

**AMENDMENT IN THE NATURE OF A SUBSTITUTE TO
H.R. 3898
OFFERED BY MR. BARR OF KENTUCKY**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Impeding North Ko-
3 rea’s Access to Finance Act of 2017”.

4 SEC. 2. FINDINGS.

5 The Congress finds the following:

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

15 (2) The Financial Action Task Force (FATF)
16 has expressed serious concerns with the threat posed
17 by North Korea’s proliferation and financing of
18 WMD, and has called on FATF members to apply

1 effective counter-measures to protect their financial
2 sectors from North Korean money laundering, WMD
3 proliferation financing, and the financing of ter-
4 rorism.

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

7 (A) North Korea continued to access the
8 international financial system in support of il-
9 licit activities despite sanctions imposed by
10 U.N. Security Council Resolutions 2270 (2016)
11 and 2321 (2016);

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

15 (C) sanctions evasion by North Korea,
16 combined with inadequate compliance by mem-
17 ber states, had significantly negated the impact
18 of U.N. Security Council resolutions.

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

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

24 (B) foreign financial institutions provided
25 correspondent banking services to North Ko-

1 rean persons and front companies for illicit pur-
2 poses;

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

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

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

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

18 (7) North Korea has successfully tested sub-
19 marine-launched and intercontinental ballistic mis-
20 siles, and is rapidly progressing in its development
21 of a nuclear-armed missile that is capable of reach-
22 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 that the Secretary finds know-
13 ingly facilitates a significant transaction or trans-
14 actions or provides significant financial services for
15 a covered person.

16 (2) PENALTIES.—

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

23 (i) \$250,000; or

24 (ii) an amount that is twice the
25 amount of the transaction that is the basis

1 of the violation with respect to which the
2 penalty is imposed.

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

11 (b) RESTRICTIONS ON CERTAIN TRANSACTIONS BY
12 UNITED STATES FINANCIAL INSTITUTIONS.—

13 (1) IN GENERAL.—Not later than 45 days after
14 the date of the enactment of this Act, the Secretary
15 of the Treasury shall prescribe regulations to pro-
16 hibit a United States financial institution, and any
17 person owned or controlled by a United States finan-
18 cial institution, from knowingly engaging in a sig-
19 nificant transaction or transactions with or benefit-
20 ting any person that the Secretary finds to be a cov-
21 ered person.

22 (2) CIVIL PENALTY.—A person who violates, at-
23 tempts to violate, conspires to violate, or causes a
24 violation of regulations prescribed under this sub-

1 section shall be subject to a civil penalty in an
2 amount not to exceed the greater of—

3 (A) \$250,000; or

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

7 **SEC. 4. OPPOSITION TO ASSISTANCE BY THE INTER-**
8 **NATIONAL FINANCIAL INSTITUTIONS AND**
9 **THE EXPORT-IMPORT BANK.**

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

13 **“SEC. 73. OPPOSITION TO ASSISTANCE FOR ANY GOVERN-**
14 **MENT THAT FAILS TO IMPLEMENT SANC-**
15 **TIONS ON NORTH KOREA.**

16 “(a) IN GENERAL.—The Secretary of the Treasury
17 shall instruct the United States Executive Director at the
18 international financial institutions (as defined under sec-
19 tion 1701(c) of the International Financial Institutions
20 Act) to use the voice and vote of the United States to
21 oppose the provision of financial assistance to a foreign
22 government, other than assistance to support basic human
23 needs, if the President determines that, in the year pre-
24 ceding consideration of approval of such assistance, the
25 government has knowingly failed to prevent the provision

1 of financial services to, or freeze the funds, financial as-
2 sets, and economic resources of, a person described under
3 subparagraphs (A) through (E) of section 7(2) of the Im-
4 peding North Korea's Access to Finance Act of 2017.

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

8 “(1) the foreign government's failure described
9 under (a) is due exclusively to a lack of foreign gov-
10 ernment capacity;

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

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

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

18 “(14) PROHIBITION ON SUPPORT INVOLVING
19 PERSONS CONNECTED WITH NORTH KOREA.—The
20 Bank may not guarantee, insure, or extend credit, or
21 participate in the extension of credit in connection
22 with the export of a good or service to a covered per-
23 son (as defined under section 7 of the Impeding
24 North Korea's Access to Finance Act of 2017).”.

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

3 (a) QUARTERLY REPORT.—

4 (1) IN GENERAL.—Not later than 120 days fol-
5 lowing the date of the enactment of this Act, and
6 every 90 days thereafter, the Secretary of the Treas-
7 ury shall submit a report to the Committee on Fi-
8 nancial Services of the House of Representatives and
9 the Committee on Banking, Housing, and Urban Af-
10 fairs of the Senate that includes—

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

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

20 (C) a description of efforts by the Depart-
21 ment of the Treasury in the period since the
22 preceding report, through consultations, tech-
23 nical assistance, or other appropriate activities,
24 to strengthen the capacity of financial institu-
25 tions and foreign governments to prevent the

1 provision of financial services benefitting any
2 covered person.

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

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

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

11 (b) TESTIMONY REQUIRED.—Upon request of the
12 Committee on Financial Services of the House of Rep-
13 resentatives or the Committee on Banking, Housing, and
14 Urban Affairs of the Senate, the Under Secretary of the
15 Treasury for Terrorism and Financial Intelligence shall
16 testify to explain the effects of this Act, and the amend-
17 ments made by this Act, on North Korea's access to fi-
18 nance.

19 (c) INTERNATIONAL MONETARY FUND.—Title XVI
20 of the International Financial Institutions Act (22 U.S.C.
21 262p et seq.) is amended by adding at the end the fol-
22 lowing:

1 **“SEC. 1629. SUPPORT FOR CAPACITY OF THE INTER-**
2 **NATIONAL MONETARY FUND TO PREVENT**
3 **MONEY LAUNDERING AND FINANCING OF**
4 **TERRORISM.**

5 “The Secretary of the Treasury shall instruct the
6 United States Executive Director at the International
7 Monetary Fund to support the use of the administrative
8 budget of the Fund for technical assistance that strength-
9 ens the capacity of Fund members to prevent money laun-
10 dering and the financing of terrorism.”.

11 (d) NATIONAL ADVISORY COUNCIL REPORT TO CON-
12 GRESS.—The Chairman of the National Advisory Council
13 on International Monetary and Financial Policies shall in-
14 clude in the report required by section 1701 of the Inter-
15 national Financial Institutions Act (22 U.S.C. 262r) for
16 the fiscal year following the date of the enactment of this
17 Act a description of—

18 (1) the activities of the International Monetary
19 Fund in the most recently completed fiscal year to
20 provide technical assistance that strengthens the ca-
21 pacity of Fund members to prevent money laun-
22 dering and the financing of terrorism, and the effec-
23 tiveness of the assistance; and

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

1 **SEC. 6. SUSPENSION AND TERMINATION OF PROHIBITIONS**
2 **AND PENALTIES.**

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

8 (1) the Government of North Korea has—

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

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

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

21 (b) **TERMINATION.**—

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

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

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

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

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

13 (A) the Government of North Korea—

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

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

21 or

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

1 **SEC. 7. DEFINITIONS.**

2 For purposes of this Act:

3 (1) TERMS RELATED TO NORTH KOREA.—The
4 terms “applicable Executive order”, “Government of
5 North Korea”, “North Korea”, “North Korean per-
6 son”, and “significant activities undermining
7 cybersecurity” have the meanings given those terms,
8 respectively, in section 3 of the North Korea Sanc-
9 tions and Policy Enhancement Act of 2016 (22
10 U.S.C. 9202).

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

13 (A) Any designated person under an appli-
14 cable Executive order.

15 (B) Any North Korean person that facili-
16 tates the transfer of bulk cash or covered goods
17 (as defined under section 1027.100 of title 31,
18 Code of Federal Regulations).

19 (C) Any North Korean financial institu-
20 tion.

21 (D) Any North Korean person employed
22 outside of North Korea, except that the Sec-
23 retary of the Treasury may waive the applica-
24 tion of this subparagraph for a North Korean
25 person that is not otherwise a covered person
26 and—

1 (i) has been granted asylum or ref-
2 ugee status by the country of employment;
3 or

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

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

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

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

16 (H) Any person that facilitates the export
17 of goods, services, technology, or natural re-
18 sources, including energy exports and minerals,
19 or their derivatives, to North Korea, except for
20 food, medicine, or medical supplies required for
21 civilian humanitarian needs.

22 (I) Any person that invests in, or partici-
23 pates in a joint venture with, an entity in which
24 the Government of North Korea participates or

1 an entity that is created or organized under
2 North Korean law.

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

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

11 (L) Any person providing specialized
12 teaching, training, or information or providing
13 material or technological support to a North
14 Korean person that—

15 (i) may contribute to North Korea's
16 development and proliferation of WMD, in-
17 cluding systems designed in whole or in
18 part for the delivery of such weapons; or

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

21 (3) FINANCIAL INSTITUTION DEFINITIONS.—

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

1 (B) FOREIGN FINANCIAL INSTITUTION.—

2 The term “foreign financial institution” has the
3 meaning given that term under section
4 1010.605 of title 31, Code of Federal Regula-
5 tions.

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

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

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

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

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

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

1 (D) UNITED STATES FINANCIAL INSTITU-
2 TION.—The term “United States financial insti-
3 tution” has the meaning given the term “U.S.
4 financial institution” under section 510.310 of
5 title 31, Code of Federal Regulations.

6 (4) KNOWINGLY.—The term “knowingly” with
7 respect to conduct, a circumstance, or a result,
8 means that a person has actual knowledge, or should
9 have known, of the conduct, the circumstance, or the
10 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.”.

