

116TH CONGRESS
1ST SESSION

H. R. 389

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

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 (a) The Act may be cited as the “Kleptocracy Asset
5 Recovery Rewards Act”.

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

2 (a) FINDINGS.—Congress finds the following:

3 (1) The Stolen Asset Recovery Initiative
4 (StAR), a World Bank and United Nations anti-
5 money-laundering effort, estimates that between \$20
6 billion to \$40 billion has been lost to developing
7 countries annually through corruption.

8 (2) In 2014, more than \$480 million in corrup-
9 tion proceeds hidden in bank accounts around the
10 world by former Nigerian dictator Sani Abacha and
11 his co-conspirators was forfeited through efforts by
12 the Department of Justice.

13 (3) In 2010, the Department of Justice estab-
14 lished the Kleptocracy Asset Recovery Initiative, to
15 work in partnership with Federal law enforcement
16 agencies to forfeit the proceeds of foreign official
17 corruption and, where appropriate, return those pro-
18 ceeds to benefit the people harmed by these acts of
19 corruption and abuse of office.

20 (4) Of the \$20 billion to \$40 billion lost by de-
21 veloping countries annually through corruption, only
22 about \$5 billion has been repatriated in the last 15
23 years.

24 (5) Governments weakened by corruption and
25 loss of assets due to corruption have fewer resources
26 to devote to the fight against terrorism and fewer re-

1 sources to devote to building strong financial, law
2 enforcement, and judicial institutions to aid in the
3 fight against the financing of terrorism.

4 (6) The United States has a number of effective
5 programs to reward individuals who provide valuable
6 information that assist in the identification, arrest,
7 and conviction of criminal actors and their associ-
8 ates, as well as seizure and forfeiture of illicitly de-
9 rived assets and the proceeds of criminal activity.

10 (7) The Internal Revenue Service has the Whis-
11 tleblower Program, which pays awards to individuals
12 who provide specific and credible information to the
13 IRS if the information results in the collection of
14 taxes, penalties, interest or other amounts from non-
15 compliant taxpayers.

16 (8) The Department of State administers re-
17 wards programs on international terrorism, illegal
18 narcotics, and transnational organized crime with
19 the goal of bringing perpetrators to justice.

20 (9) None of these existing rewards programs
21 specifically provide monetary incentives for identi-
22 fying and recovering stolen assets linked solely to
23 foreign government corruption, as opposed to crimi-
24 nal prosecutions or civil or criminal forfeitures.

1 (10) The recovery of stolen assets linked to for-
2 foreign government corruption and the proceeds of such
3 corruption may not always involve a BSA violation
4 or lead to a forfeiture action. In such cases there
5 would be no ability to pay rewards under existing
6 Treasury Department authorities.

7 (11) Foreign government corruption can take
8 many forms but typically entails government officials
9 stealing, misappropriating, or illegally diverting as-
10 sets and funds from their own government treasuries
11 to enrich their personal wealth directly through em-
12 bezzlement or bribes to allow government resources
13 to be expended in ways that are not transparent and
14 may not either be necessary or be the result of open
15 competition. Corruption also includes situations
16 where public officials take bribes to allow govern-
17 ment resources to be expended in ways which are
18 not transparent and may not be necessary or the re-
19 sult of open competition. These corrupt officials
20 often use the United States and international finan-
21 cial system to hide their stolen assets and the pro-
22 ceeds of corruption.

23 (12) The individuals who come forward to ex-
24 pose foreign governmental corruption and kleptocra-
25 cy often do so at great risk to their own safety and

1 that of their immediate family members and face re-
2 taliation from persons who exercise foreign political
3 or governmental power. Monetary rewards and the
4 potential award of asylum can provide a necessary
5 incentive to expose such corruption and provide a fi-
6 nancial means to provide for their well-being and
7 avoid retribution.

8 (b) SENSE OF CONGRESS.—It is the sense of Con-
9 gress that a Department of the Treasury stolen asset re-
10 covery rewards program to help identify and recover stolen
11 assets linked to foreign government corruption and the
12 proceeds of such corruption hidden behind complex finan-
13 cial structures is needed in order to—

14 (1) intensify the global fight against corruption;
15 and

16 (2) serve United States efforts to identify and
17 recover such stolen assets, forfeit proceeds of such
18 corruption, and, where appropriate and feasible, re-
19 turn the stolen assets or proceeds thereof to the
20 country harmed by the acts of corruption.

21 **SEC. 3. IN GENERAL.**

22 (a) DEPARTMENT OF THE TREASURY KLEPTOCRACY
23 ASSET RECOVERY REWARDS PROGRAM.—Chapter 97 of
24 title 31, United States Code, is amended by adding at the
25 end the following:

1 **“§ 9706. Department of the Treasury Kleptocracy**
2 **Asset Recovery Rewards Program**

3 “(a) ESTABLISHMENT.—

4 “(1) IN GENERAL.—There is established in the
5 Department of the Treasury a program to be known
6 as the ‘Kleptocracy Asset Recovery Rewards Pro-
7 gram’ for the payment of rewards to carry out the
8 purposes of this section.

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

15 “(3) IMPLEMENTATION.—The rewards program
16 shall be administered by, and at the sole discretion
17 of, the Secretary of the Treasury, in consultation, as
18 appropriate, with the Secretary of State, the Attor-
19 ney General, and the heads of such other depart-
20 ments and agencies as the Secretary may find ap-
21 propriate.

22 “(b) REWARDS AUTHORIZED.—In the sole discretion
23 of the Secretary and in consultation, as appropriate, with
24 the heads of other relevant Federal departments or agen-
25 cies, the Secretary may pay a reward to any individual,
26 or to any nonprofit organization designated by such indi-

1 vidual, if that individual furnishes information leading
2 to—

3 “(1) the restraining or seizure of stolen assets
4 in an account at a U.S. financial institution (includ-
5 ing a U.S. branch of a foreign financial institution),
6 that come within the United States, or that come
7 within the possession or control of any United States
8 person;

9 “(2) the forfeiture of stolen assets in an ac-
10 count at a U.S. financial institution (including a
11 U.S. branch of a foreign financial institution), that
12 come within the United States, or that come within
13 the possession or control of any United States per-
14 son; or

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

21 “(c) COORDINATION.—

22 “(1) PROCEDURES.—To ensure that the pay-
23 ment of rewards pursuant to this section does not
24 duplicate or interfere with any other payment au-
25 thorized by the Department of Justice or other Fed-

1 eral law enforcement agencies for the obtaining of
2 information or other evidence, the Secretary of the
3 Treasury, in consultation with the Secretary of
4 State, the Attorney General, and the heads of such
5 other agencies as the Secretary may find appro-
6 priate, shall establish procedures for the offering,
7 administration, and payment of rewards under this
8 section, including procedures for—

9 “(A) identifying actions with respect to
10 which rewards will be offered;

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

12 “(C) the payment of rewards and approval
13 of such payments.

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

20 “(d) PAYMENT OF REWARDS.—

21 “(1) AUTHORIZATION OF APPROPRIATIONS.—
22 For the purpose of paying rewards pursuant to this
23 section, there is authorized to be appropriated
24 \$450,000 for fiscal year 2020.

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

5 “(3) PRESIDENTIAL AUTHORITY.—The Presi-
6 dent may waive the limitation under paragraph (2)
7 with respect to a calendar year if the President pro-
8 vides written notice of such waiver to the Secretary
9 and the appropriate committees of the Congress at
10 least 30 days before any payment in excess of such
11 limitation is made pursuant to this section.

12 “(4) PAYMENT FROM STOLEN ASSET
13 AMOUNTS.—In paying any reward under this section
14 with respect to information furnished by an indi-
15 vidual, the Secretary shall, to the extent possible,
16 make such payments using the stolen assets recov-
17 ered based on such information before using appro-
18 priated funds authorized under paragraph (1).

19 “(e) LIMITATIONS AND CERTIFICATION.—

20 “(1) SUBMISSION OF INFORMATION.—No award
21 may be made under this section based on informa-
22 tion submitted to the Secretary unless such informa-
23 tion is submitted under penalty of perjury.

24 “(2) MAXIMUM AMOUNT.—No reward paid
25 under this section may exceed \$5,000,000, except as

1 personally authorized in writing by the Secretary, if
2 the Secretary determines that offer or payment of a
3 reward of a greater amount is necessary in excep-
4 tional cases.

5 “(3) APPROVAL.—

6 “(A) IN GENERAL.—No reward amount
7 may be paid under this section without the
8 written approval and certification of the Sec-
9 retary.

10 “(B) DELEGATION.—The Secretary may
11 not delegate the certification required under
12 subparagraph (A) to anyone other than an
13 Under Secretary of the Department of the
14 Treasury.

15 “(4) PROTECTION MEASURES.—If the Secretary
16 determines that the identity of the recipient of a re-
17 ward or of the members of the recipient’s immediate
18 family must be protected, the Secretary shall take
19 such measures in connection with the payment of
20 the reward as the Secretary considers necessary to
21 effect such protection.

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

1 “(f) INELIGIBILITY, REDUCTION IN, OR DENIAL OF
2 REWARD.—

3 “(1) OFFICER AND EMPLOYEES.—An officer or
4 employee of any entity of Federal, State, or local
5 government or of a foreign government who, while in
6 the performance of official duties, furnishes informa-
7 tion described under subsection (b) shall not be eligi-
8 ble for a reward under this section.

9 “(2) PARTICIPATING INDIVIDUALS.—If the
10 claim for a reward is brought by an individual who
11 planned, initiated, directly participated in, or facili-
12 tated the actions that led to assets of a foreign state
13 or governmental entity being stolen, misappro-
14 priated, or illegally diverted or to the payment of
15 bribes or other foreign governmental corruption, the
16 Secretary may appropriately reduce such award. If
17 such individual is convicted of criminal conduct aris-
18 ing from the role described in the preceding sen-
19 tence, the Secretary shall deny any reward.

20 “(g) DETERMINATIONS OF SECRETARY.—A deter-
21 mination made by the Secretary under this section shall
22 be final and conclusive and shall not be subject to judicial
23 review.

24 “(h) REPORT.—

1 “(1) IN GENERAL.—Within 180 days of the en-
2 actment of this section, and annually thereafter, the
3 Secretary shall issue a report to the appropriate
4 committees of the Congress—

5 “(A) detailing to the greatest extent pos-
6 sible the amount, location, and ownership or
7 beneficial ownership of any stolen assets that,
8 on or after the date of the enactment of this
9 section, come within the United States or that
10 come within the possession or control of any
11 United States person, including any foreign
12 branch;

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

16 “(C) including a discussion of the inter-
17 actions of the Department of the Treasury with
18 the international financial institutions (as de-
19 fined in section 1701(c)(2) of the International
20 Financial Institutions Act) to identify the
21 amount, location, and ownership, or beneficial
22 ownership, of stolen assets held in financial in-
23 stitutions outside the United States.

24 “(2) EXCEPTION FOR ONGOING INVESTIGA-
25 TIONS.—The report issued under paragraph (1)

1 shall not include information related to ongoing in-
2 vestigations.

3 “(i) DEFINITIONS.—For purposes of this section:

4 “(1) APPROPRIATE COMMITTEES OF THE CON-
5 GRESS.—The term ‘appropriate committees of the
6 Congress’ means the Committees on Financial Serv-
7 ices, Foreign Affairs, and the Judiciary of the House
8 of Representatives and the Committees on Banking,
9 Housing, and Urban Affairs, Foreign Relations, and
10 the Judiciary of the Senate.

11 “(2) FINANCIAL ASSET.—The term ‘financial
12 asset’ means any funds, investments, or ownership
13 interests, as defined by the Secretary, that on or
14 after the date of the enactment of this section come
15 within the United States or that come within the
16 possession or control of any United States person,
17 including through a U.S. branch of a foreign finan-
18 cial institution.

19 “(3) FOREIGN GOVERNMENT CORRUPTION.—
20 The term ‘foreign government corruption’ includes
21 bribery of a foreign public official, or the misappro-
22 priation, theft, or embezzlement of public funds or
23 property by or for the benefit of a foreign public of-
24 ficial.

1 “(4) FOREIGN PUBLIC OFFICIAL.—The term
2 ‘foreign public official’ includes any person who oc-
3 cupies a public office by virtue of having been elect-
4 ed, appointed, or employed, including any military,
5 civilian, special, honorary, temporary, or uncompen-
6 sated official.

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

13 “(6) REWARDS PROGRAM.—The term ‘rewards
14 program’ means the program established in sub-
15 section (a)(1) of this section.

16 “(7) SECRETARY.—The term ‘Secretary’ means
17 the Secretary of the Treasury.

18 “(8) STOLEN ASSETS.—The term ‘stolen assets’
19 means financial assets within the jurisdiction of the
20 United States, constituting, derived from, or trace-
21 able to, any proceeds obtained directly or indirectly
22 from foreign government corruption.”.

23 (b) REPORT ON DISPOSITION OF RECOVERED AS-
24 SETS.—Within 180 days of the enactment of this Act, the
25 Secretary of the Treasury shall issue a report to the ap-

1 appropriate committees of Congress (as defined under sec-
2 tion 9706(i) of title 31, United States Code) describing
3 policy choices for disposition of stolen assets recovered
4 pursuant to section 9706 of title 31, United States Code.

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

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

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