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October 4, 2013

The Honorable Jacob J. Lew  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, DC 20220

Dear Mr. Secretary:

I am writing to obtain information regarding the Department of the Treasury's enforcement of Iran sanctions during the current budget-driven closure of some government functions. Recent Department decisions threaten to severely undermine the effectiveness of our bipartisan and essential Iran sanctions policy.

On September 27<sup>th</sup>, the Department of the Treasury provided assurances to the public that, in the unfortunate case of a "lapse in appropriations," it would "continue to provide certain critical functions." Among them, the "Terrorism and Financial Intelligence (TFI) office would continue collection, analysis and reporting of intelligence as well as the administration of the Specially Designated Nationals (SDN) list."

However, earlier this week, the Department notified the media that "Treasury's Office of Foreign Asset Control (OFAC), which implements the U.S. Government's financial sanctions, has had to furlough nearly all of its staff due to the lapse in Congressional funding" and "is unable to sustain its core functions." According to that press guidance, the "massively reduced staffing" for TFI offices undermines "efforts to combat money laundering and illicit finance, protect the integrity of the U.S. financial system, and disrupt the financial underpinnings of our adversaries."

As you are surely aware, the Administration's own legal guidance states that, even if appropriations are absent, certain Departmental functions and activities may continue, including those that "address emergency circumstances, such that the suspension of the function would imminently threaten the safety of human life or the protection of property," or those that are "necessary to the discharge of the President's constitutional duties and powers (e.g.,

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Commander-in-Chief or conducting foreign relations).”<sup>1</sup> For over three decades, that discretion has been interpreted as encompassing activities that “provide for the national security, including the conduct of foreign relations essential to the national security,” “law enforcement and criminal investigations,” and “activities essential to the preservation of the essential elements of the money and banking system of the United States.”<sup>2</sup>

The Iran sanctions regime has been developed in response to a “national emergency” as determined by the President. This national emergency was most recently renewed by the President on March 12, 2013. As noted in the President’s official Message to Congress, the maintenance of “comprehensive sanctions against Iran” is necessary to address the “unusual and extraordinary threat to the national security, foreign policy, and economy of the United States” posed by Iran. I could not agree more that Iran’s drive toward a nuclear weapon is a grave threat to our country.

Needless to say, these recent staffing decisions leave me puzzled. I respectfully ask that you reconsider these ill-advised staffing decisions that undermine support for vigorous Iran sanctions and other critical national security efforts while providing me with the following information to better assess Department operations:

- The criteria used to determine which employees have been designated “essential” in TFI offices (including OFAC, the Office of Terrorist Financing and Financial Crimes, the Office of Intelligence and Analysis, and the Financial Crimes Enforcement Network);
- The number of personnel that have been designated “essential” in those respective offices; and
- The number of positions designated as “essential” in those offices (and the criteria used in making such designations) during the 2011 preparations for a lapse in appropriations.

Thank you for your time and attention to this matter. I look forward to your response.

Sincerely,



EDWARD R. ROYCE  
Chairman

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<sup>1</sup> September 17, 2013 OMB Memorandum #M-13-22 , page 4.

<sup>2</sup> September 30, 1980 OMB Memorandum for Heads of Executive Departments and Agencies on “Agency Operations in the Absence of Appropriations”, pages 1-2.