To require the Secretary of the Treasury to make certifications with respect to United States and foreign financial institutions’ aircraft-related transactions involving Iran, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 28, 2017

Mr. CRUZ (for himself and Mr. PERDUE) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To require the Secretary of the Treasury to make certifications with respect to United States and foreign financial institutions’ aircraft-related transactions involving Iran, and for other purposes.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Strengthening Over-
sight of Iran’s Access to Finance Act”.

SEC. 2. FINDINGS.

The Congress finds the following:
(1) Under the Joint Comprehensive Plan of Action (in this section referred to as the “JCPOA”), informally known as the Iran nuclear deal, the Obama administration agreed to license the sale of commercial passenger aircraft to Iran, the world’s foremost state sponsor of terrorism and a jurisdiction of primary money laundering concern.

(2) In April 2015, prior to the adoption of the JCPOA, Secretary of the Treasury Jacob Lew, in publicly advocating for its provisions, stated, “Make no mistake: deal or no deal, we will continue to use all our available tools, including sanctions, to counter Iran’s menacing behavior. Iran knows that our host of sanctions focused on its support for terrorism and its violations of human rights are not, and have never been, up for discussion.”.

(3) In March 2016 remarks to the Carnegie Endowment for International Peace, Secretary Lew, in reference to United States commitments under the JCPOA, stated, “While we have lifted the nuclear sanctions, we continue to enforce sanctions directed at support for terrorism and regional destabilization, and missile and human rights violations.”.

(4) In an April 2016 forum at the Council on Foreign Relations, Secretary Lew stated that, under
the JCPOA, the United States committed to lifting
its nuclear sanctions, “but the U.S. financial system
is not open to Iran, and that is not something that
is going to change”.

(5) In September 2016, the Department of the
Treasury’s Office of Foreign Assets Control (in this
section referred to as “OFAC”) issued licenses per-
mitting the export of up to 97 aircraft for use by
Iran Air, the Islamic Republic of Iran’s flagship
state-owned air carrier. These licenses included au-
thorization for United States financial institutions
“to engage in all transactions necessary to provide
financing or other financial services” in order to ef-
fectuate the sales. In November 2016, OFAC li-
censed an additional 106 aircraft for purchase by
Iran Air, which are also eligible for financing au-
thorized by OFAC.

(6) The Department of the Treasury had sanc-
tioned Iran Air in 2011 for its use of commercial
passenger aircraft to transport rockets, missiles, and
other military cargo on behalf of the Islamic Revolu-
tionary Guard Corps (in this section referred to as
the “IRGC”) and Iran’s Ministry of Defense and
Armed Forces Logistics, both of which had been des-
ignated under Executive Order 13382 for weapons
proliferation-related activities. In October 2017, the
IRGC went on to be designated under Executive
Order 13224 for its support of the IRGC-Qods
Force, which has provided support to terrorist
groups such as Hizballah, Hamas, and the Taliban.

(7) Among Iran Air’s sanctionable activities,
the air carrier delivered missile or rocket compo-
nents to the regime of Bashar al-Assad in Syria,
which like Iran is classified as a state sponsor of ter-
rorism.

(8) The Assad regime is responsible for a civil
conflict that has claimed an estimated 400,000 lives,
including through the regime’s deployment of chem-
ical weapons and barrel bombs against unarmed ci-
vilians and children.

(9) Despite being delisted in 2016, Iran Air has
continued to fly known weapons resupply routes to
government-controlled areas of Syria. According to
research by the Foundation for Defense of Democ-
racies, between Implementation Day of the JCPOA
on January 16, 2016, and May 4, 2017, Iran Air
operated at least 134 flights to Syria, which in-
cluded stops in Abadan, Iran, a suspected IRGC
logistical hub for airlifts to the Assad regime.
(10) In November 2016 correspondence to the Chairman of the Committee on Financial Services of the House of Representatives, the Department of the Treasury noted that the commitment to delist Iran Air under the JCPOA “does not affect our ability to designate, or re-designate, any Iranian airline that engages in sanctionable activity. The United States retains the ability to designate any individual or entity that engages in sanctionable activities under our authorities targeting conduct outside the scope of the JCPOA, including Iran’s support for terrorism, human rights abuses, ballistic missile program, and other destabilizing activities in the region.”.

(11) In April 2017, Iran announced a deal for Aseman Airlines to purchase up to 60 commercial aircraft, a transaction that would require authorization by OFAC. Aseman Airlines’ chief executive officer, Hossein Alaei, has for decades served as a senior member of the IRGC.

SEC. 3. CERTIFICATIONS FOR AIRCRAFT-RELATED TRANSACTIONS BY UNITED STATES AND FOREIGN FINANCIAL INSTITUTIONS.

(a) In General.—Not later than 30 days after authorizing a transaction by a United States financial institution or a foreign financial institution in connection with
the export or re-export of a commercial passenger aircraft to Iran (or, for an authorization made after January 16, 2016, but before the date of the enactment of this Act, not later than 60 days after such date of enactment), and every 180 days thereafter for the duration of the authorization, the Secretary shall submit a report described in subsection (b) to the appropriate congressional committees.

(b) REPORT WITH RESPECT TO FINANCIAL INSTITUTIONS’ IRAN-RELATED TRANSACTIONS AND DUE DILIGENCE.—A report described in this subsection is a report that contains—

(1) a list of financial institutions that, after January 16, 2016, have conducted transactions authorized by the Secretary in connection with the export or re-export of commercial passenger aircraft to Iran; and

(2) with respect to the transaction by a financial institution described in subsection (a), either—

(A) a certification that—

(i) the transaction does not pose a significant money laundering or terrorism financing risk to the United States financial system;
(ii) the transaction will not benefit an Iranian person that, since the date that is one year preceding the date of the certifi-
cation—

(I) has knowingly transported items used for the proliferation of weapons of mass destruction, including systems designed in whole or in part for the delivery of such weapons; or

(II) has knowingly provided transportation services or material support for, or on behalf of, any person designated under—

(aa) Executive Order 13224 (50 U.S.C. 1701 note; relating to blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism);

(bb) Executive Order 13382 (50 U.S.C. 1701 note; relating to blocking property of weapons of mass destruction delivery system
proliferators and their supporters); or

(cc) Executive Order 13572 (50 U.S.C. 1701 note; relating to blocking property of certain persons with respect to human rights abuses in Syria); and

(iii) any financial institution described in paragraph (1) has had since the date such authorization was made, or, if the authorization is no longer in effect, had for the duration of such authorization, appropriate policies, procedures, and processes in place to avoid engaging in sanctionable activities that may result from the financial institution’s exposure to Iran; or

(B) a statement that the Secretary is unable to make the certification described in subparagraph (A) and a notice that the Secretary will, not later than 60 days after the date the determination is submitted to the appropriate congressional committees, submit a report on non-certification described in subsection (e) to the appropriate congressional committees.
(c) REPORT ON NON-CERTIFICATION.—A report on non-certification described in this subsection is a report with respect to a transaction by a financial institution described in subsection (a) that contains—

(1) a detailed explanation for why the Secretary is unable to make the certification described under subsection (b)(2)(A) with respect to the transaction;

(2) a notification of whether the Secretary will—

(A) not amend the authorization of the transaction with respect to the financial institution, notwithstanding such non-certification;

(B) suspend the authorization until the Secretary is able to make such certification;

(C) revoke the authorization; or

(D) otherwise amend the authorization;

and

(3) an explanation of the reasons for any action to be taken described in paragraph (2).

(d) WAIVER.—The President may waive, on a case-by-case basis, the provisions of this section for up to one year at a time upon certifying to the appropriate congressional committees that—

(1) the Government of Iran has—
(A) made substantial progress towards combating money laundering and terrorism financing risk emanating from Iran; or

(B) significantly reduced Iran’s—

(i) destabilizing activities in the region; or

(ii) material support for terrorist groups; or

(2) such waiver is important to the national security interests of the United States, with an explanation of the reasons therefor.

(e) TERMINATION.—This section shall cease to be effective on the date that is 30 days after the date on which the President certifies to the appropriate congressional committees that—

(1)(A) the Secretary does not find, under section 5318A of title 31, United States Code, that reasonable grounds exist for concluding that Iran is a jurisdiction of primary money laundering concern; and

(B) Iran has ceased providing support for acts of international terrorism; or

(2) terminating the provisions of this section is vital to the national security interests of the United States, with an explanation of the reasons therefor.
(f) Definitions.—In this section:

(1) Appropriate congressional committees.—The term “appropriate congressional committees” means—

(A) the Committee on Financial Services and the Committee on Foreign Affairs of the House of Representatives; and

(B) the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate.

(2) Financial institution.—The term “financial institution” means a United States financial institution or a foreign financial institution.

(3) Foreign financial institution.—The term “foreign financial institution” has the meaning given that term in section 561.308 of title 31, Code of Federal Regulations.

(4) Knowingly.—The term “knowingly” with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

(5) Secretary.—The term “Secretary” means the Secretary of the Treasury.
(6) UNITED STATES FINANCIAL INSTITUTION.—

The term “United States financial institution” has the meaning given the term “U.S. financial institution” in section 561.309 of title 31, Code of Federal Regulations.