DEPARTMENT OF THE TREASURY
EXECUTIVE OFFICE FOR ASSET FORFEITURE

DIRECTIVE NO. 2

DATE: October 27, 2021

SUBJECT: Seizures of Financial Instruments

1. PURPOSE. This Department of the Treasury Executive Office for Asset Forfeiture (TEOAF) Directive No. 2 describes procedures and responsibilities for handling financial instruments seized for forfeiture. The value of such monetary instruments can be lost or diminished, if proper procedures are not followed.

2. SCOPE. This Directive applies to all seizing agencies participating in the Treasury Forfeiture Fund (TFF) and TEOAF.

3. POLICY. Seizing agencies shall accept custody of and maintain seized financial instruments until forfeiture and dispose of such financial instruments in accordance with the procedures established in this Directive. Once the seized financial instruments are liquidated, the policy and procedures in TEOAF Directive 4, "Seized Cash Management," are to be followed unless otherwise indicated herein.

4. SEIZING AGENCY RESPONSIBILITIES. The seizing agency is responsible for accepting custody of financial instruments seized for forfeiture, maintaining them until forfeiture, and disposing of them in accordance with the procedures established in this Directive. The seizing agency will be the property custodian of the seized financial instruments unless otherwise directed by the courts. If the financial instruments have evidentiary value, then their processing must be done in conjunction with the advice of the U.S. Attorney's Office (USAO) handling the legal proceeding.

5. PROCEDURES.

A. Postal Money Orders

(1) Immediately following seizure, the seizing agency shall send a letter containing: (a) a list of the serial numbers; (b) the amount of each money order; and (c) a statement that the Government has seized the money orders and they are subject to forfeiture, to the following address:

U.S. Postal Inspection Service
Criminal Investigations Group
National Money Order Coordinator
475 L'Enfant Plaza SW, Room 3800
Washington, DC 20260-3800

(2) Upon forfeiture of the money orders, the seizing agency shall: (a) complete a Money Order Inquiry, PS Form 6401, for each money order; (b) return the form, via registered mail, with the original money order to the National Money Order Coordinator, along with the appropriate legal documentation showing that the Government is entitled to receive the proceeds; and (c) upon receipt of the proceeds, deposit the funds to the TFF pursuant to TEOAF Directive 4.

B. Personal and Cashier's Checks

(1) Immediately following seizure, the seizing agency, in conjunction with the USAO, should (a) obtain a restraining order or seizure warrant, under the applicable criminal or civil forfeiture statute, directing the financial institution upon which the check is drawn to either: (i) take necessary steps to maintain funds sufficient to cover the check, in the case of a restraining order; or (ii) release funds in the amount of the check, in the case of a seizure warrant; and (b) serve the restraining order or seizure warrant on the financial institution.

(2) If the funds are released prior to forfeiture in the case of a seizure warrant, the seizing agency shall (a) instruct the financial institution to directly deposit the funds to the Treasury Suspense Account, with a seizure number referenced, pursuant to TEOAF Directive 4; (b) provide a copy of the seizure warrant to TEOAF; and (c) void and return the check to the bank when it is no longer needed as evidence.

(3) In the case of a restraining order, retain the check until forfeiture. Upon forfeiture, the seizing agency shall: (a) negotiate the checks; and (b) deposit the funds to the TFF pursuant to TEOAF Directive 4.

C. Certificates of Deposit

(1) Immediately following seizure or restraint, the seizing agency shall: (a) notify the bank that issued the certificate of deposit (CD) that it has been seized or restrained for forfeiture; and (b) instruct the bank officials to take whatever legal steps are necessary to freeze the funds covered by the certificate so the CD can be negotiable by the seizing agency after forfeiture.

(2) Upon forfeiture, the seizing agency shall: (a) take appropriate action to liquidate the CD; and (b) deposit the proceeds to the TFF pursuant to TEOAF Directive 4.

D. Traveler's Checks

(1) Immediately following seizure, the seizing agency shall: (a) notify the company issuing the traveler's checks that they have been seized for forfeiture; and (b) determine what procedures will be required in order to redeem the checks.

(2) If the traveler's checks can be redeemed prior to forfeiture, the seizing agency shall: (a) take appropriate steps to liquidate the checks; and (b) have the issuing company directly deposit the funds into the Treasury Suspense Account, with a seizure number referenced, pursuant to TEOAF Directive 4. If the funds cannot be directly deposited, have the issuing company issue a cashier's check made payable to the seizing agency or the Department of the Treasury. Upon receipt, the seizing agency shall deliver the check to its agency's headquarters office which in turn will hand deliver the check to TEOAF at the address listed in section 7, "Information Contact."

(3) If liquidation cannot occur until after forfeiture, the seizing agency shall retain the checks until forfeiture. Upon forfeiture, the seizing agency shall liquidate the checks and deposit the proceeds to the TFF in accordance with section 5.D.2, above.

E. Stocks, Bonds and Brokerage Accounts

(1) Securities that are held in a brokerage account will usually be seized or restrained in place. Immediately following seizure or restraint of publicly traded securities that are not held in a brokerage account, the seizing agency shall:

(a) Contact a certified stock broker (state and national) to establish the fair market value (FMV) of the asset and determine how the instrument is traded. If the instrument has an insignificant or minimal value, it should not be seized or retained.

(b) If the certificates are found to have material value, send them to the seizing agency's brokerage account at an established securities firm. If the seizing agency does not have an established brokerage account, the seizing agency may send the certificates to the brokerage account maintained by the Bureau of the Fiscal Service (BFS) as directed in section 5.E.(3) below.

(2) The stocks and bonds of closely held corporations can present unique issues caused by illiquidity and lack of information.

(a) To the extent possible, the seizing agency should establish the value of all closely held financial instruments prior to seizure. If that determination cannot be made prior to seizure, it should be made as expeditiously as possible subsequent to seizure.

(b) Closely held financial instruments that have been determined to have an insignificant or minimal value should not be seized or retained.

(c) TEOAF will not take custody of any closely held financial instrument that has insignificant or minimal value.

(d) In the event that closely held securities with material value are seized, the seizing agency must expeditiously seek a viable plan for their liquidation in consultation with the Assistant U.S. Attorney and TEOAF.

(3) Upon forfeiture, the seizing agency shall do the following:

(a) If a brokerage account was forfeited, instruct the broker to liquidate the account and deposit the net proceeds after commission to the TFF pursuant to TEOAF Directive 4. Pursuant to court order, brokerage accounts may be held in a different manner in order to preserve value of the account.

(b) If publicly traded securities that are not held in a brokerage account were forfeited, (i) submit the certificates to a transfer agent to change ownership to the seizing agency or the Department of the Treasury; and (ii) instruct the broker to liquidate the securities and deposit the net proceeds after commission to the TFF pursuant to TEOAF Directive 4.

(c) If closely held financial instruments were not liquidated prior to forfeiture, consult with TEOAF to ensure that liquidation is effected in an expeditious manner.

(4) Some seized and forfeited paper stock certificates or other paper securities are not easy to liquidate, such as ones not already associated with a brokerage firm. For example, for some paper stock certificates, regular brokerage firms may charge a significant fee to liquidate, and the discount online brokerage firms (e.g., TD Ameritrade) may require the United States to sign agreements with clauses that cannot be agreed to, such as those limiting choice of law and arbitration.

BFS maintains a brokerage account and liquidates such securities for the forfeiture program. It is not limited to gifts and may be used for forfeiture and any other purpose, including a writ of execution.

(a) To make use of the brokerage account, the seizing agency must send the physical securities by registered mail, UPS, or FedEx (or equivalent) to:

INB, National Association
2601 Chatham Road
Springfield, IL 62704
Attention: Amy Barnes/Chris Karrick

(b) At the same time, the seizing agency must send a letter on its letterhead, to the BFS. Sample letters are available on the BFS's website: https://www.treasurydirect.gov/government/security-liquidation-proceeds/bankruptcy-settlement-or-other-litigation/

(c) BFS may also be able to liquidate electronic securities that are wired to its account. The process is similar, but the letter is somewhat different. There is a sample letter on the website.

(d) For more information, you may send an email to securities.liquidation@fiscal.treasury.gov.

F. U.S. Savings Bonds

(1) Immediately following seizure, the seizing agency shall inform the BFS that the bonds have been seized. This notification must list: (a) serial numbers; (b) bond denominations; (c) to whom payable; and (d) reason for which they were seized. The seizing agency must send this information by certified mail to:

Treasury Retail Securities Site
P.O. Box 214
Minneapolis, MN 55480-0214
Phone: 844-284-2676 (Toll Free)

Informing BFS of the seizure and pending forfeiture will prevent liquidation by the owner and ensure the bonds' availability for redemption once forfeiture occurs.

The seizing agency shall maintain the actual bonds until forfeiture.

(2) Upon forfeiture, the seizing agency shall deliver the savings bonds to its agency's headquarters office which in turn will hand deliver them to TEOAF at the address listed in section 7, "Information Contact." The following documentation shall accompany the bonds: (a) inventory of bonds (i.e. owner, issue date, serial number, and face amount); (b) copy of the final order or declaration of forfeiture; (c) name of the seizing agency, seizing agency contact person, telephone number, email address and office address; (d) agency seizure number; and (e) brief description of the circumstances under which the bond(s) were forfeited and the basis for forfeiture.

(3) Upon receipt of the savings bonds and the supporting documentation, TEOAF will process the request for payment for bond redemption to the BFS. Upon receipt of payment from the BFS, TEOAF will deposit the funds to the TFF. (Payments will be calculated to the date of forfeiture only.) TEOAF will provide notification to the seizing agency advising of the date and amount of payment received for the redeemed savings bonds per seizure.

6. AUTHORITY. 31 U.S.C. § 9705; Treasury Directive 15-04, "Delegations Relating to the Treasury Forfeiture Fund," October 10, 2017; and Treasury Order 102-14, "Delegation of Authority with Respect to the Department of the Treasury Forfeiture Fund," October 18, 2021.

7. INFORMATION CONTACT. If the seizing agency cannot deposit or transfer the seized funds to the Treasury Suspense Account as described in TEOAF Directive 4, the seized funds, in the form of a cashier's check or other negotiable instrument made payable to the Department of the Treasury or the seizing agency, can be delivered to the responsible personnel at the seizing agency's headquarters for hand delivery to TEOAF at the address below for deposit to the Treasury Suspense Account:

Revenue Team
Treasury Executive Office for Asset Forfeiture
Suite 900
1341 G Street, NW
Washington, DC 20220

A properly completed TEOAF Form 6, Deposit Information Form, for the respective seizing agency must be included with the check or other negotiable instrument.

All other inquiries should be directed to TEOAF's Revenue Team at (202) 622-9600.

8. CANCELLATION. TEOAF Directive No. 2, "Seizures of Financial Instruments," October 1, 1993 (revised 1/30/2020), is hereby superseded.

9. EFFECTIVE DATE. October 27, 2021.

/S/
John Farley
Director
TEOAF