

United States Senate

WASHINGTON, DC 20510

February 14, 2017

The Honorable Steven Mnuchin
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Ave NW
Washington, DC 20220

Dear Secretary Mnuchin,

We write to express grave concern over the continued aggression from the Democratic People's Republic of Korea (DPRK), and urge you to execute the full extent of financial sanctions and targeted financial measures provided for under current law. As Kim Jong-un has exposed his willingness to increase ballistic missile testing with the ultimate goal of achieving nuclear breakout, the potential for this regime to attain a developed and capable intercontinental ballistic missile (ICBM) poses an imminent threat that cannot be ignored. North Korea's test of an intermediate-range ballistic missile this past weekend demonstrates advancement in fuel and launch technology, underscoring the necessity of faithfully executing the law to meet this growing threat.

For eight years U.S. policy toward curbing Pyongyang's nuclear ambitions was "strategic patience". As a result, the Obama administration hesitated to leverage the overwhelming and bipartisan support of a united Congress to bring meaningful economic pressure to bear on Kim Jong-un. In return, North Korea evaded financial sanctions, established front companies for illicit dealings, and continued work on its ICBM and nuclear programs.

Today, it is reported that Kim Jong-un may be able to strike the West Coast of the United States with nuclear weapons within four years, and that he may already be able to strike our allies in South Korea and Japan, where thousands of U.S. military personnel are stationed. The regime was able to evolve its nuclear program due to the Obama administration's timidity to enforce rigorous oversight and effectively cut off North Korea's access to the hard currency used to finance its illicit activity. In 2016, after years of failed policy, the U.S. quietly designated North Korea as a jurisdiction of primary money laundering concern – a label which comes with strict regulations pursuant to the Financial Action Task Force, which has repeatedly warned banks around the world of the money laundering and proliferation risks posed by North Korea's deceptive financial practices. However, having waited too long to meaningfully enforce this designation, North Korea had already firmly established a method to maintain access to the international banking system.

Over the last decade several – but not all – North Korean banks were banned from conducting U.S. dollar transactions. North Korean banks nonetheless have evaded these sanctions by setting up front companies, shell companies, and a network of third-country agents to hide its beneficial ownership and control. They have also relied on Chinese banks and front companies with access to the U.S. financial system to maintain indirect access to the international banking system.

Often, they conduct dollar transactions with Chinese trading companies, which in turn use their own accounts in Chinese banks, which use correspondent accounts in American banks to access the dollar system. In doing so, those front companies — and in some cases, the banks — knowingly violate U.S. law.

The revelation from last summer that the Chinese trading company Dandong Hongxiang Industrial Development Ltd. was responsible for over \$500 million in trade with North Korea was stunning, but this may be just the tip of the iceberg. Other companies, such as Chinpo Shipping and 88 Queensway, have also facilitated trade and commerce that help bankroll North Korea's nuclear and missile programs. Although the Treasury Department sanctioned Dandong Hongxiang and its corporate officers, freezing the assets of a handful of entities is a far cry from what is necessary: a determined, sustained, and well-resourced campaign to investigate, uncover, and sanction the complex web of similar Chinese, Middle Eastern, and other third-country companies and banks that fund Kim Jong-un's regime, facilitate proliferation, and break sanctions.

All necessary legal tools are in place to begin conducting such a campaign in earnest, today. Any bank that processes dollar transactions through U.S.-based correspondent accounts are legally obligated by the Treasury Department's Know-Your-Customer regulations and UN sanctions resolutions to conduct due diligence investigations into any company with possible links to North Korea. Yet in many cases, Chinese banks, including the Bank of China, have disregarded their obligations to enforce U.N. sanctions on North Korea and have ignored their Know-Your-Customer obligations, thus facilitating North Korean proliferation. Regrettably, when the Justice Department indicted Dandong Hongxiang, it also announced that "[t]here are no allegations of wrongdoing by the U.S. correspondent banks or foreign banks that maintain these accounts."

It is difficult to construe this inaction as anything less than a lack of political will. Indeed, Treasury officials under the Obama administration were forced to admit in a Senate hearing four months ago that they had not sanctioned a single Chinese bank, despite the evidence of Chinese banks' role in sanctions violations. This is disturbing, considering the historical success of squeezing the North Korean regime by targeting third-party banks found to be complicit in money laundering. In 2005, the US declared Macau-based Banco Delta a "money laundering concern," which, accompanied by *sub rosa* meetings by US officials throughout Asia, started a global ripple effect that caused banks around the world to freeze and close North Korean accounts. As former Deputy Assistant Secretary of Terrorist Financing and Financial Crimes Daniel L. Glaser reported shortly thereafter:

"Press reports indicate that some two dozen financial institutions across the globe have voluntarily cut back or terminated their business with North Korea, notably including institutions in China, Japan, Vietnam, Mongolia, and Singapore. The result of these voluntary actions is that it is becoming very difficult for the Kim Jong-Il regime to benefit from its criminal conduct."

Secretary Lew designated North Korea as a jurisdiction of primary money laundering concern on his way out the door, having waited too long to meaningfully enforce it.

With the risks of proliferation and war now at a critical stage, we have no more time to waste on inaction. At the outset of this new administration, therefore, we call your attention to a series of actions that, if fully enforced and implemented, could more effectively cut off North Korea's access to the hard currency it uses to finance its illicit nuclear program:

1. Add any remaining North Korean banks to the list of Specially Designated Nationals, thus completing the cutoff of North Korean banks from the international financial system.
2. Ensure that the Treasury Department has sufficient funds, personnel, resources, and legal authorities to expose North Korea's money laundering network and its Chinese enablers at the earliest possible date. Then, in accordance with the NKSPEA, either add their names to the list of Specially Designated Nationals and freeze their assets, assess appropriate civil and criminal penalties, or both.
3. Enact additional Patriot Act section 311 special measures against North Korea, including Special Measure 2, which would require banks operating within U.S. jurisdiction "to maintain records, file reports, or both, concerning the aggregate amount of transactions, or concerning each transaction," with respect to any North Korean property, interests in property, or funds. This measure would leverage the knowledge of the financial industry and begin the laborious process of mapping the web of front companies, shell companies, and agents that sustain Kim Jong-un's regime.
4. Work with the State Department to investigate whether North Korea merits re-designation as a State Sponsor of Terrorism.
5. Revise or replace the outdated North Korea Sanctions Regulations at 31 CFR Part 510 to impose comprehensive transactions licensing requirements on transactions involving North Korea, similar to those that previously applied to Iran, Burma, and Cuba.
6. Clarify to the financial industry worldwide that in the future, the Department of Treasury will strictly enforce Know-Your-Customer obligations, and requirements to file Suspicious Activity Reports and Currency Transactions reports, with respect to any North Korean nationals, entities, agents, or assets. Enforcement of these regulations could yield a windfall of financial intelligence necessary to find and block those North Korean assets.
7. In conjunction with the Attorney General at the earliest time possible, initiate an investigation into the Bank of China and the 12 Chinese banks involved in the Dandong Hongxiang case for possible violations of U.S. laws or financial regulations for their North Korea-related transactions.
8. Take strong enforcement action against any banks that continue to unlawfully provide direct or indirect correspondent banking services to North Korean banks.
9. In conjunction with the Secretary of State, ask European Union and Belgian authorities to ensure that North Korean banks are denied access to specialized financial messaging

services, such as the SWIFT network, in accordance with their obligations under U.N. Security Council resolutions.

10. Continue targeting and freezing the financial assets of any Chinese entity pursuant to the NKSPEA and Executive Order 13722, which prohibit any property or interests within the United States from importing coal from North Korea.

The strict and swift enforcement of our laws may be your last chance to protect the American people from Kim Jong-un's nuclear blackmail and prevent another Korean War. Time is of the essence. Please let us know if you require additional authorities or resources to counter this growing threat and keep our nation safe.

Sincerely,



Ted Cruz
United States Senator



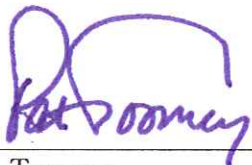
Cory Gardner
United States Senator



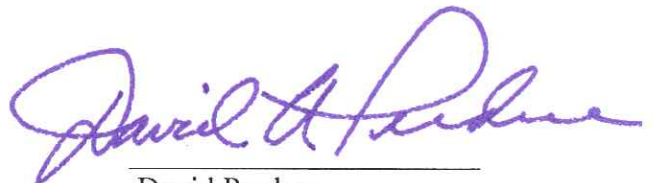
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