Suspend the Rules And Pass the Bill, H.R. 3898, with Amendments
(The amendments strike all after the enacting clause and insert a
ew text and a new title)

115TH CONGRESS
1ST SESSION

H. R. 3898

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

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 “Otto Warmbier North Korea Nuclear Sanctions Act”.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) On June 1, 2016, the Department of the Treasury’s Financial Crimes Enforcement Network announced a Notice of Finding that the Democratic People’s Republic of Korea is a jurisdiction of primary money laundering concern due to its use of state-controlled financial institutions and front companies to support the proliferation and development of weapons of mass destruction (WMD) and ballistic missiles.

(2) The Financial Action Task Force (FATF) has expressed serious concerns with the threat posed by North Korea’s proliferation and financing of WMD, and has called on FATF members to apply effective counter-measures to protect their financial sectors from North Korean money laundering, WMD proliferation financing, and the financing of terrorism.

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

(A) North Korea continued to access the international financial system in support of illicit activities despite sanctions imposed by U.N. Security Council Resolutions 2270 (2016) and 2321 (2016);
(B) during the reporting period, no mem-
ber state had reported taking actions to freeze
North Korean assets; and

(C) sanctions evasion by North Korea,
combined with inadequate compliance by mem-
ber states, had significantly negated the impact

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

(A) North Korea continued to violate fi-
nancial sanctions by using agents acting abroad
on the country’s behalf;

(B) foreign financial institutions provided
correspondent banking services to North Ko-
rean persons and front companies for illicit pur-
poses;

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

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

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

(6) North Korea’s sixth nuclear test on September 3, 2017, demonstrated an estimated explosive power more than 100 times greater than that generated by its first nuclear test in 2006.

(7) North Korea has successfully tested submarine-launched and intercontinental ballistic missiles, and is rapidly progressing in its development of a nuclear-armed missile that is capable of reaching United States territory.

SEC. 3. CONDITIONS WITH RESPECT TO CERTAIN ACCOUNTS AND TRANSACTIONS AT UNITED STATES FINANCIAL INSTITUTIONS.

(a) CORRESPONDENT AND PAYABLE-THROUGH ACCOUNTS HELD BY FOREIGN FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe regulations to prohibit, or impose strict conditions on, the opening or maintaining in the United States of a correspondent account or a payable-through account by a foreign financial institution that the Secretary finds knowingly facilitates a significant transaction or trans-
actions or provides significant financial services for a covered person.

(2) Penalties.—

(A) Civil Penalty.—A person who violates, attempts to violate, conspires to violate, or causes a violation of regulations prescribed under this subsection shall be subject to a civil penalty in an amount not to exceed the greater of—

(i) $250,000; or

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

(B) Criminal Penalty.—A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of, a violation of regulations prescribed under this subsection shall, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(b) Restrictions on Certain Transactions by United States Financial Institutions.—
(1) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe regulations to prohibit a United States financial institution, and any person owned or controlled by a United States financial institution, from knowingly engaging in a significant transaction or transactions with or benefitting any person that the Secretary finds to be a covered person.

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

(A) $250,000; or

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

SEC. 4. OPPOSITION TO ASSISTANCE BY THE INTERNATIONAL FINANCIAL INSTITUTIONS AND THE EXPORT-IMPORT BANK.

(a) INTERNATIONAL FINANCIAL INSTITUTIONS.—

The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:
"SEC. 73. OPPOSITION TO ASSISTANCE FOR ANY GOVERNMENT THAT FAILS TO IMPLEMENT SANCTIONS ON NORTH KOREA.

“(a) In general.—The Secretary of the Treasury shall instruct the United States Executive Director at the international financial institutions (as defined under section 1701(c) of the International Financial Institutions Act) to use the voice and vote of the United States to oppose the provision of financial assistance to a foreign government, other than assistance to support basic human needs, if the President determines that, in the year preceding consideration of approval of such assistance, the government has knowingly failed to prevent the provision of financial services to, or freeze the funds, financial assets, and economic resources of, a person described under subparagraphs (A) through (E) of section 7(2) of the Otto Warmbier North Korea Nuclear Sanctions Act.

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

“(1) the foreign government’s failure described under (a) is due exclusively to a lack of foreign government capacity;

“(2) the foreign government is taking effective steps to prevent recurrence of such failure; or
“(3) such waiver is vital to the national security interests of the United States.”.

(b) EXPORT-IMPORT BANK.—Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by adding at the end the following:

“(14) Prohibition on support involving persons connected with North Korea.—The Bank may not guarantee, insure, or extend credit, or participate in the extension of credit in connection with the export of a good or service to a covered person (as defined under section 7 of the Otto Warmbier North Korea Nuclear Sanctions Act).”.

SEC. 5. TREASURY REPORTS ON COMPLIANCE, PENALTIES, AND TECHNICAL ASSISTANCE.

(a) QUARTERLY REPORT.—

(1) IN GENERAL.—Not later than 120 days following the date of the enactment of this Act, and every 90 days thereafter, the Secretary of the Treasury shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that includes—

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

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

(C) a description of efforts by the Depart-
ment of the Treasury in the period since the
preceding report, through consultations, tech-
nical assistance, or other appropriate activities,
to strengthen the capacity of financial institu-
tions and foreign governments to prevent the
provision of financial services benefitting any
covered person.

(2) FORM OF REPORT; PUBLIC AVAILABILITY.—

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

(B) PUBLIC AVAILABILITY.—The unclassi-
fied portion of such report shall be made avail-
able to the public and posted on the website of
the Department of the Treasury.

(b) TESTIMONY REQUIRED.—Upon request of the
Committee on Financial Services of the House of Rep-
resentatives or the Committee on Banking, Housing, and
Urban Affairs of the Senate, the Under Secretary of the Treasury for Terrorism and Financial Intelligence shall testify to explain the effects of this Act, and the amendments made by this Act, on North Korea’s access to finance.

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

“SEC. 1629. SUPPORT FOR CAPACITY OF THE INTERNATIONAL MONETARY FUND TO PREVENT MONEY LAUNDERING AND FINANCING OF TERRORISM.

“The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to support the use of the administrative budget of the Fund for technical assistance that strengthens the capacity of Fund members to prevent money laundering and the financing of terrorism.”.

(d) NATIONAL ADVISORY COUNCIL REPORT TO CONGRESS.—The Chairman of the National Advisory Council on International Monetary and Financial Policies shall include in the report required by section 1701 of the International Financial Institutions Act (22 U.S.C. 262r) for
the fiscal year following the date of the enactment of this Act a description of—

(1) the activities of the International Monetary Fund in the most recently completed fiscal year to provide technical assistance that strengthens the capacity of Fund members to prevent money laundering and the financing of terrorism, and the effectiveness of the assistance; and

(2) the efficacy of efforts by the United States to support such technical assistance through the use of the Fund’s administrative budget.

SEC. 6. SUSPENSION AND TERMINATION OF PROHIBITIONS AND PENALTIES.

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

(1) the Government of North Korea has—

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

(B) has agreed to multilateral talks including the Government of the United States, with
the goal of permanently and verifiably limiting
North Korea’s WMD and ballistic missile pro-
grams; or

(2) such suspension is vital to the national se-
curity interests of the United States, with an expla-
nation of the reasons therefor.

(b) TERMINATION.—

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

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

(B) section 73 of the Bretton Woods
Agreements Act, as added by section 4(a), shall
be repealed; and

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

(2) CERTIFICATION.—The certification de-
scribed under this paragraph is a certification by the
President to the Congress that—

(A) the Government of North Korea—
(i) has ceased to pose a significant threat to national security, with an explanation of the reasons therefor; or
(ii) is committed to, and is taking effective steps to achieving, the goal of permanently and verifiably limiting North Korea’s WMD and ballistic missile programs; or
(B) such termination is vital to the national security interests of the United States, with an explanation of the reasons therefor.

SEC. 7. DEFINITIONS.

For purposes of this Act:

(1) TERMS RELATED TO NORTH KOREA.—The terms “applicable Executive order”, “Government of North Korea”, “North Korea”, “North Korean person”, and “significant activities undermining cybersecurity” have the meanings given those terms, respectively, in section 3 of the North Korea Sanctions and Policy Enhancement Act of 2016 (22 U.S.C. 9202).

(2) COVERED PERSON.—The term “covered person” means the following:

(A) Any designated person under an applicable Executive order.
(B) Any North Korean person that facilitates the transfer of bulk cash or covered goods (as defined under section 1027.100 of title 31, Code of Federal Regulations).

(C) Any North Korean financial institution.

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

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

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

(E) Any person acting on behalf of, or at the direction of, a person described under subparagraphs (A) through (D).

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

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

(H) Any person that facilitates the export of goods, services, technology, or natural resources, including energy exports and minerals, or their derivatives, to North Korea, except for food, medicine, or medical supplies required for civilian humanitarian needs.

(I) Any person that invests in, or participates in a joint venture with, an entity in which the Government of North Korea participates or an entity that is created or organized under North Korean law.

(J) Any person that provides financial services, including through a subsidiary or joint venture, in North Korea.

(K) Any person that insures, registers, facilitates the registration of, or maintains insurance or a registration for, a vessel owned, controlled, commanded, or operated by a North Korean person.

(L) Any person providing specialized teaching, training, or information or providing material or technological support to a North Korean person that—
(i) may contribute to North Korea’s
development and proliferation of WMD, in-
cluding systems designed in whole or in
part for the delivery of such weapons; or

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

(3) FINANCIAL INSTITUTION DEFINITIONS.—

(A) FINANCIAL INSTITUTION.—The term
“financial institution” means a United States
financial institution or a foreign financial insti-
tution.

(B) FOREIGN FINANCIAL INSTITUTION.—
The term “foreign financial institution” has the
meaning given that term under section
1010.605 of title 31, Code of Federal Regula-
tions.

(C) NORTH KOREAN FINANCIAL INSTITU-
TION.—The term “North Korean financial in-
stitution” includes—

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

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

(iii) any money transmitting business, as defined in section 5330(d) of title 31, United States Code, that is owned or controlled by the Government of North Korea;

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

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

(D) UNITED STATES FINANCIAL INSTITUTION.—The term “United States financial institution” has the meaning given the term “U.S. financial institution” under section 510.310 of title 31, Code of Federal Regulations.

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

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