

Union Calendar No. 38

116TH CONGRESS
1ST SESSION

H. R. 389

[Report No. 116–60]

To authorize the Secretary of the Treasury to pay rewards under an asset recovery rewards program to help identify and recover stolen assets linked to foreign government corruption and the proceeds of such corruption hidden behind complex financial structures in the United States and abroad.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2019

Mr. LYNCH (for himself, Mr. COHEN, and Mr. BUDD) introduced the following bill; which was referred to the Committee on Financial Services

MAY 14, 2019

Additional sponsors: Miss RICE of New York and Mr. FITZPATRICK

MAY 14, 2019

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on January 9, 2019]

A BILL

To authorize the Secretary of the Treasury to pay rewards under an asset recovery rewards program to help identify and recover stolen assets linked to foreign government corruption and the proceeds of such corruption hidden behind complex financial structures in the United States and abroad.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *The Act may be cited as the “Kleptocracy Asset Recov-*
5 *ery Rewards Act”.*

6 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

7 (a) *FINDINGS.*—*Congress finds the following:*

8 (1) *The Stolen Asset Recovery Initiative (StAR),*
9 *a World Bank and United Nations anti-money-laun-*
10 *dering effort, estimates that between \$20 billion to*
11 *\$40 billion has been lost to developing countries an-*
12 *nually through corruption.*

13 (2) *In 2014, more than \$480 million in corrup-*
14 *tion proceeds hidden in bank accounts around the*
15 *world by former Nigerian dictator Sani Abacha and*
16 *his co-conspirators was forfeited through efforts by the*
17 *Department of Justice.*

18 (3) *In 2010, the Department of Justice estab-*
19 *lished the Kleptocracy Asset Recovery Initiative, to*
20 *work in partnership with Federal law enforcement*
21 *agencies to forfeit the proceeds of foreign official cor-*
22 *ruption and, where appropriate, return those proceeds*
23 *to benefit the people harmed by these acts of corrup-*
24 *tion and abuse of office.*

1 (4) *Of the \$20 billion to \$40 billion lost by devel-*
2 *oping countries annually through corruption, only*
3 *about \$5 billion has been repatriated in the last 15*
4 *years.*

5 (5) *Governments weakened by corruption and*
6 *loss of assets due to corruption have fewer resources*
7 *to devote to the fight against terrorism and fewer re-*
8 *sources to devote to building strong financial, law en-*
9 *forcement, and judicial institutions to aid in the fight*
10 *against the financing of terrorism.*

11 (6) *The United States has a number of effective*
12 *programs to reward individuals who provide valuable*
13 *information that assist in the identification, arrest,*
14 *and conviction of criminal actors and their associ-*
15 *ates, as well as seizure and forfeiture of illicitly de-*
16 *rived assets and the proceeds of criminal activity.*

17 (7) *The Internal Revenue Service has the Whis-*
18 *tleblower Program, which pays awards to individuals*
19 *who provide specific and credible information to the*
20 *IRS if the information results in the collection of*
21 *taxes, penalties, interest or other amounts from non-*
22 *compliant taxpayers.*

23 (8) *The Department of State administers re-*
24 *wards programs on international terrorism, illegal*

1 *narcotics, and transnational organized crime with the*
2 *goal of bringing perpetrators to justice.*

3 *(9) None of these existing rewards programs spe-*
4 *cifically provide monetary incentives for identifying*
5 *and recovering stolen assets linked solely to foreign*
6 *government corruption, as opposed to criminal pros-*
7 *ecutions or civil or criminal forfeitures.*

8 *(10) The recovery of stolen assets linked to for-*
9 *ign government corruption and the proceeds of such*
10 *corruption may not always involve a BSA violation*
11 *or lead to a forfeiture action. In such cases there*
12 *would be no ability to pay rewards under existing*
13 *Treasury Department authorities.*

14 *(11) Foreign government corruption can take*
15 *many forms but typically entails government officials*
16 *stealing, misappropriating, or illegally diverting as-*
17 *sets and funds from their own government treasuries*
18 *to enrich their personal wealth directly through em-*
19 *bezzlement or bribes to allow government resources to*
20 *be expended in ways that are not transparent and*
21 *may not either be necessary or be the result of open*
22 *competition. Corruption also includes situations*
23 *where public officials take bribes to allow government*
24 *resources to be expended in ways which are not trans-*
25 *parent and may not be necessary or the result of open*

1 *competition. These corrupt officials often use the*
2 *United States and international financial system to*
3 *hide their stolen assets and the proceeds of corruption.*

4 *(12) The individuals who come forward to expose*
5 *foreign governmental corruption and kleptocracy often*
6 *do so at great risk to their own safety and that of*
7 *their immediate family members and face retaliation*
8 *from persons who exercise foreign political or govern-*
9 *mental power. Monetary rewards can provide a nec-*
10 *essary incentive to expose such corruption and pro-*
11 *vide a financial means to provide for their well-being*
12 *and avoid retribution.*

13 *(b) SENSE OF CONGRESS.—It is the sense of Congress*
14 *that a Department of the Treasury stolen asset recovery re-*
15 *wards program to help identify and recover stolen assets*
16 *linked to foreign government corruption and the proceeds*
17 *of such corruption hidden behind complex financial struc-*
18 *tures is needed in order to—*

19 *(1) intensify the global fight against corruption;*
20 *and*

21 *(2) serve United States efforts to identify and re-*
22 *cover such stolen assets, forfeit proceeds of such cor-*
23 *ruption, and, where appropriate and feasible, return*
24 *the stolen assets or proceeds thereof to the country*
25 *harmed by the acts of corruption.*

1 **SEC. 3. IN GENERAL.**

2 (a) *DEPARTMENT OF THE TREASURY KLEPTOCRACY*
3 *ASSET RECOVERY REWARDS PROGRAM.*—Chapter 97 of
4 title 31, United States Code, is amended by adding at the
5 end the following:

6 **“§9706. Department of the Treasury Kleptocracy Asset**
7 **Recovery Rewards Program**

8 “(a) *ESTABLISHMENT.*—

9 “(1) *IN GENERAL.*—There is established in the
10 Department of the Treasury a program to be known
11 as the ‘Kleptocracy Asset Recovery Rewards Program’
12 for the payment of rewards to carry out the purposes
13 of this section.

14 “(2) *PURPOSE.*—The rewards program shall be
15 designed to support U.S. Government programs and
16 investigations aimed at restraining, seizing, for-
17 feiting, or repatriating stolen assets linked to foreign
18 government corruption and the proceeds of such cor-
19 ruption.

20 “(3) *IMPLEMENTATION.*—The rewards program
21 shall be administered by, and at the sole discretion of,
22 the Secretary of the Treasury, in consultation, as ap-
23 propriate, with the Secretary of State, the Attorney
24 General, and the heads of such other departments and
25 agencies as the Secretary may find appropriate.

1 “(b) *REWARDS AUTHORIZED.*—*In the sole discretion*
2 *of the Secretary and in consultation, as appropriate, with*
3 *the heads of other relevant Federal departments or agencies,*
4 *the Secretary may pay a reward to any individual, or to*
5 *any nonprofit humanitarian organization designated by*
6 *such individual, if that individual furnishes information*
7 *leading to—*

8 “(1) *the restraining or seizure of stolen assets in*
9 *an account at a U.S. financial institution (including*
10 *a U.S. branch of a foreign financial institution), that*
11 *come within the United States, or that come within*
12 *the possession or control of any United States person;*

13 “(2) *the forfeiture of stolen assets in an account*
14 *at a U.S. financial institution (including a U.S.*
15 *branch of a foreign financial institution), that come*
16 *within the United States, or that come within the*
17 *possession or control of any United States person; or*

18 “(3) *where appropriate, the repatriation of sto-*
19 *len assets in an account at a U.S. financial institu-*
20 *tion (including a U.S. branch of a foreign financial*
21 *institution), that come within the United States, or*
22 *that come within the possession or control of any*
23 *United States person.*

24 “(c) *COORDINATION.*—

1 “(1) *PROCEDURES.*—To ensure that the payment
2 of rewards pursuant to this section does not duplicate
3 or interfere with any other payment authorized by the
4 Department of Justice or other Federal law enforce-
5 ment agencies for the obtaining of information or
6 other evidence, the Secretary of the Treasury, in con-
7 sultation with the Secretary of State, the Attorney
8 General, and the heads of such other agencies as the
9 Secretary may find appropriate, shall establish proce-
10 dures for the offering, administration, and payment
11 of rewards under this section, including procedures
12 for—

13 “(A) identifying actions with respect to
14 which rewards will be offered;

15 “(B) the receipt and analysis of data; and

16 “(C) the payment of rewards and approval
17 of such payments.

18 “(2) *PRIOR APPROVAL OF THE ATTORNEY GEN-*
19 *ERAL REQUIRED.*—Before making a reward under
20 this section in a matter over which there is Federal
21 criminal jurisdiction, the Secretary of the Treasury
22 shall obtain the written concurrence of the Attorney
23 General.

24 “(d) *PAYMENT OF REWARDS.*—

1 “(1) *AUTHORIZATION OF APPROPRIATIONS.*—*For*
2 *the purpose of paying rewards pursuant to this sec-*
3 *tion, there is authorized to be appropriated \$450,000*
4 *for fiscal year 2020.*

5 “(2) *LIMITATION ON ANNUAL PAYMENTS.*—*Ex-*
6 *cept as provided under paragraph (3), the total*
7 *amount of rewards paid pursuant to this section may*
8 *not exceed \$25,000,000 in any calendar year.*

9 “(3) *PRESIDENTIAL AUTHORITY.*—*The President*
10 *may waive the limitation under paragraph (2) with*
11 *respect to a calendar year if the President provides*
12 *written notice of such waiver to the appropriate com-*
13 *mittees of the Congress at least 30 days before any*
14 *payment in excess of such limitation is made pursu-*
15 *ant to this section.*

16 “(4) *PAYMENT FROM STOLEN ASSET AMOUNTS.*—
17 *In paying any reward under this section with respect*
18 *to information furnished by an individual, the Sec-*
19 *retary shall, to the extent possible, make such pay-*
20 *ments using the stolen assets recovered based on such*
21 *information before using appropriated funds author-*
22 *ized under paragraph (1).*

23 “(e) *LIMITATIONS.*—

24 “(1) *SUBMISSION OF INFORMATION.*—*No award*
25 *may be made under this section based on information*

1 *submitted to the Secretary unless such information is*
2 *submitted under penalty of perjury.*

3 “(2) *MAXIMUM AMOUNT.*—No reward paid under
4 *this section may exceed \$5,000,000, unless the Sec-*
5 *retary—*

6 “(A) *personally authorizes such greater*
7 *amount in writing;*

8 “(B) *determines that offer or payment of a*
9 *reward of a greater amount is necessary due to*
10 *the exceptional nature of the case; and*

11 “(C) *notifies the appropriate committees of*
12 *the Congress of such determination.*

13 “(3) *APPROVAL.*—

14 “(A) *IN GENERAL.*—No reward amount
15 *may be paid under this section without the writ-*
16 *ten approval of the Secretary.*

17 “(B) *DELEGATION.*—The Secretary may not
18 *delegate the approval required under subpara-*
19 *graph (A) to anyone other than an Under Sec-*
20 *retary of the Department of the Treasury.*

21 “(4) *PROTECTION MEASURES.*—If the Secretary
22 *determines that the identity of the recipient of a re-*
23 *ward or of the members of the recipient’s immediate*
24 *family must be protected, the Secretary shall take*
25 *such measures in connection with the payment of the*

1 *reward as the Secretary considers necessary to effect*
2 *such protection.*

3 “(5) *FORMS OF REWARD PAYMENT.*—*The Sec-*
4 *retary may make a reward under this section in the*
5 *form of a monetary payment.*

6 “(f) *INELIGIBILITY, REDUCTION IN, OR DENIAL OF RE-*
7 *WARD.*—

8 “(1) *OFFICER AND EMPLOYEES.*—*An officer or*
9 *employee of any entity of Federal, State, or local gov-*
10 *ernment or of a foreign government who, while in the*
11 *performance of official duties, furnishes information*
12 *described under subsection (b) shall not be eligible for*
13 *a reward under this section.*

14 “(2) *PARTICIPATING INDIVIDUALS.*—*If the claim*
15 *for a reward is brought by an individual who the Sec-*
16 *retary has a reasonable basis to believe knowingly*
17 *planned, initiated, directly participated in, or facili-*
18 *tated the actions that led to assets of a foreign state*
19 *or governmental entity being stolen, misappropriated,*
20 *or illegally diverted or to the payment of bribes or*
21 *other foreign governmental corruption, the Secretary*
22 *shall appropriately reduce, and may deny, such*
23 *award. If such individual is convicted of criminal*
24 *conduct arising from the role described in the pre-*

ceding sentence, the Secretary shall deny or may seek to recover any reward, as the case may be.

“(g) *REPORT.*—

“(1) *IN GENERAL.*—Within 180 days of the enactment of this section, and annually thereafter for 5 years, the Secretary shall issue a report to the appropriate committees of the Congress—

“(A) detailing to the greatest extent possible the amount, location, and ownership or beneficial ownership of any stolen assets that, on or after the date of the enactment of this section, come within the United States or that come within the possession or control of any United States person;

“(B) discussing efforts being undertaken to identify more such stolen assets and their owners or beneficial owners; and

“(C) including a discussion of the interactions of the Department of the Treasury with the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act) to identify the amount, location, and ownership, or beneficial ownership, of stolen assets held in financial institutions outside the United States.

1 “(2) *EXCEPTION FOR ONGOING INVESTIGA-*
2 *TIONS.—The report issued under paragraph (1) shall*
3 *not include information related to ongoing investiga-*
4 *tions.*

5 “(h) *DEFINITIONS.—For purposes of this section:*

6 “(1) *APPROPRIATE COMMITTEES OF THE CON-*
7 *GRESS.—The term ‘appropriate committees of the*
8 *Congress’ means the Committee on Financial Services*
9 *of the House of Representatives and the Committee on*
10 *Banking, Housing, and Urban Affairs of the Senate.*

11 “(2) *FINANCIAL ASSET.—The term ‘financial*
12 *asset’ means any funds, investments, or ownership in-*
13 *terests, as defined by the Secretary, that on or after*
14 *the date of the enactment of this section come within*
15 *the United States or that come within the possession*
16 *or control of any United States person.*

17 “(3) *FOREIGN GOVERNMENT CORRUPTION.—The*
18 *term ‘foreign government corruption’ includes bribery*
19 *of a foreign public official, or the misappropriation,*
20 *theft, or embezzlement of public funds or property by*
21 *or for the benefit of a foreign public official.*

22 “(4) *FOREIGN PUBLIC OFFICIAL.—The term ‘for-*
23 *foreign public official’ includes any person who occupies*
24 *a public office by virtue of having been elected, ap-*
25 *pointed, or employed, including any military, civil-*

1 *ian, special, honorary, temporary, or uncompensated*
2 *official.*

3 “(5) *IMMEDIATE FAMILY MEMBER.*—*The term*
4 *‘immediate family member’, with respect to an indi-*
5 *vidual, has the meaning given the term ‘member of*
6 *the immediate family’ under section 36(k) of the State*
7 *Department Basic Authorities Act of 1956 (22 U.S.C.*
8 *2708(k)).*

9 “(6) *REWARDS PROGRAM.*—*The term ‘rewards*
10 *program’ means the program established in subsection*
11 *(a)(1) of this section.*

12 “(7) *SECRETARY.*—*The term ‘Secretary’ means*
13 *the Secretary of the Treasury.*

14 “(8) *STOLEN ASSETS.*—*The term ‘stolen assets’*
15 *means financial assets within the jurisdiction of the*
16 *United States, constituting, derived from, or traceable*
17 *to, any proceeds obtained directly or indirectly from*
18 *foreign government corruption.”.*

19 *(b) REPORT ON DISPOSITION OF RECOVERED AS-*
20 *SETS.*—*Within 360 days of the enactment of this Act, the*
21 *Secretary of the Treasury shall issue a report to the appro-*
22 *priate committees of Congress (as defined under section*
23 *9706(h) of title 31, United States Code) describing policy*
24 *choices and recommendations for disposition of stolen assets*

1 *recovered pursuant to section 9706 of title 31, United States*
2 *Code.*

3 *(c) TABLE OF CONTENTS AMENDMENT.—The table of*
4 *contents for chapter 97 of title 31, United States Code, is*
5 *amended by adding at the end the following:*

“9706. Department of the Treasury Kleptocracy Asset Recovery Rewards Pro-
gram.”.

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