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Procedures for Congressional Action in Relation to a Nuclear Agreement with Iran: In Brief

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Introduction

An April 2015 framework for negotiations on a comprehensive nuclear agreement with Iran suggests that a final agreement that results in the easing of many existing sanctions on Iran might be reached. Amid concerns among some in Congress about the terms of the possible agreement, Congress passed, and the President signed, the Iran Nuclear Agreement Review Act of 2015 (P.L. 114-17).¹ The act establishes a period for Congress to review any comprehensive agreement, during which certain presidential actions to provide relief from sanctions on Iran are barred. It also provides for congressional action during this period that could prevent (or allow) such relief. After this review period, further, the act requires the President to make certain certifications of Iran's compliance with the agreement, and if these certifications are not made, it establishes expedited congressional procedures for legislation that could reinstate sanctions waived by the President.

This report provides, in brief, analysis of the congressional procedural provisions laid out in P.L. 114-17. Only provisions relating to congressional actions are covered in this report.² CRS Report RS20871, *Iran Sanctions*, by Kenneth Katzman, provides analysis and context on the issue of Iran sanctions; CRS Report R43333, *Iran Nuclear Agreement*, by Kenneth Katzman and Paul K. Kerr.³

P.L. 114-17 includes language commonly found in congressional rulemaking statutes confirming that the congressional procedures established therein are “an exercise of the rulemaking power” of the respective chambers and that each chamber retains the constitutional right to change or override these rules in the same way as with its existing rules.

Period for Congressional Review of an Agreement with Iran

The statute provides that in relation to an agreement with Iran regarding its nuclear program:

- Not later than five calendar days after reaching an agreement,⁴ the President is to transmit specified materials⁵ and certifications to (1) the Senate Committees on Finance; Banking, Housing, and Urban Affairs; Intelligence; and Foreign Relations; (2) the House Committees on Ways and Means; Financial Services; Intelligence; and Foreign Affairs; and (3) the majority and minority leaders of the Senate and the Speaker and majority and minority leaders of the House.⁶

¹ See H.R. 1191, 114th Congress. The statute amends the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

² For example, the statute also requires the President to report every 180 days on Iran's nuclear program and compliance with the agreement, but these reports trigger no congressional procedures. See CRS Report RS20871, *Iran Sanctions*, by Kenneth Katzman, for discussion of the criteria these reports would address.

³ Other CRS resources on the general issue of a nuclear agreement with Iran include CRS Legal Sidebar WSLG1197, *Does a Nuclear Agreement with Iran Require Congressional Approval?* by Michael John Garcia and CRS Report R43311, *Iran: U.S. Economic Sanctions and the Authority to Lift Restrictions*, by Dianne E. Rennack.

⁴ The statute defines such an agreement as one “related to the nuclear program of Iran” that includes the United States and commits it to action, regardless of form and whether or not it is legally binding.

⁵ The specified materials include the agreement and related materials and annexes, a verification assessment report from the Secretary of State, and certain other certifications in relation to U.S. interests.

⁶ Other provisions of the statute seem to imply that this transmission is to be considered transmission to Congress.

- Following transmittal, Congress would have a review period of 30 calendar days, unless the materials are transmitted between July 10 and September 7, 2015, in which case the review period is 60 calendar days. The 60-day period appears intended to ensure adequate opportunity for Congress to act if a 30-day period would overlap with the August congressional recess. Any agreement transmitted after September 7, 2015, would be subject to the 30-day review period.
- During the review period, the President is precluded from using waiver authority to provide additional sanction relief to Iran beyond that already provided under an interim nuclear agreement with Iran (“Joint Plan of Action” or JPA).⁷
- During the review period, Congress may agree to a joint resolution of disapproval stating that Congress “does not favor the agreement.” The statute does not provide any special procedural mechanisms for consideration of such a resolution; it would be subject to regular procedures in each chamber⁸ and would also be subject to presidential veto.
- If Congress agrees to a disapproval resolution, the review period is extended 12 calendar days following the date of passage (roughly covering the period in which the President may issue a veto). If the President vetoes the disapproval resolution, the review period extends for 10 calendar days beyond the veto date (presumably to allow Congress time to take actions to override the veto).⁹
- If a joint resolution of disapproval were to be enacted (potentially requiring an override of a presidential veto in both chambers), any sanctions relief for Iran would cease (including any provided by the President under JPA waiver authority). The resolution would not invalidate the agreement itself but would affect only the possibility of presidential sanctions relief to Iran; nevertheless, precluding the President from providing such relief would almost certainly result in a dissolution of the agreement by Iran.
- Alternatively, Congress could agree to a joint resolution of approval during the review period, which would, upon enactment, allow the President to waive sanctions, apparently even if the review period had not yet elapsed.
- If Congress does not agree to any resolution approving or disapproving the agreement, the President may waive sanctions after the (30- or 60-day) review period has expired.

⁷ The JPA—which has been in effect since January 2014 and was extended until June 30, 2015—is an interim nuclear agreement reached among the United States, Iran, and five other countries providing some sanctions relief. See CRS Report RS20871, *Iran Sanctions*, by Kenneth Katzman, for more detail and additional context.

⁸ Senate rules place no general time limit on consideration of most questions, so that a cloture process (with the support of three-fifths of the Senate) may be required to reach a (majority) vote thereon. Thus, invoking cloture (requiring three-fifths of the Senate) may be necessary to proceed to a joint resolution and may also be necessary to reach a vote on the resolution. However, only a majority vote is needed to adopt the motion to consider itself and also the resolution.

⁹ All 12 days of the extension period that occurs upon passage of a disapproval resolution would not necessarily elapse if the President took action prior to its expiration. For example, if he were to veto the resolution on day 2, then the 10-day period for a congressional override attempt would begin following the veto, not after the expiration of the 12-day period.

The Appendix to this report provides the projected latest dates by which certain congressional actions on a joint resolution of disapproval could occur to prevent or delay presidential waiver of sanctions, as well as projected dates on which sanctions could be waived under the act.

Legislation to Reinstate Waived Sanctions

In addition, the statute provides that in the absence of certain certifications of Iran compliance after congressional review, legislation that would reinstate sanctions waived by the President may be considered pursuant to specified expedited congressional procedures. Specifically:

- For each 90-day period after the congressional review period described above, the President must certify certain elements of compliance with the agreement¹⁰ by Iran and submit such certification to the specified congressional committees and leadership (listed above).
- If such a certification of compliance is not submitted during each 90-day period, or if the President submits a determination that Iran is in material breach of the agreement (and such breach has not been cured), then “qualifying” legislation to re-impose waived sanctions, if introduced¹¹ within 60 calendar days thereafter, is entitled to certain expedited congressional procedures.¹²
- Any committees¹³ to which the qualifying legislation is referred would be automatically discharged if they had not reported within 10 legislative days (House) or 10 session days (Senate) after the date of referral.
- The statute provides procedures by which a numerical majority in each chamber could effectively vote to take up the legislation without debate. Consequently, in the Senate, the motion to proceed to the qualifying legislation would be non-debatable, such that a numerical majority could take up the measure with no need for a cloture process (and supermajority vote threshold) to reach a vote.¹⁴
- House consideration of the measure, which might be initiated beginning on the third day after it is reported or discharged from committee, would be limited to two hours of debate.¹⁵ Senate consideration would be limited to 10 hours, such that a numerical majority could adopt its measure without the

¹⁰ The criteria for assessing compliance are stated in the statute and relate to transparency/verifiability, material breach and potential cures to a breach, covert activities to advance its nuclear weapons program, and the appropriateness of any sanctions relief provided pursuant to the agreement.

¹¹ The statute states that the qualifying legislation “may be introduced” in the House by the majority or minority leader and, in the Senate, by either floor leader or their designees.

¹² The statute specifies the title (“A bill reinstating statutory sanctions imposed with respect to Iran”) and language that any qualifying bill must have.

¹³ The statute specifies the Senate Committee on Foreign Relations as the relevant committee; multiple (unspecified) House committees could potentially receive referral.

¹⁴ Once taken up, the resolution would remain the unfinished business until disposed of; in other words, the Senate could effectively not proceed to any other business during the period, except by unanimous consent.

¹⁵ The statute provides that if the House votes on one such motion to proceed on a qualifying bill, it may vote on no other such motion “with regard to the same agreement.” This provision seems designed to prevent the House from having to vote against serial motions made in relation to the same bill. If a different breach submitted by the President were to give rise to a different qualifying bill later, it is unclear that this provision would permit the House to move to consider the bill under the privileged procedures.

need for a cloture process and the associated supermajority vote threshold.¹⁶ Provisions in the statute explicitly or effectively preclude the consideration of amendments to the measure.¹⁷

- If one chamber receives the other chamber's qualifying legislation prior to passage of its own measure, the other chamber's measure is not referred to committee, and the vote on final passage is on the other chamber's measure. If one chamber has had no qualifying measure introduced in that chamber, then the measure received from the other chamber is entitled to the expedited floor procedures. In any event, if the qualifying legislation is a revenue measure, these automatic "hook-up" provisions do not apply to a Senate measure received in the House.¹⁸
- This legislation would be subject to presidential veto. Consideration of the veto message in the Senate would be limited to 10 hours. Consequently, in the Senate, reaching a vote on the veto override would not require a cloture process and the associated three-fifths vote threshold. Successful override of the veto would require the support in each chamber of two-thirds of voting Members (a quorum being present).

Appendix: Projected Dates in Relation to Initial Congressional Review of the Iran Agreement

The following table indicates the latest dates on which congressional actions pursuant to the Iran Nuclear Agreement Review Act of 2015 could occur in order to prevent the President from providing relief from certain sanctions against Iran pursuant to the July 2015 agreement. If any of the actions in the sequence occur before the last day of the period allowed for that action, the remainder of that period is vitiated and the period allowed for the next action begins immediately. In each such case, the projected last day of the period during which the act prohibits the President from providing statutory sanctions relief will be advanced by the extent to which the applicable period was vitiated.

The dates shown reflect an assumption that the materials transmitted by the President on July 19, 2015, constituted a full transmission of materials required by the act. Some, both within and outside Congress, have questioned whether additional materials were required to have been transmitted,¹⁹ arguing that the review period should not be deemed to commence until these

¹⁶ The Senate could agree to a non-debatable motion to further limit debate.

¹⁷ In the Senate, amendments to the measure are explicitly prohibited. Provisions that the previous question be considered as ordered in the House would preclude amendments during its floor consideration.

¹⁸ Instead, if the Senate receives a qualifying measure from the House after passing its own, the House measure is not subject to debate and could be adopted by a numerical majority (though that statute does seem to specifically provide that the motion to proceed to that measure would be non-debatable). This mechanism ensures compliance with the constitutional requirement that revenue measures originate in the House of Representatives.

¹⁹ See, for example, Burgess Everett and Nahal Toosi, "Bob Corker, Ben Cardin in New Spat with Administration over Iran Docs," *Politico*, July 22, 2015, <http://www.politico.com/story/2015/07/iran-documents-senate-bob-corker-ben-cardin-120474.html>. See also S.Res. 238 (114th Congress), introduced on July 30, 2015, and also a September 8, 2015, notice of intent to raise a question of privileges of the House (*Congressional Record*, daily edition, vol. 161 [September 8, 2015], pp. H5791-5794). In addition, H.Res. 411, passed by the House on September 10, 2015 (245-186, Roll Call Vote No. 492), states that the review period has not begun because "the President has not complied with section 2" of the review act since his communication "did not constitute the agreement" as defined by the act (though the resolution does not address language in the act that required submission of said materials within five days of reaching the agreement). House resolutions are not sent to the Senate for its consideration; thus, no further action on H.Res. 411 will (continued...)

additional materials are transmitted. If this interpretation is ultimately accepted, it will not be possible to project a time line until a revised date for transmission is established.

Table I. Projected Dates for Congressional Review of the Agreement with Iran
 Latest Dates by Which Certain Actions on a Disapproval Resolution Could Occur to Preclude (or Cause Maximal Delay in) Presidential Waiver of Sanctions

Date	Explanation
July 14, 2015	U.S. announces finalization of the Joint Comprehensive Plan of Action.
July 19, 2015	President transmitted materials ^a to specified congressional committees and leadership.
July 20, 2015	Day 1 of 60-calendar-day review period during which sanctions may not be waived (unless a joint resolution of <i>approval</i> ^b were to be enacted prior to the end of the review period).
Sept. 17, 2015	Day 60 of the review period and the last day by which final congressional adoption of a disapproval resolution ^c must occur to potentially preclude presidential waiver of sanctions for a further period.
Sept. 18, 2015	If Congress did not adopt a disapproval resolution by Sept. 17, this is the first day the President may waive sanctions under the act. ^d <i>Or, alternatively, if Congress adopted a disapproval resolution on Sept. 17, this is Day 1 of the 12-calendar-day extension of the review period (to allow for presidential action on the joint resolution).</i>
Sept. 29, 2015	Day 12 of the 12-day extension of the review period if congressional passage of a disapproval occurred on Sept. 17. Also, if a disapproval resolution were presented to the President on Sept. 17, this is Day 10 of the constitutional 10-day period (excluding Sundays) by which he could veto the resolution to potentially prevent its enactment.
Sept. 30, 2015	If the President vetoed a disapproval resolution on Sept. 29, this is Day 1 of the 10-calendar-day extension period during which Congress may attempt to override the veto.
Oct. 9, 2015	Day 10 of the 10-day extension period, by which time both chambers of Congress must successfully override any presidential veto in order to preclude presidential waiver of sanctions.
Oct. 10, 2015	If Congress adopted a disapproval resolution on the last day of the review period (Sept. 17) and the President vetoed the resolution at the end of the first extension period, but Congress did not successfully override a presidential veto, this is the first day on which the President may waive sanctions under the act.

Source: Calculations by the authors of this report, based on provisions in the Iran Nuclear Agreement Congressional Review Act of 2015. An authoritative determination of these dates could be provided only by the respective Parliamentarian in each chamber.

Notes: The table indicates the latest dates on which congressional actions pursuant to the Iran Nuclear Agreement Review Act of 2015 could occur in order to prevent the President from providing relief from certain sanctions against Iran pursuant to the July 2015 agreement. If any of the actions in the sequence occur before the last day of the period allowed for that action, the remainder of that period is vitiated and the period allowed for the next action begins immediately.

- a. The dates shown reflect an assumption that the materials transmitted by the President on July 19, 2015, constituted a full transmission of materials required by the act. See text prior to the table in regard to questions that have been raised over the scope of the materials transmitted.
- b. As noted in the report, if Congress were to pass an approval resolution, the President could waive sanctions under the review act upon enactment of the approval resolution (e.g., upon his signature), even if the full 60-day review period had not yet elapsed. On September 11, 2015, the House failed to pass H.R.

(...continued)

occur. Its provisions will not have direct consequence on the provisions of the review act.

- 3461, which states that “Congress does favor the Joint Comprehensive Plan of Action” (i.e., the agreement with Iran) (162-269, Roll Call Vote No. 493). Had the bill passed, the Senate could have decided to take up and pass it, as well; however, like any approval resolution specified in the act, the bill would have been subject to the regular procedures of the Senate (including the potential need for cloture in order to reach a vote). If enacted, it is unclear what, if any, implications would have arisen from the measure being drafted as a bill rather than as a joint resolution, as specified by the review act.
- c. On September 8, 2015, the Senate began consideration of H.J.Res. 61, to which the majority leader offered an amendment providing for disapproval, pursuant to the review act. On September 10, a cloture vote on that amendment (by which three-fifths of the Senate [60] could have agreed to end debate and ultimately reach a vote on the amendment) was defeated, 58-42 (Roll Call Vote No. 264).
 - d. On September 11, 2015, the House passed H.R. 3460 (247-186, Roll Call Vote No. 494), a bill that proposes to extend to January 21, 2017, the period during which the President could not waive certain sanctions on Iran.

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