

Suspend the Rules and Pass the Bill, H.R. 389, with An Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

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,*

1 **SECTION 1. SHORT TITLE.**

2 The Act may be cited as the “Kleptocracy Asset Re-
3 covery 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
19 agencies to forfeit the proceeds of foreign official
20 corruption and, where appropriate, return those pro-
21 ceeds to benefit the people harmed by these acts of
22 corruption and abuse of office.

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

1 (5) Governments weakened by corruption and
2 loss of assets due to corruption have fewer resources
3 to devote to the fight against terrorism and fewer re-
4 sources to devote to building strong financial, law
5 enforcement, and judicial institutions to aid in the
6 fight against the financing of terrorism.

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

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

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

23 (9) None of these existing rewards programs
24 specifically provide monetary incentives for identi-
25 fying and recovering stolen assets linked solely to

1 foreign government corruption, as opposed to crimi-
2 nal prosecutions or civil or criminal forfeitures.

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

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

1 (12) The individuals who come forward to ex-
2 pose foreign governmental corruption and
3 kleptocracy often do so at great risk to their own
4 safety and that of their immediate family members
5 and face retaliation from persons who exercise for-
6 eign political or governmental power. Monetary re-
7 wards can provide a necessary incentive to expose
8 such corruption and provide a financial means to
9 provide for their well-being and avoid retribution.

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

16 (1) intensify the global fight against corruption;
17 and

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

23 **SEC. 3. IN GENERAL.**

24 (a) DEPARTMENT OF THE TREASURY KLEPTOCRACY
25 ASSET RECOVERY REWARDS PROGRAM.—Chapter 97 of

1 title 31, United States Code, is amended by adding at the
2 end the following:

3 **“§ 9706. Department of the Treasury Kleptocracy**
4 **Asset Recovery Rewards Program**

5 “(a) ESTABLISHMENT.—

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

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

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

24 “(b) REWARDS AUTHORIZED.—In the sole discretion
25 of the Secretary and in consultation, as appropriate, with

1 the heads of other relevant Federal departments or agen-
2 cies, the Secretary may pay a reward to any individual,
3 or to any nonprofit humanitarian organization designated
4 by such individual, if that individual furnishes information
5 leading to—

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

12 “(2) the forfeiture of stolen assets in an ac-
13 count at a U.S. financial institution (including a
14 U.S. branch of a foreign financial institution), that
15 come within the United States, or that come within
16 the possession or control of any United States per-
17 son; 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 pay-
2 ment of rewards pursuant to this section does not
3 duplicate or interfere with any other payment au-
4 thorized by the Department of Justice or other Fed-
5 eral law enforcement agencies for the obtaining of
6 information or other evidence, the Secretary of the
7 Treasury, in consultation with the Secretary of
8 State, the Attorney General, and the heads of such
9 other agencies as the Secretary may find appro-
10 priate, shall establish procedures for the offering,
11 administration, and payment of rewards under this
12 section, including procedures 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.—
2 For the purpose of paying rewards pursuant to this
3 section, there is authorized to be appropriated—

4 “(A) \$450,000 for fiscal year 2020; and

5 “(B) for each fiscal year, any amount re-
6 covered in stolen assets described under sub-
7 section (b) that the Secretary determines is nec-
8 essary to carry out this program consistent with
9 this section.

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

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

21 “(4) PAYMENTS TO BE MADE FIRST FROM STO-
22 LEN ASSET AMOUNTS.—In paying any reward under
23 this section, the Secretary shall, to the extent pos-
24 sible, make such reward payment—

1 “(A) first, from appropriated funds au-
2 thorized under paragraph (1)(B); and

3 “(B) second, from appropriated funds au-
4 thorized under paragraph (1)(A).

5 “(e) LIMITATIONS.—

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

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

13 “(A) personally authorizes such greater
14 amount in writing;

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

18 “(C) notifies the appropriate committees of
19 the Congress of such determination.

20 “(3) APPROVAL.—

21 “(A) IN GENERAL.—No reward amount
22 may be paid under this section without the
23 written approval of the Secretary.

24 “(B) DELEGATION.—The Secretary may
25 not delegate the approval required under sub-

1 paragraph (A) to anyone other than an Under
2 Secretary of the Department of the Treasury.

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

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

13 “(f) INELIGIBILITY, REDUCTION IN, OR DENIAL OF
14 REWARD.—

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

21 “(2) PARTICIPATING INDIVIDUALS.—If the
22 claim for a reward is brought by an individual who
23 the Secretary has a reasonable basis to believe know-
24 ingly planned, initiated, directly participated in, or
25 facilitated the actions that led to assets of a foreign

1 state or governmental entity being stolen, misappropriated, or illegally diverted or to the payment of
2 bribes or other foreign governmental corruption, the
3 Secretary shall appropriately reduce, and may deny,
4 such award. If such individual is convicted of criminal
5 conduct arising from the role described in the
6 preceding sentence, the Secretary shall deny or may
7 seek to recover any reward, as the case may be.
8

9 “(g) REPORT.—

10 “(1) IN GENERAL.—Within 180 days of the enactment of this section, and annually thereafter for
11 5 years, the Secretary shall issue a report to the appropriate committees of the Congress—
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13

14 “(A) detailing to the greatest extent possible the amount, location, and ownership or
15 beneficial ownership of any stolen assets that,
16 on or after the date of the enactment of this
17 section, come within the United States or that
18 come within the possession or control of any
19 United States person;
20

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

24 “(C) including a discussion of the interactions of the Department of the Treasury with
25

1 the international financial institutions (as de-
2 fined in section 1701(c)(2) of the International
3 Financial Institutions Act) to identify the
4 amount, location, and ownership, or beneficial
5 ownership, of stolen assets held in financial in-
6 stitutions outside the United States.

7 “(2) EXCEPTION FOR ONGOING INVESTIGA-
8 TIONS.—The report issued under paragraph (1)
9 shall not include information related to ongoing in-
10 vestigations.

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

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

18 “(2) FINANCIAL ASSET.—The term ‘financial
19 asset’ means any funds, investments, or ownership
20 interests, as defined by the Secretary, that on or
21 after the date of the enactment of this section come
22 within the United States or that come within the
23 possession or control of any United States person.

24 “(3) FOREIGN GOVERNMENT CORRUPTION.—
25 The term ‘foreign government corruption’ includes

1 bribery of a foreign public official, or the misappropriation, theft, or embezzlement of public funds or
2 property by or for the benefit of a foreign public official.
3
4

5 “(4) FOREIGN PUBLIC OFFICIAL.—The term
6 ‘foreign public official’ includes any person who occupies a public office by virtue of having been elected,
7 appointed, or employed, including any military,
8 civilian, special, honorary, temporary, or uncompensated official.
9
10

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

17 “(6) REWARDS PROGRAM.—The term ‘rewards
18 program’ means the program established in subsection (a)(1) of this section.
19

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

22 “(8) STOLEN ASSETS.—The term ‘stolen assets’
23 means financial assets within the jurisdiction of the
24 United States, constituting, derived from, or trace-

1 able to, any proceeds obtained directly or indirectly
2 from foreign government corruption.”.

3 (b) REPORT ON DISPOSITION OF RECOVERED AS-
4 SETS.—Within 360 days of the enactment of this Act, the
5 Secretary of the Treasury shall issue a report to the ap-
6 propriate committees of Congress (as defined under sec-
7 tion 9706(h) of title 31, United States Code) describing
8 policy choices and recommendations for disposition of sto-
9 len assets recovered pursuant to section 9706 of title 31,
10 United States Code.

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

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