much you have traveled over the years and all the places you have gone to, and so to your family, thanks, because it is really, really important and it has helped make our country a stronger place and helped to save lives.

Mr. Szubin, with the agreement that was just voted on, a big portion of this is not just the nuclear piece, as you know, but is what is going on on the ground in the Middle East every single day. And much of that success we will have is going to rest on what you and your colleagues do. And, so, I just want to make sure, what creates confidence for an Israel, for Saudi Arabia, for Jordan,

for those Gulf States, is when they look and they see that Iran has not moved one more inch on the ground, when they see that missile shipments are being interdicted.

And, so, I would like to know, for instance, with Hezbollah, what are the plans to interdict missile shipments, to interdict weapons, to make sure that their inventory goes down, and we hope to zero?

Mr. SZUBIN. So, I have been personally and my office has been very focused on the threats that you are referencing. Sadly, I do not think we are going to bring their inventory down to zero, but we still need to do everything we can to interdict any shipments that we see or that we learn about and to be able to curb not just the volume of shipments they get, but the sophistication.

When I was in Israel recently, I was hearing about some very troubling advances in terms of Hezbollah's missile capabilities or rocket capabilities and we have to keep them from making those advances because it means deaths. The more precise their rockets are, the more people will die, and we know that for a certainty. So, we have to be very focused on this.

Obviously, the bulk of the intelligence and interdiction effort is going to be outside of my lane, outside of the sanctions lane, but we can be helpful in this effort in a secondary capacity, and that is exposing the procurement companies, because they do not get these parts indigenously. They need to order technology and some of the sophisticated equipment from abroad, sometimes from places like China, Southeast Asia. Well, that means they are doing financial transactions. That means they are engaging in shipping or airplane cargo shipments.

All of those are vulnerabilities that we can target, and you have seen my office in the past year go after procurement fronts for Hezbollah, including for their unmanned aerial vehicle program, and it is an area that we are going to continue to be very focused on in the months ahead.

Senator DONNELLY. Yes. We cannot leave, as I know you agree, we cannot leave any stone unturned. If we find a procurement company that is providing equipment, we need to let everybody know who they are. We need to go after them. We need to create more and more additional confidence with our allies. We need to make sure that the actual instruments of death and danger are cut off. And you have a full mission from all of us that we need you to be one of the point people on this effort.

Additionally, President Rouhani was talking about Iran's intentions in regard to certain weapons and that they would not ask for permission or abide by resolutions. How are you going to enforce the arms export and ballistic missile restrictions outlined under U.N. Security Council Resolution 2231?

Mr. SZUBIN. So, those provisions remain in place. And notwithstanding President Rouhani's words, we are going to hold Iran to those commitments in the sense that we are going to do everything we can to try to cut off any intended shipments and try to prevent that technology from coming into Iran's possession.

Senator DONNELLY. Some general questions I want to make sure you have answered. If you have already answered them, I apologize.

Under the deal, will General Soleimani and the IRGC still be subject to U.S. counterterrorism sanctions and human rights?

Mr. SZUBIN. Yes.

Senator DONNELLY. If confirmed, will you fully enforce sanctions on the IRGC?

Mr. SZUBIN. Yes.

Senator DONNELLY. Will you commit to this Committee that you will not hesitate to impose counterterrorism sanctions on any Iranian entity that engages in sanctionable activity, including entities that are receiving relief from nuclear-related sanctions?

Mr. SZUBIN. Yes.

Senator DONNELLY. I cannot stress enough to you, and I know how much time, effort, and heart you have put into this, but the additional component in this whole agreement is how we do on the ground. The confidence of our friends and our allies is going to be directly related to how successful we are in pushing back and in giving them space to have success, our friends. And, so, your nonstop efforts in that are crucial as we look forward to and are something that we absolutely have to have.

Mr. SZUBIN. Thank you, Senator.

Senator DONNELLY. Thank you. Thank you, Mr. Chairman.

Chairman SHELBY. Mr. Szubin, we appreciate your appearance today, you and your family. I believe you are eminently qualified for the job. We will go from here. Thank you.

Mr. SZUBIN. Thank you very much, Mr. Chairman.

Chairman SHELBY. The meeting is adjourned.

[Whereupon, at 11:11 a.m., the hearing was adjourned.]

[Prepared statements, biographical sketch of nominee, and responses to written questions supplied for the record follow:]

PREPARED STATEMENT OF ADAM J. SZUBIN

TO BE UNDER SECRETARY FOR TERRORISM AND FINANCIAL CRIMES

DEPARTMENT OF THE TREASURY

SEPTEMBER 17, 2015

Chairman Shelby, Ranking Member Brown, and distinguished Members of the Committee: It is an honor to be appearing before this Committee today.

With your permission, I would like to introduce the members of my family who are in attendance: My wonderful wife Miriam, my beloved sons, Nathan, Micah, and Josiah, my mother Laurie Szubin, and my father-in-law Steve Weiner. I want to thank my wife Miriam in particular for her unwavering support—whatever I have accomplished has been made possible by her. Finally, I want to recognize my family members who weren't able to be here today but who are watching from a distance, including my father, Zvi Szubin, my Grandma Malkie, my sister Lisa and her family, my mother-in-law Roz Heifetz, and the rest of my loved ones. My family has provided me with endless love and strength.

Mr. Chairman, Ranking Member Brown, and esteemed Members of this Committee, I am honored to have been nominated to serve as Under Secretary of the Treasury for Terrorism and Financial Crimes. I want to thank the President for the confidence he has placed in me, and Secretary Lew, for his recommendation and strong support.

I do not take this opportunity for granted. Indeed, I don't take for granted the fact that I have been allowed to serve my Government at all for the last 16 years. My father was not born here; he was born in Poland in 1933. His parents fled the Nazis at the outbreak of World War II. They were captured by the Soviet army and exiled to Siberia, where they lived out the war years. Siberia was a place of great hardship, but it turned out that their capture and exile had saved their lives; nearly all of my father's aunts, uncles, and cousins were wiped out by the Nazis. There are today few remnants of a family that should have numbered in the thousands.

My parents raised us to be conscious of the existence of real evil in the world, evil not as an abstract concept, but as an all too real threat that they had seen in their lifetimes: regimes—leaders and willing followers—who pursued murder and even genocide, in the Holocaust and, sadly, in other places in the decades that followed. But we were not raised in an environment of fear or anger or mourning. To the contrary, we were raised to savor life, to seek out joy, and to be aware of and grateful for the many gifts that we enjoyed. High among those gifts was the ability to grow up in America—the *goldene medina* to which my father had come. He has never stopped marveling at this country—at our brilliant Constitution and legal system, our openness to new immigrants, our work ethic, and our enduring hopefulness that we can improve the world and leave it a little better for our children. For all of these I was taught to be grateful.

So, while it is perhaps not a surprise that I sought out a career in Government service, I have been regularly amazed that this country has allowed the child of an immigrant to take on positions of trust and to participate in shaping our national security policies. This truly is a country like no other.

I appreciate how significant the responsibilities of this office are. Eleven years ago, I followed Stuart Levey from the Justice Department when he was named the first Under Secretary for the newly created Office of Terrorism and Financial Intelligence, or TFI. I have served in TFI ever since, as the director of its sanctions office, the Office of Foreign Assets Control, or OFAC, for 9 years, and, most recently, as the Acting Under Secretary for the last 6 months, overseeing the more than 700 exceptional individuals who make TFI what it is.

Our office was created to bring together, under one roof, an array of capabilities—intelligence, regulation, enforcement, and policy—to confront our adversaries on the financial battlefield. The twin missions of TFI are to harness financial intelligence and exercise authorities to advance national security and foreign policy objectives, and to secure our financial system against abuse by criminals and other illicit actors. It is an easy mission to describe but a challenging one to execute, as I have seen firsthand. Nonetheless, this office has accomplished amazing things in its short history.

When I started at TFI, a decade ago, the conventional wisdom in schools of international affairs and in foreign ministries was that sanctions did not—and could not—work; that the targets of sanctions would always find ways to circumvent them, money being like water that would always flow downhill. Thanks to the remarkable and dedicated women and men in TFI and across our Government, I don't hear these arguments as much anymore. People have seen that smart, creative, and persistent financial efforts, when backed by the superb support of the U.S. Intel-

ligence Community, can strangle illicit organizations, shake regimes, and change their behavior.

Our efforts to track and disrupt the money flows to terrorist groups have been a key plank in our broader strategy against murderous groups such as al Qaida, ISIL, Hizballah, and Hamas. We continue to have much critical work ahead of us, but every bank account frozen, every charitable front exposed, every procurement company neutralized, and every fundraiser designated or deterred, strikes a blow against these groups. And, across the Middle East and Asia, we have worked with governments to help them strengthen their counter terrorism laws and empower themselves to identify and act against illicit money flows.

Indeed, we have raised standards and increased transparency in the global financial system across the board. The world's financial system is—in every arena and every continent—more transparent and more resilient than it was 15 years ago.

In the field of human rights, we have used sanctions to combat abuses, facilitating positive changes in places such as Burma—though much remains to be done.

In the arena of narcotics trafficking and money laundering, we dealt once-powerful cartels such as the Cali cartel and the Sinaloa cartel major setbacks due to our concerted and patient efforts to expose their financial holding companies and money launderers—hitting them in their point of greatest vulnerability—their wallets.

We have used sanctions to combat North Korea's attempts to access and abuse the world's financial system, closing out front companies and banks that were willing to launder the regime's money for a cut. In perhaps the most famous example, FinCEN's action against Banco Delta Asia in Macau severed North Korea's primary channel for moving and collecting illicit revenues and showed that one well-aimed blow can have the impact of years of broad restrictions.

When we saw Russia violate Ukraine's territorial sovereignty, we worked with our allies in Europe to devise a creative and powerful set of sanctions that not only went after the key cronies and business interests around President Putin, but also cut some of Russia's largest banks and energy companies off from the things they need most—Western technology and Western financing.

Finally, under Stuart Levey's and then David Cohen's leadership, TFI devised and executed a strategy to dramatically intensify the pressure against the government of Iran and its malign policies, its nuclear program chief among them. Through a steady campaign to expose Iran's deceptive activities in the financial arena, we cut Iran's banks off from the world's financial centers, and badly wounded its trade and financial strength. In 2010, Congress, with this Committee at the center, then dramatically advanced the effort, passing bipartisan measures that brought Iran's crude oil sales down by 60 percent, escrowed Iran's foreign reserves in banks around the world, and ensured that Iran's leaders knew that it would not recover economically until it clearly and verifiably closed off all of its pathways to a nuclear weapon. These efforts led to the election of President Rouhani and culminated in the diplomatic process that produced the Joint Comprehensive Plan of Action. The women and men of TFI worked incredibly hard over the past decade to impose and enforce these measures, and to combat every effort to circumvent them. And, even as we prepare to suspend our secondary nuclear sanctions if Iran fulfills its commitments under the deal, we are simultaneously intensifying a battery of sanctions that will not change under the terms of that deal. These include sanctions against Iranian human rights abusers as well as our powerful campaign against the Iran Revolutionary Guard Corps and the Qods Force, as well as Hizballah and other Iranian partners and proxies in Syria, Iraq, Yemen, Gaza, and beyond. And we will be doing so in active cooperation with our partners in Europe, the Gulf, and Israel.

So I have seen first-hand the power of American economic statecraft in advancing our national interests. And, over the past 11 years, TFI has been continually improving—honing our intelligence focus and developing more innovative, tailored measures to combat and restrain our adversaries. In this time, I have also gained an appreciation for the importance of exercising our authorities judiciously, in order to preserve the strength of our instruments and financial system well into the future. But I am also aware that we cannot rest. I sit in a SCIF every morning to read the latest intelligence, and the threats we face are serious, deadly, and adaptive. We need to be vigilant, smart, and aggressive.

Mr. Chairman, I am extremely proud to have been part of TFI from the start, for over a decade, under four Treasury secretaries. As the international landscape evolves, I am confident that the organization will remain at the forefront of our Government's efforts to protect our national security. Our work has benefited greatly from strong bipartisan support in the House and Senate, and from the Members and staff of this Committee in particular. If confirmed, I intend to preserve and build upon the close relationship between TFI and this Committee to take on the pressing challenges ahead.

Thank you again for your time and consideration. I will be glad to answer any questions you may have.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Szubin (Last) Adam (First) Jacob (Other)

Position to which nominated: Under Secretary, Terrorism and Financial Intelligence

Date of nomination:

Date of birth: 16 (Day) 12 (Month) 1972 (Year) **Place of birth:** New York City, NY

Marital Status: Married **Full name of spouse:** Miriam Weiner Szubin

Name and ages of children: Nathan Szubin (8), Micah Szubin (5), Josiah Szubin (2)

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Harvard Law School	1996-1999	J.D.	June 1999
Harvard College	1991-1995	A.B.	June 1995

Honors **List below all scholarships, fellowships, honorary degrees, military medals, honorary and awards, society memberships, and any other special recognition for outstanding service or achievement.**

Fulbright Scholar, Israel (1995-1996)
Special Commendation, Department of Justice, Anti-Terrorism Team (2002)
Meritorious Executive, SES (2010)

Memberships: **List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.**

Organization	Office held (if any)	Dates
NY State Bar		2000 – Present
DC Minyan (synagogue)	Co-Founder; Steering Cmte ('02-'04)	2002 – Present

Employment record: **List below all positions held since college, including the title or description of job, name of employment, location of work, and inclusive dates of employment.**

U.S. Department of the Treasury (Washington, D.C.)
Acting Under Secretary, Office of Terrorism and Fin. Intelligence
Feb. 2015 -- Present
Director, Office of Foreign Assets Control
August 2006 – Present
Senior Advisor, Under Secretary for Terrorism & Financial Intelligence
August 2004 – August 2006

U.S. Department of Justice (Washington, D.C.)
Counsel, Deputy Attorney General
September 2003 – August 2004

Trial Attorney, Civil Division
September 2000 – September 2003

U.S. Court of Appeals for the 6th Circuit (Memphis, TN)
Judicial Law Clerk
August 1999 – August 2000

U.S. Department of Justice (Washington, D.C.)
Summer Law Intern
July 1999 – August 1999

Shea & Gardner (Washington, D.C.)
Summer Law Clerk
June 1999 – July 1999

Harvard Law School, Board of Student Advisers
Teaching Assistant
September 1997 – June 1999

FBI Behavioral Science Unit
Research Intern
July 1998 – August 1998

Cahill, Gordon & Reindel
Summer Law Clerk
June 1998 – July 1998

Government experience:

List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part time service or positions.

Only experience has been direct work experience (as listed above)

Published Writings:

List the titles, publishers and dates of books, articles, reports or other published materials you have written.

"Interacting with 'Cults': A Policing Model," *Law Enforcement Bulletin,* Sept. 1, 2000 (co-authored with FBI Supervisory Special Agent Carl Jensen III and Lt. Rod Gregg).

Why Lubavitch Wants the Messiah Now: Religious Immigration as a Cause of Millenarianism, in APOCALYPTIC TIME (Albert Baumgarten ed. 2000).

Political Affiliations and activities:

List memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

None

Political Contributions: **Itemize all political contributions of $500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify specific amounts, dates, and names of recipients.**

None

Qualifications: **State fully your qualifications to serve in the position to which you have been named.**

I have served in the U.S. Government in the field of sanctions and illicit finance since February 2002, moved by the horrific attacks on 9/11. Since then, my professional career has been focused predominantly on the issues that are overseen by the Office of Terrorism and Financial Intelligence (TFI). Over the last 13 years, I have worked to address the full range of issues that TFI confronts, from money laundering and narcotics trafficking to hostile regimes like Iran and Syria; from tracking and using financial intelligence to regulating and enforcing the U.S. anti-money laundering and sanctions regimes; from working with law enforcement to resolve some of the largest enforcement cases ever brought in the financial industry to negotiations with the European Union on shared security issues like the Terrorist Finance Tracking Program (TFTP). I would bring all of this experience to the position, along with a deep and abiding dedication to this work and a career-long commitment to public service. I have strong relationships with national security colleagues across the inter-agency and NSC as well as Members of Congress and their staffs, foreign counterparts, and private sector officials from the financial and other key industries.

Future employment relationships:

1. **Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.**

   N/A (currently employed by Treasury Department).

2. **As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.**

   N/A (currently employed by Treasury Department)

3. **Has anybody made you a commitment to a job after you leave government?**

   No.

4. **Do you expect to serve the full term for which you have been appointed?**

   Yes.

Potential conflicts of interest:

1. **Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.**

   None.

2. **List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.**

   None.

3. **Describe any business relationship, dealing or financial transaction (other than tax paying) which you have had during the last 10 years with the Federal Government, whether for yourself, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.**

   None.

4. **List any lobbying activity during the past ten years in which you have engaged in for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.**

   None.

5. **Explain how you will resolve any conflict of interest that may be disclosed by your responses to the items above.**

   None.

Civil, criminal and investigatory actions:

1. **Give the full details of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.**

   I am a named defendant in a number of civil lawsuits in my official capacity as Director of Treasury's Office of Foreign Assets Control (OFAC). I have not been the subject of any civil or criminal proceedings in my personal capacity

2. **Give the full details of any proceeding, inquiry or investigation by any professional association including any bar association in which you were the subject of the proceeding, inquiry or investigation.**

   None.

Additional questions:

1. **Have your tax returns been the subject of an audit in the past 10 years by Federal, State or local authorities, which resulted in a tax lien, levy or other collection enforcement action?**

   No.

2. **Are your tax returns currently the subject of any audit by a federal, state or local agency?**

   No.

3. **Have taxes always been paid on time, including Federal, State and local taxes, property taxes, business taxes and/or sale and use taxes, as well as taxes paid on behalf of any employees?**

   Yes.

4. **Currently, are there any liens on your real estate holdings and have there been any liens on these properties within the past 10 years?**

   No.

5. **Have you promptly filed all I-9 forms on behalf of any personal domestic or other employees?**

   I have completed and retained all I-9 forms on behalf of personal domestic or other employees as required.

RESPONSE TO WRITTEN QUESTIONS OF CHAIRMAN SHELBY FROM ADAM J. SZUBIN

Regulatory Alignment and Goal Setting

Q.1. The Bank Secrecy Act charges the Secretary of the Treasury, who in turn delegates the authority to FinCEN, to implement AML laws, including the development of compliance procedures and examinations.

Significant uncertainty may result where (i) different regulators appear to apply different standards under the same legal requirement, or (ii) regulatory expectations change without a change in the underlying statutory or regulatory requirements. Moreover, this can be exacerbated where there are a number of conflicting policy goals with respect to antimoney laundering and anti-terrorist financing efforts (transparency vs. prevention; financial inclusion vs. regulatory risk, *etc.*).

- How is Treasury working to ensure that the standards that it sets, including customer due diligence standards, are implemented and enforced in a consistent manner by the Federal regulators?
- And how is Treasury working to resolve any conflicts in the AML regime?

A.1. Consistency in the application of Bank Secrecy Act (BSA) compliance is a critical part of Treasury's role as a Federal regulator, and we work hard to achieve this goal alongside the other Federal regulators to whom examination responsibility is delegated. One way that we coordinate regulatory enforcement of anti-money laundering requirements, including customer due diligence, is through the Federal Financial Institutions Examination Council (FFIEC) AML Working Group (Working Group). Participation in the Working Group affords Treasury the opportunity to discuss emerging and ongoing regulatory initiatives with other Federal regulators, while outlining our expectations for proper BSA compliance examinations. Periodically, the FFIEC issues a revised BSA/AML exam manual that provides detailed information to ensure consistent examination across depository institutions.

Through the FinCEN Enforcement Division's Office of Compliance and Enforcement, FinCEN works directly with the regulatory and supervisory agencies that oversee financial institutions on compliance and enforcement matters. For example: Pursuant to memoranda of understanding, regulatory and supervisory agencies refer to FinCEN matters involving significant BSA deficiencies. In those cases in which FinCEN shares compliance and enforcement authority, FinCEN coordinates its efforts with the referring agency to ensure consistent application of the BSA for all covered financial institutions. Likewise, FinCEN consistently applies the BSA in cases in which it has sole enforcement authority.

Treasury also biannually convenes the Bank Secrecy Act Advisory Group (BSAAG), a congressionally mandated forum consisting of representatives from Federal regulatory and law enforcement agencies, financial institutions, and trade groups. Through the BSAAG, industry, regulators, and law enforcement communicate about ways to improve BSA compliance. This frank and open dialogue affords industry members and their regulators the opportunity to discuss ways to foster consistency in how BSA compliance is examined.

Global "De-Risking"

Q.2. Both Treasury and the international Financial Action Task Force have referenced dangers of a potential global "de-risking" trend where financial institutions are closing certain client accounts or branches in certain geographic areas related to money-laundering risks.

According to your predecessor, "de-risking reveals a misalignment between regulatory risk and actual risk that serves no one's interests," yet many in the industry still believe that they are working in a zero-tolerance enforcement environment.

- Is this a zero-tolerance environment and is it the standard?
- If not, what are you doing to clarify what should be the standard?

A.2. This is not a zero tolerance environment, and zero tolerance is not the standard. To provide clarity with respect to both illicit finance risks and U.S. legal and regulatory expectations, and in order to maintain an effective AML/CFT framework, Treasury will continue to maintain an open line of communication with industry, conveying our expectations through guidance, advisories, and private sector engagement, including discussions with industry in the Bank Secrecy Act Advisory Group (BSAAG). BSAAG provides a forum for industry and a wide variety of government actors to discuss the BSA, including any possible differences between actual and regulatory risk.

Majority-Owned Entities / 50 Percent Rule

Q.3. According to Treasury's Office of Foreign Assets Control guidance, a U.S. person may not engage in transactions with an entity that is *majority-owned* by a "blocked" person, unless authorized by the Office, whether or not such entity appears on a Specially Designated Nationals list of sanctioned individuals and companies.

- How are industry participants expected to find these nonlisted majority-owned entities when the Office has not identified them?
- Should the Office revise its guidance to provide more clarity and to ease compliance, or potentially even identify such entities?

A.3. In response to a then-growing interpretation in the regulated community that once a blocked person owns 50 percent or more of an entity, the entity becomes blocked, OFAC published guidance in February 2008—later revised in August 2014—to explain that property owned 50 percent or more by one or more blocked persons

is considered blocked. The rule ensures that sanctioned parties cannot shield their assets from the reach of sanctions merely by setting up a new corporate structure and is critical to maintaining effective sanctions programs.

Financial institutions subject to U.S. jurisdiction should know when they maintain an account relationship with an entity covered by the 50 percent rule, because they are required by other regulations to conduct customer due diligence. To assist the regulated community, OFAC regularly updates its SDN List to include entities blocked because they are owned or controlled by blocked persons.

In addition, in response to requests from industry participants for clarifying guidance on the application of the 50 percent rule, OFAC published Frequently Asked Questions (FAQs) on its Web site that clarify its expectations for due diligence by financial institutions on entities owned 50 percent or more by blocked persons. For example: To ease compliance, the FAQs clarify that OFAC does not expect intermediary financial institutions to conduct due diligence on transaction parties with whom they do not maintain a direct account relationship for the purposes of determining ownership by blocked persons, unless such an intermediary party has reason to know of a transaction party's ownership by blocked persons.

"U-Turn" Transactions

Q.4. In 2008, Treasury revoked authorization for U.S. depository institutions to process so-called "U-Turn transactions" involving Iran, which prevented offshore foreign bank customers from processing dollar-denominated transactions through their bank's correspondent accounts in the United States. The revocation was necessary on both nonproliferation and anti-money laundering grounds.

- How will "U-Turn transactions" be handled by your Office in the aftermath of the Iran Deal?

A.4. The Joint Comprehensive Plan of Action (JCPOA) does not reinstate the authorization for so-called "U-Turn transactions." After Implementation Day, U.S. financial institutions will continue to be generally prohibited from processing funds transfers that fit the description of "U-Turn transactions," because such transactions will continue to constitute an unauthorized exportation of services to Iran. OFAC will continue to take enforcement action in response to apparent violations of the Iran Transactions Sanctions Regulations (ITSR) by U.S. persons and other persons who process unauthorized Iran-related transactions to or through the United States.

Beneficial Ownership

Q.5. The 2015 National Money Laundering Risk Assessment identifies as a main vulnerability the creation of corporate vehicles that do not have accurate beneficial ownership information.

Treasury currently has a proposal to obtain beneficial ownership information through the Employer Identification Number system at the IRS. This proposal appears to require significant resources from an already overburdened IRS.

- In your opinion, how will this proposal be effective?

- Will you commit to working with your authorizing Committee and regularly informing the Committee on any further developments related to beneficial ownership concerns?

A.5. Increased transparency, including the availability of beneficial ownership information to law enforcement, is an essential component of the United States' broader financial transparency strategy, which aims to curb criminal activity.

Under current law, most entities formed in the United States must request an Employer Identification Number (EIN) from the Internal Revenue Service to open a bank account or for tax reasons. Entities applying for an EIN must include information about the individuals who are responsible parties for the entity. The definition of the responsible party of an entity for Federal tax purposes is similar to the anti-money laundering/counter terrorism financing (AML/CTF) definition of the beneficial owner of a private banking account at a financial institution. Therefore, the responsible party of an entity for Federal tax purposes will generally be considered a beneficial owner of a private banking account nominally owned by the entity for AML/CTF purposes.

Our proposal would leverage responsible party information that is in most cases already being collected by the IRS, but authorizing the IRS to provide law enforcement with better information about beneficial owners of companies formed in the United States. Because most legal entities formed in the United States already obtain an EIN, we expect the incremental burden on the IRS of additional applications for EINs to be minimal. The Department of Justice has indicated that making such information more readily available would advance money laundering and other financial crime investigations.

If confirmed, I would work closely with this Committee, and other relevant committees, on all efforts to combat money laundering and terrorist financing, including on work to enhance the transparency of legal entities such as the Administration's beneficial ownership proposal.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR VITTER FROM ADAM J. SZUBIN

Lifting of Sanctions

Q.1. Your position is responsible for executing the dual mission of combating terrorist financing and money laundering while overseeing enforcement of the Nation's constantly evolving sanctions programs. Based upon previous Administration statements and available information Iran has not been determined to have ceased supporting international terrorism or meet any of the other requirements for termination of Comprehensive Iran Sanctions, Accountability and Divestment Act (CISADA). As a member of the intelligence community, in your opinion has Iran not satisfied the conditions set out by the CISADA law that would terminate the application of that law?

A.1. The United States will not waive, lift, or seek to terminate any secondary sanctions provision under the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA) as

part of the sanctions relief under the Joint Comprehensive Plan of Action (JCPOA). To be clear, the Administration will continue to enforce the sanctions under CISADA, including those sanctions under Section 104(c) that apply to money laundering, transactions with the IRGC, and any transaction conducted or facilitated for persons designated in connection with Iran's support for terrorism or proliferation of weapons of mass destruction or their means of delivery. On Implementation Day, certain Iran-related designated persons included in Attachment 3 to Annex II of the JCPOA will be removed from the List of Specially Designated Nationals and Blocked Persons (SDN List), meaning that secondary sanctions under CISADA Section 104(c) will no longer attach to transactions with those persons; however, none of these persons has been designated in connection with Iran's support for terrorism.

We will continue to vigorously enforce all U.S. sanctions targeting Iran's support for terrorism, human rights abuses, regional destabilization, and Iran's ballistic missile program. We will retain our sanctions authority, including under CISADA, to target foreign financial institutions that conduct significant financial transactions with Iran-related designated persons—including those designated in connection with Iran's support for international terrorism.

U.S. Hostages

Q.2. You helped assemble and enforce the most comprehensive sanctions architecture against the world's leading state sponsor of terrorism. Were you ever consulted in the decision or issue of the American hostages being held in Iranian jails to the lifting of sanctions against Iran as part of the Iran Nuclear Agreement negotiations?

- Do you support the decision to not conjoin the two negotiations?
- Did you ever advocate withholding certain sanctions relief from the Iranian government to secure the release the U.S. hostages being held in Iran or to their negotiations?

A.2. The negotiations were about one issue and one issue only: addressing Iran's nuclear program. The Administration did not want to tie the fate of American citizens to a political negotiation that it knew might or might not succeed. The Administration will continue to press for the release of Saeed Abedini, Amir Hekmati, and Jason Rezaian, and for Iran's help in locating Robert Levinson.

Funding and Resource Constraints

Q.3. There is previous documented resource, funding, and operational needs related to the U.S. and international agencies ability to properly ensure appropriate oversight of matters related to this agreement, including: geographic, technical, and other limitations that might undermine the ability to determine whether Iran is conducting covert or clandestine nuclear activities. Additionally, according to available information, including a 2014 Department of Treasury Foreign Assets Control Federal Employee Viewpoint Survey (enclosed for the record), only 37 percent of Terrorism and Financial Intelligence (TFI) and just 28 percent of OFAC respondents said there were sufficient resources for the mission. Additionally,

the Office of Inspector General Department of the Treasury has previously reported that OFAC specifically has encountered insufficient resources to accomplish the mission it is tasked to do, including reports by OFAC personnel that OFAC does not have sufficient resources to handle increasing case workload. How has OFAC addressed this resource issue?

Q.3.a. As OFAC Director for roughly 7 years, how does OFAC plan on addressing increased demands and an expanding realm of oversight?

A.3.a. OFAC has received additional funding in recent years and is today staffed 64 percent above when I began as Director in 2006. OFAC is also able to address increased demands and requirements through the reallocation of internal resources. OFAC conducts internal reviews and determines what resources can be reallocated to address any new or emerging threats. Further, OFAC's assessment is conducted in close collaboration with TFI leadership so that additional resources may be provided to program offices when available.

Q.3.b. Has TFI and OFAC used all money appropriated?

A.3.b. Yes, TFI and OFAC have obligated over 99 percent of all appropriated funds.

Q.3.c. Are other parts of Treasury utilizing TFI's or OFAC's appropriations?

A.3.c. TFI appropriations are used for each appropriated TFI component office in Departmental Offices, a portion of the Treasury attache program, and overall TFI mission-related administrative expenses.

Q.3.d. If so, who or where and when has approval for any such reallocation of appropriations been provided?

A.3.d. N/A.

Q.3.e. How many FTE's and how many contractors are working within or for TFI?

A.3.e. There are currently 414 FTEs and 84 contractors in TFI's Departmental Office components, and 340 FTEs and 172 contractors in TFI's Financial Crimes Enforcement Network.

Q.3.f. How many FTE's and how many contractors are working within or for OFAC?

A.3.f. OFAC currently has 207 FTEs and 65 contractors working within the office.

Q.3.g. What has been OFAC's vacancy rate in recent years?

A.3.g. OFAC's vacancy rate has ranged between 16 and 27 percent at different points in recent years.

State Efforts and Iran Sanctions

Q.4. In recent years, Congress has enacted legislation authorizing States to prohibit investments in, or divest assets from, Sudan and Iran. The primary targets are companies doing business in Iran. This divestment was specifically authorized by Congress in 2010 as part of the Comprehensive Iran Sanctions, Accountability and Divestment Act, specifically Section 202. The laws passed include

nonpreemption language. In fact, in 2007 President Obama introduced legislation S. 1430, Iran Sanctions Enabling Act (introduced as a companion bill passed the U.S. House of Representatives on July 31, 2007), to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of $20 million or more in Iran's energy sector, companies that sell arms to the Government of Iran, and financial institutions that extend $20 million or more in credit to the Government of Iran for 45 days or more. Do you believe States are obligated by the JCPOA to suspend the application of divestment laws targeting companies doing business in Iran?

- Based on the agreement (JCPOA), Iran and the six powers agreed that economic and financial sanctions against Iran will be removed through a Security Council resolution. However, of note is the issue of State law passed in connection with Iran's sponsorship of terrorism. More importantly, the Federal nonpreemption law passed in 2010 remains in effect until terrorism label is removed. In the Administration's own words, this agreement does not address terrorism and provides more funds for Iran's terrorist activities. On July 9th a State Department official stated, "We are of course aware and concerned that, despite the massive domestic spending needs facing Iran, some of the resulting sanctions relief could be used by Iran to fund destabilizing actions." Based on existing law and Iran's ongoing support for terrorism, do you believe States are allowed to continue terrorism related divestment targeting companies doing business in Iran?

A.4. We expect to speak to relevant State and local governments about the contours of the JCPOA in order to inform their decisions moving forward and to encourage them to take into account the changes in U.S. policy reflected in the lifting of nuclear-related sanctions under the JCPOA, which will occur only after Iran has completed its key nuclear steps. A number of States have passed laws regarding investment of public funds and State government contracting with companies doing business with Iran, in response to the Iranian nuclear program as well as other issues, and it is only reasonable that we would inform them of Iran's commitments in the JCPOA to roll back its nuclear program—and the change to U.S. foreign policy reflected in the lifting of nuclear-related sanctions under the JCPOA.

Our JCPOA commitment to take "appropriate steps" only applies if a law at the State or local level is preventing implementation of the specific sanctions relief under the JCPOA, which is to be provided only after Iran has taken its key nuclear steps. Accordingly, we do not expect to take any such action at this time.

Terrorist Groups

Q.5. U.S. policy has long been long been not to recognize a difference between a military and political wing of terrorist groups such as Hamas and Hezbollah. Do you support a policy that changes that long-standing position?

A.5. No, we do not support a change in this policy, and we do not see a distinction between the political and military wings of terrorist organizations like Hamas and Hezbollah.

Transparency

Q.6. As a member of the intelligence community, if your analysis determines a sanctions violation has occurred, but the White House or State Department objects to the imposition of sanctions for whatever reason, will you commit to notify this Committee of your view?

A.6. The Intelligence Community (IC) component of the Treasury Department, the Office of Intelligence & Analysis (OIA), produces timely, accurate, and objective all-source analysis relating to U.S. sanctions programs and contributes to IC-wide analytical products and briefings related to such conduct. OIA's analysis will continue to be reflected in both IC-wide and standalone Treasury products, which are disseminated to customers throughout the U.S. Government. I commit to ensuring that such products continue to be submitted to Congress as appropriate.

Please note, however, that analytic assessments do not, in and of themselves, constitute a determination of a sanctions violation. Any such determination must be made against the legal threshold of the relevant sanctions authority, and by the agency to which the authority is delegated. I can commit that TFI's components will exercise their sanctions authorities aggressively.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR KIRK FROM ADAM J. SZUBIN

Q.1. At my request, the Congressional Research Service (CRS) researched and produced a memorandum that lays out unclassified and open-source estimates of how much Iran annually spends to fund terrorism and militancy in the Middle East. The CRS memo, the full text of which is available on my Web site,[1] offers the following conservative, "low-ball" estimates of Iran's annual funding to malign actors:

Iranian Funding Recipient	Estimated Annual Funding
Hezbollah	$100-$200 million.
Hamas	"tens of millions".
Syria's Assad regime	$6-$15 billion.
Shiite Militias in Syria/Iraq	tens-to-hundreds of millions.
Houthi Rebels in Yemen	"tens of millions.

Source: CRS, "Iranian Assistance to Groups in Yemen, Iraq, Syrian, and the Palestinian Territories," Research Memo. July 31, 2015.

Q.1.a. Please provide the Treasury Department's unclassified estimate of how much Iran spent in support to (a) Hezbollah, (b) Hamas, (c) Syria's Assad regime, (d) Shiite militias in Syria and Iraq, and (e) Houthi Rebels in Yemen in calendar year 2014?

[1] *See* Congressional Research Service, "Iranian Assistance to Groups in Yemen, Iraq, Syrian, and the Palestinian Territories," Research Memo. July 31, 2015, at *http://1.usa.gov/1OVPwJK.*

A.1.a. We are limited in what we can provide in an unclassified answer and can provide additional details in a classified setting. That said, Iran remains the world's most active state sponsor of terrorism, planning terrorist attacks, providing lethal aid, and delivering hundreds of millions of dollars per year in support to extremist groups across the globe. Hizballah and the Asad regime, for example, have received significant monetary payments from Iran to fund their brutal activities in Syria. And during the past several years, Iranian weapons shipments, reportedly destined for Shia militants in Bahrain and Huthi rebels in Yemen, have been interdicted by local authorities.

Q.1.b. What is the Treasury Department's estimate of how much Iran will increase funding to terrorists and militants after Iran gets access to over $100 billion in unfrozen assets and other forms of sanctions relief under the Joint Comprehensive Plan of Action in calendar year 2015 and calendar year 2016?

A.1.b. We will continue to use all of our authorities to combat aggressively Iran's support for terrorist groups and other destabilizing activities and we will continue to raise the costs to Iran of these activities.

Of Iran's approximately $100 billion in overseas foreign reserves, we estimate that, after sanctions relief, Iran will be able to access slightly more than half of the amount. That is because over $20 billion is dedicated to projects with China, where it cannot be freely spent, and tens of billions in additional funds are effectively nonperforming loans to Iran's energy and banking sector that are unlikely to be repaid, at least not in the next few years.

This likely explains why recent statements by Iranian officials, including the CBI Governor and Iran's Economy Minister, have suggested that liquid assets available to the central bank may even be as low as $30 billion. And Iran will likely need a significant portion of these remaining funds to finance pent-up import demand, unify the official and unofficial exchange rates, and maintain an adequate foreign exchange buffer against future external shocks.

Our sanctions, which we imposed together with the international community, have exacted a major toll on Iran's economy. Iran needs at least half a trillion dollars to meet pressing investment needs and government obligations, including $100 billion to satisfy government obligations, such as unfunded State and military pensions and debts to the domestic banking sector; $100 billion to complete needed infrastructure projects; and $170 billion to develop oil and gas potential and replace lost capacity, among other costs. Moreover, the Iranian people—and its leadership—are desperate to see the economic benefits of a deal. Iranian President Hassan Rouhani was elected on a platform of economic revitalization and faces a political imperative to live up to his promises. Notably, Iran has used the funds released under the interim JPOA to buy gold and prop up its currency.

It is also important to note that Iran's ability to support terrorism relies less on financial resources, and more on military and other political influence since terrorism and Iran's other malign regional activities are, unfortunately, not expensive. The constraints

on greater Iranian activities in the region are primarily non-financial.

Q.2. I have introduced with Senator Robert Menendez the *Iran Sanctions Relief Oversight Act of 2015* (S. 1682), a bipartisan bill to reauthorize the *Iran Sanctions Act of 1996* (Public Law 104–172), which expires at the end of 2016, for 10 additional years.

On September 17, 2015, you told this Committee "the penalties that are set out in the Iran Sanctions Act are then referenced in a lot of these other [Iran sanctions] statutes I'm talking about, and that penalty structure is a very meaningful one."

That said, you and other Administration officials have also repeatedly told U.S. lawmakers that it is "premature to bring up the sunset, the renewal, until we get to that sunset period" to bring up the reauthorization of the *Iran Sanctions Act of 1996.*

- While the Administration alleges it is "premature" to renew "very meaningful" penalty structure of the Iran Sanctions Act of 1996 right now, does the Administration, as a matter of long-term policy, support the basic principle of reauthorizing the Iran Sanctions Act before the law expires on December 31, 2016? I request that any answer you provide begin with a "yes" or a "no."

A.2. The Administration's view is that it is premature to renew a statute that does not expire for another 15 months. We agree that it is critical to maintain sanctions leverage to ensure the threat and force of snapback.

Q.3. Consider a hypothetical scenario in which a foreign financial services provider pools U.S. dollar-denominated bond payments on behalf of the Islamic Republic of Iran into that financial services provider's correspondent account at a U.S. bank in New York. As each cash payment from a bond issuer to Iran enters the correspondent account in New York of the foreign financial services provider, that financial services provider makes a book entry at its overseas home office to credit an equal amount to the Central Bank of Iran. The foreign financial service provider then alleges that, at the end of this book-entry process, Iran's U.S. dollars in the New York account have been moved overseas and no longer exist in the New York account.

- Does this theoretical book-entry system violate the regulations of the Treasury Department's Office of Foreign Assets Control (OFAC) prohibiting the exportation of financial services to Iran?
- In this hypothetical scenario, if the U.S. bank were aware that it received payments from bond issuers for Iran's benefit after Iran's assets were blocked by Executive Order 13599, would the U.S. bank have been required to block those payments?
- If the payments from bond issuers were received by the U.S. bank after Iran's assets were blocked by Executive Order 13599, could the foreign financial institution circumvent the block through this book-entry system?
- Do not Executive Order 13599 and the OFAC regulations exist specifically to prevent Iran from availing itself of the U.S. fi-

nancial markets? Is this theoretical book-entry system a loophole, or is the described conduct illegal?

- Additionally, what differentiates such a system of book entries from the hawala networks that the United States has criminally prosecuted in the past?

A.3. Answers to your questions would depend on the specific facts and circumstances at issue, which cannot be addressed fully in a hypothetical situation. As a general matter, many financial institutions and companies transfer funds between internal ledger accounts and customer accounts (and *vice versa*) in their daily operations. This is an ordinary process by which financial institutions allocate incoming credits to their customers; make payments on behalf of customers; manage cash positions on their correspondent accounts; and anticipate end-of-day balances. For companies, this process is used to allocate credits on account-to-account receivables and manage the cash-flow for their account payables.

In general, processing a transaction involving an Iranian person (*i.e.,* individual or entity) to or through the United States would be a prohibited exportation of services from the United States to Iran, assuming the transaction did not fall within a statutory exemption or was not authorized by OFAC. Were such a violation to occur, OFAC would, as it would with any apparent sanctions violation, take an appropriate response using the standards set forth in its Economic Sanctions Enforcement Guidelines (found in Appendix A to 31 C.F.R. Part 501). Among the factors that OFAC would consider are whether the person (including a financial institution) had actual knowledge or reason to know that the conduct giving rise to an apparent violation took place, as well as any willfulness or recklessness in violating, attempting to violate, conspiring to violate, or causing a violation of the law. OFAC's ultimate enforcement response could range from a finding that no action is warranted to the imposition of a civil monetary penalty and referral for criminal prosecution.

All U.S. persons, including U.S. financial institutions, are required to comply with the regulations and Executive orders administered by OFAC. In general, U.S. financial institutions implement a risk-based approach in developing and implementing OFAC compliance programs in order to interdict or otherwise identify customers, transactions, or other property that they are required to block or reject in accordance with U.S. sanctions laws.

As demonstrated in recent years, OFAC and other Federal and State government agencies have taken aggressive action against attempts to circumvent U.S. sanctions laws—particularly with respect to transactions processed to, through, or within the United States—and we will continue to do so moving forward.

Q.4. Between 2008 and 2012, Clearstream received approximately $1.6 billion in interest and principal payments on bonds beneficially owned by Bank Markazi (the "Markazi Payments") in an account that Clearstream held at JPMorgan in New York.[2]

[2] Clearstream admitted to a Federal court that it processed $1.6 billion worth of assets through its JPMorgan account in New York, that those assets were beneficially owned by Bank Markazi, and that it attempted to move those assets from New York to Luxembourg via book

- Did regulations of the Treasury Department's Office of Foreign Assets Control (OFAC) prohibit Clearstream from crediting those payments to any account, from assuming ownership of the Markazi Payments, or from otherwise moving those assets from the JPMorgan account?
- By crediting an account located in Luxembourg simultaneously with Clearstream's receipt of the 60 Markazi Payments that it received between 2008 and 2012,[3] did Clearstream illegally export services from the United States to Iran in violation of OFAC regulations?
- Are these "book entry" transfers legally impossible under OFAC regulations such that the Markazi Payments remain in Clearstream's control in the JPMorgan account in New York? Or has Clearstream discovered a means to legally bypass sanctions administered by OFAC?
- Are the Markazi Payments that were present in the JPMorgan account in New York (by operation of law or otherwise) after the signing of Executive Order 13599 blocked?

A.4. In January 2014, OFAC announced a $152 million agreement with Clearstream Banking, S.A. (Clearstream), of Luxembourg, to settle its civil liability for apparent violations surrounding Clearstream's use of its omnibus account with a U.S. financial institution as a conduit to hold securities on behalf of the Central Bank of Iran. With respect to conduct that may have occurred outside of this case, Treasury does not comment on specific alleged activities by a particular individual, including whether or not any enforcement action may be appropriate or pending.

RESPONSE TO WRITTEN QUESTION OF SENATOR TOOMEY FROM ADAM J. SZUBIN

Q.1. Many States, including Pennsylvania, have enacted laws that impose their own sanctions on Iran. These laws were formulated in accordance with the Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA) and were explicitly authorized by Congress in 2010.

- In your view, do States have any legal obligation under the JCPOA to suspend the application of their own divestment sanctions with respect to companies doing business with Iran?
- Would you support efforts by the Administration to compel a change in the behavior of State and local governments?
- Secretary Kerry said that the Administration would "actively encourage" States to lift their sanctions. How do you interpret his intent to "actively encourage?"

A.1. We have not made any commitments in the JCPOA that would require States to change their existing Iran-related divestment and procurement laws.

Rather, we expect to speak to relevant State and local governments about the contours of the JCPOA in order to inform their de-

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entries. *See Peterson v. Islamic Republic of Iran,* No. 13–9195 (KBF), DE 166 at 4–5 (S.D.N.Y. Feb. 20, 2015).

[3] *Id.*

cisions moving forward and to encourage them to take into account the changes in U.S. policy reflected in the lifting of nuclear-related sanctions under the JCPOA, which will occur only after Iran has completed its key nuclear steps. A number of States have passed laws regarding investment of public funds and State government contracting with companies doing business with Iran, in response to the Iranian nuclear program as well as other issues, and it is only reasonable that we would inform them of Iran's commitments in the JCPOA to roll back its nuclear program—and the change to U.S. foreign policy reflected in the lifting of nuclear-related sanctions under the JCPOA.

Our JCPOA commitment to take "appropriate steps" only applies if a law at the State or local level is preventing implementation of the specific sanctions relief under the JCPOA, which is to be provided only after Iran has taken its key nuclear steps. Accordingly, we do not expect to take any such steps at this time.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR SASSE FROM ADAM J. SZUBIN

Q.1. Mr. Szubin, in August you appeared before this Committee alongside Undersecretary of State Sherman, and the two of you testified that the IRGC's "business empire," including the "companies it controls, that it's deriving revenue from will remain under sanctions." During the same hearing, however, former Deputy National Security Advisor for Combatting Terrorism Juan Zarate testified that the IRGC will benefit immediately and deeply from the deal because they control much of Iran's economy, and use their control to "profit, strengthen its hand, and repress internal threats to the regime." I'd like to explore these divergent perspectives with you.

Is Mr. Zarate wrong in assessing that the IRGC will directly benefit from the lifting of sanctions under the JCPOA?

A.1. Actually, many hardliners in Iran, including senior officials in the IRGC, have opposed the negotiations and conclusion of the JCPOA, which they see as weakening their influence in Iran. Furthermore, the United States is not providing relief to the Islamic Revolutionary Guard Corps (IRGC), the IRGC-Qods Force (IRGC–QF), or their subsidiaries as part of the JCPOA. Secondary sanctions will also remain in place targeting non-U.S. persons who knowingly facilitate significant financial transactions with or provide material support to any of the more than 200 Iran-related individuals and entities that remain on OFAC's Specially Designated Nationals and Blocked Persons List, including IRGC-linked companies operating in significant sectors of the Iranian economy. Foreign companies and investors pursuing business opportunities in Iran under the terms of the Joint Comprehensive Plan of Action (JCPOA) will need to continue due diligence efforts to avoid engaging in conduct that remains sanctionable under U.S. legal authorities, even after Implementation Day.

Q.2. The President's National Security Advisor has admitted that sanctions relief will directly fund Iran's "bad behavior;" but, you have testified that the IRGC will not benefit from sanctions relief. How do you explain this discrepancy?

A.2. Iran's ability to support terrorism and engage in other malign activities depends less on financial resources and more on military and other political influence. Even with comprehensive U.S. and European sanctions in place, Iran has been able to continue support for regional proxies engaged in destabilization and other malign activities. The constraints on greater Iranian activities in the region are primarily nonfinancial. Nonetheless, we will continue to raise the costs on Iran for engaging in these activities. We will retain all the legal authorities necessary to aggressively combat these malign activities, and we are intensifying our collaboration with Israel and the Gulf States to better track support networks and to put them out of business.

Q.3. AEI's Critical Threats Project identifies at least 31 organizations and individuals who support the IRGC and who will receive sanctions relief under the JCPOA. How can you then, claim that the IRGC will not benefit from sanctions relief?

A.3. The AEI Critical Threats Project contains several inaccuracies regarding the JCPOA. First and foremost, the United States is not providing sanctions relief to the IRGC, the IRGC–QF, or their subsidiaries as part of the JCPOA. Our sanctions on the IRGC and these related entities will remain, including powerful secondary sanctions that can be applied to foreign persons, including financial institutions, who transact with these designated persons.

EU sanctions relief will include the parts of the IRGC in the late stages of the JCPOA, but some IRGC individuals and entities will remain sanctioned in the EU, including IRGC-Qods Force, IRGC Commander Mohammad Ali Jafari, and IRGC-Qods Force Commander Qassem Soleimani. Notwithstanding the relief that the EU will be providing to parts of the IRGC, our secondary sanctions will remain a powerful deterrent to anyone considering doing business with an IRGC-related entity or person whom the EU is delisting.

Q.4. How much control over a company must the IRGC exercise before you will admit it is part of the group's "business empire?"

A.4. We have designated the IRGC under various authorities relating to, among other malign activities, ballistic missiles and human rights violations. These authorities allow Treasury to designate any person determined to be owned or controlled by a designated person. We will continue to investigate the IRGC and its fronts and aggressively target them for designation. In addition, OFAC's public guidance provides a bright line: Entities that are 50 percent or more owned by one or more blocked persons, such as the IRGC, are considered blocked, regardless of whether they are included on the SDN List. OFAC's guidance further urges caution when considering a transaction with entities that are not blocked persons but in which one or more blocked persons have a significant ownership interest that is less than 50 percent or which one or more blocked persons may control by means other than a majority ownership interest.

Q.5. Will sanctions remain on every company that sends any revenue to the IRGC?

A.5. The United States is not providing relief to the IRGC, the IRGC–QF, or its subsidiaries, including key revenue generators

such as Khatam Ol Anbia, one of a number of major IRGC firms that will remain blocked. The sanctions that will remain in place include powerful secondary sanctions that can be applied to foreign persons that facilitate a significant transaction with the IRGC. In addition, we retain all of our authorities to designate persons acting for or on behalf of, or providing support to, the IRGC, and we will use these authorities to aggressively enforce sanctions on the IRGC.

Q.6. Will any sanctions—U.S., EU, or UN—be lifted from Iranian General Qassem Suleimani, commander of the IRGC's Qods Force at any time under the JCPOA?

A.6. No. The JCPOA does not relieve U.S. sanctions on IRGC–QF Commander Qasem Soleimani. Furthermore, the JCPOA provides no relief for the EU sanctions related to terrorism and Syria imposed on IRGC–QF Commander Qasem Soleimani.

We will continue to have significant unilateral authorities to counter Soleimani and the rest of the IRGC. These authorities include powerful secondary sanctions that will apply to foreign individuals and entities, including foreign financial institutions that knowingly engage in significant transactions with persons such as Soleimani that remain on our SDN List.

Q.7. The National Iranian Oil Company (NIOC) has previously been identified as an "agent" or "affiliate" of the IRGC and yet, they will be receiving sanctions relief under the JCPOA. Is the NIOC still in any way connected with the IRGC and, if so, why is it getting relief?

A.7. The affiliation between NIOC and the IRGC has changed over time. For example: In 2013, IRGC Brigadier General Rostam Qasemi was replaced as the head of Iran's Ministry of Petroleum, which owns NIOC, by Bijan Namdar Zangeneh, who had previously held that post from 1997 to 2005. In light of current circumstances, it is most appropriate to categorize NIOC alongside other major economic firms and Government of Iran entities.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR COTTON FROM ADAM J. SZUBIN

Foreign Subsidiary Licensing

Q.1. The Administration has repeatedly told Congress that "primary" sanctions will remain intact and that the embargo on U.S. persons conducting business with Iran will remain in place for the foreseeable future. Does that still hold?

A.1. Yes. The broad U.S. embargo that prohibits U.S. persons from engaging in most transactions or dealings with Iran, as implemented in the Iranian Transactions and Sanctions Regulations (ITSR), 31 CFR Part 560, will remain as is, with three discrete exceptions. Specifically, once the International Atomic Energy Agency (IAEA) has verified that Iran has completed its nuclear steps under the JCPOA, the U.S. Treasury Department's Office of Foreign Assets Control (OFAC) will issue specific licenses that provide limited relief from the prohibitions of the ITSR for exports and leasing to Iran of commercial passenger aircraft, parts, and services for civil

end use, a general license for imports into the United States of Iranian-origin carpets and foodstuffs, and a general license for activities involving Iran by non-U.S. entities that are owned or controlled by U.S. persons that are consistent with the JCPOA and applicable U.S. laws and regulations. Unless authorized by OFAC, U.S. persons, including U.S. companies, will continue to be broadly prohibited from engaging in transactions or dealings with Iran, including the making of investments in Iran, importing Iranian-origin goods or services, and exporting goods or services to Iran, including financial services such as U.S. dollar clearing.

Q.2. Is Sec. 218 of the Iran Threat Reduction Act of 2012, dealing with the liability of parent companies for violations of sanctions by foreign subsidiaries, intended to be suspended or repealed by the JCPOA?

A.2. To give effect to the United States' commitment in the JCPOA, OFAC will issue a general license authorizing foreign subsidiaries of U.S. persons to engage in certain activities involving Iran that are consistent with the JCPOA and U.S. law. This general license will only be issued and effective once the IAEA confirms that Iran has completed its nuclear-related steps under the JCPOA. To the extent a foreign subsidiary's activities involving Iran are inconsistent with the scope of the OFAC general license, those activities would create liability under Section 560.215 of the ITSR (which implements the prohibition described in Section 218 of the Iran Threat Reduction and Syria Human Rights Act of 2012 (TRA)) for the U.S. parent company.

Q.3. That section appears to be compulsory—"the President shall prohibit"—and there does not seem to be a corresponding waiver authority. Is that your reading as well?

A.3. Section 601 of TRA provides that the President may exercise all authorities granted to him under sections 203 and 205 of the International Emergency Economic Powers Act (IEEPA)—which includes licensing authority—to implement section 218 of the TRA. The President has delegated the relevant authority under sections 218 and 601 of the TRA to the Secretary of the Treasury. Treasury expects to exercise that authority to give effect to the relevant commitment in the JCPOA.

Q.4. Sec. 218 was intended to close what's known as the "foreign subsidiary loophole" in sanctions enforcement. That is, foreign subs of U.S. persons must be held to the same standard as U.S. persons with respect to Iran; thus, if an activity is not permitted under OFAC "primary" sanctions, *i.e.,* current regulations, for a U.S. person to conduct a transaction with Iran, then it follows that neither can the foreign sub conduct the same transaction with Iran. Is that correct?

- If the President intends to license foreign subs, then logic and current law would hold that he would have to also license the same transactions for U.S. persons. Is that correct?
- How would the President purport to license transactions as obligated in the JCPOA (Annex II § 5.1.2), which Congress expressly forbade in the Threat Reduction Act and which OFAC

has correctly interpreted in regulatory guidance (31 CFR 560.215)?

A.4. Under Sec. 218 of the TRA, as implemented in 31 CFR § 560.215, a foreign entity that is owned or controlled by a U.S. person (a "U.S.-owned or -controlled foreign entity") is prohibited from knowingly engaging in any transaction that would be prohibited under the ITSR if undertaken by a U.S. person (including a U.S. parent company). However, if Iran completes all of its nuclear steps, U.S.-owned or -controlled foreign entities will be licensed to engage in certain activities with Iran that are consistent with the JCPOA and U.S. law. As noted above, section 601 of the TRA authorizes the President to exercise all authorities granted to him under sections 203 and 205 of IEEPA—which includes the authority to license otherwise prohibited conduct—to implement section 218 of the TRA. Nothing in the JCPOA or U.S. law requires that a general license extended to U.S.-owned or -controlled foreign entities also be extended to U.S. persons, and in fact U.S. sanctions programs typically do not apply to the activities of U.S.-owned or -controlled entities.

Additional Sanctions/Legislation

Q.5. Section 5(b) of the Iran Sanctions Act states that the President shall impose sanctions, should any goods services, or technology, be provided to Iran, knowing that the provision of such would contribute materially to the ability of the ability of Iran to "acquire or develop destabilizing numbers of advanced conventional weapons." In this context, do you support sanctioning Russian entities who provide the S–300 Iran?

A.5. This Administration opposes the sale by Russia of S–300 missiles to Iran, and has conveyed that message to Moscow in strong terms. Enforcement of Section 5(b) of the Iran Sanctions Act is delegated to the Secretary of State, and we respectfully refer you to the State Department on its application.

Q.6. To make terrorists and their allies pay for their crimes, some have suggested legislation that would require the Justice Department's Asset Forfeiture Fund to compensate American terror victims with court judgments seized from these same terrorists and their enablers. In your opinion, would such legislation make it more expensive for terrorist-sponsoring states to continue to fund those activities against American citizens if they thought we might be able to reach their assets?

A.6. Treasury's Office of Terrorism and Financial Intelligence (TFI) is committed to effectively advancing the twin objectives of safeguarding the U.S. financial system against illicit use and combating terrorism and its facilitators. To this end, TFI administers Treasury's authorities to block terrorist assets, depriving terrorist organizations of needed funding and making their evil acts increasingly expensive and difficult to execute. Depriving terrorists and their patrons of funds increases the costs of their activity, regardless of the disposition of the funds. TFI is unwavering in its commitment to combat terrorism and its facilitators and will continue to use Treasury's powerful authorities both responsibly and aggressively.