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United States Court of Appeals for the Second Circuit

CHRISTINE LEVINSON, AS CONSERVATOR OF THE ESTATE AND PROPERTY OF ROBERT LEVINSON, SUSAN LEVINSON BOOTHE, STEPHANIE LEVINSON CURRY, SARAH LEVINSON MORIARTY, SAMANTHA LEVINSON, DANIEL LEVINSON, DAVID LEVINSON, DOUGLAS LEVINSON,
Plaintiffs-Appellees,

– v. –

KUWAIT FINANCE HOUSE (MALAYSIA) BERHAD,
Intervenor-Defendant-Appellant,

CITIBANK, N.A.,
Defendant.

On Appeal from the United States District Court for the Southern District of New York
Case No. 21-cv-04795-LAP

Brief of *Amici Curiae* American Bankers Association and Institute of International Bankers in Support of Reversal

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, counsel for *amici curiae* The American Bankers Association and The Institute of International Bankers state as follows:

The American Bankers Association is a non-profit corporation. It has no parent corporation, and no publicly held corporation owns more than ten percent of its stock.

The Institute of International Bankers has no parent corporation, and no publicly held corporation owns more than ten percent of its stock.

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INTEREST OF *AMICI CURIAE*[1]

The **American Bankers Association ("ABA")** is the principal national trade association of the financial services industry in the United States. Founded in 1875, the ABA is the voice for the nation's $24.1 trillion banking industry and its 2.1 million employees. ABA members are located in each of the fifty States and the District of Columbia, and include financial institutions of all sizes and types, both large and small. ABA frequently submits *amicus curiae* briefs in state and federal courts in matters that significantly affect its members and the business of banking.

The **Institute of International Bankers ("IIB")** represents the U.S. operations of internationally headquartered financial institutions ("IHFIs") from more than 35 countries around the world. The membership consists principally of international financial institutions that operate branches, agencies, bank subsidiaries, and broker-dealer subsidiaries in the United States. The IIB works to ensure a level playing field for these institutions, which are an important source of credit for U.S. borrowers. IHFIs comprise the majority of U.S. primary dealers, enhancing the depth and liquidity of U.S. financial markets. They also contribute significantly to the U.S. economy through the direct employment of U.S. citizens, as well as through other operating and capital expenditures.

[1] This brief is filed with the consent of the parties. No party's counsel authored the brief in whole or in part, and no one other than *amici* and their members contributed financially to the preparation of this brief.

Amici and their members have a strong interest in the proper interpretation of the Terrorism Risk Insurance Act. Reading the statute to authorize private plaintiffs and district courts to order the transfer of unblocked, foreign-held assets into the United States, as the district court did here, would pose a serious threat to American and foreign financial institutions alike. The United States remains the world's leading financial center because of the vibrancy of the U.S. economy, the depth and sophistication of its financial institutions, and—no less important—the stability and fairness of its legal system. Put simply, settled expectations as to the U.S. legal system would be shattered if a single district court could deem all of a foreign bank's worldwide assets blocked and require the bank to transfer assets held abroad into the United States without any approval or legal process in the foreign jurisdiction and even in contravention of local laws. *Amici* submit this brief to explain these adverse consequences—and others—that would result if the ruling is not reversed.

INTRODUCTION

Section 201 of the Terrorism Risk Insurance Act ("TRIA") is a powerful tool: it empowers holders of terrorism judgments to attach or execute on the "blocked assets of any agency or instrumentality" of a terrorist party, including state-sponsors of terrorism like Iran. Pub. L. No. 107-297, § 201(a), 116 Stat. 2321, 2337 (2002) (codified at 28 U.S.C. § 1610 note). But the TRIA does not deputize district courts, acting at the behest of private plaintiffs, to themselves "block" unencumbered assets or to order assets held outside of the United States to be transferred into the United States.

Congress intended the TRIA to enable victims of terrorism to recover judgments from assets that *have already been blocked* pursuant to well-established Legislative and Executive Branch authorities and processes. Neither the text nor the legislative history of the TRIA provides any support for a wholly separate process—run through private litigants and 94 individual federal district courts—to determine that, for example, an Asian, European, or Latin American financial institution subject to no sanctions whatsoever can be deemed an "agency or instrumentality" of the Government of Iran and its foreign-held assets ordered transferred into the United States so that they can be blocked. Such a process would trample core Executive Branch foreign policy and national security prerogatives. The TRIA also does not authorize a federal judge in the United States to order a foreign bank to transfer

assets held abroad into the United States without any legal process or authorization in its home country—potentially in violation of the laws of the home jurisdiction—for attachment by a U.S. court. Nor was the TRIA meant to support the improbable outcome that opening a single correspondent account in a New York bank makes all of a foreign bank's assets worldwide subject to attachment in the United States. By holding otherwise, the district court distorted the TRIA beyond recognition.

Amici, representing many of the largest and most reputable banks in the United States and the world, fear that the rulings by the district court would have a seismic impact on the U.S. financial system if affirmed, and would undermine the stability and primacy of the U.S. financial sector. Foreign banks would need to reconsider their willingness to hold accounts in the United States given that this ruling would subject all of their global assets to the dictates of a district court. And the American banks that host the correspondent accounts necessary for foreign banks to transact in dollars would face significant harm if foreign banks begin to decide that exposure to U.S. jurisdiction is simply not worth the risk. Congress did not intend such an extraordinary result in enacting the TRIA, and no binding precedent supports it.

Amici are not in a position to take any view on the allegations concerning the Malaysian bank at issue here. *Amici* also sympathize deeply with all victims of terrorism, including Plaintiffs, and support Congress's goal in enacting the TRIA of

deterring terror and compensating its victims. But the proper construction of the TRIA has consequences far beyond the particular parties before the Court in this case. To correct a decision that threatens such outsized harm to the U.S. and the international banking system, this Court should reverse.

ARGUMENT

I. The TRIA Does Not Permit U.S. Courts to Order a Bank to Transfer Assets Located Abroad Into the United States.

Congress enacted Section 201 of the TRIA to help victims of terrorism collect on judgments against terrorist parties through the attachment or execution of judgments against terrorist parties' blocked assets. *See Havlish v. Taliban*, 152 F.4th 339, 364 (2d Cir. 2025) (quoting H.R. Rep. No. 107-779, 2002 WL 31529126, at *27 (2002) (Conf. Rep.)). To attach a defendant's assets under the TRIA, plaintiffs must make two showings. First, they must show that the defendant is a "terrorist party" or an "agency or instrumentality of that terrorist party." TRIA § 201(a). Second, they must show that the defendant's property is a "blocked asset[]." *Id.* [Redacted.]

The statutory text should be the starting point. *See Twitter, Inc. v. Taamneh*, 598 U.S. 471, 484 (2023). The TRIA defines a "blocked asset" as one "seized or frozen by the United States" pursuant to certain provisions of the Trading with the Enemy Act ("TWEA") or the International Emergency Economic Powers Act ("IEEPA"). TRIA § 201(d)(2)(A), 116 Stat. at 2339; *see also* H.R. Rep. No. 114-

685, at 3–4 (July 12, 2016) (explaining that a blocked asset subject to attachment or execution under the TRIA must be "blocked" pursuant to TWEA or IEEPA). Therefore, as this Court recently explained, "'blocking' is a status imposed by the United States." *Havlish*, 152 F.4th at 364; *see also Bank Markazi v. Peterson*, 578 U.S. 212, 217 (2016). As relevant here, Section 1702 of IEEPA authorizes the President to block property to further American security and foreign policy interests. *See* 50 U.S.C. § 1702; *see also Bank Markazi*, 578 U.S. at 217. Acting pursuant to this authority, President Obama issued Executive Order 13,599, which blocked "[a]ll property and interests in property of the Government of Iran, including the Central Bank of Iran, *that are in the United States*[.]" Exec. Order No. 13,599, 77 Fed. Reg. 6659, 6659 (Feb. 5, 2012) (emphasis added). The President then delegated his authorities to implement this Executive Order to the Treasury Department, as is customary in presidential sanctions orders under IEEPA. *Id.*

As background, the Treasury Department has maintained an office since World War II to administer U.S. sanctions and blocking authorities, known as the Office of Foreign Assets Control, or OFAC. In consultation with the State Department and other U.S. foreign policy and national security agencies, OFAC has undertaken an extensive and finely-honed effort to interpret and administer Executive Order 13,599 in line with Presidential objectives. This entails detailed regulations that define, *inter alia*, what is meant by the "Government of Iran," 31

C.F.R. § 560.304, what assets of the Government of Iran are to be considered "blocked," *id.* §§ 560.211, 560.425, and the processes to be followed to obtain a license for a transfer of blocked assets, *id.* § 560.501, or if a blocked entity wishes to seek administrative de-listing, *id.* § 501.807. OFAC uses the instruments of regulation, interpretive guidance, general licenses, and specific licenses to ensure that Executive Branch authorities reach the desired assets and *refrain from targeting* the assets it desires not to block. *See, e.g.*, *id.* § 560.211(c)(2)(i) (exempting from the definition of the Government of Iran a specific natural gas development and pipeline project to bring gas from Azerbaijan to Europe and Turkey); *see generally Crosby v. NFTC*, 530 U.S. 363, 380 (2000) ("Sanctions are drawn not only to bar what they prohibit but to allow what they permit…"). Pursuant to these regulations, OFAC has identified numerous entities as being owned or controlled by the Government of Iran and listed them on its list of Specially Designated Nationals and Blocked Persons ("SDN List"). *See, e.g.*, Press Release, U.S. Dep't of the Treasury, Treasury Targets Iranian Attempt to Evade Sanctions (May 9, 2023), https://home.treasury.gov/news/press-releases/jl1933 [https://perma.cc/G859-VR4S] (identifying Sambouk Shipping FZC as subject to sanctions under Executive Order 13,599 because it was used to covertly manage eight oil vessels on behalf of the National Iranian Tanker Company). KFH Malaysia has not been so designated or identified.

Even assuming that KFH Malaysia can be legally treated as "the Government of Iran" for purposes of Executive Order 13,599, its *foreign*-held assets cannot be automatically blocked pursuant to Executive Order 13,599: those assets are not "in the United States" or within "the possession or control of any United States person." Executive Order 13,599; *see also Hegna v. Islamic Republic of Iran*, 380 F.3d 1000, 1002 (7th Cir. 2004) ("TRIA subjects a class of Iran's property *in the United States* to execution and attachment in aid of execution." (emphasis added)); *Peterson v. Bank Markazi,* 121 F.4th 983, 997 n.4 (2d Cir. 2024) ("*Peterson IV*") (noting that the TRIA is "inapplicable" in a case involving Iranian Government assets located in an account in Luxembourg because "[a]lthough Executive Order 13599… blocked '[a]ll property and interests in property of the Government of Iran, including the Central Bank of Iran,' this block extended only to property located 'in the United States' or 'within the possession or control of any United States person.'" (quoting Executive Order 13,599)), *cert. denied sub nom. Clearstream Banking, S.A. v. Peterson,* 145 S. Ct. 2819 (2025); *Foley v. Union de Banques Arabes et Francaises,* 2023 WL 7018956, at *3 (S.D.N.Y. Oct. 25, 2023) (concluding that the TRIA could not reach Syrian-government assets held by a French bank in Paris because the Syrian sanctions regime blocked only property and interests in property in the United States and in the possession or control of a U.S. person). At most, such foreign-held assets could be described as assets that, were they in the future to come into the

United States or the possession of a U.S. person, would need to be blocked. [Redacted.]

"Any inquiry into the meaning of a statute generally ceases if the statutory language is unambiguous and the statutory scheme is coherent and consistent." *Weinstein v. Islamic Republic of Iran*, 609 F.3d 43, 49 (2010) (cleaned up); *see also Smith ex rel. Est. of Smith v. Fed. Rsrv. Bank of New York*, 346 F.3d 264, 271 (2d Cir. 2003) (observing that the language of the TRIA is "clear"); *Stansell v. Revolutionary Armed Forces of Colombia*, 704 F.3d 910, 915 (11th Cir. 2013) ("The plain language of § 201(d)(2)(A) is unambiguous… [and] defines what a blocked asset means, not what the term merely could include. When a statutory definition declares what a term 'means' rather than 'includes,' any meaning not stated is excluded." (cleaned up)). [Redacted.]

But "Congress did not write the statute that way." *Russello v. United States*, 464 U.S. 16, 23 (1983) (cleaned up). If Congress truly intended the TRIA to operate as the district court contemplates, it would not have specified that assets subject to attachment or execution under the TRIA must be "blocked." Instead, Congress would have written that *all* assets of a terrorist party, including any assets anywhere of its agency or instrumentality, are subject to execution or attachment in aid of execution. Under that hypothetical statute, a district court's factual finding that an entity acted as an instrumentality of a terrorist party might be sufficient to provide

the district court with extraterritorial jurisdiction. But that hypothetical statute is not the TRIA. *See, e.g.*, *United States v. Holy Land Found. for Relief & Dev.*, 722 F.3d 677, 685 (5th Cir. 2013) ("The ambit of the TRIA is clear: It operates to reach those funds which have been blocked by the government pursuant to one of two statutes" and does not "reach those funds which the government has been given authorization to control through another means."). [Redacted.]

Though resort to legislative history is unnecessary to reach this conclusion, it confirms what the statutory text makes plain. As this Court has recognized, Section 201(a) of the TRIA was enacted "to deal comprehensively with the problem of enforcement of judgments issued to victims of terrorism in any U.S. court by enabling them to satisfy such judgments from the *frozen assets* of terrorist parties" and "establish[ing] once and for all, that such judgments are to be enforced against any assets available *in the U.S.*" *Weinstein*, 609 F.3d at 50 (emphasis added) (quoting 148 Cong. Rec. S11524 (Nov. 19, 2002) (statement of Sen. Harkin)) (emphasis added); *see also Peterson IV*, 121 F.4th at 998. It was never suggested that the TRIA would empower U.S. courts to reach outside this country's borders, vacuum up foreign assets, and then freeze those assets for distribution to judgment holders. Rather, it enables Plaintiffs to attach assets *already* frozen that are within the United States or in the possession or control of a U.S. person.

The bedrock presumption that Congress does not intend for statutes to apply extraterritorially reinforces this conclusion. That basic canon of statutory interpretation provides that, "[a]bsent clearly expressed congressional intent to the contrary, federal laws will be construed to have only domestic application." *RJR Nabisco v. Eur. Cmty.*, 579 U.S. 325, 335 (2016). This presumption against extraterritorial application "serves to protect against unintended clashes between our laws and those of other nations which could result in international discord." *Kiobel v. Royal Dutch Petroleum Co.*, 569 U.S. 108, 115 (2013) (cleaned up). "The question is not whether [a court] think[s] Congress would have wanted a statute to apply to foreign conduct if it had thought of the situation before the court, but whether Congress has affirmatively and unmistakably instructed that the statute will do so." *RJR Nabisco*, 579 U.S. at 335 (cleaned up). "When a statute gives no clear indication of an extraterritorial application, it has none." *Morrison v. Nat'l Austl. Bank Ltd.*, 561 U.S. 247, 255 (2010)).

The TRIA lacks the "clear indication" necessary to overcome the presumption against extraterritorial application. *See Morrison*, 561 U.S. at 255. Nothing in the text or history of the statute suggests that Congress intended to subject assets located abroad to attachment or execution. Indeed, enforcement of judgments is generally a strictly territorial affair—that is why judgment holders often have to seek enforcement in different jurisdictions from where the judgment was rendered. *See*

generally Restatement (Second) of Judgments § 4 (A.L.I. 1982). If Congress intended the TRIA to operate as an unusual exterritorial-enforcement statute, it could and would have said so in unmistakable terms. But Congress did not do so here.

And wisely so. International conflict would inevitably result from a U.S. court ordering a bank to transfer foreign property subject to a different and potentially conflicting set of laws. Indeed, the presumption against extraterritoriality applies with particular force where, as here, a statute involves "private civil remed[ies]," since the "potential for international friction" in such cases comes without "the check imposed by [Executive Branch] discretion." *RJR Nabisco*, 579 U.S. at 346–47. Imagine that a U.S. district court saw grounds for determining that a large European bank had acted as an "agency or instrumentality" of Iran by unknowingly moving funds on behalf of Iranian front companies. The district court's holding would purport to authorize that district court to order all European-held assets of the bank moved into the United States for attachment by private plaintiffs. As discussed at greater length below, this would jeopardize U.S. foreign relations with allies, subject banks to a clear conflict of law, and foreseeably lead to retaliation by foreign states and litigants against the assets of U.S. banks and companies operating abroad. Since the TRIA "gives no clear indication of an extraterritorial application, it has none," and this Court should decline Plaintiffs' invitation to wade into this sensitive foreign policy area without Congressional authorization or guidance. *Morrison*, 561 U.S. at

255; *see also Benz v. Compania Naviera Hidalgo, S.A.*, 353 U.S. 138, 147 (1957) ("For us to run interference in such a delicate field of international relations there must be present the affirmative intention of the Congress clearly expressed.").

II. Unless Reversed, the District Court's Transfer Order Would Introduce a Massive New Risk for Foreign Banks Holding Assets in the United States and Thereby Undermine the Strength of the U.S. Financial System and the Primacy of the U.S. Dollar.

Under the TRIA as misconstrued by the district court, a foreign bank that does not knowingly have ties with Iranian entities and has never been designated under any U.S. authority could be declared by a court to be an instrumentality of the Government of Iran and find that all of its foreign assets are subject to attachment. *Amici* cannot overstate how alarming these consequences would be for both American and international banks, those that do business with them, and the entire U.S. financial system.

First, both foreign banks and U.S. banks operating internationally would be forced to make impossible choices. Overseas property is subject to regulation by the country in which it is located. *See generally United States v. Belmont*, 301 U.S. 324, 327–28 (1937); *see also Glob. Tech., Inc. v. Royal Bank of Can.*, 34 Misc. 3d 1209(A), 2012 WL 89823, at *3 (N.Y. Sup. Ct. 2012) ("[A]ny banking operation in a foreign country is necessarily subject to the foreign sovereign's own laws and regulations." (cleaned up)). [Redacted.] If the foreign jurisdiction does not recognize that judgment, or if a foreign court does not permit the transfer, the bank

faces a choice between violating a U.S. court order and the laws of the other jurisdiction. Both options expose the bank to liability and the possibility of substantial penalties, including losing its banking license. It would also threaten international comity if U.S. courts ordered financial institutions to defy the laws of the countries where they are located. *See Gucci Am., Inc. v. Bank of China*, 768 F.3d 122, 139 (2d Cir. 2014) ("Comity is 'the recognition which one nation allows within its territory to the legislative, executive or judicial acts of another nation.'" (quoting *Hilton v. Guyot*, 159 U.S. 113, 164 (1895)).

Banks would also be subject to unfair and punitive outcomes in civil litigation. Take, for example, the factual backdrop to *Levin v. Bank of New York*, 2022 WL 523901 (S.D.N.Y. Feb. 21, 2022). To satisfy their judgment against the Government of Iran, plaintiffs sought to attach under the TRIA the blocked assets of Bank Melli, an Iranian bank, held by JPMorgan London in the United Kingdom. If the district court had ordered JPMorgan to transfer the blocked assets into U.S. jurisdiction and JPMorgan had complied, British law would not have permitted JPMorgan to assert an enforcement order in the United States as a defense to a claim by Bank Melli for misappropriating its funds. Therefore, the extraterritorial application of the TRIA would place banks in untenable positions as they attempt to reconcile conflicting legal obligations.

Second, foreign banks would be at heightened risk of being deemed terrorist instrumentalities by individual district court judges and having *all* their foreign-held assets subsequently subject to attachment and transfer to the United States. [Redacted.]

The second-order consequences would be destructive. Numerous plaintiffs have obtained default judgments against the Iranian Government in the *billions* of U.S. dollars. Faced with the prospect of having all of their assets subject to transfer into the United States to satisfy such judgments, foreign banks will have every incentive to look for ways to route transactions outside the United States. In the long run, foreign *countries* will have every incentive to develop alternatives to the U.S. financial system. The ultimate result would be to weaken the U.S. dollar's primacy in the global financial system and the effectiveness of U.S. sanctions programs.

American banks would suffer in turn. Any decline in foreign banks' use of the U.S. dollar or U.S. markets due to fear of TRIA attachments would harm U.S. financial institutions, whose fortunes are closely tied to that of the U.S. financial system. If this Court, in particular, adopts the district court's view, it could well threaten the correspondent banking model that underpins New York as the world's financial capital. Additionally, if U.S courts start blocking the worldwide assets of non-sanctioned foreign banks under the TRIA, it could foreseeably lead foreign courts or legislatures to retaliate and block or seize the assets of American banks.

Amici have witnessed such retaliation in Russia, where the Russian government has targeted and threatened to target the assets of U.S. financial institutions in Russia in response to Western sanctions against Russian banks and assets. *See, e.g.*, Anastasia Stognei & Joshua Franklin, *Russian Court Orders Seizure of $440mn from JPMorgan*, Fin. Times (Apr. 24, 2024), https://www.ft.com/content/c2fc7827-fdce-458b-8416-1476208c22da [https://perma.cc/SM7B-84QW]; *see also Russia Bans Dealing in Capital of 45 Foreign-Owned Banks or Banking Units*, Reuters (Oct. 26, 2022), https://www.reuters.com/business/finance/russia-bans-dealing-capital-45-foreign-owned-banks-or-banking-units-2022-10-26/ [https://perma.cc/46VN-XGBL]. Of course, those were responses to sanctions imposed by the *Executive Branch*, which is empowered to balance the risks of retaliation alongside other foreign policy objectives. It is another matter entirely for the *Judicial Branch* to take unilateral action risking retaliation by foreign countries against Americans.

Third, [Redacted] the TRIA's "blocked assets" delimiter, which is critical to ensuring Executive Branch oversight over a delicate foreign policy arena. Any use of national sanctions and asset freezing authorities against foreign actors implicates a sensitive calculus. On the one hand, the strength of the U.S. economy and the U.S. government's ability to finance itself both rely on foreign governments and financial institutions seeing the U.S. as a safe, predictable, and attractive financial system in which to hold reserves and accounts while enjoying the robust legal protections and

due process afforded parties within U.S. jurisdiction. And the strength of the U.S. dollar is buoyed by other countries' use of the dollar as the primary currency of choice for cross-border transactions, transactions that generally require a foreign bank to hold a correspondent account in the United States with a U.S. bank. *See generally* Eugenio M. Cerutti, Melih Firat & Martina Hengge, *Global Cross-Border Payments: A $1 Quadrillion Evolving Market?* 10 (Int'l Monetary Fund, Working Paper No. WP/25/120, 2025), https://doi.org/10.5089/9798229013505.001 [https://perma.cc/3FYK-FXB7] (finding that 53-55% of all cross-border payments in 2024 were denominated in U.S. dollars, far more than in any other currency). On the other hand, in cases of national emergency, Congress has authorized the Executive Branch to wield IEEPA's powerful economic tools against dangerous actors. The use and possible future use of sanctions authorities can pose a risk of deterring foreign governments and banks from holding assets in the United States and moving transactions in U.S. dollars.

Accordingly, before new sanctions are levied against a foreign bank and its U.S. assets are blocked, numerous Executive Branch agencies make finely calibrated assessments in a process coordinated by the National Security Council. Under Executive Order 13,599, for example, if OFAC proposes determining that a third-country bank is acting on behalf of the Government of Iran, multiple agencies contribute their expertise and input: lawyers at the Treasury Department and Justice

Department review a detailed evidentiary file supported by (often classified) exhibits; foreign policy experts at the State Department and other agencies weigh the evidence and the implications for U.S. foreign policy and national security; intelligence community experts assess the potential risks of acting publicly on classified information as well as the implications for intelligence relationships with the third country's government; and the White House and National Security Council assess the policy and timing of the action as it relates to broader presidential priorities and policies with respect to Iran, the third country, allies and partners, and other implicated countries.

[Redacted.] Courts, generally, are not equipped to weigh the many foreign policy and national security equities involved in making a decision to sanction a foreign bank. *See Haig v. Agee*, 453 U.S. 280, 292 (1981) ("Matters intimately related to foreign policy and national security are rarely proper subjects for judicial intervention."). District court judges, and different circuits, could come to different conclusions as to whether a foreign bank served as an instrumentality of a terrorist party and, therefore, whether its assets are subject to attachment. The result would be an unstable patchwork of judicial rulings—potentially conflicting with OFAC guidance—that increases compliance risk for both international banks and the American banks that do business with them. Moreover, even if U.S. courts agreed on a foreign bank's agency or instrumentality status, precedent set by courts could

run counter to U.S. policy, as no U.S. agency involvement is required in TRIA litigation.

This is why it is critical that Congress expressly limited the reach of the TRIA to assets that are *already* blocked. Without that limitation, the version of the TRIA that the district court envisaged would circumvent the finely tuned regime described above, which is essential to providing foreign banks with clear and settled expectations when they operate in the United States.

In sum, Congress had good reasons for not authorizing private plaintiffs and district courts to order the transfer of foreign-held assets into the United States. In the short term, reading such an authorization into the TRIA would harm American and foreign financial institutions alike. In the medium to long term, it would undermine the U.S. financial system as a whole—putting at risk the considerable benefits to this country from standing at the center of global finance. Absent express statutory authority, this Court should not subject the banking sector and the U.S. financial system to these significant risks.

CONCLUSION

For the foregoing reasons, this Court should reverse the district court's order requiring foreign-held assets to be transferred to the United States.

Respectfully submitted,

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December 3, 2025

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

Further, pursuant to Fed. R. App. P. 29(a)(4)(G) and Fed. R. App. P. 32(g)(1), I certify that this brief complies with the word-count limitation of 2d Cir. R. 29.1(c) and 2d Cir. 32.1(a)(4)(A). This brief contains X,XXX words, not counting the parts excluded by Fed. R. App. P. 32(f).

December 3, 2025

David M. Zionts

CERTIFICATE OF SERVICE

I hereby certify that on December 3, 2025, I electronically filed the foregoing amicus brief with the Court by e-mailing a PDF to the Court's civil cases e-mail address, and I served a copy of the document on all counsel of record via e-mail.

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David M. Zionts