

SWIFT SANCTIONS: FREQUENTLY ASKED QUESTIONS

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In 2012, Congress adopted legislation authorizing the president to impose sanctions on persons that provide financial messaging services to the Central Bank of Iran (CBI) or any other designated Iranian financial institution.¹ This legislation led to the disconnection of the CBI and other Iranian banks from the Society for Worldwide Interbank Financial Telecommunication (SWIFT) financial messaging service – widely seen as one of the most powerful sanctions imposed on Iran prior to the 2015 nuclear deal formally known as the Joint Comprehensive Plan of Action (JCPOA).² Iranian banks, however, were reconnected to SWIFT pursuant to the sanctions relief provided under the JCPOA.³

On May 8, 2018, following President Trump's announced withdrawal from the Iran nuclear deal, the Department of the Treasury warned that sanctions would be imposed on "specialized financial messaging services" like SWIFT unless they disconnected the CBI and all other re-designated Iranian banks by November 4, 2018.⁴ As that deadline approaches, European diplomats desperate to save the JCPOA and undermine the Trump administration's maximum pressure campaign are reportedly stepping up their efforts to deter the Treasury Department from acting.⁵

This document is designed to help U.S. policymakers respond to frequently asked questions regarding SWIFT sanctions.

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1. Iran Threat Reduction and Syria Human Rights Act of 2012, Pub. L. 112-158, 126 Stat. 1214, codified as amended at 112 U.S.C. (<https://www.congress.gov/112/plaws/publ158/PLAW-112publ158.pdf>)

2. Rachele Younglai and Roberta Rampton, "U.S. pushes EU, SWIFT to eject Iran banks," *Reuters*, February 15, 2012. (<https://www.reuters.com/article/us-iran-usa-swift-idUSTRE81F00I20120216>); Rick Gladstone and Stephen Castle, "Global Network Expels as Many as 30 of Iran's Banks in Move to Isolate Its Economy," *The New York Times*, March 15, 2012. (<https://www.nytimes.com/2012/03/16/world/middleeast/crucial-communication-network-expelling-iranian-banks.html>)

3. Joint Comprehensive Plan of Action, Vienna, July 14, 2015, Annex II. (<https://www.state.gov/documents/organization/245320.pdf>)

4. U.S. Department of the Treasury, "Frequently Asked Questions Regarding the Re-Imposition of Sanctions Pursuant to the May 8, 2018 National Security Presidential Memorandum Relating to the Joint Comprehensive Plan of Action (JCPOA)," August 6, 2018, page 3. (https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa_winddown_faqs.pdf)

5. Katrina Manson, "Europe steps up drive to exempt Swift from Iran sanctions," *Financial Times* (UK), October 9, 2018. (<https://www.ft.com/content/1db52c7a-ca27-11e8-b276-b9069bde0956>)

1. Can a maximum pressure campaign on Iran succeed if designated Iranian financial institutions remain connected to SWIFT after November 4, 2018?

Failure to disconnect Iran from SWIFT will create major leakage in U.S. sanctions. The Obama and Trump Treasury Departments have emphasized that the entire country of Iran is a jurisdiction of primary money laundering concern pursuant to the USA PATRIOT Act.⁶ The Islamic Republic will use whatever channels remain connected to the global financial system to continue its terror financing, money laundering, and illicit activities. Keeping Iran connected to SWIFT will also endanger the broader sanctions regime, including energy sanctions. European plans to use central banks or “special purpose vehicles” (SPVs) to process transactions with Iran rely heavily on SWIFT.

2. How significant was SWIFT’s sanctions pressure on Iran prior to the JCPOA?

Economic analysis of the pre-JCPOA sanctions regime and reports from the time are conclusive that disconnecting Iran from SWIFT was a crippling step that endangered Iran’s economy. In 2012, a European official told the *New York Times*, “It is a very efficient measure ... It can seriously cripple the banking sector in Iran.”⁷ Former Secretary of State Hillary Clinton called it “a very effective way of further isolating Iran and the Iranian flow of financial transactions.”⁸ Former Treasury Secretary Tim Geithner said the combined impact of SWIFT and oil sanctions was “very, very significant” because it became “much, much harder for countries to pay for their oil from Iran and to pay for other financial activity with Iran.”⁹ An international economics professor at the International Institute of Social Studies wrote that SWIFT sanctions on Iran made it “significantly harder to process international payments, while simultaneously constraining other bilateral economic flows.”¹⁰ A researcher at the Hague Institute for Global Justice wrote that “the exclusion of Iran from the global financial system and SWIFT ... forced Iranian companies to use the old system of hawala (money transfer), causing any transaction to become longer and more expensive.”¹¹

3. Would sanctions on SWIFT damage America’s ability to monitor illicit financing because SWIFT would scale back cooperation?

The Obama Treasury Department issued such warnings in January 2012 as part of a campaign to deter U.S. Senators from adopting sanctions on SWIFT in a Senate Banking Committee amendment. The Senators dismissed the argument, threatened sanctions on SWIFT, and forced SWIFT to disconnect the Central Bank of Iran and

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6. U.S. Department of the Treasury, “311 Special Measures,” accessed October 9, 2018. (<https://www.fincen.gov/resources/statutes-and-regulations/311-special-measures>)

7. Quoted in: Rick Gladstone and Stephen Castle, “Global Network Expels as Many as 30 of Iran’s Banks in Move to Isolate Its Economy,” *The New York Times*, March 15, 2012. (<https://www.nytimes.com/2012/03/16/world/middleeast/crucial-communication-network-expelling-iranian-banks.html>)

8. Secretary of State Hillary Clinton, “Budget Hearing for the Department of State and USAID,” *Hearing before the House Appropriations Subcommittee on State, Foreign Operations, and Related Programs*, February 29, 2012. (<https://www.c-span.org/video/?304614-1/state-department-fiscal-year-2013-budget&start=3699>)

9. Secretary of the Treasury Timothy Geithner, “Hearing to Receive the Annual Testimony of the Secretary of the Treasury on the State of the International Financial System,” *Hearing before the House Committee on Financial Services*, March 20, 2012. (<https://www.gpo.gov/fdsys/pkg/CHRG-112hhrg75080/html/CHRG-112hhrg75080.htm>)

10. Peter A.G. van Bergeijk, “Sanctions against Iran - A preliminary economic assessment,” *Institute for Security Studies*, January 1, 2015. (<https://repub.eur.nl/pub/79415/>)

11. Agnese Macaluso, “The Apparent Success of Iran Sanctions,” *The Hague Institute for Global Justice*, August 2014. (<http://legacy.thehagueinstituteforglobaljustice.org/cp/uploads/publications/Working-Paper-2-Iran-Sanctions.pdf>)

designated Iranian banks.¹² SWIFT did not scale back cooperation; all counterterrorism cooperation with SWIFT continued. Cooperation will continue this time, too, pursuant to the signed “Agreement between the United States and European Union on the Processing and Transfer of Financial Messaging Data from the European Union to the United States for the Purpose of the Terrorist Finance Tracking Program.”¹³ The EU would be endangering its own citizens if it scaled back intelligence sharing, something German Chancellor Angela Merkel recently acknowledged when she threw cold water on a proposal to establish a SWIFT alternative to evade U.S. sanctions.¹⁴

4. Would sanctions on SWIFT propel Europe to work with China and Russia to establish a SWIFT alternative where the U.S. has no transparency into terror finance, let alone Iranian sanctions evasion?

Treasury also advanced this argument in 2012 as part of a campaign against sanctions on SWIFT.¹⁵ After Senators voted to pressure SWIFT, no credible alternative to SWIFT was ever established. It was not established because there is no such credible alternative. No legitimate bank is going to use an alternative service that is soaked in terror financing and has no access to the U.S. financial system. German Chancellor Angela Merkel also noted that the security benefits of maintaining the SWIFT system far outweigh any desire to retaliate against the U.S. for leaving the JCPOA.¹⁶

5. Since America’s financial system depends on SWIFT, would sanctions on SWIFT endanger the U.S. financial system as well?

The SWIFT board of directors are individuals representing shareholder banks. Section 220 of the Iran Threat Reduction and Syria Human Rights Act is intentionally broad in authorizing the president to impose sanctions on financial messaging services like SWIFT.¹⁷ The law allows the Treasury Department to impose financial sanctions on the banks represented on the board or on SWIFT officials, rather than targeting the cooperative itself. SWIFT operations would not be interrupted.

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12. See: Richard Goldberg, “If the U.S. Reimposes Sanctions on Iran, Allies Will Follow,” *Foreign Policy*, October 2, 2017. (<https://foreignpolicy.com/2017/10/02/if-the-u-s-reimposes-sanctions-on-iran-allies-will-get-in-line/>)

13. Agreement Between the United States of America and the European Union on the Processing and Transfer of Financial Messaging Data From the European Union to the United States for the Purposes of the Terrorist Finance Tracking Program, October 31, 2010. (<https://www.treasury.gov/resource-center/terrorist-illicit-finance/Terrorist-Finance-Tracking/Documents/Final-TFTP-Agreement-Signed.pdf>)

14. Madeline Chambers and Joseph Nasr, “Merkel cool on EU independent payment system to save Iran deal,” *Reuters*, August 22, 2018. (<https://uk.reuters.com/article/us-iran-nuclear-germany-merkel/merkel-cool-on-eu-independent-payment-system-to-save-iran-deal-idUKKCN1L71B4>)

15. See: Richard Goldberg, “If the U.S. Reimposes Sanctions on Iran, Allies Will Follow,” *Foreign Policy*, October 2, 2017. (<https://foreignpolicy.com/2017/10/02/if-the-u-s-reimposes-sanctions-on-iran-allies-will-get-in-line/>)

16. Madeline Chambers and Joseph Nasr, “Merkel cool on EU independent payment system to save Iran deal,” *Reuters*, August 22, 2018. (<https://uk.reuters.com/article/us-iran-nuclear-germany-merkel/merkel-cool-on-eu-independent-payment-system-to-save-iran-deal-idUKKCN1L71B4>)

17. Iran Threat Reduction and Syria Human Rights Act of 2012, Pub. L. 112-158, 126 Stat. 1214, codified as amended “at 112 U.S.C. §220. (<https://www.congress.gov/112/plaws/publ158/PLAW-112publ158.pdf>)

6. Unlike in 2012, the European Union now opposes U.S. sanctions on Iran, including those targeting SWIFT. How can SWIFT disconnect Iranian banks without an EU regulation ordering it do so?

In 2012, SWIFT looked to the European Union for political cover to disconnect Iranian banks but that was unnecessary. According to its Corporate Rules, “SWIFT reserves the right ... to terminate the status of a SWIFT user in the event that ... a SWIFT user demonstrates a conduct which is not in line with generally accepted business conduct principles.”¹⁸ Undoubtedly, financing terrorism and proliferation demonstrate “conduct which is not in line with generally accepted business conduct principles.” By SWIFT’s own Corporate Rules, it has the right to suspend access for all designated Iranian banks.

7. Is there precedent for SWIFT disconnecting a country’s banks without a European Union order?

Yes. In March 2017, SWIFT announced that it would disconnect all remaining North Korean banks from its system. At the time, the banks were not subject to European Union sanctions and a European Commission spokesperson said, “This is a commercial matter for SWIFT. We do not interfere in the business decisions of any such company.”¹⁹

8. Is there a concern that U.S. policymakers could overuse the threat of SWIFT sanctions?

Yes. SWIFT is a unique system. It is overseen by the central banks of the G-10 countries. Threatening to expel a country’s banks from SWIFT is one of the most serious financial sanctions possible. While threats posed by Iran and North Korea may rise to a threshold meriting expulsion from SWIFT as a tool to protect American and indeed global security, policymakers should be hesitant to use this tool as a response to fluid geopolitical crises.

KEY QUOTES ON SWIFT SANCTIONS: 2012-2018

“We believe that using the SWIFT system is a very effective way of further isolating Iran and the Iranian flow of financial transactions.” – **Hillary Clinton**, then-Secretary of State, February 29, 2012.²⁰

“...it is a very important system because it is part of almost every international money transfer that occurs. So it could be a real problem for Iranian financial markets or financial institutions if they were banned from using [SWIFT], yes.” – **Ben Bernanke**, then-Federal Reserve Chairman, February 29, 2012.²¹

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18. Society for Worldwide Interbank Financial Telecommunication, “3.2 Compliance with Eligibility Criteria and Conditions for Admission as SWIFT User,” *Corporate Rules*, January 12, 2018, pages 17-18. (https://www2.swift.com/knowledgecentre/rest/v1/publications/s_corp_r/_published/s_corp_r.pdf?logDownload=true)

19. Tom Bergin, “SWIFT messaging system cuts off remaining North Korean banks,” *Reuters*, March 16, 2017. (<https://www.reuters.com/article/us-northkorea-banks/swift-messaging-system-cuts-off-remaining-north-korean-banks-idUSKBN16N2SZ>)

20. Secretary of State Hillary Clinton, “Budget Hearing for the Department of State and USAID,” *Hearing before the House Appropriations Subcommittee on State, Foreign Operations, and Related Programs*, February 29, 2012. (<https://www.c-span.org/video/?304614-1/state-department-fiscal-year-2013-budget&start=3699>)

21. Federal Reserve Chairman Ben Bernanke, “Monetary Policy and the State of the Economy,” *Hearing before the House Committee on Financial Services*, February 29, 2012. (<https://www.gpo.gov/fdsys/pkg/CHRG-112hhr75075/html/CHRG-112hhr75075.htm>)

“The combined effect of these latest sanctions, both to discourage countries from buying Iranian oil, or to encourage them to cut back significantly, and to make it much, much harder for countries to pay for their oil from Iran and to pay for other financial activity with Iran, the combined impact of those sanctions is very, very substantial.” – **Tim Geithner**, then-Secretary of Treasury, March 20, 2012.²²

“I think we do have to say a thank you to the European Union for the enormous action they have taken to intensify and follow the lead of the United States, but also what they were able to do with the SWIFT procedure that’s used to deal with financial banking has helped enormously as well.” – **Wendy Sherman**, then-Under Secretary of State, May 15, 2013.²³

“There’s a long list of sanctions, but another big element is Iran has basically been kicked out of the, what’s called the, SWIFT system, which is how you transfer money electronically. Literally ... if Iran earns money overseas, it almost has to bring the cash back in suitcases. That’s what it’s come to. So it’s really hurting Iran.” – **Tom Gjelten**, NPR, November 22, 2013.²⁴

“[O]ur banking sanctions ... have largely cut off the Iranian banking sector from the international financial system.” – **David Cohen**, then-Under Secretary of the Treasury, April 4, 2014.²⁵

“Many credit the Treasury’s assault on Iran’s financial system for its recent willingness to slow the development of its nuclear program in exchange for relief from sanctions. In particular, Iran was blocked in 2012 from the Swift network for international inter-bank payments after pressure was put on the institution by the EU and U.S. The effect of this and other measures was immediate. After inflation shot up, some estimate that in real terms private pay dropped by 35 to 40 percent. GDP fell 5.8 percent in 2012.” – **Mark Malloch Brown**, former UN Deputy Secretary General, and **Harry Gibson**, economist, December 22, 2014.²⁶

“Without SWIFT, there was nowhere to spend [the sanctions relief]. The Iranians have been complaining to us throughout the JPOA process that sanctions relief means little without the ability to bank.” – **U.S. government official**, April 2015.²⁷

“The SWIFT sanctions are more important at this point than any other type of sanctions because it affects all manner of industry and agriculture.” – **Djavad Salehi-Isfahani**, Iranian economist, April 6, 2015.²⁸

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22. Secretary of the Treasury Timothy Geithner, “Hearing to Receive the Annual Testimony of the Secretary of the Treasury on the State of the International Financial System,” *Hearing before the House Committee on Financial Services*, March 20, 2012. (<https://www.gpo.gov/fdsys/pkg/CHRG-112hhrg75080/html/CHRG-112hhrg75080.htm>)

23. Under Secretary of State Wendy Sherman, “U.S. Policy Toward Iran,” *Hearing before the Senate Committee on Foreign Relations*, May 15, 2013. (<https://www.foreign.senate.gov/hearings/us-policy-toward-iran>)

24. “Do Sanctions Really Work?” *NPR*, November 22, 2013. (<https://www.npr.org/templates/story/story.php?storyId=246733368>)

25. Under Secretary of the Treasury David Cohen, “Negotiations on Iran’s Nuclear Program,” *Hearing before the Senate Committee on Foreign Relations*, February 4, 2014. (https://www.foreign.senate.gov/imo/media/doc/020414_Transcript_Negotiations%20on%20Iran's%20Nuclear%20Program.pdf)

26. Mark Malloch Brown and Harry Gibson, “Do Sanctions Work?” *Newsweek*, December 22, 2014. (<https://www.newsweek.com/do-sanctions-work-293957>)

27. Quoted in: Jonathan Schanzer and Mark Dubowitz, “It Just Got Easier for Iran to Fund Terrorism,” *Foreign Policy*, July 17, 2015. (<https://foreignpolicy.com/2015/07/17/it-just-got-easier-for-iran-to-fund-terrorism-swift-bank/>)

28. Quoted in: Tom DiChristopher, “Iran nuclear deal: These industries could get a boost,” *CNBC*, April 6, 2015. (<https://www.cnbc.com/2015/04/06/iran-nuclear-deal-these-industries-could-get-a-boost.html>)

“With Iran re-connected to SWIFT, it will be poised to more easily move funds to terrorists’ coffers, foment conflict around the region, and possibly even procure equipment for a clandestine weapons program, should it choose to violate the nuclear deal.” – **Jonathan Schanzer and Mark Dubowitz**, Foundation for Defense of Democracies, July 17, 2015.²⁹

“One of the concerns we have had is the Administration did say when Congress put tougher sanctions in, moved forward particularly on the SWIFT notions, using the SWIFT system, there was great reluctance from the Administration about us taking that step. I think in retrospect taking that step was important and effective and helped tighten down the sanctions.” – **Senator Mark Warner (D-VA)**, August 5, 2015.³⁰

“In light of the risks of doing business with Iran, the reintegration of Iranian banks into the global financial system, including via the SWIFT bank messaging system, presents perhaps the most concerning issue.” – **Juan Zarate**, former Deputy National Security Advisor and Chairman of the Financial Integrity Network, May 24, 2016.³¹

“How can this enterprise justify facilitating the evil escapades of the world’s leading state sponsor of terror?” – **John Bolton**, National Security Advisor and former Ambassador to the United Nations, September 25, 2018.³²

“European governments might just be able to keep the Iran deal ... on life support for a time. They plan to do this both through the SWIFT international banking system ... Losing access to SWIFT again would severely hamstring Iran’s ability to trade.” – **Michael Hirsh**, *Foreign Policy*, September 25, 2018.³³

“Treasury — which has so far performed effectively in many other areas of sanctions enforcement — would risk undermining its own credibility if it established a different standard of compliance for SWIFT.” – **Richard Goldberg**, former National Security Advisor for U.S. Senator Mark Kirk, Foundation for Defense of Democracies, September 26, 2018.³⁴

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29. Jonathan Schanzer and Mark Dubowitz, “It Just Got Easier for Iran to Fund Terrorism,” *Foreign Policy*, July 17, 2015. (<https://foreignpolicy.com/2015/07/17/it-just-got-easier-for-iran-to-fund-terrorism-swift-bank/>)

30. Senator Mark Warner (D-VA), “The Implications of Sanctions Relief Under the Iran Agreement,” *Hearing before the Senate Committee on Banking, Housing, and Urban Affairs*, August 5, 2015. (<https://www.gpo.gov/fdsys/pkg/CHRG-114shrg97883/pdf/CHRG-114shrg97883.pdf>)

31. Juan Zarate, “Understanding the Role of Sanctions Under the Iran Deal,” *Hearing before the Senate Committee on Banking, Housing, and Urban Affairs*, May 24, 2016. (<https://www.gpo.gov/fdsys/pkg/CHRG-114shrg22429/pdf/CHRG-114shrg22429.pdf>)

32. Quoted in: Gardiner Harris, “Bolton Warns of ‘Terrible Consequences’ for Those Doing Business with Iran,” *The New York Times*, September 25, 2018. (<https://www.nytimes.com/2018/09/25/world/middleeast/bolton-threatens-business-iran.html>)

33. Michael Hirsh, “Is the Iran Deal Finally Dead?” *Foreign Policy*, September 25, 2018. (<https://foreignpolicy.com/2018/09/25/iran-nuclear-deal-last-stand/>)

34. Richard Goldberg, “What Trump must do to stop Europe from end-running his Iran sanctions,” *New York Post*, September 26, 2018. (<https://nypost.com/2018/09/26/what-trump-must-do-to-stop-europe-from-end-running-his-iran-sanctions/>)