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114TH CONGRESS
2D SESSION

H. R. 5603

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

JUNE 28, 2016

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

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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) The Act may be cited as the ‘‘Kleptocracy Asset Recovery Rewards Act’’.

SEC. 2. FINDINGS; SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds the following:

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

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

(3) In 2010, the Department of Justice established the Kleptocracy Asset Recovery Initiative, to work in partnership with Federal law enforcement agencies to forfeit the proceeds of foreign official corruption and, where appropriate, return those proceeds to benefit the people harmed by these acts of corruption and abuse of office.

(4) Of the $20 billion to $40 billion lost by developing countries annually through corruption, only about $5 billion has been repatriated in the last 15 years.

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

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

(6) The United States has a number of effective programs to reward individuals who provide valuable information that assist in the identification, arrest, and conviction of criminal actors and their associates, as well as seizure and forfeiture of illicitly derived assets and the proceeds of criminal activity.

(7) The Internal Revenue Service has the Whistleblower Program, which pays awards to individuals who provide specific and credible information to the IRS if the information results in the collection of taxes, penalties, interest or other amounts from noncompliant taxpayers.

(8) The Department of State administers rewards programs on international terrorism, illegal narcotics, and transnational organized crime with the goal of bringing perpetrators to justice.

(9) None of these existing rewards programs specifically provide monetary incentives for identifying and recovering stolen assets linked solely to foreign government corruption, as opposed to criminal prosecutions or civil or criminal forfeitures.

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

(11) Foreign government corruption can take many forms but typically entails government officials stealing, misappropriating, or illegally diverting assets and funds from their own government treasuries to enrich their personal wealth directly through embezzlement or bribes to allow government resources to be expended in ways that are not transparent and may not either be necessary or be the result of open competition. Corruption also includes situations where public officials take bribes to allow government resources to be expended in ways which are not transparent and may not be necessary or the result of open competition. These corrupt officials often use the United States and international financial system to hide their stolen assets and the proceeds of corruption.

(12) The individuals who come forward to expose foreign governmental corruption and kleptocracy often do so at great risk to their own safety and

that of their immediate family members and face retaliation from persons who exercise foreign political or governmental power. Monetary rewards and the potential award of asylum can provide a necessary incentive to expose such corruption and provide a financial means to provide for their well-being and avoid retribution.

(b) SENSE OF CONGRESS.—It is the sense of Congress that a Department of the Treasury stolen asset recovery rewards program to help identify and recover stolen financial assets linked to foreign government corruption and the proceeds of such corruption hidden behind complex financial structures is needed in order to—

(1) intensify the global fight against corruption; and

(2) serve United States efforts to identify and recover such stolen assets, forfeit proceeds of such corruption, and, where appropriate and feasible, return the stolen assets or proceeds thereof to the country harmed by the acts of corruption.

SEC. 3. IN GENERAL.

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

"§ 9706. Department of the Treasury Kleptocracy Asset Recovery Rewards Program

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established in the Department of the Treasury a program to be known as the 'Kleptocracy Asset Recovery Rewards Program' for the payment of rewards to carry out the purposes of this section.

"(2) PURPOSE.—The rewards program shall be designed to support United States Government programs and investigations aimed at eliminating from accounts at U.S. financial institutions any stolen assets linked to foreign government corruption and the proceeds of such corruption.

"(3) IMPLEMENTATION.—The rewards program shall be administered by, and at the sole discretion of, the Secretary of the Treasury, in consultation, as appropriate, with the Secretary of State, the Attorney General, and the heads of such other departments and agencies as the Secretary may find appropriate.

"(b) REWARDS AUTHORIZED.—In the sole discretion of the Secretary and in consultation, as appropriate, with the heads of other relevant Federal departments or agencies, the Secretary may pay a reward to any individual who furnishes information leading to—

"(1) the restraining or seizure of stolen assets in an account at a U.S. financial institution, that come within the United States, or that come within the possession or control of any United States person, including any foreign branch linked to foreign government corruption or the proceeds of foreign government corruption;

"(2) the forfeiture of stolen assets in an account at a U.S. financial institution, that come within the United States, or that come within the possession or control of any United States person linked to foreign government corruption or the proceeds of foreign government corruption; or

"(3) where appropriate, the repatriation of stolen assets in an account at a U.S. financial institution, that come within the United States, or that come within the possession or control of any United States person linked to foreign government corruption or proceeds of foreign government corruption.

"(c) COORDINATION.—

"(1) PROCEDURES.—To ensure that the payment of rewards pursuant to this section does not duplicate or interfere with any other payment authorized by the Department of Justice or other Federal law enforcement agencies for the obtaining of information or other evidence, the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and the heads of such other agencies as the Secretary may find appropriate, shall establish procedures for the offering, administration, and payment of rewards under this section, including procedures for—

"(A) identifying actions with respect to which rewards will be offered;

"(B) the receipt and analysis of data; and

"(C) the payment of rewards and approval of such payments.

"(2) PRIOR APPROVAL OF THE ATTORNEY GENERAL REQUIRED.—Before making a reward under this section in a matter over which there is Federal criminal jurisdiction, the Secretary of the Treasury shall obtain the written concurrence of the Attorney General.

"(d) PAYMENT OF REWARDS.—

"(1) SOURCE OF PAYMENTS.—Any rewards paid pursuant to this section shall be paid from the Department of the Treasury Forfeiture Fund.

"(2) LIMITATION ON ANNUAL PAYMENTS.—Except as provided under paragraph (3), the total amount of rewards paid pursuant to this section may not exceed $25,000,000 in any calendar year.

"(3) PRESIDENTIAL AUTHORITY.—The President may waive the limitation under paragraph (2) with respect to a calendar year if the President provides written notice of such waiver to the Secretary and the appropriate committees of the Congress at least 30 days before any payment in excess of such limitation is made pursuant to this section.

"(e) LIMITATIONS AND CERTIFICATION.—

"(1) SUBMISSION OF INFORMATION.—No award may be made under this section based on information submitted to the Secretary unless such information is submitted under penalty of perjury.

"(2) MAXIMUM AMOUNT.—No reward paid under this section may exceed $5,000,000, except as personally authorized in writing by the Secretary, if the Secretary determines that offer or payment of a reward of a greater amount is necessary in exceptional cases.

"(3) APPROVAL.—

"(A) IN GENERAL.—No reward amount may be paid under this section without the written approval and certification of the Secretary.

"(B) DELEGATION.—The Secretary may not delegate the certification required under subparagraph (A) to anyone other than an Under Secretary of the Department of the Treasury.

"(4) PROTECTION MEASURES.—If the Secretary determines that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Secretary shall take such measures in connection with the payment of the reward as the Secretary considers necessary to effect such protection.

"(5) FORMS OF REWARD PAYMENT.—The Secretary may make a reward under this section in the form of a monetary payment.

"(f) INELIGIBILITY, REDUCTION IN, OR DENIAL OF REWARD.—

"(1) OFFICER AND EMPLOYEES.—An officer or employee of any entity of Federal, State, or local government or of a foreign government who, while in the performance of official duties, furnishes information described under subsection (b) shall not be eligible for a reward under this section.

"(2) PARTICIPATING INDIVIDUALS.—If the claim for a reward is brought by an individual who planned, initiated, directly participated in, or facilitated the actions that led to assets of a foreign state or governmental entity being stolen, misappropriated, or illegally diverted or to the payment of bribes or other foreign governmental corruption, the Secretary may appropriately reduce such award. If such individual is convicted of criminal conduct arising from the role described in the preceding sentence, the Secretary shall deny any reward.

"(g) DETERMINATIONS OF SECRETARY.—A determination made by the Secretary under this section shall be final and conclusive and shall not be subject to judicial review.

"(h) REPORT.—

"(1) IN GENERAL.—Within 180 days of the enactment of this section, and annually thereafter, 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, including any foreign branch;

"(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.

"(2) EXCEPTION FOR ONGOING INVESTIGATIONS.—The report issued under paragraph (1) shall not include information related to ongoing investigations.

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

"(1) APPROPRIATE COMMITTEES OF THE CONGRESS.—The term 'appropriate committees of the Congress' means the Committees on Financial Services, Foreign Affairs, and the Judiciary of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs, Foreign Relations, and the Judiciary of the Senate.

"(2) FINANCIAL ASSET.—The term 'financial asset' means any funds, as defined by the Secretary, 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, including any foreign branch. Such term shall include—

"(A) cash;

"(B) equity; or

"(C) any other intangible asset whose value is derived from a contractual claim, including bank deposits, bonds, stocks, a security as defined in section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)), or a security or an equity security as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

"(3) FOREIGN GOVERNMENT CORRUPTION.—The term foreign government corruption includes bribery of a foreign public official, or the misappropriation, theft, or embezzlement of public funds or property by or for the benefit of a foreign public official.

"(4) IMMEDIATE FAMILY MEMBER.—The term 'immediate family member', with respect to an individual, has the meaning given the term 'member of the immediate family' under section 36(k) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(k)).

"(5) REWARDS PROGRAM.—The term 'rewards program' means the program established in subsection (a)(1) of this section.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(7) STOLEN ASSETS.—The term 'stolen assets' means financial assets within the jurisdiction of the United States, constituting, derived from, or traceable to, any proceeds obtained directly or indirectly from foreign government corruption.".

(b) REPORT ON DISPOSITION OF RECOVERED ASSETS.—Within 180 days of the enactment of this Act, the Secretary of the Treasury shall issue a report to the appropriate committees of Congress (as defined under section 9706(i) of title 31, United States Code) describing policy choices for disposition of stolen assets recovered pursuant to section 9706 of title 31, United States Code.

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

"9706. Department of the Treasury Kleptocracy Asset Recovery Rewards Program.".

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