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H. R. 3898

[Report No. 115-]

To require the Secretary of the Treasury to place conditions on certain accounts at United States financial institutions with respect to North Korea, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2017

Mr. BARR (for himself, Mr. HOLLINGSWORTH, Ms. MOORE, Mr. PERLMUTTER, Mr. HILL, and Mr. VARGAS) introduced the following bill; which was referred to the Committee on Financial Services

OCTOBER --, 2017

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on October 2, 2017]

A BILL

To require the Secretary of the Treasury to place conditions on certain accounts at United States financial institutions with respect to North Korea, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Impeding North Korea’s*
5 *Access to Finance Act of 2017”.*

6 **SEC. 2. FINDINGS.**

7 *The Congress finds the following:*

8 (1) *On June 1, 2016, the Department of the*
9 *Treasury’s Financial Crimes Enforcement Network*
10 *announced a Notice of Finding that the Democratic*
11 *People’s Republic of Korea is a jurisdiction of pri-*
12 *mary money laundering concern due to its use of*
13 *state-controlled financial institutions and front com-*
14 *panies to support the proliferation and development*
15 *of weapons of mass destruction (WMD) and ballistic*
16 *missiles.*

17 (2) *The Financial Action Task Force (FATF)*
18 *has expressed serious concerns with the threat posed*
19 *by North Korea’s proliferation and financing of*
20 *WMD, and has called on FATF members to apply ef-*
21 *fective counter-measures to protect their financial sec-*
22 *tors from North Korean money laundering, WMD*
23 *proliferation financing, and the financing of ter-*
24 *rorism.*

1 (3) *In its February 2017 report, the U.N. Panel*
2 *of Experts concluded that—*

3 (A) *North Korea continued to access the*
4 *international financial system in support of il-*
5 *licit activities despite sanctions imposed by U.N.*
6 *Security Council Resolutions 2270 (2016) and*
7 *2321 (2016);*

8 (B) *during the reporting period, no member*
9 *state had reported taking actions to freeze North*
10 *Korean assets; and*

11 (C) *sanctions evasion by North Korea, com-*
12 *bined with inadequate compliance by member*
13 *states, had significantly negated the impact of*
14 *U.N. Security Council resolutions.*

15 (4) *In its September 2017 report, the U.N. Panel*
16 *of Experts found that—*

17 (A) *North Korea continued to violate finan-*
18 *cial sanctions by using agents acting abroad on*
19 *the country's behalf;*

20 (B) *foreign financial institutions provided*
21 *correspondent banking services to North Korean*
22 *persons and front companies for illicit purposes;*

23 (C) *foreign companies violated sanctions by*
24 *maintaining links with North Korean financial*
25 *institutions; and*

1 (D) North Korea generated at least \$270
2 million during the reporting period through the
3 violation of sectoral sanctions.

4 (5) North Korean entities engage in significant
5 financial transactions through foreign bank accounts
6 that are maintained by non-North Korean nationals,
7 thereby masking account users' identity in order to
8 access financial services.

9 (6) North Korea's sixth nuclear test on Sep-
10 tember 3, 2017, demonstrated an estimated explosive
11 power more than 100 times greater than that gen-
12 erated by its first nuclear test in 2006.

13 (7) North Korea has successfully tested sub-
14 marine-launched and intercontinental ballistic mis-
15 siles, and is rapidly progressing in its development of
16 a nuclear-armed missile that is capable of reaching
17 United States territory.

18 **SEC. 3. CONDITIONS WITH RESPECT TO CERTAIN AC-**
19 **COUNTS AND TRANSACTIONS AT UNITED**
20 **STATES FINANCIAL INSTITUTIONS.**

21 (a) **CORRESPONDENT AND PAYABLE-THROUGH AC-**
22 **COUNTS HELD BY FOREIGN FINANCIAL INSTITUTIONS.—**

23 (1) **IN GENERAL.**—Not later than 45 days after
24 the date of the enactment of this Act, the Secretary of
25 the Treasury shall prescribe regulations to prohibit,

1 *or impose strict conditions on, the opening or main-*
2 *taining in the United States of a correspondent ac-*
3 *count or a payable-through account by a foreign fi-*
4 *nancial institution that the Secretary finds know-*
5 *ingly facilitates a significant transaction or trans-*
6 *actions or provides significant financial services for a*
7 *covered person.*

8 (2) *PENALTIES.—*

9 (A) *CIVIL PENALTY.—A person who violates,*
10 *attempts to violate, conspires to violate, or causes*
11 *a violation of regulations prescribed under this*
12 *subsection shall be subject to a civil penalty in*
13 *an amount not to exceed the greater of—*

14 (i) *\$250,000; or*

15 (ii) *an amount that is twice the*
16 *amount of the transaction that is the basis*
17 *of the violation with respect to which the*
18 *penalty is imposed.*

19 (B) *CRIMINAL PENALTY.—A person who*
20 *willfully commits, willfully attempts to commit,*
21 *or willfully conspires to commit, or aids or abets*
22 *in the commission of, a violation of regulations*
23 *prescribed under this subsection shall, upon con-*
24 *viction, be fined not more than \$1,000,000, or if*

1 *a natural person, may be imprisoned for not*
2 *more than 20 years, or both.*

3 **(b) RESTRICTIONS ON CERTAIN TRANSACTIONS BY**
4 **UNITED STATES FINANCIAL INSTITUTIONS.—**

5 **(1) IN GENERAL.—***Not later than 45 days after*
6 *the date of the enactment of this Act, the Secretary of*
7 *the Treasury shall prescribe regulations to prohibit a*
8 *United States financial institution, and any person*
9 *owned or controlled by a United States financial in-*
10 *stitution, from knowingly engaging in a significant*
11 *transaction or transactions with or benefitting any*
12 *person that the Secretary finds to be a covered person.*

13 **(2) CIVIL PENALTY.—***A person who violates, at-*
14 *tempts to violate, conspires to violate, or causes a vio-*
15 *lation of regulations prescribed under this subsection*
16 *shall be subject to a civil penalty in an amount not*
17 *to exceed the greater of—*

18 **(A)** *\$250,000; or*

19 **(B)** *an amount that is twice the amount of*
20 *the transaction that is the basis of the violation*
21 *with respect to which the penalty is imposed.*

1 **SEC. 4. OPPOSITION TO ASSISTANCE BY THE INTER-**
2 **NATIONAL FINANCIAL INSTITUTIONS AND**
3 **THE EXPORT-IMPORT BANK.**

4 (a) *INTERNATIONAL FINANCIAL INSTITUTIONS.—The*
5 *Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is*
6 *amended by adding at the end the following:*

7 **“SEC. 73. OPPOSITION TO ASSISTANCE FOR ANY GOVERN-**
8 **MENT THAT FAILS TO IMPLEMENT SANC-**
9 **TIONS ON NORTH KOREA.**

10 *“(a) IN GENERAL.—The Secretary of the Treasury*
11 *shall instruct the United States Executive Director at the*
12 *international financial institutions (as defined under sec-*
13 *tion 1701(c) of the International Financial Institutions*
14 *Act) to use the voice and vote of the United States to oppose*
15 *the provision of financial assistance to a foreign govern-*
16 *ment, other than assistance to support basic human needs,*
17 *if the President determines that, in the year preceding con-*
18 *sideration of approval of such assistance, the government*
19 *has knowingly failed to prevent the provision of financial*
20 *services to, or freeze the funds, financial assets, and eco-*
21 *nomical resources of, a person described under subparagraphs*
22 *(A) through (E) of section 7(2) of the Impeding North Ko-*
23 *rea’s Access to Finance Act of 2017.*

24 *“(b) WAIVER.—The President may waive subsection*
25 *(a) for up to 180 days at a time with respect to a foreign*
26 *government if the President reports to Congress that—*

1 “(1) *the foreign government’s failure described*
2 *under (a) is due exclusively to a lack of foreign gov-*
3 *ernment capacity;*

4 “(2) *the foreign government is taking effective*
5 *steps to prevent recurrence of such failure; or*

6 “(3) *such waiver is vital to the national security*
7 *interests of the United States.”.*

8 **(b) EXPORT-IMPORT BANK.**—*Section 2(b) of the Ex-*
9 *port-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amend-*
10 *ed by adding at the end the following:*

11 “(14) **PROHIBITION ON SUPPORT INVOLVING PER-**
12 **SONS CONNECTED WITH NORTH KOREA.**—*The Bank*
13 *may not guarantee, insure, or extend credit, or par-*
14 *ticipate in the extension of credit in connection with*
15 *the export of a good or service to a covered person (as*
16 *defined under section 7 of the Impeding North Korea’s*
17 *Access to Finance Act of 2017).”.*

18 **SEC. 5. TREASURY REPORTS ON COMPLIANCE, PENALTIES,**

19 **AND TECHNICAL ASSISTANCE.**

20 **(a) QUARTERLY REPORT.**—

21 “(1) **IN GENERAL.**—*Not later than 120 days fol-*
22 *lowing the date of the enactment of this Act, and*
23 *every 90 days thereafter, the Secretary of the Treas-*
24 *ury shall submit a report to the Committee on Finan-*
25 *cial Services of the House of Representatives and the*

1 *Committee on Banking, Housing, and Urban Affairs*
2 *of the Senate that includes—*

3 *(A) a list of financial institutions that, in*
4 *the period since the preceding report, knowingly*
5 *facilitated a significant transaction or trans-*
6 *actions or provided significant financial services*
7 *for a covered person, or failed to apply appro-*
8 *priate due diligence to prevent such activities;*

9 *(B) a list of any penalties imposed under*
10 *section 3 in the period since the preceding re-*
11 *port; and*

12 *(C) a description of efforts by the Depart-*
13 *ment of the Treasury in the period since the pre-*
14 *ceding report, through consultations, technical*
15 *assistance, or other appropriate activities, to*
16 *strengthen the capacity of financial institutions*
17 *and foreign governments to prevent the provision*
18 *of financial services benefitting any covered per-*
19 *son.*

20 *(2) FORM OF REPORT; PUBLIC AVAILABILITY.—*

21 *(A) FORM.—The report required under*
22 *paragraph (1) shall be submitted in unclassified*
23 *form but may contain a classified annex.*

24 *(B) PUBLIC AVAILABILITY.—The unclassi-*
25 *fied portion of such report shall be made avail-*

1 able to the public and posted on the website of
2 the Department of the Treasury.

3 **(b) TESTIMONY REQUIRED.**—Upon request of the Com-
4 mittee on Financial Services of the House of Representa-
5 tives or the Committee on Banking, Housing, and Urban
6 Affairs of the Senate, the Under Secretary of the Treasury
7 for Terrorism and Financial Intelligence shall testify to ex-
8 plain the effects of this Act, and the amendments made by
9 this Act, on North Korea’s access to finance.

10 **(c) INTERNATIONAL MONETARY FUND.**—Title XVI of
11 the International Financial Institutions Act (22 U.S.C.
12 262p et seq.) is amended by adding at the end the following:

13 **“SEC. 1629. SUPPORT FOR CAPACITY OF THE INTER-**
14 **NATIONAL MONETARY FUND TO PREVENT**
15 **MONEY LAUNDERING AND FINANCING OF**
16 **TERRORISM.**

17 **“The Secretary of the Treasury shall instruct the**
18 **United States Executive Director at the International Mon-**
19 **etary Fund to support the use of the administrative budget**
20 **of the Fund for technical assistance that strengthens the ca-**
21 **capacity of Fund members to prevent money laundering and**
22 **the financing of terrorism.”**

23 **(d) NATIONAL ADVISORY COUNCIL REPORT TO CON-**
24 **GRESS.**—The Chairman of the National Advisory Council
25 on International Monetary and Financial Policies shall in-

1 *clude in the report required by section 1701 of the Inter-*
2 *national Financial Institutions Act (22 U.S.C. 262r) for*
3 *the fiscal year following the date of the enactment of this*
4 *Act a description of—*

5 *(1) the activities of the International Monetary*
6 *Fund in the most recently completed fiscal year to*
7 *provide technical assistance that strengthens the ca-*
8 *capacity of Fund members to prevent money laundering*
9 *and the financing of terrorism, and the effectiveness*
10 *of the assistance; and*

11 *(2) the efficacy of efforts by the United States to*
12 *support such technical assistance through the use of*
13 *the Fund's administrative budget.*

14 **SEC. 6. SUSPENSION AND TERMINATION OF PROHIBITIONS**
15 **AND PENALTIES.**

16 *(a) SUSPENSION.—The President may suspend, on a*
17 *case-by-case basis, the application of any provision of this*
18 *Act, or provision in an amendment made by this Act, for*
19 *a period of not more than 180 days at a time if the Presi-*
20 *dent certifies to Congress that—*

21 *(1) the Government of North Korea has—*

22 *(A) committed to the verifiable suspension*
23 *of North Korea's proliferation and testing of*
24 *WMD, including systems designed in whole or in*
25 *part for the delivery of such weapons; and*

1 (B) has agreed to multilateral talks includ-
2 ing the Government of the United States, with
3 the goal of permanently and verifiably limiting
4 North Korea's WMD and ballistic missile pro-
5 grams; or

6 (2) such suspension is vital to the national secu-
7 rity interests of the United States, with an expla-
8 nation of the reasons therefor.

9 (b) *TERMINATION.*—

10 (1) *IN GENERAL.*—On the date that is 30 days
11 after the date on which the President makes the cer-
12 tification described under paragraph (2)—

13 (A) section 3, subsections (a) and (b) of sec-
14 tion 5, and section 6(a) of this Act shall cease
15 to have any force or effect;

16 (B) section 73 of the Bretton Woods Agree-
17 ments Act, as added by section 4(a), shall be re-
18 pealed; and

19 (C) section 2(b)(14) of the Export-Import
20 Bank Act of 1945, as added by section 4(b), shall
21 be repealed.

22 (2) *CERTIFICATION.*—The certification described
23 under this paragraph is a certification by the Presi-
24 dent to the Congress that—

25 (A) the Government of North Korea—

1 (i) has ceased to pose a significant
2 threat to national security, with an expla-
3 nation of the reasons therefor; or

4 (ii) is committed to, and is taking ef-
5 fective steps to achieving, the goal of perma-
6 nently and verifiably limiting North Ko-
7 rea’s WMD and ballistic missile programs;
8 or

9 (B) such termination is vital to the na-
10 tional security interests of the United States,
11 with an explanation of the reasons therefor.

12 **SEC. 7. DEFINITIONS.**

13 For purposes of this Act:

14 (1) *TERMS RELATED TO NORTH KOREA.*—The
15 terms “applicable Executive order”, “Government of
16 North Korea”, “North Korea”, “North Korean per-
17 son”, and “significant activities undermining cyber-
18 security” have the meanings given those terms, respec-
19 tively, in section 3 of the North Korea Sanctions and
20 Policy Enhancement Act of 2016 (22 U.S.C. 9202).

21 (2) *COVERED PERSON.*—The term “covered per-
22 son” means the following:

23 (A) Any designated person under an appli-
24 cable Executive order.

1 (B) Any North Korean person that facili-
2 tates the transfer of bulk cash or covered goods
3 (as defined under section 1027.100 of title 31,
4 Code of Federal Regulations).

5 (C) Any North Korean financial institu-
6 tion.

7 (D) Any North Korean person employed
8 outside of North Korea, except that the Secretary
9 of the Treasury may waive the application of
10 this subparagraph for a North Korean person
11 that is not otherwise a covered person and—

12 (i) has been granted asylum or refugee
13 status by the country of employment; or

14 (ii) is employed as essential diplomatic
15 personnel for the Government of North
16 Korea.

17 (E) Any person acting on behalf of, or at
18 the direction of, a person described under sub-
19 paragraphs (A) through (D).

20 (F) Any person that knowingly employs a
21 person described under subparagraph (D).

22 (G) Any person that facilitates the import
23 of goods, services, technology, or natural re-
24 sources, including energy imports and minerals,
25 or their derivatives, from North Korea.

1 (H) Any person that facilitates the export of
2 goods, services, technology, or natural resources,
3 including energy exports and minerals, or their
4 derivatives, to North Korea, except for food, med-
5 icine, or medical supplies required for civilian
6 humanitarian needs.

7 (I) Any person that invests in, or partici-
8 pates in a joint venture with, an entity in which
9 the Government of North Korea participates or
10 an entity that is created or organized under
11 North Korean law.

12 (J) Any person that provides financial serv-
13 ices, including through a subsidiary or joint ven-
14 ture, in North Korea.

15 (K) Any person that insures, registers, fa-
16 cilitates the registration of, or maintains insur-
17 ance or a registration for, a vessel owned, con-
18 trolled, commanded, or operated by a North Ko-
19 rean person.

20 (L) Any person providing specialized teach-
21 ing, training, or information or providing mate-
22 rial or technological support to a North Korean
23 person that—

24 (i) may contribute to North Korea's de-
25 velopment and proliferation of WMD, in-

1 *cluding systems designed in whole or in*
2 *part for the delivery of such weapons; or*

3 *(ii) may contribute to significant ac-*
4 *tivities undermining cybersecurity.*

5 *(3) FINANCIAL INSTITUTION DEFINITIONS.—*

6 *(A) FINANCIAL INSTITUTION.—The term “fi-*
7 *nancial institution” means a United States fi-*
8 *nancial institution or a foreign financial insti-*
9 *tution.*

10 *(B) FOREIGN FINANCIAL INSTITUTION.—The*
11 *term “foreign financial institution” has the*
12 *meaning given that term under section 1010.605*
13 *of title 31, Code of Federal Regulations.*

14 *(C) NORTH KOREAN FINANCIAL INSTITU-*
15 *TION.—The term “North Korean financial insti-*
16 *tution” includes—*

17 *(i) any North Korean financial insti-*
18 *tution, as defined in section 3 of the North*
19 *Korea Sanctions and Policy Enhancement*
20 *Act of 2016 (22 U.S.C. 9202);*

21 *(ii) any financial agency, as defined*
22 *in section 5312 of title 31, United States*
23 *Code, that is owned or controlled by the*
24 *Government of North Korea;*

1 (iii) any money transmitting business,
2 as defined in section 5330(d) of title 31,
3 United States Code, that is owned or con-
4 trolled by the Government of North Korea;

5 (iv) any financial institution that is a
6 joint venture between any person and the
7 Government of North Korea; and

8 (v) any joint venture involving a North
9 Korean financial institution.

10 (D) UNITED STATES FINANCIAL INSTITU-
11 TION.—The term “United States financial insti-
12 tution” has the meaning given the term “U.S. fi-
13 nancial institution” under section 510.310 of
14 title 31, Code of Federal Regulations.

15 (4) KNOWINGLY.—The term “knowingly” with
16 respect to conduct, a circumstance, or a result, means
17 that a person has actual knowledge, or should have
18 known, of the conduct, the circumstance, or the result.

Amend the title so as to read: “A bill to impose sec-
ondary sanctions with respect to North Korea, strengthen
international efforts to improve sanctions enforcement,
and for other purposes.”.