



(BILLING CODE: 4810-02P)

DEPARTMENT OF THE TREASURY

Finding That the Democratic People's Republic of Korea is a Jurisdiction of Primary Money Laundering Concern

AGENCY: The Financial Crimes Enforcement Network (“FinCEN”), Treasury.

ACTION: Notice of finding.

SUMMARY: This document provides notice that, pursuant to the authority contained in the USA PATRIOT Act, the Director of FinCEN found on May 27, 2016 that reasonable grounds exist for concluding that the Democratic People's Republic of Korea (“DPRK” or “North Korea”) is a jurisdiction of primary money laundering concern.

FOR FURTHER INFORMATION CONTACT: FinCEN, (800) 949-2732.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Provisions

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the “USA PATRIOT Act”), Public Law 107-56. Title III of the USA PATRIOT Act amends the anti-money laundering provisions of the Bank Secrecy Act (“BSA”), codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5314 and 5316-5332, to promote prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X.

Section 311 of the USA PATRIOT Act (“Section 311”) added 31 U.S.C. section 5318A to the BSA, granting the Secretary of the Treasury (the “Secretary”) the authority,

upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, institution, class of transactions, or type of account is of “primary money laundering concern,” to require domestic financial institutions and financial agencies to take certain “special measures” against the primary money laundering concern. Section 311 identifies factors for the Secretary to consider and requires Federal agencies to consult before the Secretary may conclude that a jurisdiction, institution, class of transaction, or type of account is of primary money laundering concern. The statute also provides similar procedures, *i.e.*, factors and consultation requirements, for selecting the specific special measures to be imposed against the primary money laundering concern. For purposes of the finding contained in this notice, the Secretary has delegated his authority under Section 311 to the Director of FinCEN.¹

Taken as a whole, Section 311 provides the Secretary with a range of options that can be adapted to target specific money laundering and terrorist financing concerns most effectively. Through the imposition of various special measures, the Secretary can gain more information about the jurisdictions, institutions, transactions, or accounts of concern; can more effectively monitor the respective jurisdictions, institutions, transactions, or accounts; or can prohibit U.S. financial institutions from involvement with jurisdictions, institutions, transactions, or accounts that pose a money laundering concern.

Before making a finding that reasonable grounds exist for concluding that a jurisdiction is of primary money laundering concern, the Secretary is required to consult with both the Secretary of State and the Attorney General. The Secretary is also required

¹ Therefore, references to the authority and findings of the Secretary in this document apply equally to the Director of FinCEN.

by Section 311, as amended,² to consider “such information as the Secretary determines to be relevant, including the following potentially relevant factors,” which extend the Secretary’s consideration beyond traditional money laundering concerns to issues involving, inter alia, terrorist financing and the proliferation of weapons of mass destruction (“WMD”) or missiles:

- Evidence that organized criminal groups, international terrorists, or entities involved in the proliferation of WMD or missiles, have transacted business in that jurisdiction;
- The extent to which that jurisdiction or financial institutions operating in that jurisdiction offer bank secrecy or special regulatory advantages to nonresidents or nondomiciliaries of that jurisdiction;
- The substance and quality of administration of the bank supervisory and counter- money laundering laws of that jurisdiction;
- The relationship between the volume of financial transactions occurring in that jurisdiction and the size of the economy of the jurisdiction;
- The extent to which that jurisdiction is characterized as an offshore banking or secrecy haven by credible international organizations or multilateral expert groups;
- Whether the United States has a mutual legal assistance treaty with that jurisdiction, and the experience of U.S. law enforcement officials and

² 31 U.S.C. 5318A was amended by section 501 of the Iran Freedom Support Act of 2006, Public Law 109-293.

regulatory officials in obtaining information about transactions originating in or routed through or to such jurisdiction; and

- The extent to which that jurisdiction is characterized by high levels of official or institutional corruption.

If the Secretary determines that reasonable grounds exist for concluding that a jurisdiction is of primary money laundering concern, the Secretary is authorized to impose one or more of the special measures in Section 311 to address the specific money laundering risks. Section 311 provides a range of special measures that can be imposed individually, jointly, and in any sequence.³ Before imposing special measures, the statute requires the Secretary to consult with appropriate federal agencies and other interested parties⁴ and to consider the following specific factors:

- Whether similar action has been or is being taken by other nations or multilateral groups;
- Whether the imposition of any particular special measures would create significant competitive disadvantage, including any undue cost or burden associated with compliance, for financial institutions organized or licensed in the United States;

³ Available special measures include requiring: (1) Recordkeeping and reporting of certain financial transactions; (2) collection of information relating to beneficial ownership; (3) collection of information relating to certain payable-through accounts; (4) collection of information relating to certain correspondent accounts; and (5) prohibition or conditions on the opening or maintaining of correspondent or payable-through accounts. 31 U.S.C. 5318A(b)(1)-(5).

⁴ Section 5318A(a)(4)(A) requires the Secretary to consult with the Chairman of the Board of Governors of the Federal Reserve System, any other appropriate Federal banking agency, the Secretary of State, the Securities and Exchange Commission (“SEC”), the Commodity Futures Trading Commission (“CFTC”), the National Credit Union Administration (“NCUA”), and, in the sole discretion of the Secretary, “such other agencies and interested parties as the Secretary may find to be appropriate.” The consultation process must also include the Attorney General if the Secretary is considering prohibiting or imposing conditions on domestic financial institutions opening or maintaining correspondent account relationships with the targeted entity.

- The extent to which the action or the timing of the action would have a significant adverse systemic impact on the international payment, clearance, and settlement system, or on legitimate business activities involving the particular jurisdiction; and
- The effect of the action on U.S. national security and foreign policy.

B. Democratic People's Republic of Korea

As set out in detail below, North Korea continues to advance its nuclear and ballistic missile programs in violation of international treaties, international censure and sanctions measures, and U.S. law. North Korea does this using an extensive overseas network of front companies, shell companies, joint ventures, and opaque business relationships. North Korea conducts almost no banking in true name in the formal financial system given that many of its outward facing agencies and financial institutions have been sanctioned by the United States, the United Nations, or both.

While none of North Korea's financial institutions maintain correspondent accounts with U.S. financial institutions,⁵ North Korea does have access to the U.S. financial system through a system of front companies, business arrangements, and representatives that obfuscate the true originator, beneficiary, and purpose of transactions. We assess that these deceptive practices have allowed millions of U.S. dollars of DPRK illicit activity to flow through U.S. correspondent accounts.

Moreover, although U.S. and international sanctions have served to significantly isolate North Korean banks from the international financial system, the North Korean government continues to access the international financial system to support its WMD

⁵ Bankers Almanac, accessed February 12, 2016.

and conventional weapons programs. This is made possible through its use of aliases, agents, foreign individuals in multiple jurisdictions, and a long-standing network of front companies and North Korean embassy personnel which support illicit activities through banking, bulk cash, and trade. Front company transactions originating in foreign-based banks have been processed through correspondent bank accounts in the United States and Europe. Further, the enhanced due diligence required by United Nations Security Council Resolutions (UNSCRs) related to North Korea is undermined by North Korean-linked front companies, which are often registered by non-North Korean citizens, and which conceal their activity through the use of indirect payment methods and circuitous transactions disassociated from the movement of goods or services.⁶

The Treaty on the Non-Proliferation of Nuclear Weapons and the International Atomic Energy Agency Safeguards Agreement work together to prevent the development of nuclear weapons and promote the peaceful use of nuclear energy. Although North Korea acceded to the Treaty on the Non-Proliferation of Nuclear Weapons (“NPT”) in 1985, it withdrew from the Treaty in 2003. Subsequently, North Korea demonstrated its nuclear weapons capacity with nuclear tests in 2006, 2009, 2013, and 2016.⁷

Since 2005, North Korea has been sanctioned repeatedly for its proliferation of WMD and the development of nuclear and ballistic missile programs. Between June 2006 and 2016, the United Nations (UN) Security Council issued five UNSCRs – 1718, 1874, 2087, 2094, and 2270 – restricting North Korea’s financial and operational

⁶ See “Report of the Panel of Experts established pursuant to resolution 1874 (2009),” February, 2016.

⁷ See “IAEA and DPRK: Chronology of Key Events,”
(<https://www.iaea.org/newscenter/focus/dprk/chronology-of-key-events>)

activities related to its nuclear and missile programs and conventional arms sales.⁸ In addition, the President of the United States has issued Executive Orders (“E.O.s”) 13466, 13551, 13570, 13687, and 13722 to impose sanctions on North Korea pursuant to the International Emergency Economic Powers Act, and the Department of the Treasury has designated North Korea targets for asset freezes pursuant to other E.O.s, such as E.O. 13382, which targets WMD proliferators worldwide. A designation under any one of the targeting E.O.s generally blocks the property and interests in property in the United States or in the possession or control of a U.S. person of a designated person, and prohibits U.S. persons from engaging in transactions with, or dealing in property interests of, a designated person.

On June 28, 2005, the President issued E.O. 13382, “Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters,” which orders certain measures to be taken to address the threat posed to the United States by the proliferation of WMD and their means of delivery.⁹ The following two North Korean entities were sanctioned in the Annex to E.O. 13382: Korea Mining Development Trading Corporation (KOMID), North Korea’s primary arms exporter; and Tanchon Commercial Bank (TCB), the financial arm of KOMID. As noted further below, additional North Korean financial institutions, including Korea Kwangson Banking Corporation (KKBC), Foreign Trade

⁸ See UNSCR 1718 ([http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1718\(2006\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1718(2006))); UNSCR 1874 ([http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1874\(2009\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1874(2009))); UNSCR 2087 ([http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2087\(2013\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2087(2013))); UNSCR 2094 ([http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2094\(2013\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2094(2013))); UNSCR 2270 ([http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2270\(2016\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2270(2016))).

⁹ See E.O. 13382 “Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters,” (2005) (<https://www.federalregister.gov/articles/2005/07/01/05-13214/blocking-property-of-weapons-of-mass-destruction-proliferators-and-their-supporters>).

Bank (FTB), and Daedong Credit Bank (DCB), were subsequently designated pursuant to E.O. 13382.

On June 26, 2008, the President issued E.O. 13466, “Continuing Certain Restrictions With Respect to North Korea and North Korean Nationals,” declaring a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the existence and risk of the proliferation of weapons-usable fissile material on the Korean peninsula.¹⁰

On August 30, 2010, the President issued E.O. 13551, “Blocking Property of Certain Persons with Respect to North Korea,” which authorized asset blockings against those determined, among other things, to have engaged in the importation or exportation of North Korean arms or the exportation to North Korea of luxury goods.¹¹

On April 18, 2011, the President issued E.O. 13570, “Prohibiting Certain Transactions with Respect to North Korea,” which takes additional steps to address the national emergency declared in E.O. 13466 and expanded in E.O. 13551.¹² This E.O. was designed in part to ensure implementation of the import restrictions contained in UNSCRs 1718 and 1874.

On January 2, 2015, the President issued E.O. 13687, “Imposing Additional Sanctions with Respect to North Korea,” which blocks the property of persons who are

¹⁰ See E.O. 13466 “Continuing Certain Restrictions With Respect to North Korea and North Korean Nationals,” (2008) (<https://www.federalregister.gov/articles/2008/06/27/08-1399/continuing-certain-restrictions-with-respect-to-north-korea-and-north-korean-nationals>).

¹¹ See E.O. 13551 “Blocking Property of Certain Persons with Respect to North Korea,” (2010) (<https://www.gpo.gov/fdsys/pkg/FR-2010-09-01/pdf/X10-10901.pdf>).

¹² See E.O. 13570 “Prohibiting Certain Transactions with Respect to North Korea,” (2011) (<https://www.federalregister.gov/articles/2011/04/20/2011-9739/prohibiting-certain-transactions-with-respect-to-north-korea>).

determined to be officials, agencies, instrumentalities, or controlled entities of the Government of North Korea or the Workers' Party of Korea.¹³

On March 15, 2016, the President issued E.O. 13722, "Blocking Property of the Government of North Korea and the Workers' Party of Korea, and Prohibiting Certain Transactions with Respect to North Korea," which, among other things, blocks the property and interests in property of the Government of North Korea and the Workers' Party of Korea and authorizes further asset blockings on persons determined to be operating in industries of the North Korean economy determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be subject to the measure. To date those industries include the transportation, mining, energy and financial services industries.¹⁴ Additionally, FinCEN issued advisories in 2005, 2009, and 2013 regarding the threat posed by the North Korean government to U.S. and international financial institutions. Specifically, these advisories have urged caution when dealing with North Korean financial institutions due to their use of front companies and other deceptive financial practices.¹⁵

Numerous North Korean individuals, financial institutions, and other entities facilitating financial transactions in support of North Korea's proliferation of WMD or

¹³ See E.O. 13687 "Imposing Additional Sanctions with Respect to North Korea," (2015) (<https://www.federalregister.gov/articles/2015/01/06/2015-00058/imposing-additional-sanctions-with-respect-to-north-korea>).

¹⁴ See E.O. 13722 "Blocking Property of the Government of North Korea and the Workers' Party of Korea, and Prohibiting Certain Transactions with Respect to North Korea," (2016) (<https://www.gpo.gov/fdsys/pkg/FR-2016-03-18/pdf/FR-2016-03-18.pdf>)

¹⁵ See "Guidance to Financial Institutions on the Provision of Banking Services to North Korean Government Agencies and Associated Front Companies Engaged in Illicit Activities," FinCEN (2005) (https://www.fincen.gov/statutes_regs/guidance/pdf/advisory.pdf); "North Korea Government Agencies' and Front Companies' Involvement in Illicit Financial Activities," FinCEN (2009) (https://www.fincen.gov/statutes_regs/guidance/pdf/fin-2009-a002.pdf); "Update on the Continuing Illicit Finance Threat Emanating from North Korea," FinCEN (2013) (https://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2013-A005.pdf).

ballistic missiles have been listed in or designated pursuant to these UNSCRs or E.O.s. In many cases, these sanctions have targeted front companies or the individual representatives of sanctioned entities who operate outside of North Korea.

II. Analysis of Factors

Based upon a review of information available to FinCEN, consultations with relevant federal agencies and departments, and in consideration of the factors enumerated in Section 311 of the USA PATRIOT Act, the Director of FinCEN has determined that reasonable grounds exist for concluding that North Korea is a jurisdiction of primary money laundering concern. While FinCEN has considered all potentially relevant factors set forth in Section 5318A, a discussion of those most pertinent to this finding follows. FinCEN has determined that North Korea (A) uses state-controlled financial institutions and front companies to conduct international financial transactions that support the proliferation of WMD and the development of ballistic missiles in violation of international and U.S. sanctions; (B) is subject to little or no bank supervision or anti-money laundering or combating the financing of terrorism (“AML/CFT”) controls; (C) has no mutual legal assistance treaty with the United States; and (D) relies on the illicit and corrupt activity of high-level officials to support its government.

A. Evidence that Organized Criminal Groups, International Terrorists, or Entities Involved in the Proliferation of Weapons of Mass Destruction or Missiles, Have Transacted Business in that Jurisdiction.

North Korea uses state-owned entities and banks to conduct transactions in support of North Korea’s proliferation of WMD or ballistic missiles. The United States and United Nations have identified Korea Mining Development Trading Corporation (KOMID), Tanchon Commercial Bank (TCB), Korea Kwangson Banking Corporation

(KKBC), and Daedong Credit Bank (DCB) as entities that conduct financial transactions in support of North Korea's proliferation of WMD or ballistic missiles; the United States has also sanctioned Foreign Trade Bank (FTB) for this activity. Directing business from North Korea, these state-owned entities and banks use front companies or covert representatives to obfuscate the true originator, beneficiary, and purpose of transactions. Doing so has allowed millions of U.S. dollars of DPRK illicit activity to flow through U.S. correspondent accounts. Entities in North Korea involved in the proliferation of WMD or ballistic missiles conduct business in, from, or through North Korea, or at the direction of the North Korean government, have evaded the prohibitions set forth in relevant UNSCRs and E.O.s.

The Korea Mining Development Trading Corporation:

The President subjected the Korea Mining Development Trading Corporation (KOMID) to an asset blocking by listing it in the Annex of E.O. 13382 in June 2005,¹⁶ and the Department of the Treasury designated KOMID pursuant to E.O. 13687 in January 2015¹⁷ for being North Korea's primary arms dealer and its main exporter of goods and equipment related to ballistic missiles and conventional weapons.¹⁸ The UN Security Council also listed KOMID under UNSCR 1718 in April 2009, subjecting it to a worldwide asset blocking.¹⁹ Further, between 2013 and 2016, the Department of the Treasury designated a number of individuals under E.O. 13382 or E.O. 13687 for their

¹⁶ See E.O. 13382.

¹⁷ See "Issuance of new North Korea-related Executive Order; North Korea Designations," January 2, 2015 (<https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20150102.aspx>).

¹⁸ See "Treasury Imposes Sanctions Against the Government of the Democratic People's Republic of Korea," January 2, 2015 (<https://www.treasury.gov/press-center/press-releases/Pages/j19733.aspx>).

¹⁹ See "Letter dated 24 April 2009 from the Chairman of the Security Council Committee established pursuant to resolution 1718 (2006) addressed to the President of the Security Council," April 24, 2009 (<http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/NKorea%20S2009%20222.pdf>).

roles acting on behalf of KOMID in, or as KOMID representatives to, Burma, China, Egypt, Iran, Namibia, Russia, Sudan, and Syria.²⁰

Despite the sanctions placed on KOMID and its network, North Korea continues to sell weapons abroad. Between 2001 and 2007, North Korean weapons manufacturers marketed or exported North Korean weapons to Angola, Cuba, Iran, Iraq, Pakistan, Uganda, United Arab Emirates, and Yemen. As recently as 2015, KOMID marketed or exported North Korean ballistic missiles or conventional weapons through its representatives in Burma and its office in Indonesia. In 2015, KOMID also sold dual-use WMD-related equipment to Egypt, and engaged with Egypt on missile cooperation and development. Additionally, KOMID occasionally procures equipment and materials for Second Academy of Natural Sciences (SANS) research—an entity subject to an asset blocking by the U.S. under E.O. 13382 in August 2010 for using subordinate organizations to obtain technology, equipment, and information for use in North Korea’s weapons and nuclear programs.²¹

Payments for weapons were often funneled through front companies operating at the direction of North Korean banks. The Department of the Treasury designated one of these front companies, Leader (Hong Kong) International Trading Limited, under E.O.

²⁰ See “United States Sanctions Individuals Linked to North Korea Weapons of Mass Destruction Programs,” March 7, 2013 (<https://www.treasury.gov/press-center/press-releases/Pages/j11872.aspx>); “Treasury Imposes Sanctions Against the Government of the Democratic People’s Republic of Korea,” January 2, 2015 (<https://www.treasury.gov/press-center/press-releases/Pages/j19733.aspx>); “Treasury Sanctions Supporters of North Korea’s Weapons of Mass Destruction and Illicit Finance Networks,” November 13, 2015 (<https://www.treasury.gov/press-center/press-releases/Pages/j10269.aspx>); “Treasury Sanctions Those Involved in Ballistic Missile Procurement for Iran,” January 17, 2016 (<https://www.treasury.gov/press-center/press-releases/Pages/j10322.aspx>); “The United States Sanctions North Korean Government Officials and Organizations Tied to its Missile and Nuclear Programs,” March 2, 2016 (<https://www.treasury.gov/press-center/press-releases/Pages/j10372.aspx>).

²¹ See “United States Designates North Korean Entities and Individuals for Activities Related to North Korea’s Weapons of Mass Destruction Program,” August 30, 2010 (<https://www.treasury.gov/press-center/press-releases/Pages/tg840.aspx>).

13382 in January 2013 for facilitating the shipment of machinery and equipment to customers on behalf of KOMID and directly to KOMID representatives located outside of North Korea.²² Between January 2009 and November 2012, Leader (Hong Kong) International cleared at least \$13.5 million through correspondent accounts at U.S. banks.

The Tanchon Commercial Bank:

As noted above, Tanchon Commercial Bank (TCB) was listed by the President in the Annex of E.O. 13382 in June 2005, subjecting it to an asset blocking, and the UN Security Council listed TCB under UNSCR 1718 in April 2009.²³ TCB is the financial arm of KOMID and the main North Korean financial institution for the sale of conventional arms, ballistic missiles, and goods related to the assembly and manufacture of such weapons.²⁴ Between 2009 and 2015 the Department of the Treasury designated nine individuals under E.O. 13382 for working on behalf of TCB, including as representatives to China, Syria, and Vietnam.²⁵ Each of these individuals is also listed under UNSCR 1718.²⁶

North Korea has a long history of using TCB and front companies to facilitate proliferation and missile-related transactions. Dating as far back as 2005, TCB, Korea

²² See “Treasury Sanctions Company And Individuals Linked To North Korean Weapons Of Mass Destruction Program,” January 24, 2013 (<https://www.treasury.gov/press-center/press-releases/Pages/tg1828.aspx>).

²³ See UNSCR 1718.

²⁴ See E.O. 13382; *see also* Footnote 28.

²⁵ See “Treasury Designates North Korean Bank and Banking Official as Proliferators of Weapons of Mass Destruction,” October 23, 2009 (<https://www.treasury.gov/press-center/press-releases/Pages/tg330.aspx>); “Treasury Sanctions Company And Individuals Linked To North Korean Weapons Of Mass Destruction Program,” January 24, 2013 (<https://www.treasury.gov/press-center/press-releases/Pages/tg1828.aspx>); “Treasury Targets North Korea’s Global Weapons Proliferation Network,” December 8, 2015 (<https://www.treasury.gov/press-center/press-releases/Pages/j10295.aspx>); “Non-proliferation Designations,” March 7, 2013 (<https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20130307.aspx>).

²⁶ See “The List Established and Maintained by the 1718 (2006) Committee,” (<https://www.un.org/sc/suborg/sites/www.un.org.sc.suborg/files/1718.pdf>).

Namchongang Trading Corporation (“Namchongang”), and front companies have facilitated deals that could be associated with proliferation. The U.S. Department of State designated Namchongang in June 2009 under E.O. 13382 for WMD proliferation activities;²⁷ the UN listed Namchongang under UNSCR 1718 in July 2009,²⁸ and also listed its successor organization – Namhung Trading Corporation – under UNSCR 2270 in March 2016.²⁹ TCB also received millions of U.S. dollars in 2009 from a China-based representative as partial payment for weapons exported to Burma, Iran, and other countries. Additionally, in 2015 TCB accounts were used to purchase technology and equipment in support of U.S.-designated SANS research and development activities.

The Korea Kwangson Banking Corporation:

As noted, the Department of the Treasury sanctioned Korea Kwangson Banking Corporation (KKBC) under E.O. 13382 in August 2009 for facilitating financial transactions for E.O. 13382-sanctioned TCB and the Korea Hyoksin Trading Corporation (“Hyoksin”),³⁰ the UN listed KKBC under UNSCR 2270 in March 2016.³¹ As noted above, TCB was sanctioned by the United States in June 2005 and listed by the UN under UNSCR 1718 in April 2009; further, in July 2009 the Department of the Treasury designated Hyoksin under E.O. 13382, and the UN listed Hyoksin under UNSCR 1718

²⁷ See “State Designation of North Korean Nuclear Entity,” June 30, 2009 (www.state.gov/r/pa/prs/ps/2009/06a/125505.htm).

²⁸ See “Security Council Committee Determines Entities, Goods, Individuals, Subject to Measures Imposed on Democratic People’s Republic of Korea by Resolution 1718 (2006),” July 16, 2009 (www.un.org/press/en/2009/sc9708.doc.htm).

²⁹ See UNSCR 2270.

³⁰ See “Treasury Designates Financial Institution Tied to North Korea’s WMD Proliferation,” August 11, 2009 (<https://www.treasury.gov/press-center/press-releases/Pages/tg260.aspx>).

³¹ See UNSCR 2270.

for WMD proliferation activity.³² In spite of its designation, KKBC has continued to evade sanctions and process financial transactions that support the proliferation of WMD and ballistic missiles by using front companies to clear U.S. dollar transactions through U.S. correspondent accounts. In 2013, senior North Korean leadership utilized a KKBC front company to open accounts at a major Chinese bank under the names of Chinese citizens, and deposited millions of U.S. dollars into the accounts. The same KKBC front company processed transactions through U.S. correspondent accounts as recently as 2013.

The Foreign Trade Bank:

The Department of the Treasury designated Foreign Trade Bank (FTB) under E.O. 13382 in March 2013 for facilitating transactions on behalf of actors linked to North Korea's nuclear proliferation networks.³³ Headquartered in Pyongyang, FTB acts as North Korea's primary foreign exchange bank and has provided financial support to KOMID and KKBC. As noted above, KOMID was sanctioned by the United States in July 2005 under E.O. 13382, and listed by the UN in April 2009 under UNSCR 1718; the Department of the Treasury designated KKBC under E.O. 13382 in August 2009, and the UN listed KKBC under UNSCR 2270 in March 2016.

The following examples are representative of the activities of FTB and its front companies. Between 2008 and 2012, FTB used front companies in multiple countries to make and receive payments equivalent to tens of millions of U.S. dollars. In 2011, an

³² See "Treasury Designates North Korean Entity Tied to Weapons of Mass Destruction Development," July 30, 2009 (<https://www.treasury.gov/press-center/press-releases/Pages/tg247.aspx>); "Security Council Determines Entities, Goods, Individuals Subject To Measures Imposed on Democratic People's Republic of Korea by Resolution 1718 (2006)," July 16, 2009 (<http://www.un.org/press/en/2009/sc9708.doc.htm>).

³³ See "Treasury Sanctions Bank and Official Linked to North Korean Weapons of Mass Destruction Programs," March 11, 2013 (<https://www.treasury.gov/press-center/press-releases/Pages/j11876.aspx>).

FTB front company was involved with U.S.-designated KKBC and Korea 5 Trading Corporation, a subordinate of U.S. and UN-designated Korea Ryonbong General Corporation, in financial dealings totaling several millions of U.S. dollars. The same FTB front company processed transactions through U.S. correspondent accounts as recently as April 2014.

The Daedong Credit Bank:

The Department of the Treasury designated Daedong Credit Bank (DCB) under E.O. 13382 in June 2013 for managing millions of dollars of transactions in support of the North Korean regime's nuclear proliferation and missile-related activities.³⁴ The UN listed DCB under UNSCR 2270 in March 2016. DCB has demonstrated through its activity that it is willing to facilitate transactions at the direction of, and in coordination with, the government of North Korea. Since at least 2007, DCB has facilitated hundreds of financial transactions worth millions of dollars on behalf of designated actors, KOMID and TCB. Some of these transactions involved deceptive practices that include the use of front companies located outside of North Korea to process cross-border payments. DCB also directed a front company, DCB Finance Limited, to carry out international financial transactions as a means to avoid scrutiny by financial institutions. DCB Finance Limited has conducted transactions through correspondent accounts at U.S. banks.

Based upon the information above, the North Korean government, through entities and financial institutions based in North Korea, facilitates financial transactions in support of the proliferation of WMD and ballistic missiles in violation of UNSCR

³⁴ See "Treasury Sanctions Bank, Front Company, and Official Linked to North Korean Weapons of Mass Destruction Programs," June 27, 2013 (<https://www.treasury.gov/press-center/press-releases/Pages/jl1994.aspx>).

1718. Additionally, by creating and using front companies with the intent to obfuscate the true originator, beneficiary, or purpose of transactions, these state-owned entities and financial institutions have engaged in a pattern of deceptive financial activity to evade international sanctions, circumvent U.S. sanctions and AML controls, and penetrate the U.S. financial system when such activity would otherwise be prohibited. This activity represents a direct threat to the integrity of the U.S. financial system.

B. The Substance and Quality of Administration of the Bank Supervisory and Counter-Money Laundering Laws of that Jurisdiction

The Financial Action Task Force (FATF) is an inter-governmental body that sets international standards and promotes the implementation of legal, regulatory, and operational measures for combatting money laundering, terrorist financing, WMD proliferation financing, and other related threats to the integrity of the international financial system.³⁵ The FATF monitors the progress of its members in implementing necessary measures, reviews money laundering and terrorist financing techniques and countermeasures, and promotes the adoption and implementation of appropriate measures globally. In collaboration with other international stakeholders, the FATF works to identify national-level vulnerabilities with the aim of protecting the international financial system from misuse. Due to North Korea's ongoing failure to address its AML/CFT deficiencies, the FATF has publicly identified substantial money laundering and terrorist financing risks emanating from the jurisdiction and has identified North Korea as one of only two jurisdictions in the world subject to FATF counter-measures since 2011.

In FATF's Public Statement dated February 19, 2016, the FATF reiterated its concern about North Korea's failure to address the significant deficiencies in its

³⁵ See Financial Action Task Force website (<http://www.fatf-gafi.org/>).

AML/CFT regime, and the serious threat such deficiencies pose to the integrity of the international financial system. The FATF called on its members and urged all jurisdictions to advise their financial institutions to give special attention to business relationships and transactions with North Korea, including North Korean companies and financial institutions. The FATF also warned that jurisdictions should protect against correspondent relationships being used to bypass or evade countermeasures and risk mitigation practices, and take into account AML/CFT risks when considering requests by North Korean financial institutions to open branches and subsidiaries in their jurisdiction.³⁶ While steps may have been taken by North Korea to engage with the FATF, including becoming an observer to the Asia Pacific Group, a FATF-style regional body, North Korea lacks basic AML/CFT controls and has failed to address the deficiencies in its AML/CFT regime identified by FATF.³⁷

C. Whether the United States Has a Mutual Legal Assistance Treaty with that Jurisdiction, and the Experience of U.S. Law Enforcement Officials and Regulatory Officials in Obtaining Information About Transactions Originating in or Routed through or to that Jurisdiction

The United States and North Korea do not have diplomatic relations. North Korea has no mutual legal assistance treaty with the United States and does not cooperate with U.S. law enforcement officials and regulatory officials in obtaining information about transactions originating in, or routed through or to, North Korea.³⁸

D. The Extent to which that Jurisdiction is Characterized by High Levels of Official or Institutional Corruption

³⁶ See “FATF Public Statement – 19 February 2016,” (2016) (<http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/public-statement-february-2016.html>).

³⁷ See “North Korea Adopts Anti-Money Laundering Law,” NK News, May 18, 2016 (<https://www.nknews.org/2016/05/north-korea-adopts-anti-money-laundering-law/>).

³⁸ See “U.S. Relations with North Korea,” (www.state.gov/r/pa/ei/bgn/2792.htm).

The North Korean government has long demonstrated institutional and official corruption. According to Transparency International's Corruption Perceptions Index, which ranks countries and territories based on how corrupt their public sectors are perceived to be, North Korea ranks 167 out of 168.³⁹ As noted above, UNSCRs 1718, 2094, and 2270 require UN member states to prohibit the provision to North Korea of luxury goods, which are used by North Korean leaders to consolidate power and appease members of the political elite by increasing their personal wealth. North Korea has also utilized Office 39 of the Korean Workers' Party (KWP) to influence and maintain the support of North Korea's elite citizens.⁴⁰

Office 39 was listed for an asset blocking by the President in the Annex to E.O. 13551 in August 2010,⁴¹ and is the branch of the North Korean Government that provides illicit economic support to North Korean leadership, including managing slush funds for North Korean government officials.⁴² The UN listed Office 39 under UNSCRs 1718 and 2270 in March 2016.⁴³ Examples of Office 39 activity include collecting a significant portion of loyalty funds paid by DPRK officials to the regime annually, and using deceptive financial practices such as smuggling U.S. dollars into North Korea.

³⁹ See "North Korea: Facts & Figures," Transparency International (<https://www.transparency.org/country/#PRK>).

⁴⁰ See "Defectors Detail How North Korea's Office 39 Feeds Leader's Slush Fund: Private Fund Underwrites Comfortable Lifestyles for Pyongyang's Elite," Wall Street Journal, September 15, 2014 (www.wsj.com/articles/defectors-detail-how-north-koreas-office-39-filters-money-to-kims-private-slush-fund-1410823969); see also "Criminal Sovereignty: Understanding North Korea's Illicit International Activities," Strategic Studies Institute, March 2010. (www.strategicstudiesinstitute.army.mil/pdffiles/pub975.pdf)

⁴¹ See E.O. 13551.

⁴² "Treasury Designates Key Nodes of the Illicit Financing Network of North Korea's Office 39," November 18, 2010 (<https://www.treasury.gov/press-center/press-releases/Pages/tg962.aspx>).

⁴³ See UNSCR 1718; UNSCR 2270.

To support its efforts, Office 39 controls Korea Daesong Bank (KDB), which is used to facilitate financial transactions supporting the procurement of luxury goods. Treasury designated KDB under E.O. 13551 in November 2010 as an instrumentality of Office 39.⁴⁴ In spite of its designation, KDB continues to conduct illicit transactions on behalf of the regime, including by operating front companies on behalf of organizations such as Office 39 abroad; by using an overseas branch office to both pay a number of overseas companies that provide labor and services on behalf of North Korea, and to remit funds to Pyongyang; and by utilizing KDB representatives abroad to make payments for goods imported into North Korea.

Jamal El-Hindi
Acting Director
Financial Crimes Enforcement Network

⁴⁴ See “Treasury Designates Key Nodes of the Illicit Financing Network of North Korea’s Office 39,” November 18, 2010 (<https://www.treasury.gov/press-center/press-releases/Pages/tg962.aspx>).

[FR Doc. 2016-13038 Filed: 6/1/2016 8:45 am; Publication Date: 6/2/2016]