Summary of H.R. 2194, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010

H.R. 2194, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, would strengthen the underlying Iran Sanctions Act (ISA) by imposing an array of tough new economic penalties aimed at persuading Iran to change its conduct. Primary targets of the Act include companies selling refined petroleum and refining products to Iran, as well as international banks that do business with Iran's most notorious actors. In a mandatory new banking sanction, the Act takes aim specifically at businesses providing any financial services for the Islamic Revolutionary Guards Corps (IRGC), and other entities blacklisted by the U.S. Treasury Department.

The Conference text would augment the sanctions regime envisioned in the earlier versions of the Act passed by the House and the Senate by supplementing the energy sanctions in those versions with an additional, powerful set of prohibitions. Indeed, the Act would impose severe restrictions on foreign financial institutions doing business with key Iranian banks or the IRGC. In effect, the Act presents foreign banks doing business with blacklisted Iranian entities a stark choice— cease your activities or be denied critical access to America's financial system. The Act also would hold U.S. banks accountable for actions by their foreign subsidiaries. The Act reinforces and goes far beyond recently-enacted UN Sanctions.

In addition to new financial sector and refined petroleum-focused sanctions, the Act would also provide a legal framework by which U.S. states, local governments, and certain other investors can divest their portfolios of foreign companies involved in Iran's energy sector and establishes a mechanism to address concerns about diversion of sensitive technologies to Iran through other countries. Sanctions under this Act would terminate once the President certifies to Congress that Iran (1) has ceased its support for acts of international terrorism and no longer satisfies the requirements for designation as a state-sponsor of terrorism under U.S. law; and (2) has ceased its efforts to develop or acquire nuclear, biological, and chemical weapons and ballistic missiles and ballistic-missile launch technology.

H.R. 2194 contains four Titles: Title I (Sanctions), Title II (Divestment from Certain Companies That Invest in Iran); Title III (Prevention of Diversion of Certain Goods, Services, and Technologies to Iran; and Title IV (General Provisions).

Title I: Sanctions

This title would strengthen the U.S. sanctions regime by broadening the categories of transactions that trigger sanctions, by increasing the number of sanctions the President must impose on foreign companies whose activities trigger sanctions, by requiring the President to investigate reports of sanctionable activities and to determine whether sanctionable

activity has indeed occurred, and by imposing powerful new penalties on financial institutions that engage in transactions with the IRGC or with Iranian entities designated under the International Emergency Economic Powers Act (IEEPA).

The legislation also sanctions companies that sell Iran refined petroleum, support Iran's domestic refining efforts, or sell Iran goods, services, or know-how that assist it in developing its energy sector.

Title I would establish three sweeping new sanctions, in addition to the menu of six sanctions that already exists under ISA. The title would require the President to impose at least three of the possible now-nine sanctions on an entity in violation of ISA, in addition to other mandatory sanctions. These three new sanctions are, respectively, a prohibition on access to foreign exchange in the U.S., a prohibition on access to the U.S. banking system, and a prohibition on property transactions in the U.S. In addition, companies that engage in sanctionable activity are excluded from eligibility for U.S. government contracts. Finally, the Secretary of the Treasury is directed to prohibit U.S. banks from opening or maintaining correspondent accounts for foreign financial institutions that are facilitating transactions by the IRGC or by Iranian financial institutions designated under IEEPA for support of acquisition of weapons of mass destruction (WMD) or support of terrorism.

Other major measures in Title I include:

- A ban from eligibility for U.S. government procurement contracts of any company that exports to Iran technology used to restrict the free flow of information or to disrupt, monitor, or otherwise restrict freedom of speech.

- Codification of the U.S. trade embargo against Iran.

- Substantial increases in criminal penalties for sanctions violations, including an increase in fines from $10,000 to $1,000,000 and in jail time from 10 to 20 years.

- Strict new visa, property, and financial sanctions on Iranians the President determines to be complicit in serious human rights abuses against other Iranians on or after June 12, 2009 (the date of Iran's most recent Presidential election).

- An authorization for FY2011 appropriations of slightly more than $100 million each to the Secretary of the Treasury for the Office of Terrorism and Financial Intelligence; to the Secretary of the Treasury for the Financial Crimes Enforcement Network and to the Secretary of Commerce for the Bureau of Industry and Security, for the purpose of working to ensure that the international financial system is not used to support terrorism or develop WMD.

<u>Title II: Divestment from Certain Companies That Invest in Iran</u>

Title II clearly authorizes states and local governments to divest from firms conducting business operations in Iran's energy sector, consistent with the standards of the legislation.

It further states the sense of Congress that the United States should support the decisions of state and local governments to divest in this way. It also provides a `safe harbor' for changes of investment policies by private asset managers, and it expresses the sense of Congress that certain divestments, or avoidance of investment, do not constitute a breach of fiduciary duties under the Employee Retirement Income Security Act (ERISA). With regard to pre-emption, the legislation supports state and local efforts to divest from companies conducting business operations in Iran by clearly stating that these efforts are not pre-empted by any Federal law or regulation provided the rules follow certain procedural safeguards outlined in the bill, including notice requirements to affected firms.

Title III: Prevention of Diversion of United States-Origin Goods, Services, and Technologies to Iran

Title III is meant to disrupt international black-market proliferation networks that have reportedly thrived for years, even after the discovery and subsequent arrest of notorious weapons peddler A.Q. Khan. This provision requires the Director of National Intelligence to report to the President and Congress as to which governments he believes are allowing the re-export, trans-shipment, transfer, re-transfer, or diversion to Iranians of key goods, services, or technologies that could be used for WMD proliferation or acts of terrorism. Following receipt of that report, the President may designate a country a Destination of Diversion Concern. Such a designation would strengthen U.S. efforts to work with the host government of that country to help it bolster its export control system and laws. If the President determines that the government of that country is unresponsive or otherwise fails to strengthen its export control system so that substantial re-export, trans-shipment, transfer, re-transfer, or diversion of certain goods, services, or technologies continues, the President shall impose severe new restrictions outlined in the measure on U.S. exports to that country.

Title IV: General Provisions.

Title IV sets forth the sunset date of the legislation, along with waiver authorities for various provisions. The Act will terminate once the President certifies to Congress that Iran (1) has ceased its support for acts of international terrorism and no longer satisfies the requirements for designation as a state-sponsor of terrorism under U.S. law; and (2) has ceased its efforts to develop or acquire nuclear, biological, and chemical weapons and ballistic missiles and ballistic-missile launch technology. This title also authorizes such sums as may be necessary for the Secretary of State and for the Secretary of the Treasury to implement the provisions of Titles I and III of this Act. It also authorizes such sums as may be necessary for the Secretary of Commerce to carry out Title III.