

(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.

Editorial Notes

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 per-

son 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).

(Pub. L. 111–195, title III, §301, July 1, 2010, 124 Stat. 1345.)

TERMINATION OF SECTION

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

Editorial Notes

REFERENCES IN TEXT

Section 4605(j)(1)(A) of title 50, referred to in par. (13)(A), was repealed by Pub. L. 115–232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232. Provisions similar to those in former section 4605(j)(1)(A) of title 50 can be found in section 4813(c)(1)(A)(i) of title 50, as enacted by Pub. L. 115–232.

§ 8542. Identification of countries of concern with respect to the diversion of certain goods, services, and technologies to or through Iran

(a) In general

Not later than 180 days after July 1, 2010, the Director of National Intelligence shall submit to the President, the Secretary of Defense, the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the appropriate congressional committees a report that identifies each country the government of which the Director believes, based on all information available to the Director, is allowing the diversion through the country of goods, services, or technologies described in subsection (b) to Iranian end-users or Iranian intermediaries.

(b) Goods, services, and technologies described

Goods, services, or technologies described in this subsection are goods, services, or technologies—

- (1) that—
 - (A) originated in the United States;
 - (B) would make a material contribution to Iran’s—
 - (i) development of nuclear, chemical, or biological weapons;

- (ii) ballistic missile or advanced conventional weapons capabilities; or
- (iii) support for international terrorism; and

(C) are—

- (i) items on the Commerce Control List or services related to those items; or
- (ii) defense articles or defense services on the United States Munitions List; or

- (2) that are prohibited for export to Iran under a resolution of the United Nations Security Council.

(c) Updates

The Director of National Intelligence shall update the report required by subsection (a)—

- (1) as new information becomes available; and
- (2) not less frequently than annually.

(d) Form

The report required by subsection (a) and the updates required by subsection (c) may be submitted in classified form.

(Pub. L. 111–195, title III, §302, July 1, 2010, 124 Stat. 1346.)

TERMINATION OF SECTION

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

§ 8543. Destinations of Diversion Concern

(a) Designation

(1) In general

The President shall designate a country as a Destination of Diversion Concern if the President determines that the government of the country allows substantial diversion of goods, services, or technologies described in section 8542(b) of this title through the country to Iranian end-users or Iranian intermediaries.

(2) Determination of substantial

For purposes of paragraph (1), the President shall determine whether the government of a country allows substantial diversion of goods, services, or technologies described in section 8542(b) of this title through the country to Iranian end-users or Iranian intermediaries based on criteria that include—

- (A) the volume of such goods, services, and technologies that are diverted through the country to such end-users or intermediaries;
- (B) the inadequacy of the export controls of the country;
- (C) the unwillingness or demonstrated inability of the government of the country to control the diversion of such goods, services, and technologies to such end-users or intermediaries; and
- (D) the unwillingness or inability of the government of the country to cooperate with the United States in efforts to interdict the diversion of such goods, services, or technologies to such end-users or intermediaries.

(b) Report on designation

Upon designating a country as a Destination of Diversion Concern under subsection (a), the President shall submit to the appropriate congressional committees a report—

¹ See References in Text note below.