

**Treasury Forfeiture Fund**  
**ACCOUNTABILITY REPORT**  
**Fiscal Year 2003**

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DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C.

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## Message from the Director

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I am pleased to present this Accountability Report for fiscal year (FY) 2003. While highlighting the Fund's financial and operational performance over the past year, this report also focuses on some of the significant achievements and accomplishments made by the bureaus participating in the Treasury Forfeiture Fund. FY 2003 was an unusual year following enactment of the Homeland Security Act of 2002 (Homeland Security Act), which brought a number of reorganizations to law enforcement bureaus participating in the Treasury Forfeiture Fund.

The Treasury Forfeiture Fund became a multi-Departmental Fund in FY 2003, representing at points during the year the interests of law enforcement components of the Departments of Treasury, Homeland Security and Justice. With enactment of the Homeland Security Act, Treasury's U.S. Customs Service and Secret Service were reorganized into new components of the Department of Homeland Security; Treasury's Bureau of Alcohol, Tobacco and Firearms was reorganized into two new components, one remaining at Treasury and the other assigned to the Department of Justice; and the Immigration and Naturalization (INS), formerly of the Department of Justice, was reorganized into the former legacy U.S. Customs Service at the Department of Homeland Security joining their Treasury Forfeiture Fund colleagues. As the result of these numerous and complex changes, FY 2003 found Fund management heavily involved in efforts to ensure that transition of our participating law enforcement bureaus to their new Departmental homes was seamless in terms of impact on their ability to continue to conduct seizures and forfeitures and to properly account for the assets of the program. As we close FY 2003, we are very pleased with our efforts to support the Homeland Security Act through these endeavors and pleased with the evidence that we were successful in meeting our goals of a smooth transition.

FY 2003 was a robust year for the Treasury Forfeiture Fund in terms of forfeiture revenue. FY 2003 performance indicates that our participating bureaus were able to resume more routine domestic law enforcement activities resulting in greater numbers of seizures and forfeitures this year despite fairly taxing reorganization activities at the component level. The Fund continued to support strategic investigative areas designed to encourage the use of forfeiture as a law enforcement sanction to dismantle criminal enterprise. Chief among these was significant funding toward state and local joint operations. We continued to see successful results in FY 2003 of cooperative efforts between the state and local law enforcement community and the Federal law enforcement community as evidenced by a healthy level of equitable sharing with state and local law enforcement agencies, totaling again this year in the tens of millions of dollars.

As we enter fiscal year 2004, the Fund is focused on support for strategic investigative initiatives that will have the greatest impact on national and international criminal enterprise. In addition, we plan to continue our investment in truly major cases and training designed to foster the understanding and application of asset forfeiture.

Eric E. Hampl, Acting Director  
Executive Office for Asset Forfeiture  
U.S. Department of the Treasury

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## OVERVIEW

### Profile of the Treasury Forfeiture Fund

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The Treasury Forfeiture Fund (the Fund) is the receipt account for the deposit of non-tax forfeitures made pursuant to laws enforced or administered by Treasury law enforcement agencies and the United States Coast Guard. It was established in October of 1992 as the successor to the Forfeiture Fund of the United States Customs Service. When the enabling legislation for the Fund was enacted, 31 USC § 9703, it brought together all of Treasury law enforcement under a single forfeiture program. The Fund is a “special receipt account.” This means the Fund can provide money to other Federal entities toward the accomplishment of a specific objective for which the recipient bureaus are authorized to spend money.

The member law enforcement bureaus of the Treasury Forfeiture Fund are the U.S. Customs Service (Customs), the U.S. Secret Service (Secret Service), the Bureau of Alcohol, Tobacco and Firearms (ATF), and the Internal Revenue Service’s Criminal Investigation (IRS-CI). These Treasury bureaus are joined by the U.S. Coast Guard of the Department of Transportation, a member of the Fund as the result of a long-standing close law enforcement relationship with Customs.

However, the Treasury Forfeiture Fund became a multi-Departmental Fund in FY 2003, representing at points during the year the interests of law enforcement components of the Departments of Treasury, Homeland Security and Justice. With enactment of the Homeland Security Act of 2002 (Homeland Security Act), Treasury’s U.S. Customs Service and Secret Service were reorganized into new components of the Department of Homeland Security; Treasury’s Bureau of Alcohol, Tobacco and Firearms was reorganized into two new components, one remaining at Treasury and the other assigned to the Department of Justice; and the Bureau of Immigration and Naturalization (INS), formerly of the Department of Justice, was reorganized into the former legacy U.S. Customs Service at the Department of Homeland Security joining the Treasury Forfeiture Fund colleagues. The U.S. Coast Guard was reorganized from the Department of Transportation to the Department of Homeland Security to continue their close working relationship with legacy Customs.

As the result of these numerous and complex changes, Fund Management was heavily involved in efforts to ensure that transition of our participating law enforcement bureaus to their new Departmental homes was seamless in terms of impact on their ability to continue to conduct seizures and forfeitures and to properly account for the assets of the program. The robust revenue year for FY 2003 suggests that these management initiatives were very successful.

The Executive Office for Asset Forfeiture (EOAF), which provides management oversight of the Fund, falls under the auspices of the Deputy Assistant Secretary for Terrorist Financing and

Financial Crimes, U.S. Department of the Treasury. EOAF's organizational structure includes the Fund Director, Legal Counsel, Assistant Director Policy/Operations, and Assistant Director for Financial Management/Chief Financial Officer. Functional responsibilities are delegated to various team leaders. EOAF is located in Washington, D.C. and currently has 20 full time equivalent positions.

## Strategic Mission

The mission of the Treasury Forfeiture Fund is to affirmatively influence the consistent and strategic use of asset forfeiture by Treasury law enforcement bureaus to disrupt and dismantle criminal enterprises.

## Strategic Vision

Fund Management works to focus the asset forfeiture program on strategic cases and investigations that result in high-impact seizures. Management believes this approach affects the greatest damage to criminal organizations while accomplishing the ultimate objective – to disrupt and dismantle criminal enterprises.

## Case Highlights

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The following case highlights are intended to give the reader an idea of the types of investigative cases worked by Treasury law enforcement bureaus during FY 2003 that led to the seizure and forfeiture of assets. Such cases as those profiled below are consistent with the Strategic Mission and Vision of the Treasury Forfeiture Program, which is to use asset forfeiture in high -impact cases to disrupt and dismantle criminal enterprises.

### *U.S. Customs Service*<sup>1</sup> /

#### Conspiracy to Illegally Trade Arms

As a result of a change in U.S. export laws, a large U.S. defense contractor was unable to legally sell several systems, to include parts and related defense services, to the Pakistan Army. Consequently, the defense contractor conspired to have the systems assembled illegally by a Canadian subsidiary. As a result of an investigation conducted by legacy Customs agents, no shipments of the systems were made to Pakistan. The defense contractor entered into negotiations with the U.S. Attorney's Office in Boston and agreed to pay \$20 million in lieu of a forfeiture action. On February 27, 2003, \$20 million was paid to the Treasury Forfeiture Fund by the defense contractor.

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<sup>1</sup> Effective in early calendar year 2003, the U.S. Customs Service (legacy Customs) was transferred to the Department of Homeland Security. Following this reorganization, legacy Customs was reorganized into two new components of the Department of Homeland Security: Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE). The investigative cases identified below are drawn largely from what is now ICE although the two components continue to work closely together in law enforcement.

### Bulk Cash Seizures

Legacy Customs reports an accelerated trend in bulk cash type seizures for FY 2003 over FY 2002. The following are a few examples of this type of seizure as reported by legacy Customs.

- In March 2003, legacy Customs agents along with Inspectors and a K-9 Enforcement Officer from Customs and Border Protection conducted an outbound border inspection at the seaport in San Juan, Puerto Rico. During the inspection, the K-9 dog alerted and responded to the odor of narcotics in freight containing a white freezer in a cardboard box. A further search of the box and the freezer revealed three (3) sport bags containing bulk cash amounts of U.S. currency. A total of \$1,026,095.00 U.S. currency was seized.
- Also in March 2003, an individual entered the United States in Detroit, Michigan. Based on prior information, the truck the individual was driving was referred for secondary inspection. Legacy Customs agents responded and a search of the empty trailer revealed bundles of currency in plastic bags concealed in the refrigeration ducting at the front of the trailer. A total of \$324,380.00 in U.S. currency was seized. The individual was interviewed and abandoned the currency.
- In September 2002, officers in Villa Rica Georgia, conducted a traffic stop on a tractor trailer driven by the defendant. A consent search was conducted on the truck and a box containing \$424,960.00 in U.S. currency was discovered beneath the bed in the sleeper compartment. The defendant denied ownership of the money. In April 2003, \$424,960.00 was forfeited to the U.S. Government for money laundering violations.
- On February 6, 2003, legacy Customs agents and local police officers in Laredo, Texas, initiated surveillance upon a red pickup truck they suspected was involved in narcotics smuggling. The driver, an unidentified woman, and passenger drove to a residence and stayed. An unknown female left in the truck. The agents secured the residence and applied for a state search warrant. A local narcotics dog alerted to the front and garage doors for the presence of a narcotic odor. When the warrant was served, agents and local police discovered and seized seventeen bundles of U.S. currency wrapped in silver tape, fifteen bundles of U.S. currency wrapped in vacuum sealed bags, ledgers, jewelry, a computer, narcotics wrapping material, and miscellaneous documents. The total amount of U.S. currency seized from the residence was \$1,278,795.00. On May 16, 2003, \$1,278,795.00 was forfeited to the U.S. Government for money laundering violations.

### In-Bond Diversion Scheme

Pursuant to an investigation by Agents in Los Angeles, California, it was determined that a company in New York had received shipments of smuggled wearing apparel through an In-Bond diversion scheme. Checks received from the company, represented money that they owed other suspect companies in Hong Kong for the delivery of the wearing apparel. The payment of three checks totaling \$1,090,664.00 was seized in response to a federal seizure warrant issued in Los Angeles, California, for the recovery of the smuggled merchandise, or its value. On May 28, 2003, \$1,090,664.00 was forfeited to the U.S. Government for money laundering violations.

### Major Marijuana Seizure – Southwest Border

In July 2003, Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE), the two new organizations of legacy Customs, reported that working together, they had seized 21,947 pounds of marijuana hidden aboard an 18-wheeler in Texas, arrested one individual and executed a federal search warrant in Ohio in connection with the foiled marijuana smuggling effort. The seizure, which was made by CBP inspectors in Laredo, Texas, on July 11, 2003, is one of the largest single loads of marijuana seized along the Southwest border in recent years. Shortly after the seizure, ICE agents arrested the truck driver of Nuevo Laredo, Mexico, on federal drug charges.

“This case is a good example of how the diverse capabilities of several agencies are best organized under one department of government,” said Asa Hutchinson, Department of Homeland Security (DHS) Under Secretary for Border and Transportation Security. “CBP used its risk analysis and non-interim jurisdiction capabilities to find these illegal drugs, then simultaneously handed them off to ICE to use its assets to (further the investigation).”

“The magnitude of this seizure illustrates the role that U.S. Customs and Border Protection inspectors play in protecting the American public from any item that may cause them harm, be it illegal drugs or terrorist weapons,” said Robert C. Bonner, CBP Commissioner. “Anti-terrorism remains our first priority, but drug seizures remain an important and traditional mission. This seizure was the result of Customs and Border Protection inspectors being alert and using automated targeting to identify this shipment of drugs.”

### *A Combined U.S. Customs Service and Internal Revenue Service (IRS) Case*

#### Banco Popular

A criminal information filed at U.S. District Court in the District of Puerto Rico in January 2003 charged *Banco Popular* with one count of failing to file Suspicious Activity Reports (SARS) in violation of Title 31 USC § 5318(g)(1) and 5322(a). *Banco Popular* waived indictment, agreed to the filing of the information, and accepted and acknowledged responsibility for its behavior in a factual statement accompanying the information. The bank forfeited \$21.6 million to the United States to settle any and all civil claims held by the government. In light of the bank’s remedial action to date and its willingness to acknowledge responsibility for its actions, the government recommended to the court that any prosecution of the bank on the criminal charge be deferred for 12 months, and eventually dismissed with prejudice if the bank fully complies with its obligations. Concurrently, Treasury’s Financial Crimes Enforcement Network (FinCEN) assessed a \$20 million civil monetary penalty for violations of the Bank Secrecy Act against *Banco Popular* for its conduct, which will be deemed satisfied by the payment of the \$21.6 million forfeiture.

The charges and the deferred prosecution agreement arose out of transactions conducted by and through *Banco Popular* between June 1995 and June 2000. During this time, several unusual or suspicious transactions were conducted in connection with certain accounts at *Banco Popular*.

Although the bank filed Suspicious Activity Reports (SARs) on these accounts, they were untimely or, in some cases, inaccurate.

Under the Bank Secrecy Act, banks are required to have comprehensive anti-money laundering programs that enable them to identify and report suspicious financial transactions to Treasury's FinCEN. As part of their anti-money laundering programs, banks must report suspicious activities through the filing of SARs. Since April 1, 1996, banks have been required to submit SARs to FinCEN in all instances in which one or more transactions aggregate \$5,000 or more, and the bank knows or suspects the transaction involves, or is conducted to conceal, funds derived from illegal activities or may be used to evade a law or a reporting requirement. The SARs are a critical tool in law enforcements efforts to investigate and prosecute cases.

In one series of transactions, Roberto Ferrario Pozzi deposited approximately \$20 million in cash into a *Banco Popular* account from June 1995 to March 1998. Deposits were made to the account by Ferrario and employees of Phone Home, a phone card, long distance and money transmission service, often in paper bags or gym bags filled with small-denomination bills. Despite the suspicious nature of the deposits, the bank did not investigate and file timely and-complete SARs reporting the activity. These untimely filings, the absence of supplementary SARs and the errors in the SARs that the bank did file hindered law enforcement's ability to initiate investigations on these accounts in a timely manner, resulting in the laundering of millions of dollars of drug proceeds through these accounts. Ferrario was indicted in December 1998 for money laundering in connection with certain deposits to *Banco Popular* and in 2002 was sentenced to 97 months in prison.

"The lengthy U.S. Customs and IRS investigation in *Banco Popular de Puerto Rico* established that millions of dollars worth of drug proceeds were laundered through this bank over a period of several years," Customs Commissioner Bonner said. "In some cases, gym bags full of cash were literally brought into the bank for deposit by money launderers. Despite its legal obligation to report these suspicious transactions to the government in a timely manner, *Banco Popular*, in some cases, chose not to report these transactions until years after the fact – and did so only after learning about the U.S. Customs/IRS investigation into the bank."

David Palmer, Chief, Criminal Investigation, IRS, stated, "The Information filed...should send a clear message that financial institutions who serve as a conduit for criminal activity will be pursued. Money laundering is a serious crime that affects not only those persons directly involved, but the economy as a whole."

James Sloan, Director of FinCEN, noted that the Bank Secrecy Act (BSA) is designed to help prevent criminals from using the financial system to perpetrate criminal activity and to alert law enforcement when attempts are made to abuse the system, saying, " Most banks and other financial institutions throughout the United States have excellent programs in place to help ensure that they are not vulnerable to illegal exploitation and their record of BSA compliance is extremely good. However, the American people have a right to expect that when an institution violates the trust of its account holders and its responsibility to preserve the integrity of its operations, it will face public scrutiny and severe penalties."

## *Internal Revenue Service – Criminal Investigations*

### The Mustang Ranch – an Epilogue

From 1999: “Nevada’s Famous (Infamous) Mustang Ranch Closed”

On many of the items in its souvenir shop – the hot pink tee shirts, the coffee mugs, the Styrofoam beer coolers, the shot glasses and golf shirts – it billed itself as the “World Famous Mustang Ranch.” That tradition of notoriety came to a somewhat subdued close around 5 p.m. on August 9, 1999, when Special Agents from the Criminal Investigation Division of IRS and the Customs Service as well as seized property managers took possession of this oldest of Nevada’s legalized brothels.

When Joe Conforte bought the Mustang Ranch in 1967, he had already served time for extortion and tax evasion. He was one of the principal movers behind the push for the legalization of prostitution in Nevada. His efforts were rewarded in 1971 when Storey County, home of the Mustang Ranch, legalized its operation as a brothel. The ranch survived being burned to the ground in 1975 in a suspected arson as Conforte quickly rebuilt it. The next year, professional boxer Oscar Bonavena, who was managed by Conforte’s wife, was shot to death outside the ranch. Conforte continued with his ownership until 1990 when it was seized by the Internal Revenue Service for unpaid taxes. The ranch was then sold for a fraction of its value at a tax sale with Conforte later fleeing the country to avoid being prosecuted on tax charges.

In a thirty-three count indictment, made public in the summer of 1998, the government charged that the subsequent owners of the Mustang Ranch were actually fronts for Conforte and had purchased it at his direction and continued to operate it for his benefit. In the summer of 1999, a federal jury in Reno found two of the ownership companies operating as A.G.E. and the brothel’s madam, former Storey County commissioner, Shirley Colletti, guilty of racketeering, wire fraud and conspiracy. Conforte himself remains a fugitive believed to be living in South America. At the close of the trial, the judge entered a preliminary order allowing the government to seize the brothel but citing the need for the ranch’s employees to find new jobs, he delayed the order for a month.

### Epilogue to the Mustang Ranch Forfeiture - 2003

On August 22, 2003, the IRS-CI closed escrow on the sale of 460 acre-feet of water rights that were associated with the forfeiture of real property formerly used as the Mustang Ranch in northern Nevada. The water rights were sold to the Pyramid Lake Paiute Indian Tribe for \$821,376.00. These water rights were not recognized as an asset by the government until over a year after the property was seized.

This is a significant transaction that will greatly benefit the entire northern Nevada region. The 460 acre-feet represent surface water rights to the Truckee River, which flows from Lake Tahoe and travels 100 miles until reaching the Pyramid Lake located on the Paiute Indian Reservation.

The river is an important source of water for the entire Truckee Meadows area that includes the cities of Reno and Sparks. Explosive growth in the area during the past decades resulted in a dramatic increase in water being diverted from the river. This caused the water quality to degrade by the time it reached the Pyramid Lake Indian Reservation, and erode the already fragile habitat for endangered species of fish and wildlife. Severe drought during the past several years have intensified the problem.

The sale of these water rights to the Paiute Indian Tribe was accomplished under the Truckee River Water Quality Settlement Agreement that obligated \$12 million in Federal funding for the purchase of Truckee River water rights. This sale insures that this water, formerly controlled by fugitive brothel owner Joe Conforte, will now remain dedicated to the river for important environmental use.

This concludes the disposition of all assets from the Mustang Ranch forfeiture case. Net sales proceeds for this case are approximately \$3 million and conations of 340 acres of real property to the Department of the Interior are valued at over \$2 million.

### Steven J. Fontaine DBA The Regalia Fund – Investment Fraud

The following assets were seized relating to the investigation of Steven J. Fontaine doing business as The Regalia Fund:

- Real property located at 6557 Ascot Drive, Oakland, CA purchased for over \$1.5 million in cash
- \$24,101,762.88 in a Banc of America Securities LLC Account
- \$239,571.32 in a Bank of America account
- Bank of America cashier's check for \$244,438.29
- Eight Golden State Warriors season tickets valued at over \$67,000.00
- \$10,000.00 from a New Century Title escrow account
- \$120,000.00 in Cartier jewelry
- 2002 GMC Yukon Denali
- 2002 Ford Mustang convertible
- 1999 Cadillac STS sedan
- 2003 Volkswagen Passat
- \$11,556.47 in a Banc of America Securities LLC account

Steven J. Fontaine is the managing Director of Regalia Fund Limited (Regalia Fund), an investment fund incorporated in the British Virgin Islands on July 20, 2000. Mr. Fontaine began soliciting investors in this fund through contacts in Ireland and France.

In June 2002, three investment groups provided \$23,895,460.00 to Fontaine and Regalia Fund, which promised to pay a quarterly fixed dividend of two percent of the total sum subscribed for participating shares. According to the offering memorandum presented by Regalia Fund, a bank rated AA or better by Standard & Poor's would guarantee the dividend. The funds were wired

by the investors to the Regalia Fund account at Ryan Beck-Gruntal Co. on June 10, 2002. This account was opened on June 10, 2002 to receive these funds.

Regalia Fund issued no shares and paid no dividends to the investors; nor did it fulfill any of the promises in the offering. Instead, on June 26, 2002, \$1,015,557.00 was transferred from the Regalia Fund account to a client account of McFadden Solicitors at the Royal Bank of Scotland. On July 9, 2002, \$592,126.00 was wired from the Royal Bank of Scotland to a Morgan Stanley account number in the names of Steven Fontaine and his wife. This account was opened to receive this wire transfer. On July 12, 2002, Fontaine paid \$54,000.00 from this account for the purchase of a 2002 GMC Yukon Denali.

On July 26, 2002, the balance remaining in the Ryan Beck -Gruntal account, \$22,909,503.00, which included interest earned, was transferred to an account in the name of Regalia Fund at Morgan Stanley in Berkeley, CA.

On August 1, 2002, the \$22,909,503.00 was transferred from the Morgan Stanley Regalia Fund account to a Bank of America account in Berkeley, CA, in the names of Regalia Fund and Steven J. Fontaine. That account had been opened the day before with a \$100.00 cash deposit.

On August 5, 2002, Fontaine wired \$1,556,997.30 from another Bank of America account for the purchase of a residence at 6577 Ascot Drive, Oakland CA.

On August 12, 2002, Fontaine issued a check from the Bank of America account for \$27,897.00 to purchase a cashier's check payable to The Ford Store – San Leandro. The check was used to purchase a 2002 Ford Mustang, registered in his name.

On August 12, 2002, Fontaine opened a securities brokerage account in his name at Banc of America Securities. On August 27, 2002, Fontaine wrote 2,000 calls on 30-year Treasury bonds. To cover the calls, he purchased \$200 million of the bonds for \$211,100,543.48. To finance the purchase of the bonds, he entered into a series of transactions through which he borrowed the funds to buy the bonds, essentially betting that interest rates would fall, thus increasing the bonds' value. An account at Banc of America LLC was opened in the name of Bank of America NA collateral account for Steven Fontaine. Fontaine transferred \$20,000,000.00 from the Bank of America account to the Banc of America LLC account as collateral for his financing of the bonds.

On September 7, 2002, a Regalia Fund check drawn on the Bank of America account in the amount of \$26,714.00 was delivered to the Connell Auto Center for the purchase of a 1999 Cadillac STS sedan in the name of Ronald Fountaine, Fontaine's brother.

On September 12, 2002, Fontaine delivered a Regalia Fund check drawn on the same Bank of America account in the amount of \$25,000.00 to the Connell Auto Center for the purchase of a 2002 Chrysler Sebring in the name of Brenda Fountaine, his sister, and a check drawn on this

Bank of America account in the amount of \$10,000.00 to New Century Title Company as a deposit for the purchase of property at 1845 East 23rd Street, Oakland, CA.

Fontaine delivered Regalia Fund checks drawn on the Bank of America account: on September 13, 2002, in the amount of \$27,130.00, to Broadway Volkswagen for the purchase of a 2003 Volkswagen Passat in the name of Brenda Fontaine; on September 16, 2002, in the amount of \$120,000.00, to purchase a cashier's check payable to Cartier Jewelers for the purchase of a diamond necklace, a diamond bracelet, diamond earrings and a man's watch; on September 19, 2002, in the amount of \$244,438.20, to purchase a cashier's check payable to New Century Title Company; and on September 24, 2002, in the amount of \$67,914.00, to purchase a cashier's check payable to Golden State Warriors for the purchase of eight season tickets.

Fontaine's speculation in Treasury bills proved successful; accordingly, the balance in the Banc of America LLC account was \$24,101,762.88 as of October 10, 2002.

Interest earned on the \$20,000,000.00 in the Banc of America LLC account was on deposit in the Banc of America Securities account. As of November 1, 2002, the balance in that account was \$11,556.47.

In October 2002, IRS-CI agents seized all of the assets discussed above.

Through negotiations between the US Attorney's Office, Northern District of California, Fontaine's attorney and the attorneys for the investors, just over \$24.5 million was returned to the investors in July 2003. This amount represented the principal invested with Fontaine and interest earned from the date of the seizure. As part of the agreement, \$175,000.00 was forfeited to the U.S. Government. Of the amount returned, over \$2.7 million was sent to the Central District of Illinois for a pending forfeiture matter there. The forfeiture of the vehicles, jewelry, Warriors tickets and real property is still pending.

### **Ronald W. Bogardus – Illegal Immigration Documents**

Ronald W. Bogardus conspired with a local immigration attorney, Samuel G. Kooritzky, to fraudulently obtain residency status for foreign immigrants in return for fees ranging from \$5,000.00 to \$20,000.00 per immigrant. In doing so, Mr. Bogardus was able to accumulate over \$4,000,000.00 of cash and assets in a period of less than two (2) years for his "cut" in the scheme.

From December 2000 to July 2002, Mr. Bogardus received direct payments from aliens who have participated, either knowingly or unknowing, in a fraudulent scheme to obtain residency in the United States. The services that Mr. Bogardus, and his solely owned company, R.B. & Associates, offered were providing 'sponsors' for immigrant aliens to work legally in the United States. Once an alien received a sponsor, they were able to apply for an ETA 750, Labor Certification. Once the alien received a labor certification, they were eligible to get their green card, and maintain legal residency within the United States.

Messrs. Bogardus and Kooritzky conspired to fraudulently prepare and file form ETA-750 - Application for Labor Certification (ETA 750) through Mr. Kooritzky's solely owned and operated law office, Capital Law Centers, P.C. (formerly Kooritzky & Associates). In situations where immigrants came to Capital Law Centers seeking labor certifications, and did not have a sponsor, Messrs. Bogardus and Kooritzky devised a scheme to file ETA 750's for the aliens, on behalf of local businesses located in Northern Virginia, unbeknownst to those businesses. Both Messrs. Bogardus and Kooritzky knowingly and willingly created, signed, prepared, and filed the necessary documentation to file with the Virginia Employment Commission (VEC), Immigration and Naturalization Services (INS), and the Department of Labor (DOL). Witness testimony will support that the ETA 750's reviewed in this investigation by DOL contained information, documentation, and signatures that have been concluded to be false in nature.

Proceeds received from the immigrants pursuant to the fraudulent scheme have been traced to various bank accounts and financial transactions of both Messrs. Bogardus and Kooritzky. With respect to Mr. Bogardus, proceeds were deposited into two (2) accounts at First Union Bank. The majority of the proceeds have been traced to a business account at First Union, in the name of Ronald W. Bogardus, t/a R.B. Engineering. Sporadic deposits have also been traced to a First Union personal account, in the name of Ronald W Bogardus. It was from these accounts, and therefore proceeds of the fraudulent immigration scheme, that Mr. Bogardus expended funds and acquired assets to promote the specified unlawful activity (money laundering).

On the day of Mr. Bogardus' arrest, July 24, 2002, over \$1,000,000.00 was hidden in a suitcase in his bedroom closet. Notes found on 'straps' of currency reflected that the funds were a derivative of immigration fraud. Additionally, over \$2,400,000.00 was seized from the bank accounts of R.B. & Associates. A bank analysis reflected that Mr. Bogardus paid cash (*via* wire transfer) for his Arlington condominium with the proceeds of the fraudulent scheme. Also it was noted during the bank analysis that Mr. Bogardus took daily draws from each deposit he made. It is unknown at this time where these funds were applied.

#### *A Combined IRS-CI, FBI and Defense Criminal Investigation Service Case*

#### **Gear Specialists, Inc. and Alan Stalcup - Mail Fraud, Wire Fraud, False Claim and Engaging in Monetary Transactions in Property Derived from a Specified Unlawful Activity**

Mr. Stalcup and his company, Gear Specialists, Inc. (GSI), were contractors at the Rock Island Arsenal in Illinois hired for the rehabilitation of military vehicles for the U.S. Army and Department of Defense. The contract called for GSI to perform certain work; including the upgrading, repair and/or replacement of component parts of military trucks, such as windshields and transmissions, for which GSI would be paid for its services along with the cost of component parts installed.

On September 18, 2002, following a jury trial the defendants were convicted of Mail Fraud, Wire Fraud, False Claim, and Engaging in Monetary Transactions in Property Derived from a Specified Unlawful Activity. Subsequently, a forfeiture hearing was held concerning the forfeiture aspects of the case and a preliminary order of forfeiture was entered February 23,

2003. A Final Order of Forfeiture was entered on May 2, 2003. The Final Order of Forfeiture directs that both GSI and Mr. Alan J. Stalcup to forfeit a total of \$407,145.42 to the United States.

The sentencing for both GSI and Mr. Alan J. Stalcup, was held May 23, 2003. As a part of the sentence imposed, both GSI and Mr. Stalcup were ordered to make restitution to U.S. Defense Finance Accounting in the amount of \$267,185.42 (\$133,592.71 from each defendant).

This investigation was conducted jointly by the IRS-CI, the FBI and the Department of Defense Criminal Investigation Service.

### *Internal Revenue Service – Criminal Investigations*

#### **Gary Storey – Money Laundering**

The IRS-CI St. Louis Field Office completed a significant forfeiture in the Judicial District of Nebraska (Omaha), involving a marijuana trafficker named Gary Storey, who was laundering his drug proceeds by purchasing vacant lots in a new lake area subdivision and acting as general contractor in the building of luxury homes. He paid the subcontractors in currency, and later sold the homes. Search warrants executed in November of 2001 yielded over \$900,000.00 in currency. Subsequently, the defendant voluntarily forfeited an additional \$1 million in assets, including vehicles, a boat, three parcels of real property, and securities accounts. The forfeiture was completed in January 2003.

#### **Horses in Need Get Second Chance - Horses purchased with drug money sold at auction**

Seizing livestock can be a difficult task. Add the dead of winter and the hills of Kentucky to the mix and it can become even more difficult. But that is exactly the task faced by the Louisville Field Office of the Internal Revenue Service - Criminal Investigation (IRS-CI) in January 2003. It was then that IRS-CI, took custody of 66 cows and 155 horses, donkeys, and mules after the owners, Larry Gene Thompson and Josh McClure were arrested and charged with crimes related to a major drug trafficking operation. These defendants from a small town in central Kentucky used the proceeds from their illegal drug business to purchase and raise registered Tennessee Walkers, Percheron Draft horses, Belgian Draft horses, and mules. The defendants, who were unable to care for the animals after their arrests, signed an agreement that, in part, allowed the IRS-CI to take custody of the animals and related assets.

The property custodian for the Treasury Forfeiture Fund, EG&G Technical Services (EG&G), was involved from the pre-seizure stage and was tasked to manage the custody, storage, and disposal of the animals, as well numerous pieces of farm-related equipment and the tack that accompanied the horses and mules. EG&G immediately contracted to have the cattle sold and the horses and mules moved and maintained at a nearby farm. "IRS followed an agreement that permitted us to provide these animals with appropriate food and care, and bring them to auction in order to protect the interests of the United States Treasury" said Fred Borakove, the Special Agent in Charge of the Louisville Field Office.

Special Agent Walt Woosley, the agent who conducted the investigation, and Special Agent Dan Pieschel, the Asset Forfeiture Coordinator (AFC) for the Louisville Field Office, discovered that handling the seizure of that many animals brought far more problems than handling other more traditional assets. First came feeding and bringing them back to good health. On top of that, 56 of the horses were in foal, all of which were due to deliver in four months or less. Shortly after seizure, concerns were expressed by the local chapter of the humane society about the proper care of the animals. Fortunately, EG&G had already hired a local veterinarian to verify the condition and care of the horses. "I oversaw the entire medical care of these animals from the day the IRS-Criminal Investigation took custody," said Dr. Ted Cundiff, DVM from Richmond, Kentucky. "The agency took all the appropriate steps to make sure these horses were healthy and fit for auction." After representatives of the humane society visited and examined the animals, their fears were calmed. Just as big of a problem was the weather...it was cold, wet, and/or snowy through most of February and March in central Kentucky.

Setting up the sale was also a priority. The traditional method of selling seized government assets is by public auction, and it usually allows ample time for marketing. However, in this case, the agreement reached with the owners allowed for an interlocutory sale prior to forfeiture. Proper marketing became even more critical when considering the short time span allowed prior to sale and the fact that many of the horses were registered Tennessee Walking Horses. The public's concern also became a heightened issue shortly before the auction, when AFC Pieschel was contacted by the non-profit group, The United Equine Foundation (UEF). After discussing their concerns, AFC Pieschel reached an agreement wherein any horse that did not bring enough to meet an agreed minimum bid, would be transferred to the custody of the UEF, at no cost to the government, so that they could find homes for the animals.

The sale of the horses took place March 29, 2003 at Richmond Livestock Sales, Richmond, Kentucky. All of the tack and related equipment and most of the horses and mules were sold rapidly to buyers at the auction. The UEF was also able to quickly arrange for the sale of five of the seven animals that remained. As a result of UEF efforts, Sue Cochran, farm manager of The Colonial Pennsylvania Plantation, acquired one of the Belgian Draft horses for the non-profit "living museum" located in the Ridley Creek State Park in Media, Pennsylvania. The museum, which replicates historical colonial living in every aspect, was thrilled to be able to obtain the Belgian Draft horse, the historically accurate breed for the time period 1760-1790. That horse will be the source of enjoyment for over 12,000 children who visit the Colonial Plantation annually. They were also so happy with the IRS cooperation that they named the horse "IRiS."

The UEF also arranged for the purchase of two of the weanling mules by The Last Refuge, an equine sanctuary in Hitchcock, Texas. "The IRS went above and beyond to save these babies when their mothers were starving. In honor of that I have named the older baby 'Dan-A-Mule' after the agent that saved him," said Carol Chapman from the Last Refuge.

Following the auction and the adoptions by donors to the UEF, only two animals remained. One was transferred to a foster farm in Toledo, Ohio, until it was eventually adopted. The other one, a weanling mare mule, was shipped to a sanctuary farm in White Cloud, Michigan, where it will be used in a therapeutic program to assist physically handicapped and mentally impaired

children. After learning about the therapeutic program, several IRS employees made donations to UEF so that the adoption, transportation, and feeding of the newborn mule could happen.

The sale of the cows and the auction that followed grossed over \$200,000.00. The funds were deposited to the Registry of the Court and eventually transferred to the suspense account, pending forfeiture, of the Treasury Forfeiture Fund. The enforcement action was well received in the area and raised much publicity. Nearly 3,000 people from around the country passed through the stockyard and show ring during the preview and sale days. Everyone came out a winner in the sale. The buyers received healthy quality animals, the horse sanctuaries and the historical and therapeutic farms received animals to help with their programs, and when combined with \$100,000.00 received from another co-conspirator, over \$300,000.00 was deposited in the Treasury Forfeiture Fund.

### *U.S. Secret Service*

#### **United Imports – Theft of Cable Services, Mail and Wire Fraud, Money Laundering and Conspiracy**

In May 1997, the Omaha Resident Office (Omaha RO), U.S. Secret Service, began an investigation of a business and individuals involved in the sale of unauthorized cable television de-scramblers. The Secret Service initiated this case considering the “Black Box” decoders to be illegal access devices and the probability that substantial proceeds were being laundered domestically and internationally, as is common in this type of fraud.

Investigative efforts were conducted for 2 ½ years, which resulted in the identification of 35 additional cable “Pirate” operations located throughout the United States. These investigations also identified relevant bank accounts, investment brokerage accounts, and an investment advising company created by the targets to manage cable decoder proceeds laundered through the Grand Cayman Islands.

Early in the investigation, the Omaha RO determined that the primary business target, United Imports, grossed approximately \$90 million through wholesale and retail sales of these devices over a 10-year period. The investigation also revealed that the targets utilized a Cayman Island “sham” banking institution and its employees to execute an over-invoicing scheme, and create fictitious Cayman corporations to conceal the illegal proceeds generated in Omaha, Nebraska. These foreign companies opened numerous investment accounts at Prudential-Bache and Charles Schwab in the United States as well as paid for a \$500,000 residence in Omaha.

During the course of the investigation, over 200 subpoenas were issued, many of which were for bank accounts, and two Mutual Lateral Assistance Treaty (MLAT) requests to the Grand Cayman Islands. In August 1999, the District of Nebraska indicted five individuals and three businesses for 65 violation counts consisting of theft of cable services, mail and wire fraud, money laundering and conspiracy charges.

On November 6, 2002, FY 2003, the defendants entered guilty pleas and voluntarily forfeited \$2.5 million in cash to the United States. The defendants also relinquished all rights and claims to \$3.3 million currently residing in the Cayman Islands which accounts were identified and frozen by the Cayman authorities, subject to forfeiture.

### Program and Fund Highlights

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The Treasury Forfeiture Fund is a “special receipt account.” Such accounts represent Federal fund collections earmarked by law for a specific purpose. The enabling legislation for the Treasury Forfeiture Fund (31 U.S.C. § 9703) defines those purposes for which Treasury forfeiture revenue may be used.

Once property or cash is seized, there is a forfeiture process. Upon forfeiture, seized currency, initially deposited into a suspense, or holding account, is transferred to the Fund as forfeited revenue. Once forfeited, physical properties are sold, and the proceeds are deposited into the Fund as forfeited revenue. It is this forfeiture revenue that comprises the budget authority for meeting expenses of running Treasury’s forfeiture program.

Expenses of the Fund are set in a relative priority so that unavoidable, or “mandatory” costs are met first. Expenses may not exceed revenue in the Fund. The Fund has several different spending authorities. Each of them is described below.

#### *Mandatory Authority*

The mandatory authority items are generally used to meet “business expenses” of the Fund, including expenses of storing and maintaining seized and forfeited assets; valid liens and mortgages; investigative expenses incurred in pursuing a seizure; information and inventory systems; and certain costs of local police agencies incurred in joint law enforcement operations. Following seizure, equitable shares are paid to state and local law enforcement agencies that contributed to the seizure activity at a level proportionate to their involvement.

It is a strategic goal of the Fund to emphasize and monitor high impact forfeitures. To make significant forfeitures requires longer, more in-depth investigations. To this end, Fund Management emphasizes the use of mandatory funding authorities that fuel large case initiatives including Purchase of Evidence and Information, expenses associated with Joint Operations, Investigative Expenses Leading to Seizure, and Asset Identification and Removal Groups.

#### Asset Identification and Removal Groups, multi-bureau

Asset Identification and Removal Groups (AIRGs) help ensure that seizure operations are conducted in the right way, with maximum precision and efficiency. Again, in FY 2003, the Fund contributed \$4.2 million in mandatory funding, including necessary travel, to the efforts of legacy Customs AIRGs (now part of Immigration and Customs Enforcement (ICE), Department of Homeland Security). The groups are comprised of special agents, auditors, accountants and contract data analysts who are specially trained to identify assets of criminal organizations. Today, there are 21 AIRGs located within ICE field offices throughout the United States. The

personnel assigned to the groups receive special training at Treasury's Federal Law Enforcement Training Center to prepare them in the areas of asset identification, removal and forfeiture. The AIRGs are particularly valuable in international investigations, where criminal proceeds can be moved rapidly around the world. Their expertise in identifying and tracking these assets is critical to an effective seizure and forfeiture program. These groups assist their agencies in meeting their mandates. The results that they attain can be used as a tool to assist managers in assessing the strength and depth of criminal organizations and gauge their success in disrupting crime.

### **Treasury Computer Investigative Specialist Program, multi-bureau**

An increasing number of investigations conducted by the Treasury's law enforcement bureaus are in an electronic environment or contain electronic evidence. A key component of the bureaus' ability to perform their investigative mission in today's high-tech and rapidly changing environment is the Treasury Computer Investigative Specialist (CIS) Program. This joint initiative began in 1997 as a means of coordinating Treasury resources and leveraging assets. Since that time, it has developed into one of the premier computer forensics programs in the world, with over 400 Treasury special agents deployed throughout the United States and abroad. Some of the primary features of the program are:

- All computer forensic examiners are experienced criminal investigators (as opposed to other programs that have technicians conducting exams);
- Uniform basic and advanced computer forensic training (planned and delivered jointly by the four bureaus) that allows the bureaus to share CISs and technical resources on large cases;
- Each bureau's CISs are provided the same state-of-the-art equipment; and
- Continuous in-service training and equipment upgrades for CIS agents in the field maintains high skill-levels for all Treasury Department CISs.

In FY 2003, EOAF provided just under \$4.4 million to the CIS program. The majority of the funding went for basic and advanced training and specialized equipment. Since the inception of the program in 1997, the four participating bureaus of the Treasury Forfeiture Fund have combined talents and resources to produce highly trained computer forensic agents capable of recovering digital evidence from stand alone and networked computer systems.

### ***Secretary's Enforcement Fund***

The Secretary's Enforcement Fund (SEF) is derived from equitable shares received from the Justice Department's forfeiture fund for work done by Treasury law enforcement bureaus leading to Justice forfeitures. SEF revenue is available for Federal law enforcement purposes of any Treasury law enforcement organization. In FY 2003, the Fund allocated \$17.3 million in SEF spending to the law enforcement agencies.

### **Major Case Initiatives, Immigration and Customs Enforcement, IRS -CI and U.S. Secret Service**

Consistent with the Treasury Forfeiture Fund's goal of supporting major case initiatives, during FY 2003, \$3.75 million was allocated from the SEF to support bureaus' major case initiatives. This funding was used to continue to support undercover operations, and a variety of tasks including document analysis and translation for investigative and evidential purposes, and outbound money laundering operations among others.

#### **International and Terrorism Investigations, IRS-CI**

Consistent with the President's initiative on international terrorism, \$1 million was provided from the SEF to IRS Criminal Investigations (CI) to support the continuation of IRS' overseas investigations of terrorist related money laundering and other financial crime cases. Funding was used primarily for travel to support these cases.

#### **Computer Equipment Replacement , IRS-CI**

Another \$3 million of SEF funding was provided to IRS-CI to replace obsolete computer equipment including laptops, desktops, servers, routers, printers, etc. Equipment replaced constitutes approximately one-third of the equipment currently utilized by IRS CI throughout their field operations.

#### **Counter Terrorism Lead Development Center, IRS -CI**

Again, consistent with the President's initiative on terrorism, SEF funding in the amount of \$1.7 million was provided to IRS-CI for the Garden City, New York Counter Terrorism Lead Development Center, which is dedicated as the central facility to research leads and field office inquiries concerning terrorism investigations. Investigative analysts specializing in terrorism issues will develop case knowledge, identify trends, and be in position to de-conflict financial issues that are present in CI investigations conducted by multiple field offices. The use of a central facility will produce a more thorough and consistent investigative package.

#### **USA Patriot Act Training and Electronic Crimes Special Agent Program, U.S. Secret Service**

A total of \$1.275 million in SEF funding was provided to these initiatives of the U.S. Secret Service. Enactment of the USA Patriot Act mandates that the U.S. Secret Service perform additional functions related to electronic crimes. To ensure that these functions are performed properly, it is vital that agents receive both basic and advanced training in areas such as computer forensics and network intrusion, especially as related to financial crimes that exploit modern technology and information systems. Instruction will address internet communications, navigation, and technical structure and the investigative methodologies and tools necessary to track suspects and recover evidence. In addition, funds will support the U. S. Secret Service Electronic Crimes Task Forces established in several major cities throughout the United States, and the 2002 National Money Laundering Strategy requirement for High Intensity Financial Crime Areas (HIFCAs) to work closely with the Electronic Crimes Task Forces. SEF funding was provided to the Secret Service Electronic Crimes Special Agent Program (ECSAP) initiative which includes a number of projects in the area of computer forensics.

## *Super Surplus*

Super Surplus represents the remaining unobligated balance after an amount is reserved for Fund operations in the next fiscal year. Super Surplus can be used for any Federal law enforcement purpose. The Fund declared a Super Surplus for FY 2003 in the amount of \$24.1million, the majority of which was spent on the legacy Customs Container Security Initiative, Cybersmuggling investigative efforts, database development, and computer forensic efforts all of which have attained increased significance in the global anti-terrorism campaign.

A growing percentage of the investigations that our agencies handle now center on computer evidence. It is critical for the law enforcement bureaus to protect the integrity of original computer evidence and be able to authenticate any evidence originating from an electronic source. Each of the four law enforcement bureaus has a computer laboratory devoted to assessing the impact of technological change on methods for obtaining digital evidence, developing forensics procedures and standards, and providing technical assistance to the computer forensics examiners in the field. The funding provided for these initiatives has allowed the agencies to maintain or build laboratories and sustain their computer forensics programs. These forensic programs involve a significant amount of research and development that cannot be funded through the mandatory authority.

### **Container Security Initiative, Customs and Border Protection**

Fund Management dedicated \$10 million of Super Surplus funding to the legacy Customs Container Security Initiative that was launched in January 2002, as the result of terrorist attacks. The project provides for the placement of Customs and Border Protection (CBP) personnel at foreign ports for the purpose of pre-screening cargo prior to shipment to the United States. Pre-screening processes will include analysis of electronic and paper data to target shipments for physical examination. Examinations will include screening with high technology equipment such as container x-rays. Physical examination and off-loading of cargo will be conducted by foreign personnel with the oversight of CBP.

### **CyberSmuggling Center, Immigration and Customs Enforcement**

Fund Management dedicated \$2.4 million to the Immigration and Customs Enforcement Cybersmuggling Center which identifies and targets individuals and groups who exploit the internet for illicit purposes. Of primary concern are financial crimes conducted by terrorist organizations. This funding will further ICE's efforts to: identify areas of the internet that are being used to commit violations; exploit the capabilities of the CyberSmuggling Center to disrupt criminal organizations; protect the U.S. and its citizens from terrorism; and disrupt illegal activity being facilitated across the U.S. borders via the internet.

### Sniper Investigation, ATF

Fund Management devoted \$2.6 million to the Bureau of Alcohol, Tobacco and Firearm's (ATF's) participation in the October 2002 Sniper Investigation that involved the entire major Metropolitan areas of Maryland, Virginia and the District in scope.

### USA Patriot Act, FinCEN

Fund Management devoted \$1.1 million to the Financial Crimes Enforcement Network (FinCEN) to complete initiatives which bring it into compliance with the USA Patriot Act. The processes to be completed will enhance investigative efforts associated with financial crimes, especially money laundering used to support terrorist activities.

## Program Performance

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### *Strategic View*

Over the next several years, the Fund will continue to focus on strategic cases and investigations that result in high-impact forfeitures. We believe this approach will affect the greatest damage to criminal organizations while accomplishing the ultimate objective – to disrupt and dismantle criminal activity. To make significant forfeitures requires longer, more in-depth investigations. To this end, Fund Management emphasizes the use of mandatory funding authorities that fuel large case initiatives including Purchase of Evidence and Information, expenses associated with Joint Operations, Investigative Expenses Leading to Seizure, and Asset Identification and Removal teams. In addition, the Fund will continue to support and carry out the goals of the National Money Laundering Strategy as well as the High Intensity Financial Crime Areas (HIFCAs); support Treasury's efforts to attack terrorist financial infrastructures; and continue to improve our ability to measure, assess and adapt our performance.

### *2004 President's Budget Initiative – Unified Forfeiture Fund*

In the interest of disclosure to the broad national constituency and stakeholders of the Treasury Forfeiture Fund, Fund Management acknowledges that the 2004 President's Budget included the proposal to unify the Treasury Forfeiture Fund with the Department of Justice Assets Forfeiture Fund into one unified national forfeiture fund under the auspices of the Department of Justice. However, the initiative requires legislation to be enacted before the terms of the Presidential initiative can be made effective. At this time, proposed legislation has not been forwarded to the Congress for consideration. Fund Management continues to review the proposal to ensure that the interests of the Treasury Forfeiture Fund participants are provided for appropriately in any successor account and that any management differences are recognized and reconciled.

### *Strategic Mission and Goal*

The mission of the Treasury Forfeiture Fund is to affirmatively influence the consistent and strategic use of asset forfeiture by Treasury law enforcement bureaus to disrupt and dismantle criminal enterprises. The goal of the Treasury Forfeiture Fund is to support the Department of

the Treasury's national asset forfeiture program in a manner that results in Federal law enforcement's continued and effective use of asset forfeiture as a high-impact law enforcement sanction to disrupt and dismantle criminal activity. To achieve our mission and goal, the program must be administered in a fiscally responsible manner that seeks to minimize the administrative costs incurred, thereby maximizing the benefits for law enforcement and the society it protects.

### *Multi-Departmental Fund During FY 2003*

Fund Management acknowledges the significant evolution of The Treasury Forfeiture Fund when it became a multi-Departmental Fund in FY 2003, representing at points during the year the interests of law enforcement components of the Departments of Treasury, Homeland Security and Justice. As the result of these numerous and complex changes, FY 2003 found Fund Management heavily involved in efforts to ensure that transition of our participating law enforcement bureaus to their new Departmental homes was seamless in terms of impact on their ability to continue to conduct seizures and forfeitures and to properly account for the assets of the program. As FY 2003 closed, Fund Management was pleased with efforts to support the Homeland Security Act through these endeavors and pleased with the evidence that we were successful in meeting our goals of a smooth transition and continuing the fight against criminal enterprise throughout.

In fiscal year 2004, Fund Management continues its focus on support for strategic investigative initiatives that will have the greatest impact on national and international criminal enterprise. In addition, we plan to continue our investment in truly major cases and training designed to foster the understanding and application of asset forfeiture across the Departments for which we provide forfeiture policy guidance and operational support.

### *Performance Measure*

In FY 2003, the Fund measured performance through the use of the following performance measure: Percent of forfeited cash proceeds resulting from high-impact cases. This measures the percentage of forfeited cash proceeds resulting from high-impact cases (those with currency seizures in excess of \$100,000). Focusing on strategic cases and investigations which result in high-impact seizures will effect the greatest damage to criminal organizations while accomplishing the ultimate objective – to disrupt and dismantle criminal activity.

### *Results*

Fund performance measures and associated results for FY 2003 are as follows:

Performance Measure	FY 2002 Actual	FY 2003 Target	FY 2003 Actual
Percent of forfeited cash proceeds resulting from high-impact cases	73%	75%	80.6%

A target of 75 percent high-impact cases was set for FY 2003. The final percentage for FY 2003 was 80.6 percent, five percentage points above the target. This achievement is excellent given the significant diversion of Treasury law enforcement personnel to other than routine law enforcement matters after the events of September 11, 2001. FY 2003 was a robust revenue year and the results of our performance indicator point to the successes of our dedicated law enforcement bureaus. This measure was put into effect in FY 2001.

This measure is calculated by dividing the total amount of forfeited cash proceeds from cases greater than \$100,000 by the total amount of forfeited cash proceeds for all cases.

### Financial Highlights

The following provides a brief explanation for each major section of the audited financial statements accompanying this report for the fiscal year ended September 30, 2003.

These statements have been prepared to disclose the financial position, results of operations and changes in net position pursuant to the requirements of the *Chief Financial Officers Act of 1990 and the Government Management Reform Act of 1994 (GMRA)*. While the financial statements have been prepared from the books and records of the Fund in accordance with the formats prescribed by the Office of Management and Budget, the statements are different from the financial reports used to monitor and control budgetary resources that are prepared from the same books and records and are subsequently presented in Federal budget documents. Therefore, it should be noted that direct comparisons are not possible between figures found in this report and similar financial figures found in the FY 2003 and FY 2002 *Appendix, Budget of the United States Government*. Further, the notes to the financial statements and the independent auditor's opinion and report on internal controls are also integral components to understand fully the financial highlights of Fund operations described in this chapter.

#### **Statements: Changes in Net Position**

Follows are brief highlights from the Statement of Changes in Net Position for FY 2003 and 2002.

**Net Position – End of Year.** For FY 2003, the Net Position for the Fund at the end of the year, an indicator of the future capability to support ongoing operations of the Fund, totaled \$177.2 million versus \$173.0 million at the end of FY 2002. Both years closed with a strong and viable net position given that annual revenue totaled between \$200 million and \$250 million each year.

**Total Gross Non-Exchange Revenues.** This line item on the *Statements of Changes in Net Position* is the best indicator of regular “business-type” income of the account on an annual basis. Fund Management generally forecasts between \$200 million and \$250 million for the Fund from regular seizure and forfeiture activities of our participating bureaus. For FY 2003, the Fund closed with \$266.3 million in Gross Non-Exchange Revenues versus a total for the FY 2002 closing of \$196.7 million, an increase of 35 percent over FY 2002.

**Proceeds from Participating with other Federal Agencies.** This line item on the *Statements of Changes in Net Position* indicates revenue earned from the participation of Treasury Forfeiture Fund law enforcement bureaus in the seizures leading to forfeitures for bureaus that participate in the Department of Justice Assets Forfeiture Fund or with the forfeiture fund of the U.S. Postal Service (Postal Service). It is noted that this category of revenue is recognized when received on deposit by the Treasury Forfeiture Fund. Therefore, there is no accrual recorded on the Fund’s financial statements for this category of revenue.

As of the close of FY 2003, Treasury Forfeiture Fund bureaus earned a total of \$16.1 million in revenue from participation in the seizures leading to forfeiture of the Justice and Postal Service forfeiture funds as compared to a total of \$38.0 million during FY 2002. However, preliminary results of audit work done regarding this revenue category indicate that additional equitable sharing was due from the Department of Justice in the amount of approximately \$36 million, a material amount to the Fund. It is significant to note that the \$36 million estimate is not a complete total but represents amounts known to be forfeited as of the end of the third quarter of FY 2003. The total through the fourth quarter ending September 30, 2003, would be expected to be higher. In other words, if all known and verified income tested in this category of revenue had been paid to the Treasury Forfeiture Fund by the close of FY 2003, the revenue recognized for this line item on the *Statements of Changes in Net Position* would have increased from \$16.1 million to a total of \$52.1 million. In addition, this adjustment would have increased the Total Gross Non-Exchange Revenue for the Fund at the end of FY 2003 to an increased high watermark for the Fund of \$302.3 million.

Fund Management continues to work with the Department of Justice to identify the basis for the significant delays in material amounts associated with Reverse Asset Sharing payments to the Treasury Forfeiture Fund. This revenue affords Treasury Management significant funding flexibilities for our participating agencies as the authority is broad and not confined to funding program costs but can be used for any law enforcement purpose of our participating bureaus. Significant projects may be funded in FY 2004 if the revenue is received early enough in the fiscal year.

**Cost of Operations.** For FY 2003, the Cost of Operations totaled \$108.1 million, down from \$116.4 million in FY 2002.

**Investment Interest Income.** The Fund is authorized to invest cash balances in Treasury securities. On September 30, 2003, investments totaled \$527.0 million, significantly up from \$397.9 million invested on September 30, 2002. Despite the difference in invested balances from FY 2002 to FY 2003, investment income totaled \$5.0 million in FY 2003 as compared to \$6.1 million in FY 2002, as the result of continuing decreases in interest rates on invested

balances.

**Equitable Sharing with State and Local Governments, and Foreign countries.** Each year, the Fund pays tens of millions of dollars to state and local law enforcement agencies, and foreign governments, for their participation in seizures that lead to forfeitures of the Treasury Forfeiture Fund. State and local law enforcement agencies can use these resources to augment their law enforcement budgets to fight crime in their jurisdiction. Without these funds, budgets of the local municipalities would be taxed to provide these important resources or the need would go unmet. During FY 2003, the Fund shared a total of \$78.5 million with state and local law enforcement agencies and another \$1.3 million with foreign countries. This compares with \$75.9 million shared with state and local law enforcement agencies during FY 2002, and another \$2.1 million with foreign countries in FY 2002.

**Victim Restitution.** During FY 2003, the Fund paid restitution to victims the amount of \$7.3 million as compared with \$2.6 million in FY 2002.

**Summary of Statements of Changes in Net Position.** FY 2003 represents a very successful year in high-impact cash forfeiture cases, with 80.6 percent of all cash forfeitures stemming from cases with a value of \$100,000 or more, as compared with 73 percent in FY 2002. Along with a high water mark in forfeiture revenue for the year, the performance against this measure exceeded our target performance of 75 percent, a significant achievement given the reorganizations of law enforcement bureaus during FY 2003 to a brand new Department and elsewhere and the natural distraction to routine law enforcement that can occur during such efforts. The FY 2003 performance in forfeiture revenue earnings and high-impact cases is truly a credit to the dedicated law enforcement personnel of the Treasury Forfeiture Fund participating bureaus.

#### **Statements: Net Cost**

**Costs of the Forfeiture Program – Intragovernmental.** After revenue is applied toward policy mandates such as equitable sharing, shown in the Statement of Changes in Net Position as negative revenue or applied non-exchange revenue, the remaining financing supports the law enforcement activities of the Fund and pays for the storage of seized and forfeited property and sales associated with the disposition of forfeited property.

On the Statements of Net Cost, the Net Cost of Operations decreased to \$108.1 million in FY 2003, down from \$116.4 million in FY 2002, attributable to reduced investigative costs and asset management, reduced costs associated with data systems and training, and reduced Super Surplus expenses from FY 2002. Reduced asset management costs reflect an even greater cash-intensive position of the Fund during FY 2003 versus FY 2002. Cash and other monetary instruments compared to total assets value on the Balance Sheets was equal to 95 percent at the end of FY 2003, as compared to 94 percent at the end of FY 2002.

**Intra-governmental Costs less Secretary's Enforcement Fund Expenses.** This net figure represents the amounts incurred by participating bureaus in running their respective forfeiture

programs. Secretary Enforcement Fund Expenses generally represent expenses that while key to the law enforcement bureau are not costs of running the forfeiture program itself.

**National Seized Property Contract.** The largest single program cost of the Fund is the storage, maintenance and disposal of real and personal property. This function is performed by EG&G Technical Services, a private firm under multiple contracts to the Customs and Border Protection (CBP) component of the U.S. Department of Homeland Security (DHS). There is one contract for the custody and maintenance of real properties and a separate contract for general property of the program. Both of these contracts, at this time, are awarded to EG&G Technical Services. In FY 2003, storage and maintenance expenses totaled just under \$34.4 million, up only slightly from just over \$33.3 million in FY 2002. This small increase reflects an increasing cash-intensive position of the Treasury Forfeiture Fund during FY 2003 as compared with FY 2002.

Indicative of this, for example, is the total of Investments and related interest on the Balance Sheets. For FY 2003, this line item totaled \$527.0 million at the end of the year, versus a total of \$397.9 million at the end of FY 2002, an increase of 32 percent in invested cash balances alone. At the same time, forfeited physical property held for sale totaled \$33.9 million at the end of FY 2003, up only slightly from \$33.0 million at the end of FY 2002.

### **Statements: Balance Sheet**

#### **Assets, Liabilities and Net Position**

Total assets of the Fund increased in FY 2003 to \$687.8 million, up from \$644.0 million in FY 2002, an increase in asset value of nearly 7 percent. If seized currency, which is an asset in the custody of the government but not yet owned by the government, is backed out of both figures, the adjusted total assets of the Fund increased to \$291.2 million in FY 2003 from \$265.0 million in FY 2002, an increase of 9.9 percent.

During FY 2003, total liabilities of the Fund increased to \$510.5 million, up from \$471.0 million in FY 2002, an increase of 8.4 percent in overall liabilities pending at the end of the fiscal year. Likewise, if seized currency is backed out of both figures, the adjusted liability totals of the Fund increased to \$114.0 million in FY 2003 from \$92.0 million in FY 2002, an increase of 24 percent as compared to a 9.9 percent increase in adjusted asset totals.

As the result of the growth in assets, the Cumulative Results of Operations, i.e., retained earnings, increased at the end of FY 2003 to a total of \$177.2 million, up \$4 million from \$173.0 million at the end of FY 2002.

## Summary of Financial Highlights

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**Net Position.** To summarize, Fund Management concluded FY 2003 “in the black,” with the necessary resources to commence the business of the asset forfeiture program for FY 2004. Fund Management will declare a Super Surplus from FY 2003 operations of about \$25 million that will be used for law enforcement needs of participating bureaus of the Treasury Forfeiture Fund.

**FY 2003 Audit.** The Fund’s independent auditors have given the FY 2003 financial statements an Unqualified Opinion and again determined that there are no material weaknesses for the Fund’s financial statements. In addition, only one Reportable Condition remains regarding the recording of indirect overhead expenses of general property to the line item level. Fund Management is awaiting completion of re-competition of the general property custody contract that includes the provision for distribution of indirect expenses to the line item level in the Statement of Work. Given complexities associated with the contract process to date, Fund Management anticipates that it will be FY 2005 before this second tier condition will be resolved. Fund Management is pleased to report this status.

## Summary of Program Performance and a Look Forward

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**Financial and Program Performance -What is needed and planned.** OMB Bulletin No. 01-09, *Form and Content of Agency Financial Statements*, requires that agencies include an explanation of what needs to be done and what is being planned to improve financial or program performance. In that regard, Fund Management provides the following information with regard to the remaining reportable condition identified by auditors during the FY 2003 financial statement audit.

**Reportable Condition:** In fiscal year 2003, the auditors of the Fund’s financial statements reported one Reportable Condition associated with the Fund’s internal controls: indirect asset specific expenses are not recorded and accounted for to the line item level by the Fund.

**Asset Specific Expenses:** Fund Management will continue to work toward the capture of indirect asset specific expenses. The accounting system of the Real Property Contractor is capable of capturing and reporting both direct and indirect costs. The award of the new general property contract has been delayed and until such time as the new contract provisions can be implemented, efforts to develop a methodology to distribute indirect overhead costs to general property will also be delayed. Management will continue to work with participating bureaus to improve the capture of all expense data to the asset level.

**Look Forward.** Fund Management is pleased with the resolution of nearly all findings associated with Fund operations as of FY 2003. Efforts will continue to ensure this progress is sustained.

**Limitations of the Financial Statements.** As required by OMB Bulletin 01-09, *Form and Content of Agency Financial Statements*, Fund Management makes the following statements regarding the limitations of the financial statements:

- The financial statements have been prepared to report the financial position and results of operations of the entity, pursuant to the requirements of 31 USC § 3515(b).
- While the statements have been prepared from the books and records of the entity in accordance with the formats prescribed by OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources which are prepared from the same books and records.
- The statement should be read with the realization that they are for a component of the U.S. government, a sovereign entity. One implication of this is that liabilities cannot be liquidated without legislation that provides resources to do so.

## Independent Auditor's Report on Financial Statements

Office of Inspector General  
United States Department of the Treasury  
Washington, D.C.

We have audited the Principal Statements (balance sheets and the related statements of net cost, changes in net position, budgetary resources and financing, hereinafter referred to as “financial statements”) of the Department of the Treasury Forfeiture Fund (the Fund) as of and for the years ended September 30, 2003 and 2002. These financial statements are the responsibility of Fund Management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and, Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by Fund Management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Fund as of September 30, 2003 and 2002, and its net costs, changes in net position, budgetary resources, and the reconciliation of net costs to budgetary obligations, for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued a report dated October 31, 2003, on our consideration of the Fund's internal control structure and a report dated October 31, 2003, on its compliance with laws and regulations.

Our audits were conducted for the purpose of forming an opinion on the financial statements referred to in the first paragraph of this report as a whole. The information presented in Fund Management's Overview of the Fund and Other Accompanying Information sections is not a required part of the financial statements but is supplementary information required by OMB Bulletin No. 01-09, *Form and Content of Agency Financial Statements*, or the *Treasury Forfeiture Fund Act of 1992*. Although we have read the information presented, such information has not been subjected to the auditing procedures applied in the audits of the financial statements and, accordingly, we express no opinion on it.

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This report is intended for the information and use of the Management of the Fund, the U.S. Department of the Treasury, OMB, the U.S. Congress and, the Office of Inspector General. However, this report is a matter of public record and its distribution is not limited.

October 31, 2003

Notes to Financial Statements

**Note 1: Reporting Entity**

The Department of the Treasury Forfeiture Fund (Treasury Forfeiture Fund or the Fund) was established by the Treasury Forfeiture Fund Act of 1992, Public Law 102-393 (the TFF Act), and is codified at 31 U.S.C. 9703. The Fund was created to consolidate all Treasury law enforcement bureaus under a single forfeiture fund program administered by the Department of the Treasury (Treasury). Treasury law enforcement bureaus fully participating in the Fund upon enactment of this legislation were the U.S. Customs Service (Customs); the Internal Revenue Service (IRS); the United States Secret Service (Secret Service); the Bureau of Alcohol, Tobacco and Firearms (ATF); the Financial Crimes Enforcement Network (FinCEN); and the Federal Law Enforcement Training Center (FLETC). FinCEN and FLETC contribute no revenue to the Fund and receive relatively few distributions from the Fund. The U.S. Coast Guard, formerly part of the Department of Transportation, now part of the new Department of Homeland Security, also participates in the Fund. However, all Coast Guard seizures are treated as Customs seizures because the Coast Guard lacks seizure authority.

During FY 2003, the Treasury Forfeiture Fund became a multi-Departmental Fund, representing at points during the year the interests of law enforcement components of the Departments of Treasury, Homeland Security and Justice. With enactment of the Homeland Security Act of 2002 (Homeland Security Act), Treasury's U.S. Customs Service and Secret Service were reorganized into new components of the Department of Homeland Security; Treasury's Bureau of Alcohol, Tobacco and Firearms was reorganized into two new components, one remaining at Treasury and the other assigned to the Department of Justice; and the Bureau of Immigration and Naturalization (INS), formerly of the Department of Justice, was reorganized into the former legacy U.S. Customs Service at the Department of Homeland Security joining the Treasury Forfeiture Fund colleagues. The U.S. Coast Guard was reorganized from the Department of Transportation to the Department of Homeland Security to continue their close working relationship with legacy Customs.

The Fund is a special fund that is accounted for under Treasury symbol number 20X5697. From this no-year account, expenses may be incurred consistent with 31 U.S.C. 9703, as amended. A portion of these expenses, referred to as discretionary expenses, are subject to annual appropriation limitations. Others, referred to as non-discretionary (mandatory) expenses, are limited only by the availability of resources in the Fund. Both expense categories are limited in total by the amount of revenue in the Fund. The Fund is managed by the Treasury's Executive Office for Asset Forfeiture (EOAF).

The mission of the Treasury Forfeiture Fund is to affirmatively influence the consistent and strategic use of asset forfeiture by Treasury law enforcement bureaus to disrupt and dismantle criminal enterprises. The goal of the Treasury Forfeiture Fund is to support the Department of the Treasury's national asset forfeiture program in a manner that results in Federal law enforcement's continued and effective use of asset forfeiture as a high-

impact law enforcement sanction to disrupt and dismantle criminal activity. Under a Memorandum of Understanding (MOU) with Treasury, Customs and Border Protection (CBP), Department of Homeland Security, acts as the executive agent for certain operations of the Fund. Pursuant to that executive agency role, CBP's National Finance Center (NFC) is responsible for accounting and financial reporting for the Fund, including timely and accurate reporting and compliance with Treasury, the Comptroller General and the Office of Management and Budget (OMB) regulations and reporting requirements.

## **Note 2: Summary of Significant Accounting Policies**

### ***Basis of Accounting and Presentation***

The Fund began preparing audited financial statements in Fiscal Year 1993 as required by the Fund's enabling legislation 31 U.S.C. 9703(f)(2)(H), and the Chief Financial Officers Act of 1990. Beginning with the Fiscal Year 1996 report, the Government Management Reform Act of 1994 (GMRA) requires executive agencies, including the Treasury, to produce audited consolidated accountability reports and related footnotes for all activities and funds.

The Fund's financial statements consist of the Balance Sheets, the Statements of Net Cost, Changes in Net Position, Statements of Budgetary Resources and Statements of Financing, all of which are prescribed by Office of Management and Budget (OMB) Bulletins. The financial statements have been prepared from the accounting records of the Fund in conformity with accounting principles generally accepted in the United States of America (GAAP) and the Form and Content of Agency Financial Statements specified by OMB in OMB Bulletin No. 01-09. GAAP for federal entities is prescribed by the Federal Accounting Standards Advisory Board (FASAB), which is designated the official accounting standards setting body of the Federal Government by the American Institute of Certified Public Accountants.

### ***Financial Statements Presented***

These financial statements are provided to meet the requirements of the Chief Financial Officers Act of 1990, and the Government Management Reform Act of 1994. They consist of the balance sheet, the statement of net cost, the statement of changes in net position, the statement of budgetary resources, and the statement of financing, all of which are prescribed by OMB Bulletin 01-09.

Comparative financial statements are presented in order to provide a better understanding of, and identifying trends in the financial position and results of operations of the Fund.

### ***Allowable Fund Expenses***

The majority of the revenue recorded by the Fund is utilized for operating expenses or distributed to state and local law enforcement agencies, other Federal agencies, and foreign

governments, in accordance with the various laws and regulations governing the operations and activities of the Fund. Under the TFF Act, the Fund is authorized to pay certain discretionary and non-discretionary expenses.

Discretionary expenses include purchases of evidence and information related to smuggling of controlled substances; purchases of equipment such as vessels, vehicles, or aircraft to assist in law enforcement activities; reimbursement of private persons for expenses incurred while cooperating with a Treasury law enforcement organization in investigations; and publication of the availability of awards. Discretionary expenses are subject to an annual, definite Congressional appropriation from revenue in the Fund.

Non-discretionary expenses include all proper expenses of the seizure (including investigative costs and purchases of evidence and information leading to seizure, holding cost, security costs, etc.), awards of compensation to informers, satisfaction of liens against the forfeited property, and claims of parties with interest in forfeited property. Expenses incurred by state and local law enforcement agencies in joint law enforcement operations with Treasury law enforcement agencies are also recognized as non-discretionary expenses. Under the Act, non-discretionary expenses are subject to a permanent indefinite Congressional appropriation, and financed through the revenue generated from forfeiture activities without congressional limitation.

The Fund's expenses are either paid on a reimbursement basis or paid directly on behalf of a participating bureau. Reimbursable expenses are incurred by the respective bureaus participating in the Fund against their appropriation and then submitted to the Fund for reimbursement. The bureaus are reimbursed through Inter-Agency Transfers (SF-1081) or Online Payments and Collections (OPAC). Certain expenses such as equitable sharing, liens, claims and state and local joint operations costs are paid directly from the Fund.

Further, the Fund is a component unit of the Treasury and as such, employees of the Treasury perform certain operational and administrative tasks related to the Fund. Payroll costs of employees directly involved in the security and maintenance of forfeited property are also recorded as expenses in the financial statements of the Fund (included in the line item "seizure investigative costs and asset management" in the statement of net cost.)

### ***Revenue and Expense Recognition***

Revenue from the forfeiture of property is deferred until the property is sold or transferred to a state, local or federal agency. Revenue is not recorded if the forfeited property is ultimately destroyed or cannot be legally sold.

Revenue from currency is recognized upon forfeiture. Payments in lieu of forfeiture (mitigated seizures) are recognized as revenue when the payment is received. Revenue received from participating with certain other Federal agencies is recognized when the payment is received. Operating costs are recorded as expenses and related liabilities when

goods are received or services are performed. Beginning Fiscal Year 1999 certain probable equitable sharing liabilities existing at yearend are accrued based on estimates.

As provided for in the TFF Act, the Fund invests seized and forfeited currency that is not needed for current operations. Treasury's Bureau of Public Debt invests the funds in obligations of, or guaranteed by, the United States Government. Interest is reported to the Fund and recorded monthly as revenue in the general ledger.

### ***Equitable Sharing (Assets Distributed)***

Forfeited property, currency, or proceeds from the sales of forfeited property may be shared with Federal, state and local law enforcement agencies or foreign governments, which provided direct or indirect assistance in the related seizure. In addition, the Fund may transfer forfeited property to other Federal agencies, which would benefit from the use of the item. A new class of asset distribution was established for victim restitution in 1995. These distributions include property and cash returned to victims of fraud and other illegal activity. Upon approval by Fund management to share or transfer the assets, both revenue from distributed forfeited assets and distributions are recognized for the net realizable value of the asset to be shared or transferred, thereby resulting in no gain or loss recognized. Revenue and /or expenses are recognized for property and currency, which are distributed to or shared with non-Federal agencies, per SFFAS No. 7, *Accounting for Revenue and Other Financing Sources*.

### ***Entity Assets***

Entity assets are used to conduct the operations and activities of the Fund. Entity assets comprise intragovernmental and non-intragovernmental assets. Intragovernmental balances arise from transactions among Federal agencies. These assets are claims of a Federal entity against another Federal entity. Entity assets consist of cash or other assets, which could be converted into cash to meet the Fund's current or future operational needs. Such other assets include investments of forfeited balances, accrued interest on seized balances, receivables, and forfeited property, which are held for sale or to be distributed.

- **Fund Balance with Treasury** – This represents amounts on deposit with Treasury.
- **Investments and Related Interest Receivable** – This includes forfeited cash held by the Fund and seized currency held in the Customs Suspense Account that had been invested in short term U.S. Government Securities.
- **Receivables** – Intragovernmental receivables principally represent monies due from the law enforcement agencies participating in the Fund. The values reported for other receivables are primarily funds due from the national seized property contractor for properties sold; the proceeds of which have not yet been deposited into the Fund.
- **Advances** – This primarily represents cash transfers to Treasury or law enforcement bureaus participating in the Fund for orders to be delivered.
- **Cash and Other Monetary Assets** – This includes forfeited currency on hand not yet deposited, and forfeited currency held as evidence.
- **Forfeited Property and Currency** – Forfeited property and currency is recorded in the respective seized property and forfeited asset tracking systems at the estimated

fair value at the time of seizure. However, based on historical sales experiences for the year, properties are adjusted to reflect the market value at the end of the fiscal year for financial statement reporting purposes. Direct and indirect holding costs are not capitalized for individual forfeited assets. Forfeited currency not deposited into the Fund is included as part of Entity Assets - Cash and Other Monetary Assets.

Further, mortgages and claims on forfeited assets are recognized as a valuation allowance and a reduction of deferred revenue from forfeited assets when the asset is forfeited. The allowance includes mortgages and claims on forfeited property held for sale and a minimal amount of claims on forfeited property previously sold. Mortgages and claims expenses are recognized when the related asset is sold and is reflected as a reduction of sales of forfeited property.

Additionally, SFFAS No. 3, *Accounting for Inventory and Related Property*, requires certain additional disclosures in the notes to the financial statements, including an analysis of changes in forfeited property and currency, for both carrying value and quantities, from that on hand at the beginning of the year to that on hand at the end of the year. These analyses are disclosed in Notes 8 and 9.

### ***Non-entity Assets***

Non-entity assets held by the Fund are not available for use by the Fund. Non-entity assets comprise intragovernmental and other assets. Intragovernmental balances arise from transactions among Federal agencies. These assets are claims of a Federal entity against another Federal entity. Non-entity assets are not considered as financing sources (revenue) available to offset operating expenses, therefore, a corresponding liability is recorded and presented as governmental liabilities in the balance sheet to reflect the custodial/fiduciary nature of these activities.

- **Seized Currency and Property** – Seized Currency is defined as cash or monetary instruments that are readily convertible to cash on a dollar for dollar basis. OMB issued SFFAS No. 3 which requires that seized monetary instruments (cash and cash equivalents) be recognized as an asset in the financial statements and a liability be established in an amount equal to the seized asset value due to: (i) the fungible nature of monetary instruments, (ii) the high level of control that is necessary over these assets; and (iii) the possibility that these monies may be returned to their owner in lieu of forfeiture.

**Seized property is recorded at its appraised value at the time of seizure. The value is determined by the seizing entity and is usually based on a market analysis such as a third party appraisal, standard property value publications or bank statements. Seized property is not recognized as an asset in the financial statements, as transfer of ownership to the government has not occurred as of September 30. Accordingly, seized property other than monetary instruments are disclosed in the footnotes in accordance with SFFAS No. 3.**

- **Investments** – This balance includes seized cash on deposit in the Fund’s suspense account held by Treasury which has been invested in short term U.S. Government Securities.
- **Cash and Other Monetary Assets** – This balance represents the aggregate amount of the Fund’s seized currency on deposit in the Fund’s suspense account held by Treasury, seized cash on deposit held with other financial institutions, and, cash on hand in vaults held at field office locations.

The following schedule presents the intragovernmental and other non-entity assets as of September 30, 2003 and 2002, respectively, (dollars in thousands):

	<u>2003</u>	<u>2002</u>
<b>Intragovernmental Assets:</b>		
Seized currency:		
Investments (Note 3)	\$ 344,244	\$ 265,893
Seized currency:		
Cash and other monetary	52,312	113,072
assets	<hr/>	<hr/>
<b>Total Non-Entity Assets</b>	396,556	378,965
<b>Total Entity Assets</b>	<u>291,205</u>	<u>265,028</u>
<b>Total Assets</b>	<u><u>\$ 687,761</u></u>	<u><u>\$ 643,993</u></u>

***Liabilities Covered by Budgetary Resources***

Liabilities covered by budgetary resources represent liabilities incurred, which are covered by available budgetary resources. The components of such liabilities for the Fund are as follows:

- **Distributions Payable** – Distributions payable to Federal and non-Federal agencies is primarily related to equitable sharing payments and payments to be made by the Fund to the victims of fraud.
- **Accounts Payable** – Amounts reported in this category include accrued expenses authorized by the TFF Act (See "Allowable Fund Expenses") for which payment was pending at year end.
- **Seized Currency** – Amounts reported in this category represent the value of seized currency that is held by the Fund which equals the amount of seized currency reported as an asset.
- **Deferred Revenue from Forfeited Assets** – At year end, the Fund held forfeited assets, which had not yet been converted into cash through a sale. The amount reported here represents the value of these assets, net of mortgages and claims.

### ***Liabilities Not Covered by Budgetary Resources***

The Fund does not currently have liabilities not covered by available budgetary resources.

### ***Net Position***

The components of net position are classified as follows:

- **Retained Capital** – There is no cap on amounts that the Fund can carry forward into Fiscal Year 2004. The cap was removed by the Fiscal Year 1997 Omnibus Appropriations Act (PL 104-208).
- **Unliquidated Obligations** – This category represents the amount of undelivered purchase orders, contracts and equitable sharing requests which have been obligated with current budget resources or delivered purchase orders and contracts that have not been invoiced. An expense and liability are recognized and the corresponding obligations are reduced as goods are received or services are performed. In Fiscal Year 1999, Fund management decided to recognize as liabilities, a portion of the equitable sharing requests that were in final stages of approval subsequent to year-end. Prior experience with the nature of this account indicated that a substantial portion of these requests were certain liabilities at year-end. Prior to Fiscal Year 1999, expenses and liabilities were recognized and the corresponding obligations reduced when final management approval for an equitable sharing request was given (See also Distributions Payable at Note 11).
- **Results of Operations** – This category represents the net difference, for the activity during the year, between: (i) financing sources including transfers, revenues, and gains; and (ii) expenses and losses.

### **Note 3: Investments and Related Interest**

All investments are intragovernmental short-term (35 days or less) non-marketable par value Federal debt securities issued by, and purchased through, Treasury's Bureau of the Public Debt. Investments are always purchased at a discount and are reported at acquisition cost (market value), net of discount. The discount is amortized into interest income over the term of the investment. The investments are always held to maturity. They are made from cash in the Fund and from seized currency held in the Customs Suspense Account. The Customs Suspense Account became the depository for seized cash for the Fund following enactment of the TFF Act. The investment, net, represents the required market value.

The following schedule presents the investments on hand as of September 30, 2003 and 2002, respectively (dollars in thousands):

## Entity Assets

### **September 30, 2003:**

Treasury Forfeiture Fund - 28 days 1.605% U.S. Treasury Bills	\$ 182,761	\$ (124)	\$ 182,637
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On non-entity investments			53
			100
Total Investment, Net, and Interest Receivable			<u>\$ 182,790</u>

### **September 30, 2002:**

Treasury Forfeiture Fund - 28 days 1.605% U.S. Treasury Bills	\$ 131,964	\$ (165)	\$ 131,799
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On non-entity investments			65
			130
Total Investment, Net, and Interest Receivable			<u>\$ 131,994</u>

## Non-entity Assets

### **September 30, 2003:**

Treasury Forfeiture Fund – Seized Currency Suspense Account 28 days 1.605% U.S. Treasury Bills	\$ 344,478	\$ (234)	<u>\$ 344,244</u>
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### **September 30, 2002:**

Treasury Forfeiture Fund – Seized Currency Suspense Account 28 days 1.605% U.S. Treasury Bills	\$ 266,225	\$ (332)	<u>\$ 265,893</u>
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**Note 4: Accounts Receivable**

No allowance has been made for uncollectible amounts as the accounts recorded as a receivable at year end were considered to be fully collectible in fiscal years 2003 and 2002.

**Note 5: Advances**

Advances amounted to \$0.01 million and \$0.02 million in fiscal year 2003 and 2002, respectively.

**Note 6: Cash and Other Monetary Assets**

**Entity Assets**

Cash and Other Monetary Assets held on hand included forfeited currency not yet deposited, as well as forfeited currency held as evidence, amounting to \$8.4 million and \$9.9 million in fiscal year 2003 and 2002, respectively.

**Non-Entity Assets**

Cash and Other Monetary Assets included seized currency not yet deposited, as well as deposited seized currency which is not invested in order to pay remissions, amounting to \$52.3 million and \$113.1 million in fiscal year 2003 and 2002, respectively.

**Note 7: Forfeited Property**

The following summarizes the components of forfeited property (net), as of September 30, 2003 and 2002, respectively, (dollars in thousands):

	<u>2003</u>	<u>2002</u>
Held for Sale	\$ 35,139	\$ 34,699
To be shared with Federal, state or local, or foreign government	50	107
Total forfeited property (Note 8)	35,189	34,806
Less: Allowance for mortgages and claims	<u>(1,258)</u>	<u>(1,712)</u>
Total forfeited property, net	<u>\$ 33,931</u>	<u>\$ 33,094</u>

Forfeited property held for sale, net of allowance for mortgages and claims as of September 30, 2003 and 2002 was \$33.9 million and \$33.0 million respectively, and is presented in the Balance Sheet.

To view [Note 8](#) please click here.

To view [Note 9](#) please click here.

**Note 10: Capitalized software**

Capitalized software amounted to \$0.0 million and \$4.6 million in fiscal year 2003 and 2002, respectively. During fiscal year 2003, the Fund transferred the FASTRAK seized property and forfeited asset system used to record seized and forfeited property relating to the Secret Service and Alcohol, Tobacco, and Firearms to those Bureaus.

**Note 11: Distributions Payable (state and local agencies and foreign governments)**

Distributions Payable (state and local agencies and foreign governments) amounted to \$34.9 million and \$28.6 million in fiscal year 2003 and 2002, respectively. Fund management recognizes as a liability a portion (based on the average of historical pay-out percentage) of the equitable sharing requests, that were approved or in final stages of approval on September 30, 2003 and 2002, respectively. Prior experience with the nature of this account indicated that a substantial portion of these requests were certain to be paid out by the Fund during the following fiscal year.

**Note 12: Net Position**

*Cumulative Results*

The following summarizes components of cumulative results for the years ended September 30, 2003 and 2002, respectively, (dollars in thousands):

	<u>2003</u>	<u>2002</u>
Retained Capital	117,883	\$ 134,200
Unliquidated Obligations	55,146	103,140
Results of Operations	4,202	(64,311)
	<u>\$ 177,231</u>	<u>\$ 173,029</u>

*Unliquidated Obligations*

The following summarizes the components of unliquidated obligations as of September 30, 2003 and 2002, respectively, (dollars in thousands):

	<u>2003</u>	<u>2002</u>
Discretionary	\$ --	\$ --
Equitable Sharing	34,763	17,176
Non-discretionary	20,383	85,964
	<u>\$55,146</u>	<u>\$103,140</u>

**Note 13: Related Party Transactions**

The Fund reimbursed agencies for the purchase of certain capital assets. These assets are reported by the participating agencies in their financial statements.

**Note 14: Super Surplus**

31 U.S.C. 9703 (g)(4)(B) allows for the expenditure, without fiscal year limitation, after the reservation of amounts needed to continue operations of the Fund. This “Super Surplus” balance may be used for law enforcement activities of any Federal agency.

Amounts distributed to other Federal agencies for law enforcement activities under “Super Surplus” requirements amounts to \$46.3 million and \$54.0 million in fiscal year 2003 and 2002, respectively.

**Note 15: Secretary’s Enforcement Fund**

31 U.S.C. 9703 (b)(5) is another category of permanent indefinite authority. These funds are available to the Secretary, without further action by Congress and without fiscal year limitation, for Federal law enforcement purposes of Treasury law enforcement organizations. The source of Section 9703(b)(5) funds is equitable sharing payments received from the Department of Justice and the U.S. Postal Service (USPS) representing Treasury’s share of forfeiture proceeds from Justice and USPS cases.

Amounts distributed for Federal law enforcement purposes of Treasury law enforcement organizations amounted to \$23.1 million and \$15.4 million in fiscal year 2003 and 2002, respectively.

**Note 16: Commitments and Contingencies**

Beginning in fiscal year 1999, Fund management decided to recognize the liability for equitable sharing requests that were approved or in final stages of approval subsequent to September 30 (See also Note 11, Distributions Payable).

In addition to the amounts estimated above, there are additional amounts, which may ultimately be shared, which are not identified at this time.

Possible claims of potential significance include the following:

1. In recent decisions, the United States Court of Appeals for the Ninth Circuit ruled that it is unconstitutional to forfeit currency based upon a violation of a Federal currency reporting statute. Accordingly, the court has ruled that in returning currency, the government must return the benefit that is received from holding the currency.

The interest to be returned will be payable out of the income of the Fund, and, at present, represents a possible claim of potential significance.

2. In a recent decision, the Supreme Court has ruled that the government must return forfeited currency in those cases of individuals convicted for currency reporting violations who have had currency forfeited due to the violation. The amount of the currency that might be refunded will be payable from the Fund, and, at present, represents a possible claim of potential significance.

At present, it is not possible to determine the likelihood that the above claims will arise. Similarly, it is not possible to determine the value of such potential claims against the Fund.

Judgements and settlements of \$2,500 or greater, resulting from litigation and claims against the Fund are satisfied from various claims and judgement funds maintained by Treasury.

**Note 17: Disclosures Related to the Statements of Net Cost**

Gross costs and earned revenue related to Law Enforcement Programs administered by the Fund are presented in Treasury's budget functional classification (in thousands) as set out below:

Earned Revenues	--	--
Net Costs	<u>\$ 108,053</u>	<u>\$ 116,389</u>

The Fund falls under the Treasury's budget functional classification related to Administration of Justice.

**Note 18: Disclosures Related to the Statements of Budgetary Resources**

The Fund's net amount of budgetary resources obligated for undelivered orders at the end of fiscal year 2003 and 2002 are \$55.1 million and \$46.9 million, respectively. This amount is fully covered by cash on hand in the Fund and Entity Investments. The Fund does not have borrowing or contract authority and, therefore, has no repayment requirements, financing sources for repayment, or other terms of borrowing authority. No adjustments were required during the reporting period to budgetary resources available at the beginning of the year. There are no legal arrangements, outside of

normal government wide restrictions, specifically affecting the Fund's use of unobligated balances of budget authority.

Adjustments to budgetary resources available at the beginning of fiscal year 2003 and 2002 consist of the following (in thousands):

	<u>2003</u>	<u>2002</u>
Recoveries of Prior Year Obligations	\$ 15,924	\$ 19,749
Spending Authority from Offsetting Collections	<u>27</u>	<u>282</u>
Total	<u>\$ 15,951</u>	<u>\$ 20,031</u>

**Recoveries of prior year obligations are the difference between amounts that Fund management obligated (including equitable sharing) and amounts subsequently approved for payment against those obligations.**

**Note 19: Dedicated Collections**

The Fund is classified as a special fund. All its activities are reported as dedicated collections held for later use.

**SECTION III**  
**OTHER REPORTS**

## Independent Auditor's Report on Internal Control

Office of Inspector General  
United States Department of the Treasury  
Washington, D.C.

We have audited the Principal Statements (balance sheets and the related statements of net cost, changes in net position, budgetary resources and financing, hereinafter referred to as "financial statements") of the Department of the Treasury Forfeiture Fund (the Fund) as of and for the years ended September 30, 2003 and 2002, and have issued our report thereon dated October 31, 2003. We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and, Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*.

In planning and performing our audits, we considered the Fund's internal control over financial reporting by obtaining an understanding of the Fund's internal control, determined whether these internal controls had been placed in operation, assessed control risk, and performed tests of controls in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 01-02. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982, such as those controls relevant to ensuring efficient operations. The objective of our audits was not to provide assurance on internal control. Consequently, we do not provide an opinion on internal control.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be reportable conditions. Under standards issued by the American Institute of Certified Public Accountants, reportable conditions are matters coming to our attention relating to significant deficiencies in the design or operation of the internal control that, in our judgment, could adversely affect the Fund's ability to record, process, summarize, and report financial data consistent with the assertions by Fund Management in the financial statements.

Material weaknesses are reportable conditions in which the design or operation of one or more of the internal control components does not reduce to a relatively low level of risk that misstatement caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Because of inherent limitations in internal controls, misstatements, losses, or noncompliance may nevertheless occur and not be detected. However, we noted certain matters discussed in the following paragraphs

involving the internal control and its operation that we consider to be a reportable condition. However, this reportable condition is not believed to be a material weakness.

The identified reportable condition, as defined above, is summarized below with further explanations and Fund Management's responses in **Exhibit I** of this report.

The reportable condition identified below was reported in prior years and is of continuing significance.

**Indirect Overhead Expenses of the National Seized Property Contractor are not Recorded and Accounted for by the Fund to the Line Item Level.**

Indirect overhead expenses of the national seized property contractor are not recorded and accounted for by the Fund to the line item level. The Fund's Property Custodian incurs costs on behalf of the Fund from the time of seizure until the asset is ultimately disposed. Currently, only holding costs and direct selling costs related to general property are captured in the Seized Assets and Case Tracking System (SEACATS) at the line item level, but not the indirect costs.

Because this condition can impact equitable sharing expenses of the Fund, this condition should be remedied.

We also noted other matters involving the internal control structure and its operation that we have reported to Fund Management in a separate letter dated October 31, 2003.

Finally, with respect to internal control related to performance measures reported in Section 1, "Program Performance and Financial Highlights," we obtained an understanding of the design of significant internal controls relating to the existence and completeness assertions, as required by OMB Bulletin No. 01-02. Our procedures were not designed to provide assurance on internal control over reported performance measures, and, accordingly, we do not provide an opinion on such controls.

This report is intended for the information and use of the Management of the Fund, the U.S. Department of the Treasury, OMB, the U.S. Congress and, the Office of Inspector General. However, this report is a matter of public record and its distribution is not limited.

October 31, 2003

## Independent Auditor's Report on Compliance with Laws and Regulations

Office of Inspector General  
United States Department of the Treasury  
Washington, D.C.

We have audited the Principal Statements (balance sheets and the related statements of net cost, changes in net position, budgetary resources and financing, hereinafter referred to as "financial statements") of the Department of the Treasury Forfeiture Fund (the Fund) as of and for the years ended September 30, 2003 and 2002, and have issued our report thereon dated October 31, 2003. We conducted our audits in accordance with: auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and, Office of Management and Budget (OMB) Bulletin No. 01-02, "Audit Requirements of Federal Financial Statements."

The management of the Fund is responsible for complying with laws and regulations applicable to the Fund. As part of obtaining reasonable assurance about whether the Fund's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations specified in OMB Bulletin No. 01-02, including the requirements referred to in the Federal Financial Management Improvement Act (FFMIA) of 1996. We limited our tests of compliance to these provisions and we did not test compliance with all laws and regulations applicable to the Fund.

The results of our tests of compliance disclosed no instances of noncompliance with laws and regulations discussed in the preceding paragraph exclusive of FFMIA, that are required to be reported under *Government Auditing Standards* or OMB Bulletin No. 01-02.

Under FFMIA, we are required to report whether the Fund's financial management systems substantially comply with the Federal financial management systems requirement, applicable Federal accounting standards, and the United States Government Standard General Ledger at the transaction level. The Bureau of Customs and Border Protection (CBP) provides cross-servicing of the accounting for the Fund. To meet this requirement, we performed tests of compliance with FFMIA section 803(a) requirements.

The results of our test on the substantial compliance of CBP, as it relates to the Fund, with the requirements of Federal Financial Management Systems Requirements (FFMSR) disclosed no instances where CBP's financial management systems, as they relate to the Fund, did not substantially comply with FFMSR. Our audit tests disclosed no instances in which the Fund did not substantially comply with Federal accounting standards and the U.S. Government Standard General Ledger requirements.

Providing an opinion on compliance with certain provisions of laws and regulations was not an objective of our audits and, accordingly, we do not express such an opinion.

This report is intended for the information and use of the Management of the Fund, the U.S. Department of the Treasury, OMB, the U.S. Congress and, the Office of Inspector General. However, this report is a matter of public record and its distribution is not limited.

October 31, 2003

**SECTION IV**

**REQUIRED SUPPLEMENTAL INFORMATION**

**TREASURY FORFEITURE FUND**  
**Required Supplemental Information**  
**(Required by OMB Bulletin 01-09)**  
**For the Years Ended September 30, 2003 and 2002**  
**(Dollars in Thousands)**

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Intragovernmental Amounts – Assets (Dollars in thousands)

	<u>2003</u>			<u>2002</u>		
<u>Partner Agency</u>	Fund Balance with <u>Treasury</u>	Accounts Receivable/ <u>Advances</u>	<u>Investments</u>	Fund Balance with <u>Treasury</u>	Accounts Receivable/ <u>Advances</u>	<u>Investments</u>
Departmental Offices		\$13			\$23	
Department of Justice		--			--	
Bureau of Public Debt		<u>--</u>	<u>\$527,034</u>		<u>--</u>	<u>\$397,887</u>
Totals		<u>\$13</u>	<u>\$527,034</u>		<u>\$23</u>	<u>\$397,887</u>

Intragovernmental Amounts – Liabilities (Dollars in thousands)

	<u>2003</u>	<u>2002</u>
<u>Partner Agency</u>	<u>Accounts Payable</u>	<u>Accounts Payable</u>
Department of Justice	\$11,618	\$8,445
US Postal Service	15	--
Departmental Offices	880	78
Department of Homeland Security	10,126	12,150
Internal Revenue Service	18,291	6,033
Financial Crimes Enforcement Network	<u>485</u>	<u>--</u>
Totals	<u>\$41,415</u>	<u>\$26,706</u>

Intra-Governmental Amounts – Revenues and Costs (Dollars in thousands)

**TREASURY FORFEITURE FUND**  
**Required Supplemental Information**  
**(Required by OMB Bulletin 01-09)**  
**For the Years Ended September 30, 2003 and 2002**  
**(Dollars in Thousands)**

	2003		2002	
	Cost to Generate Exchange Intragovernmental Revenue	Costs to Generate Non-Exchange Intragovernmental Revenue	Cost to Generate Exchange Intragovernmental Revenue	Costs to Generate Non-Exchange Intragovernmental Revenue
<u>Budget Functions</u>				
Administration of Justice	\$ <u>          --</u>	\$ <u>      64,825</u>	\$ <u>          --</u>	\$ <u>      73,840</u>

Intragovernmental Amounts – Non-exchange Revenue (Dollars in thousands)

<u>Partner Agency</u>	2003		2002	
	<u>In</u>	<u>Out</u>	<u>In</u>	<u>Out</u>
Department of Agriculture	\$ --	--	\$ --	\$ --
Department of Justice	--	10,481	--	23,930
Department of Health and Human Services	--	--	--	--
Department of Homeland Security	--	30,825	--	16,297
Department of Treasury	--	--	--	--
Internal Revenue Service	--	11,881	--	11,248
Financial Crimes Enforcement Network	--	2,140	--	1,115
Totals	\$ <u>          --</u>	\$ <u>      55,327</u>	\$ <u>          --</u>	\$ <u>      52,590</u>

**SECTION V**

**OTHER ACCOMPANYING INFORMATION**

**(Unaudited)**



**TREASURY FORFEITURE FUND**  
**Equitable Sharing Summarized by State and U.S. Territories**  
**For the Year Ended September 30, 2003**  
**(Dollars in Thousands)**  
**(Unaudited)**

<u>State/U.S. Territories</u>	<u>Currency Value</u>	<u>Property Value</u>
Alabama	729	35
Alaska	51	-
Arizona	2538	134
Arkansas	114	2
California	2,074	150
Colorado	111	-
Connecticut	-	31
D.C. Washington	150	2
Delaware	-	-
Florida	4,654	426
Georgia	489	148
Guam	-	-
Hawaii	5	-
Idaho	-	1
Illinois	1,483	28
Indiana	237	28
Iowa	161	-
Kansas	-	-
Kentucky	111	45
Louisiana	67	14
Maryland	2,098	1
Massachusetts	276	574
Michigan	565	-
Minnesota	24	-
Mississippi	96	11
Missouri	26	181
Montana	88	-
Nebraska	687	-
Nevada	309	29
New Jersey	2,161	-
New Hampshire	-	-
New Mexico	102	34
New York	9,369	97
North Carolina	675	224
North Dakota	-	-
Ohio	25	53
Oklahoma	6	-
Oregon	1,098	224
Pennsylvania	209	236
Puerto Rico	448	-
Rhode Island	12	-
South Carolina	909	-
South Dakota	-	-
Tennessee	107	-
Texas	5,085	439
Utah	-	-
Vermont	-	-

Subtotal carried forward

37,349

3,147

**TREASURY FORFEITURE FUND**  
**Equitable Sharing Summarized by State and U.S. Territories**  
**For the Year Ended September 30, 2003**  
**(Dollars in Thousands)**  
**(Unaudited)**

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<i>State/U.S. Territories</i>	<u>Currency Value</u>	<u>Property Value</u>
Subtotal brought forward	37,349	3,147
Virgin Islands	-	-
Virginia	771	313
Washington	291	19
West Virginia	66	-
Wisconsin	-	-
Wyoming	<u>6</u>	<u>-</u>
Totals	<u>38,483</u>	<u>3,479</u>

Summarized above are the currency and property values of assets forfeited and shared with state and local agencies and U.S. Territories participating in the seizure. This supplemental schedule is not a required part of the financial statement of the Department of the Treasury Forfeiture Fund. Information presented on this schedule represents assets physically transferred during the year and, therefore, does not agree with total assets shared with state and local agencies in the financial statements. In addition, the above numbers do not include the adjustment to present property distributed at net realizable value.

**TREASURY FORFEITURE FUND**  
**Uncontested Seizures of Currency and Monetary Instruments Valued Over**  
**\$100,000, Taking More Than 120 Days from Seizure to Deposit in Fund**  
**For the Year Ended September 30, 2003**  
**(Dollars in Thousands)**

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31 U.S.C. 9703(f)(2)(E) requires the Secretary of the Treasury to report annually to Congress uncontested seizures of currency or proceeds of monetary instruments over \$100,000, which were not deposited in the Department of the Treasury Forfeiture Fund within 120 days of the seizure date. There were no administrative seizures over \$100,000 over 120 days old for all bureaus in FY 2003.

**TREASURY FORFEITURE FUND**  
**Analysis of Revenue and Expenses and Distributions**  
**For the Year Ended September 30, 2003**  
**(Dollars in Thousands)**

Revenue, Expenses and Distributions by Asset Category:

	<u>Revenue</u>	<u>Expenses and Distributions</u>
Vehicles	\$14,879	\$15,103
Vessels	1,967	1,997
Aircraft	127	129
General Property	61,613	62,539
Real Property	18,249	18,523
Currency and monetary instruments	<u>182,748</u>	<u>185,494</u>
	279,583	283,785
Less:		
Mortgages and claims	(9,913)	(9,913)
Refunds	(7,576)	(7,576)
Add:		
Excess of net revenues and financing sources over total program expenses	<u>4,202</u>	<u>    --</u>
Total	<u>\$266,296</u>	<u>\$266,296</u>

Revenues, Transfers, Expenses and Distributions by Type of Disposition:

Sales of property and forfeited currency and monetary instruments	178,825	181,513
Reimbursed storage costs	2,044	2,075
Assets shared with state and local agencies	78,503	79,683
Assets shared with other federal agencies	11,555	11,729
Assets shared with foreign countries	1,320	1,340
Victim Restitution	7,336	7,445
Destructions	--	
Pending disposition	<u>    --</u>	<u>    --</u>
	279,583	283,785
Less:		
Mortgages and claims	(9,913)	(9,913)
Refunds	(7,576)	(7,576)
Add:		
Excess of net revenues and financing sources over total program expenses	<u>4,202</u>	<u>    --</u>

Total

\$266,296

\$266,296

The revenue amount of \$266,296 is from the Statement of Net Position. This supplemental schedule "Analysis of Revenues, Expenses and Distributions" is required under the Treasury Forfeiture Fund Act of 1992. Because the Fund does not have a cost accounting system, the method used does not provide reliable information in the analysis of revenue and expenses and distributions by type of disposition. The information is presented to comply with the requirements of the Treasury Forfeiture fund Act of 1992.

**TREASURY FORFEITURE FUND**  
**Information Required by 31 U.S.C. 9703(f)**  
**For the Year Ended September 30, 2003**  
**(Dollars in Thousands)**

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The Treasury Forfeiture Fund Act of 1992, 31 U.S.C. 9703(f), requires the Secretary of the Treasury to transmit to Congress, no later than February 1, of each year, certain information. The following summarizes the required information.

(1) A report on:

- (A) The estimated total value of property forfeited with respect to which funds were not deposited in the Department of the Treasury Forfeiture Fund during the preceding fiscal year under any law enforced or administered by the Department of the Treasury law enforcement organizations of the United States Coast Guard, in the case of fiscal years beginning after 1993.**

As reported in the audited financial statements, at September 30, 2003, the Fund had forfeited property held for sale of \$33,931. The realized proceeds will be deposited in the Fund when the property is sold.

Upon seizure, currency and other monetary instruments not needed for evidence in judicial proceedings are deposited in a U.S. Customs Service (Customs) suspense account. Upon forfeiture, it is transferred to the Treasury Forfeiture Fund. At September 30, 2003, there was \$8,434 of forfeited currency and other monetary instruments that had not yet been transferred to the Fund. This is reported as a part of "Cash and Other Monetary Assets" in the audited financial statements.

- (B) The estimated total value of all such property transferred to any state or local law enforcement agency.**

The estimated total value of all such property transferred to any state or local law enforcement bureau is summarized by state and U.S. territories. Total currency transferred was \$29,401 and total property transferred was \$10,066 at appraised value.

(2) A report on:

- (A) The balance of the Fund at the beginning of the preceding fiscal year.**

The total net position of the Treasury Forfeiture Fund on September 30, 2002 which became the beginning balance for the Fund on October 1, 2002, as reported in the audited financial statements is \$173,029.

- (B) Liens and mortgages paid and the amount of money shared with federal, state, local and foreign**

**law enforcement bureaus during the preceding fiscal year.**

Mortgages and claims expense, as reported in the audited financial statements, was \$9,913. The amount actually paid on a cash basis was not materially different.

**TREASURY FORFEITURE FUND**  
**Information Required by 31 U.S.C. 9703(f)**  
**For the Year Ended September 30, 2003**  
**(Dollars in Thousands)**

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The amount of forfeited currency and property shared with federal, and distributed to state, local and foreign law enforcement bureaus as reported in the audited financial statements was as follows:

State and local	\$78,503
Foreign countries	1,320
Other federal agencies	11,555
Victim restitution	7,336

- (C) The net amount realized from the operations of the Fund during the preceding fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over into the current fiscal year.**

The net cost of operations of the Fund as shown in the audited financial statements is \$108,053

The amount of seized currency not on deposit in the Fund's suspense account at September 30, 2003, was \$52,312. This amount includes some funds in the process of being deposited at yearend; cash seized in August or September 2003, that is pending determination of its evidentiary value from the U.S. Attorney; and the currency seized for forfeiture being held as evidence.

On a budgetary basis, unobligated balances as originally reported on the Office of Management and Budget Reports, SF-133, "Report on Budget Execution" was approximately \$60,093 for Fiscal Year 2003.

- (D) Any defendant's property not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at \$1 million or more.**

The total approximate value of such property for the Treasury Forfeiture Fund, at estimated values determined by bureau and contractor's officials, and the number of seizures is as follows:

U.S. Customs Service	\$89,087,809	34 seizures
IRS	128,628,658	44 seizures
U.S. Secret Service	6,374,748	2 seizures

- (E) **The total dollar value of uncontested seizures of monetary instruments having a value of over \$100,000 which, or the proceeds of which, have not been deposited into the Fund within 120 days after the seizure, as of the end of the preceding fiscal year.**

The total dollar value of such seizures is \$0. This is also documented on page 59.

**TREASURY FORFEITURE FUND**  
**Information Required by 31 U.S.C. 9703(f)**  
**For the Year Ended September 30, 2003**  
**(Dollars in Thousands)**

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- (F) **The balance of the Fund at the end of the preceding fiscal year.**

The total net position of the Fund at September 30, 2003, as reported in the audited financial statements is \$177,231.

- (G) **The net amount, if any, of the excess unobligated amounts remaining in the Fund at the end of the preceding fiscal year and available to the Secretary for Federal law enforcement related purposes.**

There is no cap on amounts that can be carried forward into Fiscal Year 2004 per the Fiscal Year 1997 Omnibus Appropriations Act (PL 104-208).

- (H) **A complete set of audited financial statements prepared in a manner consistent with the requirements of the Chief Financial Officers Act of 1990.**

The audited financial statements, including the Independent Auditor's Report, is found in Section II.

- (I) **An analysis of income and expense showing revenue received or lost: (i) by property category (such as general property, vehicles, vessels, aircraft, cash, and real property); and (ii) by type of disposition (such as sale, remission, cancellation, placement into official use, sharing with state and local agencies, and destruction).**

A separate schedule is presented on page 60.