

AMENDMENT TO THE RULES COMMITTEE PRINT

116-19

OFFERED BY MR. BARR OF KENTUCKY

At the end of title X, add the following:

1 **Subtitle I—North Korea Nuclear**
2 **Sanctions**

3 **SEC. 1092. SHORT TITLE.**

4 This subtitle may be cited as the “Otto Warmbier
5 North Korea Nuclear Sanctions Act of 2019”.

6 **SEC. 1093. 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

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

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

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

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

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

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

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

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

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

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

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

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

20 (7) On February 23, 2018 the Department of
21 the Treasury announced its largest-ever set of North
22 Korea-related sanctions, with a particular focus on
23 shipping and trading companies, and issued a mari-
24 time advisory to highlight North Korea's sanctions
25 evasion tactics. On May 9, 2019, the United States

1 seized a North Korean ship, the Wise Honest, which
2 had previously been detained by Indonesia for car-
3 rying coal in violation of United Nations sanctions.

4 (8) According to the March 2019 Final Report
5 of the U.N. Panel of Experts, “The nuclear and bal-
6 listic missile programmes of the Democratic People’s
7 Republic of Korea remain intact and the country
8 continues to defy Security Council resolutions
9 through a massive increase in illegal ship-to-ship
10 transfers of petroleum products and coal. These vio-
11 lations render the latest United Nations sanctions
12 ineffective by flouting the caps on the import of pe-
13 troleum products and crude oil by the Democratic
14 People’s Republic of Korea as well as the coal ban,
15 imposed in 2017 by the Security Council in response
16 to the country’s unprecedented nuclear and ballistic
17 missile testing.”.

18 (9) The U.N. Panel of Experts further con-
19 cluded: “Financial sanctions remain some of the
20 most poorly implemented and actively evaded meas-
21 ures of the sanctions regime. Individuals empowered
22 to act as extensions of financial institutions of the
23 Democratic People’s Republic of Korea operate in at
24 least five countries with seeming impunity.”.

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

6 **SEC. 1094. CONDITIONS WITH RESPECT TO CERTAIN AC-**
7 **COUNTS AND TRANSACTIONS AT UNITED**
8 **STATES FINANCIAL INSTITUTIONS.**

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

11 (1) IN GENERAL.—Not later than 180 days
12 after the date of the enactment of this Act, the Sec-
13 retary of the Treasury shall prescribe regulations to
14 prohibit, or impose strict conditions on, the opening
15 or maintaining in the United States of a cor-
16 respondent account or a payable-through account by
17 a foreign financial institution that the Secretary
18 finds knowingly facilitates a significant transaction
19 or provides significant financial services for a cov-
20 ered person.

21 (2) PENALTIES.—

22 (A) CIVIL PENALTY.—A person who vio-
23 lates, attempts to violate, conspires to violate,
24 or causes a violation of regulations prescribed
25 under this subsection shall be subject to a civil

1 penalty in an amount not to exceed the greater
2 of—

3 (i) \$250,000; or

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

8 (B) CRIMINAL PENALTY.—A person who
9 willfully commits, willfully attempts to commit,
10 or willfully conspires to commit, or aids or
11 abets in the commission of, a violation of regu-
12 lations prescribed under this subsection shall,
13 upon conviction, be fined not more than
14 \$1,000,000, or if a natural person, may be im-
15 prisoned for not more than 20 years, or both.

16 (b) RESTRICTIONS ON CERTAIN TRANSACTIONS BY
17 UNITED STATES FINANCIAL INSTITUTIONS.—

18 (1) IN GENERAL.—Not later than 180 days
19 after the date of the enactment of this Act, the Sec-
20 retary of the Treasury shall prescribe regulations to
21 prohibit a United States financial institution, and
22 any person owned or controlled by a United States
23 financial institution, from knowingly engaging in a
24 significant transaction with or benefitting any per-
25 son that the Secretary finds to be a covered person.

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

6 (A) \$250,000; or

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

10 **SEC. 1095. OPPOSITION TO ASSISTANCE BY THE INTER-**
11 **NATIONAL FINANCIAL INSTITUTIONS AND**
12 **THE EXPORT-IMPORT BANK.**

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

16 **“SEC. 73. OPPOSITION TO ASSISTANCE FOR ANY GOVERN-**
17 **MENT THAT FAILS TO IMPLEMENT SANC-**
18 **TIONS ON NORTH KOREA.**

19 “(a) IN GENERAL.—The Secretary of the Treasury
20 shall instruct the United States Executive Director at the
21 international financial institutions (as defined under sec-
22 tion 1701(c) of the International Financial Institutions
23 Act) to use the voice and vote of the United States to
24 oppose the provision of financial assistance to a foreign
25 government, other than assistance to support basic human

1 needs, if the President determines that, in the year pre-
2 ceding consideration of approval of such assistance, the
3 government has knowingly failed to prevent the provision
4 of financial services to, or freeze the funds, financial as-
5 sets, and economic resources of, a person described under
6 subparagraphs (A) through (E) of section 7(2) of the Otto
7 Warmbier North Korea Nuclear Sanctions Act of 2019.

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

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

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

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

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

21 “(14) PROHIBITION ON SUPPORT INVOLVING
22 PERSONS CONNECTED WITH NORTH KOREA.—The
23 Bank may not guarantee, insure, or extend credit, or
24 participate in the extension of credit in connection
25 with the export of a good or service to a covered per-

1 son (as defined under section 7 of the Otto
2 Warmbier North Korea Nuclear Sanctions Act of
3 2019).”.

4 **SEC. 1096. TREASURY REPORTS ON COMPLIANCE, PEN-**
5 **ALTIES, AND TECHNICAL ASSISTANCE.**

6 (a) SEMIANNUAL REPORT.—

7 (1) IN GENERAL.—Not later than 120 days fol-
8 lowing the date of the enactment of this Act, and
9 every 180 days thereafter, the Secretary of the
10 Treasury shall submit a report to the Committee on
11 Financial Services of the House of Representatives
12 and the Committee on Banking, Housing, and
13 Urban Affairs of the Senate that includes—

14 (A) a list of financial institutions that, in
15 the period since the preceding report, knowingly
16 facilitated a significant transaction or trans-
17 actions or provided significant financial services
18 for a covered person;

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

22 (C) a description of efforts by the Depart-
23 ment of the Treasury in the period since the
24 preceding report, through consultations, tech-
25 nical assistance, or other appropriate activities,

1 to strengthen the capacity of financial institu-
2 tions and foreign governments to prevent the
3 provision of financial services benefitting any
4 covered person.

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

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

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

13 (3) SUNSET.—The report requirement under
14 this subsection shall terminate after the end of the
15 5-year period beginning on the date of enactment of
16 this Act.

17 (b) TESTIMONY REQUIRED.—Upon request of the
18 Committee on Financial Services of the House of Rep-
19 resentatives or the Committee on Banking, Housing, and
20 Urban Affairs of the Senate, the Under Secretary of the
21 Treasury for Terrorism and Financial Intelligence shall
22 testify to explain the effects of this Act, and the amend-
23 ments made by this Act, on North Korea's access to illicit
24 finance channels.

1 (c) INTERNATIONAL MONETARY FUND.—Title XVI
2 of the International Financial Institutions Act (22 U.S.C.
3 262p et seq.) is amended by adding at the end the fol-
4 lowing:

5 **“SEC. 1629. SUPPORT FOR CAPACITY OF THE INTER-**
6 **NATIONAL MONETARY FUND TO PREVENT**
7 **MONEY LAUNDERING AND FINANCING OF**
8 **TERRORISM.**

9 “The Secretary of the Treasury shall instruct the
10 United States Executive Director at the International
11 Monetary Fund to support the increased use of the admin-
12 istrative budget of the Fund for technical assistance that
13 strengthens the capacity of Fund members to prevent
14 money laundering and the financing of terrorism.”.

15 (d) NATIONAL ADVISORY COUNCIL REPORT TO CON-
16 GRESS.—The Chairman of the National Advisory Council
17 on International Monetary and Financial Policies shall in-
18 clude in the report required by section 1701 of the Inter-
19 national Financial Institutions Act (22 U.S.C. 262r) a de-
20 scription of—

21 (1) the activities of the International Monetary
22 Fund in the most recently completed fiscal year to
23 provide technical assistance that strengthens the ca-
24 pacity of Fund members to prevent money laun-

1 dering and the financing of terrorism, and the effec-
2 tiveness of the assistance; and

3 (2) the efficacy of efforts by the United States
4 to support such technical assistance through the use
5 of the Fund's administrative budget, and the level of
6 such support.

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

11 **SEC. 1097. SUSPENSION AND TERMINATION OF PROHIBI-**
12 **TIONS AND PENALTIES.**

13 (a) SUSPENSION.—The President may suspend, on a
14 case-by-case basis, the application of any provision of this
15 subtitle, or provision in an amendment made by this sub-
16 title, with respect to an entity, individual, or transaction,
17 for a period of not more than 180 days at a time if the
18 President certifies to Congress that—

19 (1) the Government of North Korea has—

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

24 (B) has agreed to multilateral talks includ-
25 ing the Government of the United States, with

1 the goal of permanently and verifiably limiting
2 North Korea's WMD and ballistic missile pro-
3 grams; or

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

7 (b) TERMINATION.—

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

11 (A) subsection (a), section 1094, and sub-
12 sections (a) and (b) of section 1096 shall cease
13 to have any force or effect;

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

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

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

23 (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 per-
6 manently 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. 1098. DEFINITIONS.**

13 For purposes of this subtitle:

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
18 cybersecurity” have the meanings given those terms,
19 respectively, in section 3 of the North Korea Sanc-
20 tions and Policy Enhancement Act of 2016 (22
21 U.S.C. 9202).

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

24 (A) Any North Korean person designated
25 under an applicable Executive order.

1 (B) Any North Korean person that know-
2 ingly facilitates the transfer of bulk cash or cov-
3 ered goods (as defined under section 1027.100
4 of title 31, 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 Sec-
9 retary of the Treasury may waive the applica-
10 tion of this subparagraph for a North Korean
11 person that is not otherwise a covered person
12 and—

13 (i) has been granted asylum or ref-
14 ugee status by the country of employment;
15 or

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

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

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

24 (G) Any person that knowingly facilitates
25 the import of goods, services, technology, or

1 natural resources, including energy imports and
2 minerals, or their derivatives, from North
3 Korea.

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

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

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

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

23 (L) Any person knowingly providing spe-
24 cialized teaching, training, or information or

1 providing material or technological support to a
2 North Korean person that—

3 (i) may contribute to North Korea’s
4 development and proliferation of WMD, in-
5 cluding systems designed in whole or in
6 part for the delivery of such weapons; or

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

9 (3) FINANCIAL INSTITUTION DEFINITIONS.—

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

14 (B) FOREIGN FINANCIAL INSTITUTION.—
15 The term “foreign financial institution” has the
16 meaning given that term under section
17 1010.605 of title 31, Code of Federal Regula-
18 tions.

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

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

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

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

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

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

14 (D) UNITED STATES FINANCIAL INSTITU-
15 TION.—The term “United States financial insti-
16 tution” has the meaning given the term “U.S.
17 financial institution” under section 510.310 of
18 title 31, Code of Federal Regulations.

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

