

NATIONAL STRATEGY FOR COMBATING THE FINANCING
OF TRANSNATIONAL CRIMINAL ORGANIZATIONS ACT

FEBRUARY 13, 2018.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 4768]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 4768) to require the President to develop a national strategy to combat the financial networks of transnational organized criminals, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 2, line 2, strike “the Director” and insert “the Director of the Financial Crimes Enforcement Network, the Director of the United States Secret Service, the Director of the Federal Bureau of Investigation, the Administrator”.

Page 3, line 11, after “United States” insert “or to the U.S. and international financial system”.

Page 3, line 12, after “cyber criminals,” insert “kleptocrats,”.

Page 3, line 13, after “relevant” insert “state and non-state”.

Page 3, line 13, after “including those” insert “threats”.

Page 3, line 17, after “networks” insert “(including terrorist organizations, if any)”.

Page 3, line 24, insert after “including” the following: “money laundering using real estate and other tangible goods such as art and antiquities,”.

Page 4, beginning on line 6, strike “, quantifiable”.

PURPOSE AND SUMMARY

On January 11, 2018, Representative David Kustoff introduced H.R. 4768, the “National Strategy for Combating the Financing of Transnational Criminal Organizations Act”, which requires the President, acting through the Treasury Secretary, in consultation with other officials, and appropriate Federal banking agencies, to develop a national strategy to combat the financial network of transnational organized criminals and submit that strategy to Congress not later than one year after the Act’s enactment and biennially thereafter.

BACKGROUND AND NEED FOR LEGISLATION

The goal of H.R. 4768 is to establish a national strategy to combat the financial networks of transnational criminal organizations. Transnational criminal organizations involve illicit business ventures by individuals working in more than one country and commonly include money laundering, cyber-crime, and the trafficking of drugs, humans, weapons, and endangered species. The United Nations Office on Drugs and Crime (UNODC) estimates that TCOs generate a total of \$870 billion a year. They raise money by exploiting global supply chains, and cyber domains to move goods, people, services, money, and data. While terrorists are driven by political or religious ideology, TCOs are motivated by maximizing profits. While organized crime is global, its effects are felt locally. Every day we lose countless lives as a result of drugs, human trafficking, and the like, and these illicit activities also undermine the economic development of our country. TCOs threaten the security and prosperity of countries throughout the Western Hemisphere at an estimated cost of 3.5 percent of GDP to the region, according to the Inter-American Development Bank.

The legislation outlines that this strategy includes an identification and assessment of the most significant current transnational organized crime threats to national security of the United States or to the U.S. and international financial system, including drug trafficking organizations, human trafficking organizations, cyber criminals, state and non-state actors, and kleptocrats. The bill also outlines that this strategy identify individuals, entities, networks, and terrorist organizations, if any, that provide financial support or financial facilitation to these transnational organized crime groups and an assessment of the methods through which transnational organized crime groups launder illicit proceeds, including money laundering using real estate and other tangible goods such as art and antiquities, trade-based money laundering, bulk cash smuggling, exploitation of shell companies, and misuse of digital currencies and other cyber technologies. The bill also calls for an assessment of the risk to the financial system of the United States posed by these transnational criminal networks.

H.R. 4768 also requires that the national strategy includes a discussion of both the short-term and long-term goals, objectives, priorities, and actions to combat the financing of transnational organized crime groups and their facilitators. The bill also requires that this strategy include a description of how it is integrated into and supports the national security strategy, drug control strategy, and counterterrorism strategy of the United States. Finally, the bill re-

quires that this strategy review current efforts to combat the financing or financial facilitation of transnational organized crime and, if appropriate, suggest proposed legislative and regulatory changes to address these issues.

In January 2010, the U.S. Intelligence Community completed a comprehensive review of international organized crime—the first on this topic since 1995. In July 2011, President Obama’s Administration published the “Strategy to Combat Transnational Organized Crime”, which concluded that transnational organized crime has expanded dramatically in size, scope, and influence, and that it poses a significant threat to national and international security. The Strategy found that criminal networks are building new alliances around the world and engaging in a wide range of illicit activities, including providing support for terrorism. These transnational organized crime groups threaten U.S. interests by taking advantage of failed states, forging alliances with corrupt foreign government officials, expanding human and drug trafficking networks, exploiting legitimate markets and economic activity by concealing illicit assets in financial systems, and perpetrating cybercrime which costs consumers billions of dollars annually.

There is currently no statutory requirement to update this paper. This legislation introduced by Representative Kustoff would therefore be the first law to require an assessment of such a TCO strategy, akin to the ‘national strategy for combating terrorist and other illicit financing’ provisions found in Public Law 115–44, which President Trump signed into law on August 2, 2017 as part of the Countering America’s Adversaries Through Sanctions Act, which mandated the imposition of sanctions against Iran, Russia, and North Korea.

On February 9, 2017, President Trump also issued Executive Order 13773 on “Enforcing Federal Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking,” which demonstrates the Trump Administration’s commitment to combat TCOs to promote domestic and international security. The Executive Order recognizes that TCOs and subsidiary organizations—mostly transnational drug cartels—have spread through the nation and threaten the safety of our country.

HEARINGS

The Committee on Financial Services Task Force to Investigate Terrorism Financing held a hearing entitled, “A Dangerous Nexus: Terrorism, Crime and Corruption,” focused on the growing threat of transnational organized crime on May 21, 2015.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on January 17 and 18, 2018, and ordered H.R. 4768 to be reported favorably to the House as amended by a recorded vote of 53 yeas to 0 nays (Record vote no. FC–136), a quorum being present. Before the motion to report was offered, the Committee adopted amendments offered by Rep. Kustoff and Rep. Waters by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House as amended. The motion was agreed to by a recorded vote of 53 yeas to 0 nays (Record vote no. FC-136), a quorum being present.

Record vote no. FC-136

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Maxine Waters (CA)	X		
Mr. McHenry				Mrs. Carolyn B. Maloney (NY) ..	X		
Mr. King				Ms. Velázquez	X		
Mr. Royce (CA)				Mr. Sherman	X		
Mr. Lucas	X			Mr. Meeks	X		
Mr. Pearce	X			Mr. Capuano	X		
Mr. Posey	X			Mr. Clay			
Mr. Luetkemeyer	X			Mr. Lynch	X		
Mr. Huizenga	X			Mr. David Scott (GA)	X		
Mr. Duffy	X			Mr. Al Green (TX)			
Mr. Stivers				Mr. Cleaver	X		
Mr. Hultgren	X			Ms. Moore	X		
Mr. Ross	X			Mr. Ellison	X		
Mr. Pittenger	X			Mr. Perlmutter	X		
Mrs. Wagner	X			Mr. Himes	X		
Mr. Barr	X			Mr. Foster	X		
Mr. Rothfus	X			Mr. Kildee	X		
Mr. Messer				Mr. Delaney	X		
Mr. Tipton	X			Ms. Sinema	X		
Mr. Williams	X			Mrs. Beatty	X		
Mr. Poliquin	X			Mr. Heck	X		
Mrs. Love	X			Mr. Vargas	X		
Mr. Hill	X			Mr. Gottheimer	X		
Mr. Emmer	X			Mr. Gonzalez (TX)	X		
Mr. Zeldin	X			Mr. Crist	X		
Mr. Trott	X			Mr. Kihuen	X		
Mr. Loudermilk	X						
Mr. Mooney (WV)	X						
Mr. MacArthur	X						
Mr. Davidson	X						
Mr. Budd	X						
Mr. Kustoff (TN)	X						
Ms. Tenney	X						
Mr. Hollingsworth	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 8, 2018.

Hon. JEB HENSARLING,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4768, the National Strategy for Combating the Financing of Transnational Criminal Organizations Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 4768—National Strategy for Combating the Financing of Transnational Criminal Organizations Act

H.R. 4768 would require the President to develop a national strategy to combat the financing networks of transnational organized criminals. Transnational crime is coordinated across borders and usually consists of money laundering, human smuggling, drug trafficking, and cybercrime. Under the bill, the President, acting through the Department of the Treasury and in consultation with

Departments of Defense, Homeland Security, Justice, State, and the Office of the Director of National Intelligence, would produce a strategy within one year and update it every two years.

CBO cannot determine whether comprehensive information on the financing of transnational organized criminal activity has been collected by the government, although Executive Order 13773 instructed federal agencies to work together against transnational criminals. If sufficient financing information is already collected by the government, based on the cost of similar activities CBO expects that implementing the bill would require three employees (at a cost of about \$150,000 a year for each) to coordinate the work of more than 10 government organizations. Thus, CBO estimates that implementing the bill would cost around \$450,000 annually and about \$2 million over the 2018–2022 period, subject to the availability of appropriated funds. If financing information regarding transnational organized crime is not currently collected by the government, costs could be significantly higher.

Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 4768 would not increase direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 4768 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995.

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, (115th Congress), the following statement is made concerning directed rulemakings: The Committee estimates that the bill requires no directed rulemakings within the meaning of such section.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section cites H.R. 4768 as the “National Strategy for Combating the Financing of Transnational Criminal Organizations Act of 2017”.

Section 2. National strategy

The President shall develop a national strategy to combat the financial networks of transnational organized criminals, through the Secretary of the Treasury, in consultation with the Attorney General, the Secretary of State, the Secretary of Homeland Security, the Director of National Intelligence, the Secretary of Defense, the Director of the Financial Crimes Enforcement Network, the Director of the Secret Service, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Commissioner of Customs and Border Protection, the Director of the Office of National Drug Control Policy, and the Federal functional regulators.

The President shall submit the national strategy to Congress not later than one year after enactment of the Act, and not less than every two years after initial submission. A separate presentation may be made to Congress in a classified annex for parts of the national strategy that involves information that is properly classified.

Section 3. Contents of national strategy

The national strategy shall contain an identification and assessment of the most significant current transnational organized crime threats to national security of the United States or to the U.S. and international financial system, including drug trafficking organizations, human trafficking organizations, cyber criminals, state and non-state actors, and kleptocrats.

The national strategy shall identify individuals, entities, networks, and terrorist organizations, if any, that provide financial support or financial facilitation to these transnational organized crime groups and an assessment of the methods through which transnational organized crime groups launder illicit proceeds, in-

cluding money laundering using real estate and other tangible goods such as art and antiquities, trade-based money laundering, bulk cash smuggling, exploitation of shell companies, and misuse of digital currencies and other cyber technologies. The national strategy shall also contain an assessment of the risk to the financial system of the United States.

The national strategy shall contain a discussion of short-term and long-term goals, objectives, priorities, and actions for combating the financing of transnational organized crime groups and their facilitators. The national strategy shall include a description of how it is integrated into and supports the national security strategy, drug control strategy, and counterterrorism strategy of the United States. Finally, the national strategy shall contain a review of current efforts to combat the financing or financial facilitation of transnational organized crime and, if appropriate, suggest proposed legislative and regulatory changes to address these issues.

Section 4. Definitions

Appropriate congressional committees are the Committee on Financial Services, the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on the Judiciary, the Committee on Homeland Security, and the Permanent Select Committee on Intelligence of the House of Representatives; and the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, the Committee on Armed Services, the Committee on the Judiciary, the Committee on Homeland Security and Governmental Affairs, and the Select Committee on Intelligence of the Senate.

Federal functional regulator has the meaning given that term in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809).

Transnational organized crime refers to those self-perpetuating associations of individuals who operate transnationally for the purpose of obtaining power, influence, monetary or commercial gains, wholly or in part by illegal means, while—(A) protecting their activities through a pattern of corruption or violence; or (B) while protecting their illegal activities through a transnational organizational structure and the exploitation of transnational commerce or communication mechanisms.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 4768 does not repeal or amend any section of a statute. Therefore, the Office of Legislative Counsel did not prepare the report contemplated by Clause 3(e)(1)(B) of rule XIII of the House of Representatives.