House Panel Passes Iran Sanctions Bill, As Tougher Bills Emerge

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In the face of Obama administration efforts to engage Iran diplomatically over its nuclear weapons efforts, the House and Senate this week worked to strengthen sanctions targeted at Iran. In the House, a divestment bill passed the House Financial Services Committee while bipartisan members of the Foreign Affairs Committee introduced a tougher sanctions bill yesterday (April 30).

The House Financial Services Committee unanimously approved a bill on April 28 that would authorize states to divest from companies doing business with Iran without the threat of investor lawsuits that would claim such actions are unconstitutional under the Commerce Clause. That clause gives Congress the right to regulate foreign commerce. The bill would authorize divestment actions already taken by states retroactively without specifying a date for doing so.

The bill explicitly states that it is U.S. policy to support the decision of state and local governments and educational institutions to divest from, and to prohibit the investment of assets they control in, persons that have investments of more than $20 million in Iran's energy sector.

The Financial Services bill, H.R. 1327, also amends the Investment Company Act of 1940 to create a safe-harbor for private investment companies from civil, criminal, or administrative action based upon its divesting from, or avoiding investing in, securities issued by the firms doing business in Iran.

This protects fund managers who divest from the targeted firms for reasons other than maximizing shareholder value from being sued by their shareholders.

H.R. 1327, as approved, does not contain a provision opposed by business that was part of a similar Iran sanctions bill passed by the House last year. That bill would have required the government to compile a list of companies doing $20 million of business in Iran's energy sector. Given business opposition to this provision, Republicans on the committee fought to have the provision removed this year.

The House leadership wants to move the bill, sponsored by Committee Chairman Barney Frank (D-MA), under the suspension of rules in a matter of weeks, Frank announced at the markup.

House Foreign Affairs Committee Chairman Howard Berman (D-CA) introduced a broader Iran sanctions measure with Ranking Member Ileana Ros-Lehtinen (R-FL), Reps. Brad Sherman (D-CA), Mark Kirk (R-IL), and Middle East subcommittee chairman Rep. Gary Ackerman (D-NY). A companion bill was also introduced in the Senate this week.

Quick passage of Foreign Affairs and Senate companion bills appear unlikely. While the key Senate trade and foreign policy chairmen have remained silent on the Senate bill, Berman in announcing the bill said that he does not consider it a first option and supports Obama's diplomatic efforts.

"In fact I hope that Congress will never need to take any action on this legislation, for that would mean that Iran at last has complied with the repeatedly-expressed demand of the international community to verifiably suspend its uranium enrichment program and to end its pursuit of nuclear weapons once and for all," Berman said in a April 30 statement. No markup on the bill is scheduled.

Both the Senate and House bills would, among other things, expand sanctions to cover any firms that are involved in supplying refined petroleum to Iran, or help it build refineries. This is similar to a bill introduced in the Senate this week by 25 senators, but not the key chairmen who shepherded comprehensive Iran sanctions legislation through the Senate last year.

Both bills would sanction firms that supply Iran with refined petroleum, arrange its shipping, insure shipments or help Iran improve its refining capabilities. They also would require the president to report to Congress a list of such companies, in an effort to name and shame the firms.

The bills also add three new sanctions to the menu of possible sanctions under the Iran Sanctions Act. These would prohibit firms from making foreign exchange transactions, from making any banking transactions, or from making any transactions with firms subject to U.S. jurisdiction involving property of any kind. The property definition included imported goods but also applies to any other U.S. tangible assets.

Committee spokeswoman Lynne Weil pointed out that the House bill differs in key ways from the Senate measure. For one thing, the bill would make more automatic the investigations presidents are to undertake under existing law of firms doing business with Iran.

The current Iran Sanctions Act says "The President should initiate an investigation into the possible imposition of sanctions under section 5(a) against a person upon receipt by the United States of credible information indicating that such person is engaged in investment activity in Iran as described in such section," and requires a report 180 days after that. The Berman bill changes "should initiate" to "shall immediately initiate." U.S. administrations have only rarely completed such investigations in the past.

The current law allows the president to waive sanctions if doing so is "important to the national interest of the United States," and the bill limits this justification to "vital to the national security interest of the United States."

According to the American Israel Public Affairs Committee (AIPAC), which is pushing the bills, supplies of refined petroleum to Iran are dominated by two Swiss firms: Vitol and Trafigura while the remaining shipments come from India's Reliance, Shell, BP, France's Total and Swiss trader Glencore.

Companies providing insurance services to shipments of refined petroleum to Iran include Lloyd's of London, Munich Re of Germany, Steamship Mutual Underwriting Association and the North of England P & I Association of the UK, according to AIPAC.

Companies involved in expanding Iran's domestic refinery capacity, and subject to sanction under this legislation, include Universal Oil Products of the UK, Axens and Technip of France, Sinopec of China, Hyundai of South Korea and Aker Kvaerner Powergas of Norway.

Committee members had weighed whether the Iran bill should also target countries such as Malaysia and the United Arab Emirates (UAE) for transshipping dual-use items with tighter export controls, or whether that issue should be addressed in the context of the U.S.-UAE civil nuclear cooperation agreement, sources said.

House Foreign Affairs is still waiting for the Obama administration to submit the nuclear cooperation agreement with the UAE, signed by the Bush administration, to the committee for approval, and Berman and Ros-Lehtinen have raised the need for UAE to adopt stronger export controls in that context.

The Senate Iran Refined Petroleum Sanctions Act, introduced on April 28 span the ideological spectrum from liberals Sen. Barbara Boxer (D-CA) and Dianne Feinstein (D-CA) to conservatives James Inhofe (R-OK) and Sam Brownback (R-KS). The original sponsors of the bill are Sens. Joseph Lieberman (I-CT), Evan Bayh (D-IN) and Jon Kyl (R-AZ). The bill does not include as cosponsors Senate Banking Committee Chairman Chris Dodd (D-CT), Banking Committee

Ranking Member Richard Shelby (R-AL), Finance Committee Chairman Max Baucus (D-MT) and Finance Committee Ranking Member Charles Grassley (R-IA). Similarly, the chairman and ranking member of the Senate Foreign Relation Committee also did not cosponsor the new refined petroleum bill.

Lieberman said during the April 28 press conference that Dodd is generally supportive of the bill and confirmed that the bill will be referred to Banking. He also said that State Department Iran negotiator Dennis Ross had not objected to it when he had told him about it.

One business lobbyist said the White House and Senate chairmen do not want to jeopardize diplomacy with Iran at a time when the Obama administration is seeking to engage Iran diplomatically and are unlikely to move the bill anytime soon.

This source characterized the Senate bill as having more to do with domestic constituents than the Iran diplomatic effort. Supporters of Israel want to send the administration a message to take a hard line with Iran in order to effectively stop it from developing a nuclear bomb.

The White House has not come out in favor of any of the bills, but Obama had sponsored an Iran divestment measure when he was a senator similar to the one passed in the House Financial Services Committee.

The refined petroleum bill would preserve the discretion of the president not to apply sanctions if not doing so is in the national interest, in accordance with existing law.

Existing U.S. law already allows the president to choose from a menu of sanctions including prohibitions on procurement contracts, Export-Import bank loans, any export licenses for military, dual-use or nuclear goods; prohibiting any loans exceeding $10 million to the firm from a U.S. institution; prohibiting a firm to act as a depository for U.S. funds or from acting as a primary dealer of U.S. debt. It also allows the president to bar imports from the targeted firm.