

§ 8519. Reports on certain activities of foreign export credit agencies and of the Export-Import Bank of the United States

(a) Report on certain activities of export credit agencies of foreign countries

(1) In general

Not later than 90 days after July 1, 2010, the President shall submit to the appropriate congressional committees a report on any activity of an export credit agency of a foreign country that is an activity comparable to an activity described in subsection (a) or (b) of section 5 of the Iran Sanctions Act of 1996, as amended by section 102 of this Act.

(2) Updates

The President shall update the report required by paragraph (1) as new information becomes available with respect to the activities of export credit agencies of foreign countries.

(b) Report on certain financing by the Export-Import Bank of the United States

Not later than 30 days (or, in extraordinary circumstances, not later than 15 days) before the Export-Import Bank of the United States approves cofinancing (including loans, guarantees, other credits, insurance, and reinsurance) in which an export credit agency of a foreign country identified in the report required by subsection (a) will participate, the President shall submit to the appropriate congressional committees a report identifying—

- (1) the export credit agency of the foreign country; and
- (2) the beneficiaries of the financing.

(Pub. L. 111–195, title I, §111, July 1, 2010, 124 Stat. 1339.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

REFERENCES IN TEXT

Section 5 of the Iran Sanctions Act of 1996, as amended by section 102 of this Act, referred to in subsec. (a)(1), is section 5 of Pub. L. 104–172, as amended by section 102 of Pub. L. 111–195, which is set out as a note under section 1701 of Title 50, War and National Defense.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Memorandum of President of the United States, Sept. 23, 2010, 75 F.R. 67025, set out as a note under section 8501 of this title.

SUBCHAPTER II—DIVESTMENT FROM CERTAIN COMPANIES THAT INVEST IN IRAN

§ 8531. Definitions

In this subchapter:

(1) Energy sector of Iran

The term “energy sector of Iran” refers to activities to develop petroleum or natural gas resources or nuclear power in Iran.

(2) Financial institution

The term “financial institution” has the meaning given that term in section 14 of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note).

(3) Iran

The term “Iran” includes the Government of Iran and any agency or instrumentality of Iran.

(4) Person

The term “person” means—

(A) a natural person, corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;

(B) any governmental entity or instrumentality of a government, including a multilateral development institution (as defined in section 262r(c)(3) of this title); and

(C) any successor, subunit, parent entity, or subsidiary of, or any entity under common ownership or control with, any entity described in subparagraph (A) or (B).

(5) State

The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the United States Virgin Islands, and any other territory or possession of the United States.

(6) State or local government

The term “State or local government” includes—

(A) any State and any agency or instrumentality thereof;

(B) any local government within a State, and any agency or instrumentality thereof;

(C) any other governmental instrumentality of a State or locality; and

(D) any public institution of higher education within the meaning of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(Pub. L. 111–195, title II, §201, July 1, 2010, 124 Stat. 1341.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this title”, meaning Pub. L. 111–195, title II, July 1, 2010, 124 Stat. 1341, which enacted this subchapter, amended section 80a–13 of Title 15, Commerce and Trade, enacted provisions set out as notes under section 80a–13 of Title 15, and amended provisions set out as a note under section 1701 of Title 50, War and National Defense. For complete classification of title II to the Code, see Tables.

The Higher Education Act of 1965, referred to in par. (6)(D), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§1001 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

§ 8532. Authority of State and local governments to divest from certain companies that invest in Iran

(a) Sense of Congress

It is the sense of Congress that the United States should support the decision of any State or local government that for moral, prudential,

or reputational reasons divests from, or prohibits the investment of assets of the State or local government in, a person that engages in investment activities in the energy sector of Iran, as long as Iran is subject to economic sanctions imposed by the United States.

(b) Authority to divest

Notwithstanding any other provision of law, a State or local government may adopt and enforce measures that meet the requirements of subsection (d) to divest the assets of the State or local government from, or prohibit investment of the assets of the State or local government in, any person that the State or local government determines, using credible information available to the public, engages in investment activities in Iran described in subsection (c).

(c) Investment activities described

A person engages in investment activities in Iran described in this subsection if the person—

(1) has an investment of \$20,000,000 or more in the energy sector of Iran, including in a person that provides oil or liquified natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquified natural gas, for the energy sector of Iran; or

(2) is a financial institution that extends \$20,000,000 or more in credit to another person, for 45 days or more, if that person will use the credit for investment in the energy sector of Iran.

(d) Requirements

Any measure taken by a State or local government under subsection (b) shall meet the following requirements:

(1) Notice

The State or local government shall provide written notice to each person to which a measure is to be applied.

(2) Timing

The measure shall apply to a person not earlier than the date that is 90 days after the date on which written notice is provided to the person under paragraph (1).

(3) Opportunity for hearing

The State or local government shall provide an opportunity to comment in writing to each person to which a measure is to be applied. If the person demonstrates to the State or local government that the person does not engage in investment activities in Iran described in subsection (c), the measure shall not apply to the person.

(4) Sense of Congress on avoiding erroneous targeting

It is the sense of Congress that a State or local government should not adopt a measure under subsection (b) with respect to a person unless the State or local government has made every effort to avoid erroneously targeting the person and has verified that the person engages in investment activities in Iran described in subsection (c).

(e) Notice to Department of Justice

Not later than 30 days after adopting a measure pursuant to subsection (b), a State or local

government shall submit written notice to the Attorney General describing the measure.

(f) Nonpreemption

A measure of a State or local government authorized under subsection (b) or (i) is not preempted by any Federal law or regulation.

(g) Definitions

In this section:

(1) Assets

(A) In general

Except as provided in subparagraph (B), the term “assets” refers to public monies and includes any pension, retirement, annuity, or endowment fund, or similar instrument, that is controlled by a State or local government.

(B) Exception

The term “assets” does not include employee benefit plans covered by title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(2) Investment

The “investment” includes—

(A) a commitment or contribution of funds or property;

(B) a loan or other extension of credit; and

(C) the entry into or renewal of a contract for goods or services.

(h) Effective date

(1) In general

Except as provided in paragraph (2) or subsection (i), this section applies to measures adopted by a State or local government before, on, or after July 1, 2010.

(2) Notice requirements

Except as provided in subsection (i), subsections (d) and (e) apply to measures adopted by a State or local government on or after July 1, 2010.

(i) Authorization for prior enacted measures

(1) In general

Notwithstanding any other provision of this section or any other provision of law, a State or local government may enforce a measure (without regard to the requirements of subsection (d), except as provided in paragraph (2)) adopted by the State or local government before July 1, 2010, that provides for the divestment of assets of the State or local government from, or prohibits the investment of the assets of the State or local government in, any person that the State or local government determines, using credible information available to the public, engages in investment activities in Iran (determined without regard to subsection (c)) or other business activities in Iran that are identified in the measure.

(2) Application of notice requirements

A measure described in paragraph (1) shall be subject to the requirements of paragraphs (1) and (2) and the first sentence of paragraph (3) of subsection (d) on and after the date that is 2 years after July 1, 2010.

(j) Rule of construction

Nothing in this Act or any other provision of law authorizing sanctions with respect to Iran

shall be construed to abridge the authority of a State to issue and enforce rules governing the safety, soundness, and solvency of a financial institution subject to its jurisdiction or the business of insurance pursuant to the Act of March 9, 1945 (15 U.S.C. 1011 et seq.) (commonly known as the “McCarran-Ferguson Act”).

(Pub. L. 111-195, title II, §202, July 1, 2010, 124 Stat. 1342; Pub. L. 112-158, title II, §222(b), Aug. 10, 2012, 126 Stat. 1239.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in subsec. (g)(1)(B), is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829. Title I of the Act is classified generally to subchapter I (§1001 et seq.) of chapter 18 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

This Act, referred to in subsec. (j), is Pub. L. 111-195, July 1, 2010, 124 Stat. 1312, which enacted this chapter, amended sections 287c, 2778, and 2780 of this title, section 80a-13 of Title 15, Commerce and Trade, section 310 of Title 31, Money and Finance, and section 4315 of Title 50, War and National Defense, enacted provisions set out as notes under section 80a-13 of Title 15 and section 1701 of Title 50, and amended provisions set out as notes under section 1701 of Title 50. For complete classification of this Act to the Code, see Short Title note set out under section 8501 of this title and Tables.

Act of March 9, 1945, referred to in subsec. (j), is act Mar. 9, 1945, ch. 20, 59 Stat. 33, popularly known as the McCarran-Ferguson Act, which is classified generally to chapter 20 (§ 1011 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1011 of Title 15 and Tables.

AMENDMENTS

2012—Subsec. (j). Pub. L. 112-158 added subsec. (j).

SUBCHAPTER III—PREVENTION OF DIVERSION OF CERTAIN GOODS, SERVICES, AND TECHNOLOGIES TO IRAN

§ 8541. Definitions

In this subchapter:

(1) Allow

The term “allow”, with respect to the diversion through a country of goods, services, or technologies, means the government of the country knows or has reason to know that the territory of the country is being used for such diversion.

(2) Appropriate congressional committees

The term “appropriate congressional committees” means—

(A) the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives.

(3) Commerce Control List

The term “Commerce Control List” means the list maintained pursuant to part 774 of the

Export Administration Regulations (or any corresponding similar regulation or ruling).

(4) Divert; diversion

The terms “divert” and “diversion” refer to the transfer or release, directly or indirectly, of a good, service, or technology to an end-user or an intermediary that is not an authorized recipient of the good, service, or technology.

(5) End-user

The term “end-user”, with respect to a good, service, or technology, means the person that receives and ultimately uses the good, service, or technology.

(6) Export Administration Regulations

The term “Export Administration Regulations” means subchapter C of chapter VII of title 15, Code of Federal Regulations (or any corresponding similar regulation or ruling).

(7) Government

The term “government” includes any agency or instrumentality of a government.

(8) Intermediary

The term “intermediary” means a person that receives a good, service, or technology while the good, service, or technology is in transit to the end-user of the good, service, or technology.

(9) International Traffic in Arms Regulations

The term “International Traffic in Arms Regulations” means subchapter M of chapter I of title 22, Code of Federal Regulations (or any corresponding similar regulation or ruling).

(10) Iran

The term “Iran” includes the Government of Iran and any agency or instrumentality of Iran.

(11) Iranian end-user

The term “Iranian end-user” means an end-user that is the Government of Iran or a person in, or an agency or instrumentality of, Iran.

(12) Iranian intermediary

The term “Iranian intermediary” means an intermediary that is the Government of Iran or a person in, or an agency or instrumentality of, Iran.

(13) State sponsor of terrorism

The term “state sponsor of terrorism” means any country the government of which the Secretary of State has determined has repeatedly provided support for acts of international terrorism pursuant to—

(A) section 4605(j)(1)(A)¹ of title 50 (or any successor thereto);

(B) section 2780(d) of this title; or

(C) section 2371(a) of this title.

(14) United States Munitions List

The term “United States Munitions List” means the list maintained pursuant to part 121 of the International Traffic in Arms Regulations (or any corresponding similar regulation or ruling).

¹ See References in Text note below.