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1ST SESSION

H. R. 3922

To ensure that companies operating in the United States that receive United States Government funds are not conducting business in Iran, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 23, 2009

Mr. KLEIN of Florida (for himself, Mr. MICA, Ms. HARMAN, Mr. PENCE, Mr. PETERS, Mr. KIRK, Mr. SHERMAN, Mr. WEXLER, Mr. ENGEL, Mr. SCHOCK, Ms. BERKLEY, Mr. BILIRAKIS, Mr. LINDER, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. HALL of New York, Mr. MACK, Mr. CROWLEY, Mr. WAXMAN, Mr. LEVIN, Mr. BRALEY of Iowa, Mr. INGLIS, Mr. KAGEN, Mr. LARSEN of Washington, Mr. SHULER, Mr. CARNEY, Mr. LANCE, Mr. ISRAEL, Ms. KILROY, Mr. HASTINGS of Florida, Ms. WASSERMAN SCHULTZ, Mr. HIMES, Mr. WEINER, and Mr. GUTIERREZ) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committees on Financial Services and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure that companies operating in the United States that receive United States Government funds are not conducting business in Iran, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Accountability for
3 Business Choices in Iran Act”.

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

6 (1) The Islamic Republic of Iran is a party to
7 the Treaty on the Non-Proliferation of Nuclear
8 Weapons (NPT) and a member of the International
9 Atomic Energy Agency (IAEA).

10 (2) Since 1987, successive United States ad-
11 ministrations have issued executive orders to ban im-
12 ports of Iranian-origin goods and services, participa-
13 tion of United States persons or entities in the de-
14 velopment of Iran’s energy sector and investment by
15 and in Iranian banks in order to address the un-
16 usual and extraordinary threat to the national secu-
17 rity, foreign policy and economy of the United
18 States posed by an Iranian nuclear weapons pro-
19 gram.

20 (3) On August 5, 1996, the Iran and Libya
21 Sanctions Act was signed into law. In 2006, the title
22 of this law was changed to the Iran Sanctions Act
23 (ISA). The ISA notes that “the efforts of the Gov-
24 ernment of Iran to acquire weapons of mass destruc-
25 tion and the means to deliver them and its support
26 of acts of international terrorism endanger the na-

1 tional security and foreign policy interests of the
2 United States and those countries with which the
3 United States shares common strategic and foreign
4 policy objectives,” and therefore requires the Presi-
5 dent to sanction United States and foreign compa-
6 nies if the President determines that such companies
7 have invested in Iran’s petroleum or natural gas sec-
8 tors.

9 (4) On March 14, 2000, the Iran Nonprolifera-
10 tion Act was signed into law, “to provide for the ap-
11 plication of measures to foreign persons who trans-
12 fer to Iran certain goods, services, or technology,
13 and for other purposes.”.

14 (5) On September 30, 2006, the Iran Freedom
15 Support Act (IFSA) was signed into law “to hold
16 the current regime in Iran accountable for its
17 threatening behavior” and recommended that the
18 President initiate investigations upon the receipt of
19 credible information that a United States or foreign
20 person is investing in Iran’s petroleum or natural
21 gas sector in violation of the ISA. The IFSA ex-
22 tended the ISA until December 31, 2011.

23 (6) In response to its “serious concern” over
24 Iran’s nuclear program, the United Nations Security
25 Council (UNSC) has passed several resolutions call-

1 ing on Iran to halt its uranium enrichment and re-
2 processing activities and instituting rounds of sanc-
3 tions on Iran, taking all necessary measures to pre-
4 vent the supply of certain goods or technologies that
5 could contribute to Iran's uranium enrichment, re-
6 processing, or heavy water-related activities, or to
7 the development of a nuclear weapon.

8 (7) Iran is in violation of these UNSC resolu-
9 tions.

10 (8) Effective November 10, 2008, the Depart-
11 ment of the Treasury's Office of Foreign Assets
12 Control (OFAC) revoked authorization for "U-turn"
13 transfers involving Iran. As of that date, United
14 States depository institutions are no longer author-
15 ized to process transfers involving Iran that origi-
16 nate and end with non-Iranian foreign banks.

17 (9) According to a June 5, 2009, IAEA report,
18 Iran "has not suspended its enrichment related ac-
19 tivities or its work on heavy water related projects
20 as required by the Security Council," nor has Iran
21 "cooperated with the [IAEA] in connection with the
22 remaining issues which give rise to concerns and
23 which need to be clarified to exclude the possibility
24 of military dimensions to Iran's nuclear pro-
25 gramme."

1 (10) On September 25, 2009, President
2 Obama, British Prime Minister Brown, and French
3 President Sarkozy revealed that Iran has been cov-
4 ertly enriching uranium in Qom, Iran.

5 (11) Iran had concealed the existence and pur-
6 pose of the Qom facility, and had not disclosed the
7 Qom enrichment facility to the IAEA until Sep-
8 tember 21, 2009.

9 **SEC. 3. SENSE OF CONGRESS.**

10 It is the sense of Congress that—

11 (1) the illicit nuclear activities of the Govern-
12 ment of Iran—combined with its development of un-
13 conventional weapons and ballistic missiles, and sup-
14 port for international terrorism—represent a serious
15 threat to the security of the United States and
16 United States allies in Europe, the Middle East, and
17 around the world;

18 (2) the United States should continue to sup-
19 port diplomatic efforts in the International Atomic
20 Energy Agency and the United Nations Security
21 Council (UNSC) to end Iran’s illicit nuclear activi-
22 ties;

23 (3) the United Nations Security Council should
24 take further measures beyond UNSC Resolutions
25 1737, 1747, 1803, and 1835 to tighten sanctions on

1 Iran, including preventing new investment in Iran's
2 energy sector, as long as Iran fails to comply with
3 the international community's demand to halt its
4 nuclear enrichment campaign;

5 (4) the United States should take all possible
6 measures to discourage and, if possible, prevent for-
7 eign banks from providing export credits to foreign
8 entities seeking to invest in the Iranian energy sec-
9 tor;

10 (5) the United States should encourage foreign
11 governments to direct state-owned entities to cease
12 all investment in Iran's energy sector and all exports
13 of refined petroleum products to Iran and to per-
14 suade, and, where possible, require private entities
15 based in their territories to cease all investment in
16 Iran's energy sector and all exports of refined petro-
17 leum products to Iran;

18 (6) moderate Arab countries have a vital and
19 perhaps existential interest in preventing Iran from
20 acquiring nuclear arms, and therefore such coun-
21 tries, particularly countries with large oil deposits,
22 should use their economic leverage to dissuade other
23 countries, including the Russian Federation and the
24 People's Republic of China, from assisting Iran's nu-
25 clear program directly or indirectly and to persuade

1 other countries, including Russia and China, to be
2 more forthcoming in supporting UNSC efforts to
3 halt Iran's nuclear program;

4 (7) with Iran's economy weakened, effective
5 economic measures to isolate the regime may make
6 the difference between a diplomatic resolution and a
7 nuclear standoff;

8 (8) to make a diplomatic solution possible,
9 international firms doing business in Iran should not
10 continue to provide the last crutch of support to the
11 Iranian economy; and

12 (9) this Act seeks to prohibit those entities that
13 do business with the United States from doing busi-
14 ness with Iran.

15 **SEC. 4. PROHIBITION ON UNITED STATES GOVERNMENT**
16 **CONTRACTS.**

17 (a) **CERTIFICATION REQUIREMENT.**—The head of
18 each executive agency shall ensure that each contract with
19 a company entered into by such executive agency for the
20 procurement of goods or services or agreement for the use
21 of Federal funds as part of a grant, loan, or loan guar-
22 antee to a company, includes a clause that requires the
23 company to certify to the contracting officer that the com-
24 pany does not conduct business operations in Iran de-
25 scribed in section 7.

1 (b) REMEDIES.—

2 (1) IN GENERAL.—The head of an executive
3 agency may impose remedies as provided in this sub-
4 section if the head of the executive agency deter-
5 mines that the contractor has submitted a false cer-
6 tification under subsection (a) after the date the
7 Federal Acquisition Regulation is revised pursuant
8 to subsection (e) to implement the requirements of
9 this section.

10 (2) TERMINATION.—The head of an executive
11 agency may terminate a covered contract with a
12 company upon the determination of a false certifi-
13 cation under paragraph (1).

14 (3) SUSPENSION AND DEBARMENT.—The head
15 of an executive agency may debar or suspend a con-
16 tractor from eligibility for Federal contracts upon
17 the determination of a false certification under para-
18 graph (1). The debarment period may not exceed 3
19 years.

20 (4) INCLUSION ON LIST OF PARTIES EXCLUDED
21 FROM FEDERAL PROCUREMENT AND NONPROCURE-
22 MENT PROGRAMS.—The Administrator of General
23 Services shall include on the List of Parties Ex-
24 cluded from Federal Procurement and Nonprocure-
25 ment Programs maintained by the Administrator

1 under part 9 of the Federal Acquisition Regulation
2 issued under section 25 of the Office of Federal Pro-
3 curement Policy Act (41 U.S.C. 421) each con-
4 tractor that is debarred, suspended, proposed for de-
5 barment or suspension, or declared ineligible by the
6 head of an executive agency on the basis of a deter-
7 mination of a false certification under paragraph
8 (1).

9 (5) RULE OF CONSTRUCTION.—This section
10 shall not be construed to limit the use of other rem-
11 edies available to the head of an executive agency or
12 any other official of the Federal Government on the
13 basis of a determination of a false certification
14 under paragraph (1).

15 (c) WAIVER.—

16 (1) IN GENERAL.—The President may waive
17 the requirement of subsection (a) on a case-by-case
18 basis if the President determines and certifies in
19 writing to the appropriate congressional committees
20 that it is in the national interest to do so.

21 (2) REPORTING REQUIREMENT.—Not later than
22 120 days after the date of the enactment of this Act
23 and semi-annually thereafter, the Administrator for
24 Federal Procurement Policy shall submit to the ap-

1 appropriate congressional committees a report on waiv-
2 ers granted under paragraph (1).

3 (d) IMPLEMENTATION THROUGH THE FEDERAL AC-
4 QUISITION REGULATION.—Not later than 120 days after
5 the date of the enactment of this Act, the Federal Acquisi-
6 tion Regulation issued pursuant to section 25 of the Office
7 of Federal Procurement Policy Act (41 U.S.C. 421) shall
8 be revised to provide for the implementation of the re-
9 quirements of this section.

10 (e) REPORT.—Not later than one year after the date
11 the Federal Acquisition Regulation is revised pursuant to
12 subsection (e) to implement the requirements of this sec-
13 tion, the Administrator of General Services, with the as-
14 sistance of other executive agencies, shall submit to the
15 Office of Management and Budget and the appropriate
16 congressional committees a report on the actions taken
17 under this section.

18 **SEC. 5. AUTHORITY OF STATE AND LOCAL GOVERNMENTS**

19 **TO PROHIBIT CONTRACTS.**

20 Notwithstanding any other provision of law, a State
21 or local government may adopt and enforce measures to
22 prohibit the State or local government, as the case may
23 be, from entering into or renewing a contract for the pro-
24 curement of goods or services with persons that are in-

1 cluded pursuant to section 4(b)(4) on the most recently
2 published list referred to in that section.

3 **SEC. 6. SUNSET.**

4 This Act shall terminate 30 days after the date on
5 which—

6 (1) the President has certified to Congress that
7 the Government of Iran has ceased providing sup-
8 port for acts of international terrorism and no
9 longer satisfies the requirements for designation as
10 a state-sponsor of terrorism for purposes of section
11 6(j) of the Export Administration Act of 1979, sec-
12 tion 620A of the Foreign Assistance Act of 1961,
13 section 40 of the Arms Export Control Act, or any
14 other provision of law; and

15 (2) Iran has permanently ceased the pursuit,
16 acquisition, and development of nuclear, biological,
17 and chemical weapons and missiles.

18 **SEC. 7. DEFINITIONS.**

19 In this Act:

20 (1) COMPANY.—The term “company” means—

21 (A) a sole proprietorship, organization, as-
22 sociation, corporation, partnership, limited li-
23 ability company, venture, or other entity, its
24 subsidiary or affiliate; and

1 (B) includes a company owned or con-
2 trolled, either directly or indirectly, by the gov-
3 ernment of a foreign country, that is estab-
4 lished or organized under the laws of, or has its
5 principal place of business in, such foreign
6 country and includes United States subsidiaries
7 of the same.

8 (2) AFFILIATE.—The term “affiliate” means
9 any individual or entity that directly or indirectly
10 controls, is controlled by, or is under common con-
11 trol with, the company, including without limitation
12 direct and indirect subsidiaries of the company.

13 (3) ENTITY.—The term “entity” means a sole
14 proprietorship, a partnership, limited liability cor-
15 poration, association, trust, joint venture, corpora-
16 tion, or other organization.

17 (4) FEDERAL FUNDS.—The term “Federal
18 funds” means a sum of money or other resources de-
19 rived from United States taxpayers, which the
20 United States Government may provide to compa-
21 nies through government grants or loans, or through
22 the terms of a contract with the Federal Govern-
23 ment, or through the Emergency Economic Sta-
24 bilization Act of 2008 “Troubled Asset Relief Pro-

1 gram” or other similar and related transaction vehi-
2 cles.

3 (5) BUSINESS OPERATIONS.—Business oper-
4 ations described in this Act are business operations
5 that—

6 (A) provide Iran with refined petroleum re-
7 sources;

8 (B) sell, lease, or provide to Iran any
9 goods, services, or technology that would allow
10 Iran to maintain or expand its domestic produc-
11 tion of refined petroleum resources, including
12 any assistance in refinery construction, mod-
13 ernization, or repair;

14 (C) engage in any activity that could con-
15 tribute to the enhancement of Iran’s ability to
16 import refined petroleum resources, including
17 providing ships or shipping services to deliver
18 refined petroleum resources to Iran, under-
19 writing or otherwise providing insurance or re-
20 insurance for such activity, or financing or
21 brokering such activity;

22 (D) invest \$20,000,000 or more (or any
23 combination of investments of at least
24 \$5,000,000 each, which in the aggregate equals
25 or exceeds \$20,000,000 in any 12-month pe-

1 riod), that directly and significantly contributes
2 to the enhancement of Iran’s ability to develop
3 petroleum resources of Iran; and

4 (E) provides sensitive technology to the
5 Government of Iran.

6 (6) GOVERNMENT OF IRAN.—The term “Gov-
7 ernment of Iran” includes the Government of Iran,
8 any political subdivision, agency, or instrumentality
9 thereof, and any person owned or controlled by, or
10 acting for or on behalf of, the Government of Iran.

11 (7) PETROLEUM RESOURCES.—

12 (A) IN GENERAL.—The term “petroleum
13 resources” includes petroleum, petroleum by-
14 products, oil or liquefied natural gas, oil or liq-
15 uefied natural gas tankers, and products used
16 to construct or maintain pipelines used to
17 transport oil or compressed or liquefied natural
18 gas.

19 (B) PETROLEUM BY-PRODUCTS.—The
20 term “petroleum by-products” means gasoline,
21 kerosene, distillates, propane or butane gas, die-
22 sel fuel, residual fuel oil, and other goods classi-
23 fied in headings 2709 and 2710 of the Har-
24 monized Tariff Schedule of the United States.

1 (8) SENSITIVE TECHNOLOGY.—The term “sen-
2 sitive technology” means hardware, software, tele-
3 communications equipment, or any other technology
4 that the President determines may be used by the
5 Government of Iran—

6 (A) to restrict the free flow of unbiased in-
7 formation in Iran; or

8 (B) to disrupt, monitor, or otherwise re-
9 strict speech by the people of Iran.

10 (9) APPROPRIATE CONGRESSIONAL COMMIT-
11 TEES.—The term “appropriate congressional com-
12 mittees” means—

13 (A) the Committee on Banking, Housing,
14 and Urban Affairs, the Committee on Foreign
15 Relations, and the Select Committee on Intel-
16 ligence of the Senate; and

17 (B) the Committee on Financial Services,
18 the Committee on Foreign Affairs, and the Per-
19 manent Select Committee on Intelligence of the
20 House of Representatives.

21 (10) EXECUTIVE AGENCY.—The term “execu-
22 tive agency” has the meaning given the term in sec-
23 tion 4 of the Office of Federal Procurement Policy
24 Act (41 U.S.C. 403).

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