

116TH CONGRESS
1ST SESSION

H. R. 4084

To impose sanctions with respect to the Democratic People's Republic of Korea, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2019

Mr. BARR (for himself and Mr. STIVERS) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To impose sanctions with respect to the Democratic People's Republic of 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
5 Korea Nuclear Sanctions Act of 2019”.

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

1 People’s Republic of Korea is a jurisdiction of pri-
2 mary money laundering concern due to its use of
3 state-controlled financial institutions and front com-
4 panies to support the proliferation and development
5 of weapons of mass destruction (WMD) and ballistic
6 missiles.

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

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

17 (A) North Korea continued to access the
18 international financial system in support of il-
19 licit activities despite sanctions imposed by
20 U.N. Security Council Resolutions 2270 (2016)
21 and 2321 (2016);

22 (B) during the reporting period, no mem-
23 ber state had reported taking actions to freeze
24 North Korean assets; and

1 (C) sanctions evasion by North Korea,
2 combined with inadequate compliance by mem-
3 ber states, had significantly negated the impact
4 of U.N. Security Council resolutions.

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

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

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

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

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

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

1 (6) North Korea’s sixth nuclear test on Sep-
2 tember 3, 2017, demonstrated an estimated explo-
3 sive power more than 100 times greater than that
4 generated by its first nuclear test in 2006.

5 (7) On February 23, 2018, the Department of
6 the Treasury announced its largest-ever set of North
7 Korea-related sanctions, with a particular focus on
8 shipping and trading companies, and issued a mari-
9 time advisory to highlight North Korea’s sanctions
10 evasion tactics. On May 9, 2019, the United States
11 seized a North Korean ship, the Wise Honest, which
12 had previously been detained by Indonesia for car-
13 rying coal in violation of United Nations sanctions.

14 (8) According to the March 2019 Final Report
15 of the U.N. Panel of Experts, “The nuclear and bal-
16 listic missile programmes of the Democratic People’s
17 Republic of Korea remain intact and the country
18 continues to defy Security Council resolutions
19 through a massive increase in illegal ship-to-ship
20 transfers of petroleum products and coal. These vio-
21 lations render the latest United Nations sanctions
22 ineffective by flouting the caps on the import of pe-
23 troleum products and crude oil by the Democratic
24 People’s Republic of Korea as well as the coal ban,
25 imposed in 2017 by the Security Council in response

1 to the country's unprecedented nuclear and ballistic
2 missile testing.”.

3 (9) The U.N. Panel of Experts further con-
4 cluded: “Financial sanctions remain some of the
5 most poorly implemented and actively evaded meas-
6 ures of the sanctions regime. Individuals empowered
7 to act as extensions of financial institutions of the
8 Democratic People's Republic of Korea operate in at
9 least five countries with seeming impunity.”.

10 (10) North Korea has successfully tested short-
11 range, submarine-launched, and intercontinental bal-
12 listic missiles, and is rapidly progressing in its devel-
13 opment of a nuclear-armed missile that is capable of
14 reaching United States territory.

15 **SEC. 3. CONDITIONS WITH RESPECT TO CERTAIN AC-**
16 **COUNTS AND TRANSACTIONS AT UNITED**
17 **STATES FINANCIAL INSTITUTIONS.**

18 (a) CORRESPONDENT AND PAYABLE-THROUGH AC-
19 COUNTS HELD BY FOREIGN FINANCIAL INSTITUTIONS.—

20 (1) IN GENERAL.—Not later than 180 days
21 after the date of the enactment of this Act, the Sec-
22 retary of the Treasury shall prescribe regulations to
23 prohibit, or impose strict conditions on, the opening
24 or maintaining in the United States of a cor-
25 respondent account or a payable-through account by

1 a foreign financial institution that the Secretary
2 finds knowingly facilitates a significant transaction
3 or provides significant financial services for a cov-
4 ered person.

5 (2) PENALTIES.—

6 (A) CIVIL PENALTY.—A person who vio-
7 lates, attempts to violate, conspires to violate,
8 or causes a violation of regulations prescribed
9 under this subsection shall be subject to a civil
10 penalty in an amount not to exceed the greater
11 of—

12 (i) \$250,000; or

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

17 (B) CRIMINAL PENALTY.—A person who
18 willfully commits, willfully attempts to commit,
19 or willfully conspires to commit, or aids or
20 abets in the commission of, a violation of regu-
21 lations prescribed under this subsection shall,
22 upon conviction, be fined not more than
23 \$1,000,000, or if a natural person, may be im-
24 prisoned for not more than 20 years, or both.

1 (b) RESTRICTIONS ON CERTAIN TRANSACTIONS BY
 2 UNITED STATES FINANCIAL INSTITUTIONS.—

3 (1) IN GENERAL.—Not later than 180 days
 4 after the date of the enactment of this Act, the Sec-
 5 retary of the Treasury shall prescribe regulations to
 6 prohibit a United States financial institution, and
 7 any person owned or controlled by a United States
 8 financial institution, from knowingly engaging in a
 9 significant transaction with or benefitting any per-
 10 son that the Secretary finds to be a covered person.

11 (2) CIVIL PENALTY.—A person who violates, at-
 12 tempts to violate, conspires to violate, or causes a
 13 violation of regulations prescribed under this sub-
 14 section shall be subject to a civil penalty in an
 15 amount not to exceed the greater of—

16 (A) \$250,000; or

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

20 **SEC. 4. OPPOSITION TO ASSISTANCE BY THE INTER-**
 21 **NATIONAL FINANCIAL INSTITUTIONS AND**
 22 **THE EXPORT-IMPORT BANK.**

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

1 **“SEC. 73. OPPOSITION TO ASSISTANCE FOR ANY GOVERN-**
2 **MENT THAT FAILS TO IMPLEMENT SANC-**
3 **TIONS ON NORTH KOREA.**

4 “(a) IN GENERAL.—The Secretary of the Treasury
5 shall instruct the United States Executive Director at the
6 international financial institutions (as defined under sec-
7 tion 1701(c) of the International Financial Institutions
8 Act) to use the voice and vote of the United States to
9 oppose the provision of financial assistance to a foreign
10 government, other than assistance to support basic human
11 needs, if the President determines that, in the year pre-
12 ceding consideration of approval of such assistance, the
13 government has knowingly failed to prevent the provision
14 of financial services to, or freeze the funds, financial as-
15 sets, and economic resources of, a person described under
16 subparagraphs (A) through (E) of section 8(2) of the Otto
17 Warmbier North Korea Nuclear Sanctions Act of 2019.

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

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

24 “(2) the foreign government is taking effective
25 steps to prevent recurrence of such failure; or

1 “(3) such waiver is vital to the national security
2 interests of the United States.”.

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

6 “(14) PROHIBITION ON SUPPORT INVOLVING
7 PERSONS CONNECTED WITH NORTH KOREA.—The
8 Bank may not guarantee, insure, or extend credit, or
9 participate in the extension of credit in connection
10 with the export of a good or service to a covered per-
11 son (as defined under section 8 of the Otto
12 Warmbier North Korea Nuclear Sanctions Act of
13 2019).”.

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

16 (a) SEMIANNUAL REPORT.—

17 (1) IN GENERAL.—Not later than 120 days fol-
18 lowing the date of the enactment of this Act, and
19 every 180 days thereafter, the Secretary of the
20 Treasury shall submit a report to the Committee on
21 Financial Services of the House of Representatives
22 and the Committee on Banking, Housing, and
23 Urban Affairs of the Senate that includes—

24 (A) a list of financial institutions that, in
25 the period since the preceding report, knowingly

1 facilitated a significant transaction or trans-
2 actions or provided significant financial services
3 for a covered person;

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

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

15 (2) FORM OF REPORT; PUBLIC AVAILABILITY.—

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

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

23 (3) SUNSET.—The report requirement under
24 this subsection shall terminate after the end of the

1 5-year period beginning on the date of enactment of
2 this Act.

3 (b) TESTIMONY REQUIRED.—Upon request of the
4 Committee on Financial Services of the House of Rep-
5 resentatives or the Committee on Banking, Housing, and
6 Urban Affairs of the Senate, the Under Secretary of the
7 Treasury for Terrorism and Financial Intelligence shall
8 testify to explain the effects of this Act, and the amend-
9 ments made by this Act, on North Korea’s access to illicit
10 finance channels.

11 (c) INTERNATIONAL MONETARY FUND.—Title XVI
12 of the International Financial Institutions Act (22 U.S.C.
13 262p et seq.) is amended by adding at the end the fol-
14 lowing:

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

19 “The Secretary of the Treasury shall instruct the
20 United States Executive Director at the International
21 Monetary Fund to support the increased use of the admin-
22 istrative budget of the Fund for technical assistance that
23 strengthens the capacity of Fund members to prevent
24 money laundering and the financing of terrorism.”.

1 (d) NATIONAL ADVISORY COUNCIL REPORT TO CON-
2 GRESS.—The Chairman of the National Advisory Council
3 on International Monetary and Financial Policies shall in-
4 clude in the report required by section 1701 of the Inter-
5 national Financial Institutions Act (22 U.S.C. 262r) a de-
6 scription of—

7 (1) the activities of the International Monetary
8 Fund in the most recently completed fiscal year to
9 provide technical assistance that strengthens the ca-
10 pacity of Fund members to prevent money laun-
11 dering and the financing of terrorism, and the effec-
12 tiveness of the assistance; and

13 (2) the efficacy of efforts by the United States
14 to support such technical assistance through the use
15 of the Fund’s administrative budget, and the level of
16 such support.

17 (e) SUNSET.—Effective on the date that is the end
18 of the 4-year period beginning on the date of enactment
19 of this Act, section 1629 of the International Financial
20 Institutions Act, as added by subsection (c), is repealed.

21 **SEC. 6. SUSPENSION AND TERMINATION OF PROHIBITIONS**
22 **AND PENALTIES.**

23 (a) SUSPENSION.—Except for any provision of sec-
24 tion 7, the President may suspend, on a case-by-case
25 basis, the application of any provision of this subtitle, or

1 provision in an amendment made by this subtitle, with re-
2 spect to an entity, individual, or transaction, for a period
3 of not more than 180 days at a time if the President cer-
4 tifies to Congress that—

5 (1) the Government of North Korea has—

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

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

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

18 (b) TERMINATION.—

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

22 (A) subsection (a), section 3, and sub-
23 sections (a) and (b) of section 5 shall cease to
24 have any force or effect;

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

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

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

10 (A) the Government of North Korea—

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

14 (ii) is committed to, and is taking ef-
15 fective steps to achieving, the goal of per-
16 manently and verifiably limiting North Ko-
17 rea’s WMD and ballistic missile programs;
18 or

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

22 **SEC. 7. EXCEPTION RELATING TO IMPORTATION OF**
23 **GOODS.**

24 (a) IN GENERAL.—The authorities and requirements
25 to impose sanctions authorized under this subtitle shall

1 not include the authority or requirement to impose sanc-
2 tions on the importation of goods.

3 (b) GOOD DEFINED.—In this section, the term
4 “good” means any article, natural or man-made sub-
5 stance, material, supply or manufactured product, includ-
6 ing inspection and test equipment, and excluding technical
7 data.

8 **SEC. 8. DEFINITIONS.**

9 For purposes of this subtitle:

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

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

20 (A) Any North Korean person designated
21 under an applicable Executive order.

22 (B) Any North Korean person that know-
23 ingly facilitates the transfer of bulk cash or cov-
24 ered goods (as defined under section 1027.100
25 of title 31, Code of Federal Regulations).

1 (C) Any North Korean financial institu-
2 tion.

3 (D) Any North Korean person employed
4 outside of North Korea, except that the Sec-
5 retary of the Treasury may waive the applica-
6 tion of this subparagraph for a North Korean
7 person that is not otherwise a covered person
8 and—

9 (i) has been granted asylum or ref-
10 ugee status by the country of employment;
11 or

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

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

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

20 (G) Any person that knowingly facilitates
21 the import of goods, services, technology, or
22 natural resources, including energy imports and
23 minerals, or their derivatives, from North
24 Korea.

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

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

12 (J) Any person that knowingly provides fi-
13 nancial services, including through a subsidiary
14 or joint venture, in North Korea.

15 (K) Any person that knowingly insures,
16 registers, facilitates the registration of, or
17 maintains insurance or a registration for, a ves-
18 sel owned, controlled, commanded, or operated
19 by a North Korean person.

20 (L) Any person knowingly providing spe-
21 cialized teaching, training, or information or
22 providing material or technological support to a
23 North Korean person that—

24 (i) may contribute to North Korea's
25 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 activities undermining cybersecurity.

(3) FINANCIAL INSTITUTION DEFINITIONS.—

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

(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 Regulations.

(C) NORTH KOREAN FINANCIAL INSTITUTION.—The term “North Korean financial institution” includes—

(i) any North Korean financial institution, 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;

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
9 North 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.
13 financial 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,
17 means that a person has actual knowledge, or should
18 have known, of the conduct, the circumstance, or the
19 result.

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