

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 389
OFFERED BY MR. LYNCH OF MASSACHUSETTS**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

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

4 SEC. 2. FINDINGS; SENSE OF CONGRESS.

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

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

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

16 (3) In 2010, the Department of Justice estab-
17 lished the Kleptocracy Asset Recovery Initiative, to
18 work in partnership with Federal law enforcement

1 agencies to forfeit the proceeds of foreign official
2 corruption and, where appropriate, return those pro-
3 ceeds to benefit the people harmed by these acts of
4 corruption and abuse of office.

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

9 (5) Governments weakened by corruption and
10 loss of assets due to corruption have fewer resources
11 to devote to the fight against terrorism and fewer re-
12 sources to devote to building strong financial, law
13 enforcement, and judicial institutions to aid in the
14 fight against the financing of terrorism.

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

21 (7) The Internal Revenue Service has the Whis-
22 tleblower Program, which pays awards to individuals
23 who provide specific and credible information to the
24 IRS if the information results in the collection of

1 taxes, penalties, interest or other amounts from non-
2 compliant taxpayers.

3 (8) The Department of State administers re-
4 wards programs on international terrorism, illegal
5 narcotics, and transnational organized crime with
6 the goal of bringing perpetrators to justice.

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

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

18 (11) Foreign government corruption can take
19 many forms but typically entails government officials
20 stealing, misappropriating, or illegally diverting as-
21 sets and funds from their own government treasuries
22 to enrich their personal wealth directly through em-
23 bezzlement or bribes to allow government resources
24 to be expended in ways that are not transparent and
25 may not either be necessary or be the result of open

1 competition. Corruption also includes situations
2 where public officials take bribes to allow govern-
3 ment resources to be expended in ways which are
4 not transparent and may not be necessary or the re-
5 sult of open competition. These corrupt officials
6 often use the United States and international finan-
7 cial system to hide their stolen assets and the pro-
8 ceeds of corruption.

9 (12) The individuals who come forward to ex-
10 pose foreign governmental corruption and
11 kleptocracy often do so at great risk to their own
12 safety and that of their immediate family members
13 and face retaliation from persons who exercise for-
14 eign political or governmental power. Monetary re-
15 wards can provide a necessary incentive to expose
16 such corruption and provide a financial means to
17 provide for their well-being and avoid retribution.

18 (b) SENSE OF CONGRESS.—It is the sense of Con-
19 gress that a Department of the Treasury stolen asset re-
20 covery rewards program to help identify and recover stolen
21 assets linked to foreign government corruption and the
22 proceeds of such corruption hidden behind complex finan-
23 cial structures is needed in order to—

24 (1) intensify the global fight against corruption;
25 and

1 (2) serve United States efforts to identify and
2 recover such stolen assets, forfeit proceeds of such
3 corruption, and, where appropriate and feasible, re-
4 turn the stolen assets or proceeds thereof to the
5 country harmed by the acts of corruption.

6 **SEC. 3. IN GENERAL.**

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

11 **“§ 9706. Department of the Treasury Kleptocracy**
12 **Asset Recovery Rewards Program**

13 “(a) ESTABLISHMENT.—

14 “(1) IN GENERAL.—There is established in the
15 Department of the Treasury a program to be known
16 as the ‘Kleptocracy Asset Recovery Rewards Pro-
17 gram’ for the payment of rewards to carry out the
18 purposes of this section.

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

1 “(3) IMPLEMENTATION.—The rewards program
2 shall be administered by, and at the sole discretion
3 of, the Secretary of the Treasury, in consultation, as
4 appropriate, with the Secretary of State, the Attor-
5 ney General, and the heads of such other depart-
6 ments and agencies as the Secretary may find ap-
7 propriate.

8 “(b) REWARDS AUTHORIZED.—In the sole discretion
9 of the Secretary and in consultation, as appropriate, with
10 the heads of other relevant Federal departments or agen-
11 cies, the Secretary may pay a reward to any individual,
12 or to any nonprofit humanitarian organization designated
13 by such individual, if that individual furnishes information
14 leading to—

15 “(1) the restraining or seizure of stolen assets
16 in an account at a U.S. financial institution (includ-
17 ing a U.S. branch of a foreign financial institution),
18 that come within the United States, or that come
19 within the possession or control of any United States
20 person;

21 “(2) the forfeiture of stolen assets in an ac-
22 count at a U.S. financial institution (including a
23 U.S. branch of a foreign financial institution), that
24 come within the United States, or that come within

1 the possession or control of any United States per-
2 son; or

3 “(3) where appropriate, the repatriation of sto-
4 len assets in an account at a U.S. financial institu-
5 tion (including a U.S. branch of a foreign financial
6 institution), that come within the United States, or
7 that come within the possession or control of any
8 United States person.

9 “(c) COORDINATION.—

10 “(1) PROCEDURES.—To ensure that the pay-
11 ment of rewards pursuant to this section does not
12 duplicate or interfere with any other payment au-
13 thorized by the Department of Justice or other Fed-
14 eral law enforcement agencies for the obtaining of
15 information or other evidence, the Secretary of the
16 Treasury, in consultation with the Secretary of
17 State, the Attorney General, and the heads of such
18 other agencies as the Secretary may find appro-
19 priate, shall establish procedures for the offering,
20 administration, and payment of rewards under this
21 section, including procedures for—

22 “(A) identifying actions with respect to
23 which rewards will be offered;

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

1 “(C) the payment of rewards and approval
2 of such payments.

3 “(2) PRIOR APPROVAL OF THE ATTORNEY GEN-
4 ERAL REQUIRED.—Before making a reward under
5 this section in a matter over which there is Federal
6 criminal jurisdiction, the Secretary of the Treasury
7 shall obtain the written concurrence of the Attorney
8 General.

9 “(d) PAYMENT OF REWARDS.—

10 “(1) AUTHORIZATION OF APPROPRIATIONS.—
11 For the purpose of paying rewards pursuant to this
12 section, there is authorized to be appropriated
13 \$450,000 for fiscal year 2020.

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

18 “(3) PRESIDENTIAL AUTHORITY.—The Presi-
19 dent may waive the limitation under paragraph (2)
20 with respect to a calendar year if the President pro-
21 vides written notice of such waiver to the appro-
22 priate committees of the Congress at least 30 days
23 before any payment in excess of such limitation is
24 made pursuant to this section.

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

8 “(e) LIMITATIONS.—

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

13 “(2) MAXIMUM AMOUNT.—No reward paid
14 under this section may exceed \$5,000,000, unless
15 the Secretary—

16 “(A) personally authorizes such greater
17 amount in writing;

18 “(B) determines that offer or payment of
19 a reward of a greater amount is necessary due
20 to the exceptional nature of the case; and

21 “(C) notifies the appropriate committees of
22 the Congress of such determination.

23 “(3) APPROVAL.—

1 “(A) IN GENERAL.—No reward amount
2 may be paid under this section without the
3 written approval of the Secretary.

4 “(B) DELEGATION.—The Secretary may
5 not delegate the approval required under sub-
6 paragraph (A) to anyone other than an Under
7 Secretary of the Department of the Treasury.

8 “(4) PROTECTION MEASURES.—If the Secretary
9 determines that the identity of the recipient of a re-
10 ward or of the members of the recipient’s immediate
11 family must be protected, the Secretary shall take
12 such measures in connection with the payment of
13 the reward as the Secretary considers necessary to
14 effect such protection.

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

18 “(f) INELIGIBILITY, REDUCTION IN, OR DENIAL OF
19 REWARD.—

20 “(1) OFFICER AND EMPLOYEES.—An officer or
21 employee of any entity of Federal, State, or local
22 government or of a foreign government who, while in
23 the performance of official duties, furnishes informa-
24 tion described under subsection (b) shall not be eligi-
25 ble for a reward under this section.

1 “(2) PARTICIPATING INDIVIDUALS.—If the
2 claim for a reward is brought by an individual who
3 the Secretary has a reasonable basis to believe know-
4 ingly planned, initiated, directly participated in, or
5 facilitated the actions that led to assets of a foreign
6 state or governmental entity being stolen, misappro-
7 priated, or illegally diverted or to the payment of
8 bribes or other foreign governmental corruption, the
9 Secretary shall appropriately reduce, and may deny,
10 such award. If such individual is convicted of crimi-
11 nal conduct arising from the role described in the
12 preceding sentence, the Secretary shall deny or may
13 seek to recover any reward, as the case may be.

14 “(g) REPORT.—

15 “(1) IN GENERAL.—Within 180 days of the en-
16 actment of this section, and annually thereafter for
17 5 years, the Secretary shall issue a report to the ap-
18 propriate committees of the Congress—

19 “(A) detailing to the greatest extent pos-
20 sible the amount, location, and ownership or
21 beneficial ownership of any stolen assets that,
22 on or after the date of the enactment of this
23 section, come within the United States or that
24 come within the possession or control of any
25 United States person;

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

4 “(C) including a discussion of the inter-
5 actions of the Department of the Treasury with
6 the international financial institutions (as de-
7 fined in section 1701(c)(2) of the International
8 Financial Institutions Act) to identify the
9 amount, location, and ownership, or beneficial
10 ownership, of stolen assets held in financial in-
11 stitutions outside the United States.

12 “(2) EXCEPTION FOR ONGOING INVESTIGA-
13 TIONS.—The report issued under paragraph (1)
14 shall not include information related to ongoing in-
15 vestigations.

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

17 “(1) APPROPRIATE COMMITTEES OF THE CON-
18 GRESS.—The term ‘appropriate committees of the
19 Congress’ means the Committee on Financial Serv-
20 ices of the House of Representatives and the Com-
21 mittee on Banking, Housing, and Urban Affairs of
22 the Senate.

23 “(2) FINANCIAL ASSET.—The term ‘financial
24 asset’ means any funds, investments, or ownership
25 interests, as defined by the Secretary, that on or

1 after the date of the enactment of this section come
2 within the United States or that come within the
3 possession or control of any United States person.

4 “(3) FOREIGN GOVERNMENT CORRUPTION.—
5 The term ‘foreign government corruption’ includes
6 bribery of a foreign public official, or the misappropriation, theft, or embezzlement of public funds or
7 property by or for the benefit of a foreign public official.
8
9

10 “(4) FOREIGN PUBLIC OFFICIAL.—The term
11 ‘foreign public official’ includes any person who occupies a public office by virtue of having been elected,
12 appointed, or employed, including any military,
13 civilian, special, honorary, temporary, or uncompensated official.
14
15

16 “(5) IMMEDIATE FAMILY MEMBER.—The term
17 ‘immediate family member’, with respect to an individual, has the meaning given the term ‘member of
18 the immediate family’ under section 36(k) of the
19 State Department Basic Authorities Act of 1956 (22
20 U.S.C. 2708(k)).
21

22 “(6) REWARDS PROGRAM.—The term ‘rewards
23 program’ means the program established in subsection (a)(1) of this section.
24

