

Senator Mark Kirk

May 3, 2011

Questions for the Record to David Cohen

Nominee for Under Secretary of Treasury for Terrorism and Financial Intelligence

Background: On March 28, 2011, Senator Kyl, Senator Lieberman and I sent a letter to Secretary Geithner along with a classified annex detailing specific concerns about sanctionable activities involving energy investments in Iran, the provision of refined petroleum to Iran, financial relationships with Iran, as well as the regime's proliferation activities. To date, we have not received any specific responses to each individual activity detailed in our annex.

Question: While I appreciate your recent unclassified response, when will the Treasury Department be providing written classified responses to each sanctionable activity outlined in our March 28th letter?

Question: Why have no banks been sanctioned under the Comprehensive Iran Sanctions and Divestment Act (CISADA)? Is it your contention that no foreign, non-Iranian bank has engaged in sanctionable activity pursuant to Section 104 of CISADA?

Question: Are you currently investigating foreign banks for possible violation of CISADA and do you expect determinations to be made soon?

Background: Last week, the Financial Crimes Enforcement Network (FinCEN) issued a proposed rule to implement key requirements of the Comprehensive Iran Sanctions Accountability and Divestment Act (CISADA). Under the proposal, U.S. banks would be required to inquire of their foreign correspondent banks whether they maintain correspondent relations with Iranian banks under U.S. sanctions – but only when specifically asked to do so by the Treasury Department. Under such circumstances, the U.S. bank would also be required to ask whether that foreign bank has processed transfers of funds on behalf of the IRGC in the past

90 days. At the end of this process, U.S. banks would then be required to report this information back to FinCEN.

Question: Why under the proposed rule are U.S. banks that maintain foreign correspondent accounts only required to provide FinCEN with information about foreign partners when the Treasury Department makes an inquiry?

Question: Do you or do you not believe U.S. banks that maintain foreign correspondent accounts be required to ensure their foreign partners are not conducting business with prohibited entities in Iran at all times?

Question: Do you or do you not believe U.S. banks should be required to provide such information to the Treasury Department as soon as they are aware of it to enable swift and appropriate enforcement action?

Question: Your proposed regulation refers to the invocation of the reporting requirement “as necessary.” Could you please explain why FinCEN has made optional a requirement mandated by CISADA and can you describe a situation when this requirement would not be necessary?

Question: The proposed rule requires banks to report whether the foreign bank has correspondent relations with sanctioned Iran bank or has processed fund transfers on behalf of the IRGC in the past 90 days. But under CISADA, the reporting requirement also includes transactions with any entity under U.N. sanction that has assisted Iran’s proliferation activity. Why is the reporting requirement under the proposed rule limited to only part of the requirement outlined by the statute?

Background: In a 2010 report entitled *Iran’s Dirty Banking* and sourced to Bankers’ Almanac, Mr. Avi Jorisch detailed a list of 44 international banks providing services to Iranian-linked banks designated by the Treasury Department under Executive Order 13382. The report also listed 18 U.S. banks conducting business with international banks that service designated Iranian banks in possible violation of Section 104 of the Comprehensive Iran Sanctions and Divestment Act.

Question: Which of the following international financial institutions ceased all of its business dealings, including but not limited to providing correspondent banking services, with Iranian-linked banks designated under Executive Order 13382?

- Ameriabank CJSC (Armenia)
- Raiffeisen Zentralbank Österreich AG (Austria)
- UniCredit Bank Austria AG (Austria)
- Alubaf Arab International Bank BSC (Bahrain)
- Future Bank BSC (Bahrain)
- Sonali Bank Limited (Bangladesh)
- Fortis Bank SA/NV (Belgium)
- Danske Bank A/S (Denmark)
- Société Générale (France)
- BHF-BANK Aktiengesellschaft (Germany)
- Commerzbank AG (Germany)
- Deutsche Bank AG (Germany)
- Landesbank Baden-Württemberg (Germany)
- UniCredit Bank AG(Germany)
- ING NV (Holland)
- Habib Bank Limited (India)
- State Bank of India (India)
- United Bank Ltd (India)
- Bank of the Middle East Iraqi Investment (Iraq)

- Trade Bank of Iraq (Iraq)
- Intesa Sanpaolo SpA (Italy)
- Mizuho Corporate Bank Ltd (Japan)
- Sumitomo Mitsui Banking Corporation (Japan)
- The Bank of Tokyo-Mitsubishi UFJ Ltd (Japan)
- DnB NOR Bank ASA (Norway)
- Nordea Bank Norge ASA (Norway)
- BankMuscat SAOG (Oman)
- Qatar National Bank SAQ (Qatar)
- VTB Bank (Russia)
- Riyad Bank (Saudi Arabia)
- Aresbank SA (Spain)
- Banco Santander SA (Spain)
- Banque Marocaine du Commerce Exterieur International SA (Spain)
- Bank of Ceylon (Sri Lanka)
- Nordea Bank AB (Sweden)
- Skandinaviska Enskilda Banken AB (Sweden)
- Svenska Handelsbanken AB (Sweden)
- Banque de Commerce et de Placements SA (Switzerland)
- United Bank AG (Switzerland)
- Zürcher Kantonalbank (Switzerland)
- Türkiye Halk Bankasi AS (Turkey)
- TÜRKİYE İS BANKASI AS (Turkey)

- Dubai Islamic Bank PJSC
- Emirates NBD Bank PJSC

Question: Are there any other financial institutions not on the list provided in the previous question that are currently doing business, including but not limited to providing correspondent banking services, with Iranian-linked banks designated under Executive Order 13382?

Question: What is the current status of your investigations into each of the following U.S. financial institutions that may be in violation of Section 104 of CISADA?

- Bank of America NA
- The Bank of New York Mellon
- The Bank of Tokyo-Mitsubishi UFJ Ltd
- Citibank
- Commerzbank AG
- Credit Suisse AG
- Deutsche Bank Trust Company Americas
- Habib American Bank
- HSBC Bank USA NA
- Intesa Sanpaolo SpA
- JPMorgan Chase Bank NA
- MashreqBank PSC
- Mizuho Corporate Bank USA
- Société Générale

- Standard Chartered Bank
- State Bank of India
- Sumitomo Mitsui Banking Corporation
- Wells Fargo Bank NA

Background: As you know, the Central Bank of Iran (CBI) facilitates Iran's illicit financial activities. According to a banking advisory issued by FinCEN on March 28, 2008 (and updated on June 22, 2010), the CBI is listed as an Iranian bank that is engaged in "illicit and deceptive activity." Banks have been warned to exercise extreme caution in dealing with virtually every Iranian-linked financial institution, including the CBI. As the U.S. and some of our allies have sanctioned individual Iranian banks, Iran's Central Bank has reportedly taken over many of the illicit activities of the sanctioned entities.

Question: Do you believe the Central Bank of Iran is supporting Iran's proliferation activities or facilitating the activity of entities under U.S. or UN sanction? If so, why hasn't the U.S. designated the Central Bank of Iran?

Background: In September, the Treasury Department sanctioned the Iranian-owned bank EIH, incorporated in Germany, for providing financial services to Iranian weapons proliferators and facilitating transactions on behalf of other sanctioned Iranian banks. Secretary Cohen, in your testimony to the Finance Committee last month, you said the U.S. is "working quite, quite aggressively to try and shut down the Iranians' ability to use that financial institution [EIH]."

Question: Can you please be more specific -- what steps are you taking to shut down Iran's ability to use EIH?

Question: What steps will you be taking to stop foreign banks that continue to work with EIH despite Treasury's designation?

Question: Why has the Treasury Department not taken action against foreign banks that continue work with EIH as required by CISADA?

Background: In July 2010, Germany designated its affiliate of the Turkish group IHH as a terrorist organization due to its close ties to Hamas. Last week, the Dutch government also designated its IHH affiliate as a terrorist group and froze its assets. I understand the Israeli Government has provided the Treasury Department extensive evidence detailing the IHH's ties to Hamas, a U.S.-designated foreign terrorist organization, and the "Union of the Good," which was designated by the Treasury Department under Executive Order 13324 in November 2008 and referred to by the Department as "an organization created by Hamas leadership to transfer funds to the terrorist organization." As you know, Hamas is responsible for the murders of at least 26 American citizens.

Question: Why are you delaying designation of the IHH as a terrorist entity despite evidence demonstrating the group's ties to the Hamas terrorist organization and the Union of the Good terrorist entity?