

AMENDMENT TO RULES COMMITTEE PRINT 117-

13

OFFERED BY MR. POSEY OF FLORIDA

Add at the end the following:

1 **SEC. ____ . AMERICAN SERVICEMAN AND CIVILIAN TER-**

2 **RORISM REDRESS.**

3 (a) INTERESTS IN BLOCKED ASSETS.—

4 (1) IN GENERAL.—Notwithstanding any other
5 provision of law, including any provision of law relat-
6 ing to sovereign immunity, and preempting any in-
7 consistent provision of State law, a financial asset
8 that is—

9 (A) held by or for a foreign securities
10 intermediary doing business in the United
11 States;

12 (B) a blocked asset (whether or not subse-
13 quently unblocked), or an asset that would be
14 blocked if the asset were located in the United
15 States, that is property described in subsection
16 (b); and

17 (C) equal in value to a financial asset of
18 the judgment debtor FARC, a designated for-
19 eign terrorist organization (as described in sec-

1 tion 219 of the Immigration and Nationality
2 Act (8 U.S.C. 1189)), including an asset of any
3 agency or instrumentality of the judgment debt-
4 or FARC, that such foreign securities inter-
5 mediary or a related intermediary holds abroad
6 or in the United States,

7 shall be subject to execution or attachment in aid of
8 execution, or to an order directing that the asset be
9 brought to the State in which the court is located
10 and subsequently to execution or attachment in aid
11 of execution, in order to satisfy any judgment
12 against the FARC for damages awarded as a result
13 of an act of torture, extrajudicial killing, aircraft
14 sabotage, or hostage-taking, or the provision of ma-
15 terial support or resources for such an act, without
16 regard to concerns relating to international comity.

17 (2) COURT DETERMINATION REQUIRED.—In
18 order to ensure that the FARC is held accountable
19 for paying the judgments described in subsection (b)
20 and in furtherance of the broader goals of this Act
21 to compensate victims or claimants who were a na-
22 tional of the United States at the time of the ter-
23 rorist act, prior to an award turning over any asset
24 pursuant to execution or attachment in aid of execu-
25 tion with respect to any judgments against the

1 FARC described in subsection (b), the court shall
2 determine whether the FARC holds equitable title
3 to, or the beneficial interest in, the assets described
4 in subsection (b) and that no other person possesses
5 a constitutionally protected interest in the assets de-
6 scribed in subsection (b) under the Fifth Amend-
7 ment to the Constitution of the United States. To
8 the extent the court determines that a person other
9 than the FARC holds—

10 (A) equitable title to, or a beneficial inter-
11 est in, the assets described in subsection (b)
12 (excluding a custodial interest of a foreign secu-
13 rities intermediary or a related intermediary
14 that holds the assets abroad for the benefit of
15 the FARC); or

16 (B) a constitutionally protected interest in
17 the assets described in subsection (b), such as-
18 sets shall be available only for execution or at-
19 tachment in aid of execution or attachment in
20 aid of execution to the extent of the FARC's
21 equitable title or beneficial interest therein and
22 to the extent such execution or attachment does
23 not infringe upon such constitutionally pro-
24 tected interest.

1 (b) FINANCIAL ASSETS DESCRIBED.—The financial
2 assets described in this section are the financial assets
3 that are the subject of writs of execution issued—

4 (1) by the United States District Court for the
5 Southern District of New York to the plaintiff judg-
6 ment creditors identified at docket number 5 in Case
7 No. 16-mc-405 and to the plaintiff judgment credi-
8 tors identified at docket number 1 in the related
9 case, Case No. 18-mc-545; or

10 (2) to the plaintiff judgement creditors identi-
11 fied in subparagraph (1), in any other United States
12 district court where these victims have registered
13 their judgments for enforcement pursuant to section
14 1963 of title 28, United States Code.

15 (c) RULES OF CONSTRUCTION.—Nothing in this sec-
16 tion shall be construed—

17 (1) to affect the availability, or lack thereof, of
18 a right to satisfy a judgment in any other action
19 against a terrorist party in any proceedings other
20 than proceedings referred to in subsection (b); or

21 (2) to apply to assets other than the assets de-
22 scribed in subsection (b), or to preempt State law,
23 including the Uniform Commercial Code, except as
24 expressly provided in subsection (a)(1).

1 (d) APPLICABILITY.—The amendments made by this
2 section shall apply to any judgement identified under sub-
3 section (b).

4 (e) DEFINITIONS.—In this section:

5 (1) BLOCKED ASSET.—The term “blocked
6 asset”—

7 (A) means any asset seized or frozen by
8 the United States under section 4305(b) of title
9 50, or under section 202 or 203 of the Inter-
10 national Emergency Economic Powers Act (50
11 U.S.C. 1701 and 1702), or under section
12 805(b) of the Foreign Narcotics Kingpin Des-
13 ignation Act (21 U.S.C. 1904(b)); and

14 (B) does not include property that—

15 (i) at the time of attachment or exe-
16 cution, was subject to a license issued by
17 the United States Government for final
18 payment, transfer, or disposition by or to
19 a person subject to the jurisdiction of the
20 United States in connection with a trans-
21 action for which the issuance of the license
22 has been specifically required by a provi-
23 sion of law other than the International
24 Emergency Economic Powers Act (50
25 U.S.C. 1701 et seq.) or the United Nations

1 Participation Act of 1945 (22 U.S.C. 287
2 et seq.); or

3 (ii) is property subject to the Vienna
4 Convention on Diplomatic Relations or the
5 Vienna Convention on Consular Relations,
6 or that enjoys equivalent privileges and im-
7 munities under the laws of the United
8 States, and is being used exclusively for
9 diplomatic or consular purposes.

10 (2) FINANCIAL ASSET; SECURITIES INTER-
11 MEDIARY.—The terms “financial asset” and “securi-
12 ties intermediary” have the meanings given those
13 terms in the Uniform Commercial Code, but the
14 former includes cash.

15 (3) FARC.—The term “FARC” means the
16 Revolutionary Armed Forces of Colombia (which was
17 designated a foreign terrorist organization in 1997)
18 also known in Spanish as the Fuerzas Armadas
19 Revolucionarios de Colombia, including any person
20 or entity determined by the court to be an agency
21 or instrumentality of the FARC.

22 (4) PERSON.—

23 (A) IN GENERAL.—The term “person”
24 means an individual or entity.

1 (B) ENTITY.—The term “entity” means a
2 partnership, association, trust, joint venture,
3 corporation, group, subgroup, or other organi-
4 zation.

5 (5) TERRORIST PARTY.—The term “terrorist
6 party” has the meaning given that term in section
7 201(d) of the Terrorism Risk Insurance Act of 2002
8 (28 U.S.C. 1610 note).

