

TO PROHIBIT THE SECRETARY OF THE TREASURY FROM AUTHORIZING
CERTAIN TRANSACTIONS BY A U.S. FINANCIAL INSTITUTION IN CON-
NECTION WITH THE EXPORT OR RE-EXPORT OF A COMMERCIAL PAS-
SENGER AIRCRAFT TO THE ISLAMIC REPUBLIC OF IRAN

NOVEMBER 14, 2016.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 5711]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 5711) to prohibit the Secretary of the Treasury from authorizing certain transactions by a U.S. financial institution in connection with the export or re-export of a commercial passenger aircraft to the Islamic Republic of Iran, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Add at the end the following:

SEC. 2. REVOCATION OF PRIOR AUTHORIZATIONS.

If the Secretary of the Treasury authorized any transaction described under section 1 before the date of the enactment of this Act, such authorization is hereby revoked.

PURPOSE AND SUMMARY

Introduced by Representative Huizenga on July 11, 2016, H.R. 5711 would prohibit the Secretary of the Treasury from authorizing transactions by U.S. financial institutions in connection with the export or re-export of passenger aircraft to Iran. As amended, this legislation would also revoke any such authorization made prior to enactment of the bill.

BACKGROUND AND NEED FOR LEGISLATION

Under the Joint Comprehensive Plan of Action (JCPOA), the Obama Administration agreed to license the export of passenger planes to Iran. On March 24, 2016, the Treasury Department's Office of Foreign Assets Control (OFAC) issued a general license that permitted U.S. aircraft manufacturers to begin negotiations with Iran. On June 21, Boeing announced it had reached a tentative sales agreement with Iran Air, the country's flagship state-owned carrier. According to this agreement, Iran Air intends to purchase 80 commercial planes with a value of \$17.6 billion, and to lease 29 Boeing 737s. Previously, Iran had announced it would also purchase 118 Airbus planes worth \$27 billion. Non-U.S. manufacturers such as Airbus are subject to OFAC licensing requirements as well, provided their aircraft's U.S. content equals or exceeds 10 percent.

In September 2016, OFAC issued specific licenses permitting the export of up to 17 Airbus and 80 Boeing aircraft. These licenses included authorization for U.S. financial institutions to undertake all financial transactions necessary to effectuate the sale of the aircraft. Such an authorization would potentially mean that U.S. citizens' deposits and investments could be used to finance the Iranian regime, which the State Department characterizes as "the world's foremost state sponsor of terrorism."

Iran's deployment of civilian planes for military purposes is well-documented. Iran Air's use of commercial planes to transport rockets, missiles, and other military cargo on behalf of the Islamic Revolutionary Guard Corps (IRGC) led to Treasury sanctioning the carrier in 2011. At that time, Treasury found that Iran Air had also transported missile or rocket components to Syria, another state sponsor of terrorism and the site of a civil war that has claimed an estimated 400,000 lives.

Although Iran Air was delisted in 2016, it appears that the carrier's support for the IRGC remains unchanged. Appearing before the Financial Services Committee, Mark Dubowitz, Executive Director of the Foundation for Defense of Democracies, testified:

As a result of the nuclear deal, the U.S. lifted sanctions against Iran Air, despite the fact that the original designations were not related to Iran's nuclear program and despite the administration's commitment to retain non-nuclear sanctions.

But when asked why sanctions were lifted, State Department Spokesman John Kirby did not argue that Iran Air's behavior had changed, nor that the IRGC is no longer using the airline to ship weapons to Syria. Instead, he said merely that the administration was comfortable with its decision, though he was "not at liberty to go into the reasons behind" the de-listing.

And it seems that Iran Air is not keeping out of trouble. Three times in June, Iran Air flew routes known to be used to resupply Syrian President Assad.

In addition to the violence that U.S. financing for Iran Air may contribute to, commercial involvement with Iran could pose acute money laundering risks for financial institutions. Recalling that Iran was designated by Treasury in 2011 as a "jurisdiction of primary money laundering concern," Eric Lorber of the Financial In-

egrity Network issued the following warning in testimony to the Committee:

Though the recent business attention on Iran has understandably focused on sanctions-related issues, banks and businesses must remember that other financial crimes concerns in the Islamic Republic remain pervasive. In particular, the nature of the Iranian economy and the role of the government within the economy present serious risks related to bribery and corruption, money laundering, and illicit financing.

Lorber went on to argue:

Given Iran's history of abusing the international financial system, the United States should refrain from providing legal authorization to any financial institution that wants to re-enter Iranian markets in all but the rarest of circumstances (e.g., providing financing for the shipment of humanitarian goods).

Due to the opacity and illegality that characterizes Iran's economy, repayment risk is added to the regulatory and reputational uncertainties facing U.S. financial institutions, a risk that could potentially be transferred to taxpayers. As Mr. Dubowitz testified before the Committee:

My big concern is that we may face in the coming years a \$70 billion Iran bailout, where the U.S. taxpayer is going to have to stand behind all of the unpaid debts from Iran Air and other Iranian airlines. So when you think about jobs and the exposure of the U.S. economy, I would hate to have U.S. taxpayers have to step up with a \$70 billion bailout when Iran reneges on its commitments.

Prohibiting Iranian access to U.S. financial institutions is a policy that has previously garnered congressional support: in July, the House approved, by voice vote, an aircraft financing prohibition as an amendment to H.R. 5485, the Financial Services and General Government Appropriations Act, 2017.

HEARINGS

The Subcommittee on Monetary Policy and Trade held a hearing titled "The Implications of U.S. Aircraft Sales to Iran" on July 7, 2016, which examined matters relating to H.R. 5711.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 13, 2016 to consider the bill. Mr. Huizenga offered the sole amendment, which was adopted by voice vote. The Committee ordered H.R. 5711 to be favorably reported to the House as amended by a recorded vote of 33 yeas to 21 nays (Record vote no. FC-123), a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole recorded

vote was on a motion by Chairman Hensarling to report the bill favorably to the House as amended. The motion was agreed to by a recorded vote of 33 yeas to 21 nays (Record vote no. FC-123), a quorum being present.

Record vote no. FC-123

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Waters (CA)		X	
Mr. King (NY)	X			Mrs. Maloney (NY)		X	
Mr. Royce	X			Ms. Velázquez		X	
Mr. Lucas	X			Mr. Sherman	X		
Mr. Garrett	X			Mr. Meeks		X	
Mr. Neugebauer	X			Mr. Capuano		X	
Mr. McHenry				Mr. Hinojosa		X	
Mr. Pearce				Mr. Clay			
Mr. Posey	X			Mr. Lynch		X	
Mr. Fitzpatrick	X			Mr. David Scott (GA)		X	
Mr. Westmoreland	X			Mr. Al Green (TX)		X	
Mr. Luetkemeyer	X			Mr. Cleaver		X	
Mr. Huizenga (MI)	X			Ms. Moore		X	
Mr. Duffy	X			Mr. Ellison			
Mr. Hurt (VA)	X			Mr. Perlmutter		X	
Mr. Stivers	X			Mr. Himes		X	
Mr. Fincher				Mr. Carney		X	
Mr. Stutzman	X			Ms. Sewell (AL)		X	
Mr. Mulvaney	X			Mr. Foster			
Mr. Hultgren	X			Mr. Kildee		X	
Mr. Ross	X			Mr. Murphy (FL)		X	
Mr. Pittenger	X			Mr. Delaney		X	
Mrs. Wagner	X			Ms. Sinema		X	
Mr. Barr	X			Mrs. Beatty		X	
Mr. Rothfus	X			Mr. Heck (WA)		X	
Mr. Messer	X			Mr. Vargas	X		
Mr. Schweikert	X						
Mr. Guinta	X						
Mr. Tipton	X						
Mr. Williams	X						
Mr. Poliquin	X						
Mrs. Love	X						
Mr. Hill	X						
Mr. Emmer	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 5711 will protect American depositors and taxpayers by preventing U.S. financial institutions from engaging in transactions with a country that poses acute regulatory, reputational, and default risk.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 31, 2016.

Hon. JEB HENSARLING,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5711, a bill to prohibit the Secretary of the Treasury from authorizing certain transactions by a U.S. financial institution in connection with the export of a commercial passenger aircraft to the Islamic Republic of Iran.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 5711—A bill to prohibit the Secretary of the Treasury from authorizing certain transactions by a U.S. financial institution in connection with the export of a commercial passenger aircraft to the Islamic Republic of Iran

CBO estimates that implementing H.R. 5711 would have no significant cost to the federal government. Enacting the legislation could affect direct spending and revenues; therefore, pay-as-you-go procedures apply. However, CBO estimates that any effects on direct spending or revenues would be negligible.

H.R. 5711 would amend current law to prohibit U.S. financial institutions from facilitating the sale of commercial aircraft to Iran. CBO estimates that administering the prohibition would have a negligible cost to the Treasury Department; any spending would be subject to the availability of appropriated funds.

Because the bill would expand the types of trade with Iran that are prohibited and subject from civil and criminal penalties under current law, it could increase revenues and associated direct spending; however, CBO estimates that the net budgetary effect of any additional penalties assessed and spent under the bill would be negligible in any year.

CBO estimates that enacting H.R. 5711 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 5711 would impose a private-sector mandate, as defined in Unfunded Mandates Reform Act (UMRA), on U.S. financial institutions by prohibiting them from engaging in transactions that facilitate the sale of commercial aircraft to Iran. The prohibition would limit an activity that may be permitted under current law. The cost of the mandate would be the value of income that U.S. financial institutions would forgo. Although some manufacturers have tentative agreements to sell or lease aircraft to Iran under current law, those sales are contingent on approval by the Treasury Department.

The size and timing of mandate costs are uncertain and would depend on the timing and likelihood of those institutions engaging in transactions to facilitate such sales and on the potential financing structure of such transactions. Should a U.S. financial institution engage in such a transaction, annual interest payments alone (which would be forgone under the bill) could easily reach UMRA's \$154 million threshold. However, because the exact structure and terms of any potential deal are uncertain, CBO cannot determine the amount of lost profits that would result from forfeiting a potential deal. Current restrictions, including a ban on certain transactions with Iran appear to be making U.S. banks reluctant to finance any deals with Iran. They may be allowing foreign institutions to lead the way by financing the initial sales of aircraft to Iran in order to learn more about the potential risks to such an investment. Given these uncertainties, CBO cannot determine whether the cost of the mandate would exceed the annual threshold established in UMRA for private-sector mandates (\$154 million in 2016, adjusted annually for inflation) in the first five years the mandate is effective.

H.R. 5711 contains no intergovernmental mandate as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

The CBO staff contacts for this estimate are Pamela Greene and Matthew Pickford (for federal revenues and spending) and Logan Smith (for the private-sector impact). This estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 5711 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee states that no provision of H.R. 5711 establishes or re-authorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee estimates that H.R. 5711 contains no directed rule-making.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Prohibition

This Section prevents the Secretary of the Treasury from authorizing a transaction by a U.S. financial institution for the purpose of exporting or re-exporting commercial passenger aircraft to Iran.

Section 2. Revocation of prior authorizations

This Section revokes any such authorization that is issued prior to the date of the bill's enactment.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 5711 does not repeal or amend any section of a statute. Therefore, the Office of Legislative Counsel did not prepare the report contemplated by Clause 3(e)(1)(B) of rule XIII of the House of Representatives.

MINORITY VIEWS

H.R. 5711 would prohibit the Secretary of Treasury from authorizing any transaction by a U.S. financial institution that is ordinarily incident to the export or re-export of commercial passenger aircraft to Iran.

We oppose this legislation because it would undermine the U.S. commitment under the Joint Comprehensive Plan of Action (“JCPOA”) to license the financial services necessary and ordinarily incident to the sale of aircraft to Iran. Moreover, the bill would put the U.S. in breach of the ‘good faith’ provision in the JCPOA, whereby all parties agree “to refrain from any action inconsistent with the letter, spirit and intent of [the] JCPOA that would undermine its successful implementation.”

We also note that prohibiting the involvement of U.S. financial institutions would put U.S. aircraft manufacturers at a competitive disadvantage with their foreign competitors, whose access to financing would not be subject to the same constraints.

Ironically, critics who previously raised alarm that Iran is getting front-loaded access to an estimated \$50 billion of unfrozen oil escrow funds as a result of the nuclear deal seem to overlook the fact that H.R. 5711 would, in fact, prevent Iran from redirecting a huge chunk of Iranian funds freed up by the JCPOA away from malign activities, and towards the U.S. and European economies. If some of the licensing conditions that have previously been discussed were put in place—including especially big down payments—the aircraft sales could be a serious plus in terms of our national security interests because of how they direct the money.

H.R. 5711 is a clear attempt to undermine the JCPOA and the activity that is legal under the deal. For this reason, we oppose the bill.

MAXINE WATERS.
JOYCE BEATTY.
STEPHEN F. LYNCH.
RUBÉN HINOJOSA.

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