

[DISCUSSION DRAFT]

115TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To require the Secretary of the Treasury to issue regulations placing certain limitations on United States financial institutions with respect to North Korea, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

M. \_\_\_\_\_ introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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**A BILL**

To require the Secretary of the Treasury to issue regulations placing certain limitations on 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 Ko-  
5 rea’s Access to Finance Act of 2017”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

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

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

18           (3) In its February 2017 Final Report, the  
19 U.N. Panel of Experts concluded that—

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

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

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

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

13 (5) North Korea's sixth nuclear test on Sep-  
14 tember 3, 2017, demonstrated an estimated explo-  
15 sive power more than 100 times greater than that  
16 generated by its first nuclear test in 2006.

17 (6) North Korea has successfully tested sub-  
18 marine-launched and intercontinental ballistic mis-  
19 siles, and is rapidly progressing in its development  
20 of a nuclear-armed missile that is capable of reach-  
21 ing United States territory.

1 **SEC. 3. CONDITIONS WITH RESPECT TO CERTAIN AC-**  
2 **COUNTS AND TRANSACTIONS AT UNITED**  
3 **STATES FINANCIAL INSTITUTIONS.**

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

6 (1) IN GENERAL.—Not later than 45 days after  
7 the date of the enactment of this Act, the Secretary  
8 of the Treasury shall prescribe regulations to pro-  
9 hibit, or impose strict conditions on, the opening or  
10 maintaining in the United States of a correspondent  
11 account or a payable-through account by a foreign  
12 financial institution if the Secretary finds such for-  
13 eign financial institution—

14 (A) knowingly facilitates a significant  
15 transaction or transactions or provides signifi-  
16 cant financial services for a covered person; or

17 (B) fails to apply reasonable due diligence  
18 to prevent the activities described under sub-  
19 paragraph (A) with respect to a covered person.

20 (2) PENALTIES.—

21 (A) CIVIL PENALTY.—A person who vio-  
22 lates, attempts to violate, conspires to violate,  
23 or causes a violation of regulations prescribed  
24 under this subsection shall be subject to a civil  
25 penalty in an amount not to exceed the greater  
26 of—

1 (i) \$250,000; or

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

6 (B) CRIMINAL PENALTY.—A person who  
7 willfully commits, willfully attempts to commit,  
8 or willfully conspires to commit, or aids or  
9 abets in the commission of, a violation of regu-  
10 lations prescribed under this subsection shall,  
11 upon conviction, be fined not more than  
12 \$1,000,000, or if a natural person, may be im-  
13 prisoned for not more than 20 years, or both.

14 (b) RESTRICTIONS ON CERTAIN TRANSACTIONS BY  
15 UNITED STATES FINANCIAL INSTITUTIONS.—

16 (1) IN GENERAL.—Not later than 45 days after  
17 the date of the enactment of this Act, the Secretary  
18 of the Treasury shall prescribe regulations to pro-  
19 hibit a United States financial institution, and any  
20 person owned or controlled by a United States finan-  
21 cial institution, from knowingly engaging in a trans-  
22 action with or benefitting—

23 (A) a covered person;

24 (B) a political figure or official of a foreign  
25 government, if the political figure or official

1 knowingly fails to enforce, or facilitate the en-  
2 forcement of, an applicable United Nations Se-  
3 curity Council resolution; or

4 (C) a family member or close associate of  
5 a political figure or official of a foreign govern-  
6 ment described under subparagraph (B), if the  
7 Secretary determines that the failure described  
8 in (B) is due, in whole or in part, to corrupt  
9 activity that financially benefits the family  
10 member or close associate.

11 (2) WAIVER.—The President may waive the ap-  
12 plication of paragraph (1)(B) for up to 180 days at  
13 a time if the President determines that—

14 (A) the failure described in paragraph  
15 (1)(B) is due exclusively to a lack of foreign  
16 government capacity; or

17 (B) the foreign government is taking effec-  
18 tive steps to prevent the recurrence of such fail-  
19 ure.

20 (3) CIVIL PENALTY.—A person who violates, at-  
21 tempts to violate, conspires to violate, or causes a  
22 violation of regulations prescribed under this sub-  
23 section shall be subject to a civil penalty in an  
24 amount not to exceed the greater of—

25 (A) \$250,000; or

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

4 **SEC. 4. OPPOSITION TO ASSISTANCE BY THE INTER-**  
5 **NATIONAL FINANCIAL INSTITUTIONS AND**  
6 **THE EXPORT-IMPORT BANK.**

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

10 **“SEC. 73. OPPOSITION TO ASSISTANCE FOR ANY GOVERN-**  
11 **MENT THAT FAILS TO IMPLEMENT OR EN-**  
12 **FORCE U.N. SANCTIONS ON NORTH KOREA.**

13 “(a) IN GENERAL.—The Secretary of the Treasury  
14 shall instruct the United States Executive Director at the  
15 international financial institutions (as defined under sec-  
16 tion 1701(c) of the International Financial Institutions  
17 Act) to use the voice and vote of the United States to  
18 oppose the provision of assistance to a foreign government  
19 if the President determines that the government has  
20 knowingly failed to implement or enforce an applicable  
21 United Nations Security Council resolution (as defined  
22 under section 3 of the North Korea Sanctions and Policy  
23 Enhancement Act of 2016).

1           “(b) WAIVER.—The President may waive subsection  
2 (a) for up to 180 days at a time with respect to a foreign  
3 government if the President determines that—

4           “(1) the foreign government’s failure to imple-  
5 ment or enforce the applicable United Nations Secu-  
6 rity Council resolution is due exclusively to a lack of  
7 foreign government capacity; or

8           “(2) the foreign government is taking effective  
9 steps to prevent recurrence of such failure.”.

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

13           “(14) PROHIBITION ON SUPPORT INVOLVING  
14 PERSONS CONNECTED WITH NORTH KOREA.—The  
15 Bank may not guarantee, insure, or extend credit, or  
16 participate in the extension of credit in connection  
17 with the export of a good or service involving a for-  
18 eign financial institution (as defined under section  
19 1010.605 of title 31, Code of Federal Regulations)  
20 if the Secretary of the Treasury determines that the  
21 foreign financial institution has, in the preceding fis-  
22 cal year, knowingly facilitated a significant trans-  
23 action or transactions or provided significant finan-  
24 cial services for a covered person (as defined under



1 section 7 of the Impeding North Korea's Access to  
2 Finance Act of 2017).”.

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

5 (a) BIENNIAL REPORT.—

6 (1) IN GENERAL.—Not later than 180 days fol-  
7 lowing the date of the enactment of this Act, and  
8 every 180 days thereafter, the Secretary of the  
9 Treasury shall submit a report to the Committee on  
10 Financial Services of the House of Representatives  
11 and the Committee on Banking, Housing, and  
12 Urban Affairs of the Senate that includes—

13 (A) a list of foreign financial institutions  
14 that, in the 180-day period preceding the re-  
15 port, knowingly facilitated a significant trans-  
16 action or transactions or provided significant fi-  
17 nancial services for a covered person, or failed  
18 to apply reasonable due diligence to prevent  
19 such activities;

20 (B) a list of any penalties imposed under  
21 section 3 in the 180-day period preceding the  
22 report;

23 (C) a list of any political figures or offi-  
24 cials of a foreign government who, in the pre-  
25 ceding 180-day period, knowingly failed to en-

1 force, or facilitate the enforcement of, an appli-  
2 cable United Nations Security Council resolu-  
3 tion, if such failure was not due exclusively to  
4 a lack of foreign government capacity;

5 (D) a description of corrupt activity, if  
6 any, that is likely to have caused, in whole or  
7 in part, a failure described in subparagraph  
8 (C); and

9 (E) a description of efforts by the Office of  
10 Technical Assistance to strengthen foreign  
11 countries' capacity to implement and enforce  
12 provisions of applicable United Nations Security  
13 Council resolutions.

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

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

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

22 (i) in English, Arabic, Chinese,  
23 French, Korean, Russian, Spanish, and  
24 any other languages that the Secretary de-  
25 termines appropriate; and

1 (ii) in precompressed, easily  
2 downloadable versions that are made avail-  
3 able in all appropriate formats.

4 (b) TESTIMONY REQUIRED.—Upon request of the  
5 Committee on Financial Services of the House of Rep-  
6 resentatives or the Committee on Banking, Housing, and  
7 Urban Affairs of the Senate, the Under Secretary of the  
8 Treasury for Terrorism and Financial Intelligence shall  
9 testify to explain each report submitted pursuant to sub-  
10 section (a), and the effects of this Act, and the amend-  
11 ments made by this Act, on North Korea’s access to finan-  
12 cial services.

13 (c) INTERNATIONAL MONETARY FUND.—Title XVI  
14 of the International Financial Institutions Act (22 U.S.C.  
15 262p et seq.) is amended by adding at the end the fol-  
16 lowing:

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

21 “The Secretary of the Treasury shall instruct the  
22 United States Executive Director at the International  
23 Monetary Fund to support the use of the administrative  
24 budget of the Fund for technical assistance that strength-

1 ens the capacity of Fund members to prevent money laun-  
2 dering and the financing of terrorism.”.

3 (d) NATIONAL ADVISORY COUNCIL REPORT TO CON-  
4 GRESS.—The Chairman of the National Advisory Council  
5 on International Monetary and Financial Policies shall in-  
6 clude in the report required by section 1701 of the Inter-  
7 national Financial Institutions Act (22 U.S.C. 262r) for  
8 the fiscal year following the date of the enactment of this  
9 Act a description of—

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

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

19 **SEC. 6. SUSPENSION AND TERMINATION OF PROHIBITIONS**  
20 **AND PENALTIES.**

21 (a) SUSPENSION.—The President may suspend the  
22 application of any provision of this Act, or provision in  
23 an amendment made by this Act, for a period of not more  
24 than 180 days at a time if the President certifies to Con-  
25 gress that the Government of North Korea has—

1           (1) committed to the verifiable suspension of  
2 North Korea's proliferation and testing of WMD, in-  
3 cluding systems designed in whole or in part for the  
4 delivery of such weapons; and

5           (2) has agreed to multilateral talks including  
6 the Government of the United States, with the goal  
7 of permanently and verifiably limiting North Korea's  
8 WMD and ballistic missile programs.

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  
14 section 5, and section 6(a) of this Act shall  
15 cease to have any force or effect;

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

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

22           (2) CERTIFICATION.—The certification de-  
23 scribed under this paragraph is a certification by the  
24 President to the Congress that the Government of  
25 North Korea—

1 (A) has ceased to pose a significant threat  
2 to national security, with an explanation of the  
3 reasons therefor; or

4 (B) is committed to, and is taking effective  
5 steps to achieving, the goal described under  
6 subsection (a)(2).

7 **SEC. 7. DEFINITIONS.**

8 For purposes of this Act:

9 (1) **TERMS RELATED TO NORTH KOREA.**—The  
10 terms “applicable Executive order”, “applicable  
11 United Nations Security Council resolution”, “Gov-  
12 ernment of North Korea”, “North Korea”, and  
13 “North Korean person” have the meanings given  
14 those terms, respectively, in section 3 of the North  
15 Korea Sanctions and Policy Enhancement Act of  
16 2016 (22 U.S.C. 9202).

17 (2) **CORRUPT ACTIVITY.**—The term “corrupt  
18 activity” shall have the meaning of the term as de-  
19 fined by the Secretary of the Treasury in the regula-  
20 tions prescribed under section 3.

21 (3) **COVERED PERSON.**—The term “covered  
22 person” means the following:

23 (A) Any designated person under an appli-  
24 cable Executive order or applicable United Na-  
25 tions Security Council resolution.

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) in violation of an  
5 applicable United Nations Security Council res-  
6 olution.

7 (C) Any North Korean financial institu-  
8 tion.

9 (D) Any North Korean person employed  
10 outside of North Korea pursuant to an author-  
11 ization by the Government of North Korea.

12 (E) Any person acting on behalf of, or at  
13 the direction of, a person described under sub-  
14 paragraph (A) through (D).

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

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

21 (H) Any person that facilitates the export  
22 of energy, mining, or manufacturing tech-  
23 nologies, or natural resources, including energy  
24 exports and minerals, or their derivatives, to  
25 North Korea.

1 (I) Any person that participates in a joint  
2 venture with an entity in which the Government  
3 of North Korea participates or an entity that is  
4 created under North Korean law.

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

8 (K) Any person that insures, registers, fa-  
9 cilitates the registration of, or maintains insur-  
10 ance or a registration for, a vessel commanded  
11 or operated by a North Korean person.

12 (L) Any person providing or receiving spe-  
13 cialized teaching or training prohibited by an  
14 applicable United Nations Security Council res-  
15 olution.

16 (4) FINANCIAL INSTITUTION DEFINITIONS.—

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

21 (B) FOREIGN FINANCIAL INSTITUTION.—  
22 The term “foreign financial institution” has the  
23 meaning given that term under section  
24 1010.605 of title 31, Code of Federal Regula-  
25 tions.



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

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

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

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

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

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

21 (D) UNITED STATES FINANCIAL INSTITU-  
22 TION.—The term “United States financial insti-  
23 tution” has the meaning given the term “U.S.  
24 financial institution” under section 510.310 of  
25 title 31, Code of Federal Regulations.

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