



Department of the Treasury Financial Crimes Enforcement Network

Advisory

FIN-2013-A005

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Subject: Update on the Continuing Illicit Finance Threat Emanating from North Korea

The Financial Crimes Enforcement Network (“FinCEN”) is issuing this Advisory to supplement information previously provided on the serious threat of money laundering, terrorism finance, and proliferation finance emanating from the Democratic People’s Republic of Korea (“North Korea” or “DPRK”),¹ and to provide guidance to financial institutions regarding United Nations Security Council Resolution (“UNSCR”) 2087, adopted on January 22, 2013, and UNSCR 2094, adopted on March 7, 2013.

Existing U.S. sanctions – in particular, those under the North Korea Sanctions Regulations² and Executive Orders 13382³ and 13551⁴ – create a legal framework that limits U.S. financial institutions’ direct exposure to the types of North Korean financial or commercial transactions relating to the concerns that are the focus of UNSCRs 2087 and 2094, as well as UNSCRs focused on North Korea. This Advisory, while it does not describe any new legal obligations upon U.S. persons, reinforces FinCEN’s advice that all U.S. financial institutions should take commensurate risk-mitigation measures to diminish threats emanating from North Korea.

In doing so, financial institutions should consider North Korea’s record of illicit and deceptive activity. This deceptive activity encompasses a wide range of conduct, including currency counterfeiting, drug trafficking, and the laundering of related proceeds, that increases the risk that financial institutions will unwittingly become involved in North Korea’s illicit activities. FinCEN has previously noted such conduct and deceptive practices used by North Korea, most recently in 2009.⁵ In addition, since February 2011, the Financial Action Task Force (“FATF”) has repeatedly, including as recently as June 2013, called upon its members and urged all

¹ See “North Korea Government Agencies’ and Front Companies’ Involvement in Illicit Financial Activities (Amended 12/18/2009),” (FIN-2009-A002) at http://www.fincen.gov/statutes_regs/guidance/html/fin-2009-a002.html (“FinCEN 2009 Guidance”) and “Guidance to financial institutions on the provision of banking services to North Korean government agencies and associated front companies engaged in illicit activities,” (Issue 40, December 13, 2005) at http://www.fincen.gov/statutes_regs/guidance/html/advisory.html.

² 31 CFR part 510.

³ Executive Order 13382 of June 28, 2005, “Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters.”

⁴ Executive Order 13551 of August 30, 2010, “Blocking Property of Certain Persons With Respect to North Korea.”

⁵ See FinCEN 2009 Guidance, *supra* note 1.

jurisdictions to apply effective countermeasures to protect their financial sectors from the money laundering and financing of terrorism risks emanating from North Korea.⁶

The U.S. Department of the Treasury remains especially concerned about the use of deceptive financial practices by North Korea and North Korean entities, as well as individuals acting for or on their behalf. Such deceptive practices may include:

- Using government agencies and associated front companies.
- Suppressing the identity and location of originators of transactions.
- Arranging for funds transfers via third parties.
- Repeating bank transfers that appear to have no legitimate purpose.
- Routinely using cash couriers to move large amounts of currency in the absence of any credible explanation of the origin or purpose for the cash transactions.

In addition to applying risk-mitigation measures to diminish threats emanating from North Korea's deceptive practices, UNSCRs 2087 and 2094 contain a number of provisions that build upon and expand the financial measures imposed in previous DPRK-related resolutions (UNSCRs 1718 and 1874) and that are designed to prevent North Korea from abusing the international financial system to continue its nuclear and missile programs and facilitate its weapons of mass destruction ("WMD") proliferation activities and illicit conduct.

FinCEN is highlighting the following financial services-related provisions of UNSCR 2094 that build upon relevant provisions of prior UNSCRs and may affect current or future correspondent relationships of U.S. financial institutions:

Implementation of FATF Standards

- Preambular Paragraph 6: *Welcoming the Financial Action Task Force's (FATF) new Recommendation 7 on targeted financial sanctions related to proliferation, and urging Member States to apply FATF's Interpretative Note to Recommendation 7 and related guidance papers for effective implementation of targeted financial sanctions related to proliferation,*

This preambular paragraph references FATF Recommendation 7 and its Interpretative Note which provide a robust framework for implementation of targeted financial sanctions related to WMD proliferation, including those required under the DPRK-related UNSCRs. The FATF framework requires countries to have the necessary legal authority to implement these sanctions, monitor financial institutions' compliance with the sanctions, and penalize financial institutions for lack of compliance. The paragraph also references relevant FATF guidance for effective

⁶ The FATF is a 36-member inter-governmental policy-making body whose purpose is to establish international standards and develop and promote policies, both at national and international levels, to combat money laundering and counter the financing of terrorism and proliferation of weapons of mass destruction. See www.fatf-gafi.org. The United States is a member of the FATF. All of FATF's public statements are available at <http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/>.

implementation of targeted financial sanctions related to proliferation, which includes the capacity to develop designations proposals for the United Nations Security Council.⁷

Prevention of Financial Services & Enhanced Vigilance

- Operative Paragraph 11: *Decides that Member States shall, in addition to implementing their obligations pursuant to paragraphs 8 (d) and (e) of resolution 1718 (2006), prevent the provision of financial services or the transfer to, through, or from their territory, or to or by their nationals or entities organized under their laws (including branches abroad), or persons or financial institutions in their territory, of any financial or other assets or resources, including bulk cash, that **could contribute** to the DPRK's nuclear or ballistic missile programmes, or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution, or to the evasion of measures imposed by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution, including by freezing any financial or other assets or resources on their territories or that hereafter come within their territories, or that are subject to their jurisdiction or that hereafter become subject to their jurisdiction, that are associated with such programmes or activities and applying enhanced monitoring to prevent all such transactions in accordance with their national authorities and legislation* (emphases added).

This paragraph requires States to "prevent the provision of financial services or the transfer ... of any financial or other assets or resources, including bulk cash, that could contribute to the DPRK's nuclear or ballistic missile programmes, or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution, or to the evasion of [such] measures" This paragraph requires that States implement this obligation by, among other means, "freezing any financial or other assets or resources ... subject to their jurisdiction" and "applying enhanced monitoring to prevent all such transactions." UNSCR 2094 goes further than UNSCR 1874 by **requiring** Member States to prevent the provision of financial services by persons or financial institutions within their jurisdictions or organized under their laws (including overseas branches), that could contribute to North Korea's nuclear or ballistic missile programs. In addition, it expands the scope of activities that countries are obligated to prevent under the DPRK-related UNSCRs ("prohibited activities"), including the evasion of measures imposed by these resolutions. To account for North Korea's use of deceptive practices and abuse of the international financial system to facilitate proliferation-sensitive activities, FinCEN advises all U.S. financial institutions to take commensurate risk-mitigation measures.

Operative Paragraph 6 of UNSCR 2087 also underscores the importance of applying enhanced vigilance to relationships with DPRK-related individuals, financial institutions, and other entities in order to prevent contributing to North Korea's proliferation activities. These vigilance measures are necessary in order to prevent potential sanctions evasion through specified entities and/or individuals, such as individuals and entities that are acting on behalf of or at the direction

⁷ See FATF Guidance Paper, "The Implementation of Financial Provisions of United Nations Security Council Resolutions to Counter the Proliferation of Weapons of Mass Destruction," June 2013 at <http://www.fatf-gafi.org/media/fatf/documents/recommendations/Guidance-UNSCRS-Prolif-WMD.pdf> ("FATF Guidance Paper"). This guidance document is an updated version of previous guidance to incorporate recent relevant UNSC Resolutions and revised FATF Recommendations.

of the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC")-designated entities and/or North Korean financial institutions.

The FATF recently issued a guidance paper to assist jurisdictions with the implementation of financial provisions in WMD-related UNSCRs, including activity-based financial prohibitions and vigilance measures, such as those contained in Operative Paragraph 11 of UNSCR 2094 and Operative Paragraph 6 of UNSCR 2087.⁸

FinCEN encourages financial institutions to be familiar with the FATF's guidance that articulates the need to identify high-risk customers and transactions, based upon indicators, and apply corresponding enhanced due diligence to ensure that financial institutions do not facilitate transactions related to prohibited activities. These risk indicators could include:

- Customers and transactions associated with the DPRK, including DPRK diplomatic personnel.
- Vehicles that particularly could be used to finance prohibited activities, such as certain trade financing products and services.
- Customers involved with and/or transactions related to items, materials, equipment, goods, and technology identified as prohibited under the UNSCRs relating to the DPRK.⁹
- Significant withdrawals or deposits of cash that could potentially be used for prohibited activities or to evade measures imposed under the DPRK-related UNSCRs.¹⁰
- Incomplete information fields in payment instructions and the refusal to provide additional information about the transaction.

The FATF highlights the importance of collecting additional information on high-risk customers and transactions in order to identify, and avoid engaging in, prohibited activities, and to enable follow-up actions. Additional information that may be useful in determining whether a high-risk customer is involved with, and/or a transaction is related to, prohibited activities may include:¹¹

- Details about the nature, end-use, or end-user of the item.
- Export control information, such as copies of export control or other licenses issued by the national export control authorities, and end-user certification.
- In the case of a financial institution handling incoming wire transfers, further information in accordance with FATF Recommendation 16 (wire transfers). FATF Recommendation 16 states: "Countries should ensure that financial institutions include required and accurate originator information, and required beneficiary information, on wire transfers and related messages, and that the information remains with the wire transfer or related message throughout the payment chain. Countries should ensure that financial

⁸ Id.

⁹ Prohibited items include: (1) arms and related materiel; (2) items relevant to nuclear-related programmes set out in INFCIRC/254/Rev.11/Part 1 and INFCIRC/254/Rev.8/Part 2; (3) items relevant to ballistic missile-related programmes set out in S/2012/947; (4) items relevant to other weapons of mass destruction-related programmes set out in S/2006/853 and S/2006/853/Corr.1; or (5) Luxury goods and other additional items listed at: www.un.org/sc/committees/1718/pdf/List_Items_and_Luxury_Goods.pdf.

¹⁰ See discussion of Operative Paragraph 14.

¹¹ See FATF Guidance Paper, *supra* note 7.

institutions monitor wire transfers for the purpose of detecting those which lack required originator and/or beneficiary information, and take appropriate measures.”

- The purpose of the transaction.

A financial institution should consider refusing to process or execute transactions, if it is unable to clarify that such transactions do not constitute prohibited activities.

As required under 31 CFR § 1010.610(a), covered financial institutions are to ensure that their due diligence programs, which address correspondent accounts maintained for foreign financial institutions, include appropriate, specific, risk-based, and, where necessary, enhanced policies, procedures, and controls that are reasonably designed to detect and report known or suspected money laundering activity conducted through or involving any correspondent account established, maintained, administered, or managed in the United States for a foreign financial institution.

With respect to correspondent accounts held with financial institutions that maintain relationships with North Korea, FinCEN reminds institutions of the increasing likelihood that North Korea will use its existing correspondent relationships to hide illicit conduct, including its use of bulk cash, in an attempt to circumvent existing sanctions. Financial institutions should be vigilant in dealing with banks that might have a connection to North Korea.

Measures Regarding DPRK Banks and Banking Activity in DPRK

- Operative Paragraph 12: *Calls upon States to take appropriate measures to prohibit in their territories the opening of new branches, subsidiaries, or representative offices of DPRK banks, and also calls upon States to prohibit DPRK banks from establishing new joint ventures and from taking an ownership interest in or establishing or maintaining correspondent relationships with banks in their jurisdiction to prevent the provision of financial services if they have information that provides reasonable grounds to believe that these activities **could contribute** to the DPRK’s nuclear or ballistic missile programmes, or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), and this resolution, or to the evasion of measures imposed by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution (emphases added).*
- Operative Paragraph 13: *Calls upon States to take appropriate measures to prohibit financial institutions within their territories or under their jurisdiction from opening representative offices or subsidiaries or banking accounts in the DPRK if they have information that provides reasonable grounds to believe that such financial services **could contribute** to the DPRK’s nuclear or ballistic missile programmes, and other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), and this resolution (emphases added).*

FinCEN remains concerned that North Korean financial institutions are seeking to compensate for the loss of access to financial sectors by establishing new financial relationships, including the opening of new foreign branches, subsidiaries, representative offices, or correspondent or other relationships either outside or within North Korea, and the pursuit of joint ventures.

FinCEN reminds financial institutions of the existing U.S. sanctions that are administered by OFAC with respect to North Korea, including but not limited to certain North Korean Government-owned banks, as well as other sanctions imposed on North Korean entities that have been linked to the proliferation of weapons of mass destruction. Information about these sanctions is available on OFAC's website at <http://www.treasury.gov/offices/enforcement/ofac/>.

On March 11, 2013, OFAC designated North Korea's Foreign Trade Bank as a Specially Designated National, for providing financial support to Korea Kwangson Banking Corporation ("KKBC") and facilitating millions of dollars in transactions for U.S. and United Nations designated Korea Mining Development Trading Corporation ("KOMID"), North Korea's premier arms dealer, and KOMID's financial arm, U.S. and United Nations designated Tanchon Commercial Bank ("TCB").¹² KKBC was designated for providing financial services in support of both TCB and U.S. and United Nations designated Korea Hyoksin Trading Corporation, a subordinate of the Korea Ryonbong General Corporation.

Additionally, as required under FinCEN regulations (e.g., 31 CFR § 1020.320), if a financial institution knows, suspects, or has reason to suspect that a transaction involves funds derived from illegal activity or that a customer has otherwise engaged in activities indicative of money laundering, terrorist financing, or another violation or attempted violation of law or regulation, the financial institution shall then file a Suspicious Activity Report.¹³

Bulk Cash Transfers Related to DPRK

- Operative Paragraph 14: *Expresses concern that transfers to the DPRK of bulk cash may be used to evade the measures imposed in resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution, and clarifies that all States shall apply the measures set forth in paragraph 11 of this resolution to the transfers of cash, including through cash couriers, transiting to and from the DPRK so as to ensure such transfers of bulk cash do not contribute to the DPRK's nuclear or ballistic missile programmes, or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution, or to the evasion of measures imposed by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution.*

Earlier UNSCRs on DPRK have specifically identified North Korea's use of cash to evade sanctions.¹⁴ Significant withdrawals or deposits of cash may be an additional risk indicator,

¹² U.S. Department of the Treasury Press Center. "Treasury Sanctions Bank and Official Linked to North Korean Weapons of Mass Destruction Programs," March 11, 2013, at <http://www.treasury.gov/press-center/press-releases/Pages/jl1876.aspx>.

¹³ FinCEN has previously clarified that suspicious activity reporting obligations are sometimes deemed to be satisfied by reports filed with OFAC. See 69 Federal Register 76847 and "Revised Guidance on Filing Suspicious Activity Reports Relating to the Office of Foreign Assets Control *List of Specially Designated Nationals and Blocked Persons*" in the SAR Activity Review – Trends Tips & Issues, Issue 8, April 2005 (published under the auspices of the BSA Advisory Group) at http://www.fincen.gov/news_room/rp/files/sar_tti_08.pdf.

¹⁴ See United Nations Security Council Resolution 2087, Operative Paragraph 12: "Deplores the violations of the measures imposed in 1718 (2006) and 1874 (2009), including the use of bulk cash to evade sanctions..." January 22, 2013.

particularly when associated with other risk factors related to North Korea and prohibited activities, as referenced above.¹⁵ Operative Paragraph 14 of UNSCR 2094 expresses concern that transfers of bulk cash may be used to evade the measures imposed by the DPRK-related UNSCRs and clarifies that risk mitigation and asset freezing measures, set out in Operative Paragraph 11 apply to transfers of cash, including through cash couriers, transiting to and from the DPRK.

Vigilance Over DPRK Diplomatic Personnel

- Operative Paragraph 24: *Calls upon States to exercise enhanced vigilance over DPRK diplomatic personnel so as to prevent such individuals from contributing to the DPRK's nuclear or ballistic missile programmes, or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), and this resolution, or to the evasion of measures imposed by resolutions 1718 (2006), 1874 (2009), 2087 (2013), or this resolution;*

This paragraph calls for “enhanced vigilance over DPRK diplomatic personnel” and recognizes that North Korean diplomatic personnel may be “contributing to the DPRK’s nuclear or ballistic missile programmes, or other activities prohibited by” the DPRK-related UNSCRs. North Korean diplomatic personnel may engage in activities to facilitate the provision of financial services or transfer of assets or resources, including bulk cash, that could contribute to the DPRK’s nuclear or ballistic missile programs, prohibited activities, or the evasion of measures imposed by UNSCRs 1718 (2006), 1874 (2009), 2087 (2013), and 2094 (2013).

Further, in April 2008, FinCEN issued guidance to assist financial institutions on reporting suspicious activity regarding proceeds of foreign corruption.¹⁶ In addition, FinCEN's May 2011 SAR Activity Review focused specifically on foreign corruption and highlighted general regulatory requirements, general due diligence procedures, and frequently asked questions related to senior foreign political figures and corruption.¹⁷ Financial institutions may find the guidance document and SAR Activity Review useful in assisting with suspicious activity monitoring and due diligence requirements related to senior foreign political figures.

The U.S. Department of the Treasury has encouraged financial institutions worldwide to take similar precautions as those described above and urges all financial institutions to also take into account all applicable U.S. and international sanctions programs with regard to any possible transaction with North Korean institutions or transactions that could contribute to North Korea’s nuclear or ballistic missile programs, other prohibited activities, or the evasion of measures imposed by UNSCRs.

¹⁵ See discussion of Operative Paragraph 11.

¹⁶ “Guidance to Financial Institutions on Filing Suspicious Activity Reports Regarding the Proceeds of Foreign Corruption,” (FIN-2008-G005) April 17, 2008 at http://www.fincen.gov/statutes_regs/guidance/html/fin-2008-g005.html.

¹⁷ The SAR Activity Review – Trends Tips & Issues, Issue 19, May 2011 (Published under the auspices of the BSA Advisory Group) at http://www.fincen.gov/news_room/rp/files/sar_tti_19.pdf.

North Korean Banks

Below is a list of North Korean banks as taken from public and commercially available information. This is not meant to be a comprehensive list and is provided for ease of reference only. For the purposes of this advisory, financial institutions should take independent steps as necessary to ensure sufficient awareness of their entire exposure to North Korea-related financial transactions regardless of the financial institution conducting the transactions. FinCEN is updating in this Advisory the list of North Korean banks previously provided in June 2009 (Amended December 2009):

Amroggang Development Bank
Bank of East Land
Central Bank of the Democratic People's Republic of Korea
Credit Bank of Korea
Dae-Dong Credit Bank
First Credit Bank¹⁸
Foreign Trade Bank of the Democratic People's Republic of Korea
Golden Triangle Bank
Hana Banking Corporation Ltd.
Hi-Fund Bank
Ilsim International Bank
The International Industrial Development Bank
Korea Agriculture Investment Bank
Korea Joint Bank (“KBJ”)
Korea Daesong Bank
Korea Kwangson Banking Corp
Korea National Development Bank
Korea United Development Bank
Koryo Bank
Koryo Commercial Bank Ltd.
Koryo Credit Development Bank
Kumgang Bank
North East Asia Bank
Orabank
Tanchon Commercial Bank

¹⁸ This should not be confused with First Credit Bank located in Los Angeles, CA, USA.