Department of the Treasury
Treasury Forfeiture Fund

Congressional Budget Justification and Annual Performance Report and Plan

FY 2019

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Section I – Purpose

A – Mission Statement

To affirmatively influence the consistent and strategic use of asset forfeiture by law enforcement bureaus that participate in the Treasury Forfeiture Fund (the Fund) to disrupt and dismantle criminal enterprises.

B – Summary of the Request

The Treasury Executive Office for Asset Forfeiture (TEOAF) administers the Fund, which is the receipt account for deposit of non-tax forfeitures made pursuant to laws enforced or administered by participating Treasury and Department of Homeland Security (DHS) bureaus. Principal revenue-producing bureaus include U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, the Internal Revenue Service, and the U.S. Secret Service, among others. The Fund is a special fund, defined as a Federal fund account for receipts earmarked for specific purposes and the expenditure of those receipts. The law (31 U.S.C. 9705) allows TEOAF to use the funds for payment of all proper expenses of seizure or the proceedings of forfeiture and sale.

Revenues deposited in the Fund can be allocated and used as the result of a permanent indefinite appropriation provided by Congress. A forfeiture process begins once currency or property is seized. Seized currency is deposited into a suspense account (holding account) until forfeited. At that time, the forfeited amount is transferred (deposited) to the Fund as revenue. Forfeited properties are usually sold and the proceeds are also deposited into the Fund as revenue. This revenue represents budget authority for meeting obligations and expenses of the program.

Expenses of the Fund are set in a relative priority so that operating costs are met first and may not exceed revenues.

- **Mandatory** expenses represent operating costs of the Fund, including storing and maintaining seized and forfeited assets, valid liens and mortgages, investigative expenses incurred in pursuing a seizure, information and inventory systems, remissions, victim restoration, and certain costs of local police agencies incurred in joint law enforcement operations. Following seizure, equitable shares may be paid to state and local law enforcement agencies that contributed to the seizure activity at a level proportionate to their involvement.

- **Secretary's Enforcement Fund (SEF)** expenses are funded from revenue from equitable shares received from Department of Justice (DOJ) or U.S. Postal Service (USPS) forfeitures. These shares are proportionate to Treasury's participation in the overall investigative effort that led to a DOJ or USPS forfeiture. SEF revenue is available for federal law enforcement-related purposes of any bureau participating in the Fund.

- **Strategic Support (formerly known as Super Surplus)** authority, established by Congress in 31 U.S.C. 9705(g)(4)(B), allows TEOAF to fund priority federal law enforcement initiatives with remaining unobligated balances at the close of the fiscal year, after an amount is reserved for the next fiscal year's operations.

Priorities: In FY 2019, TEOAF will continue to support the investigations and activities of the participating law enforcement bureaus. The bulk of TEOAF expenses include supporting seizures and forfeitures to protect the health and safety of U.S. citizens and the commercial interests of U.S. businesses from pernicious criminal activity. Funds are expended for seizure, storage, maintenance, disposition, and destruction and all costs associated with those activities.

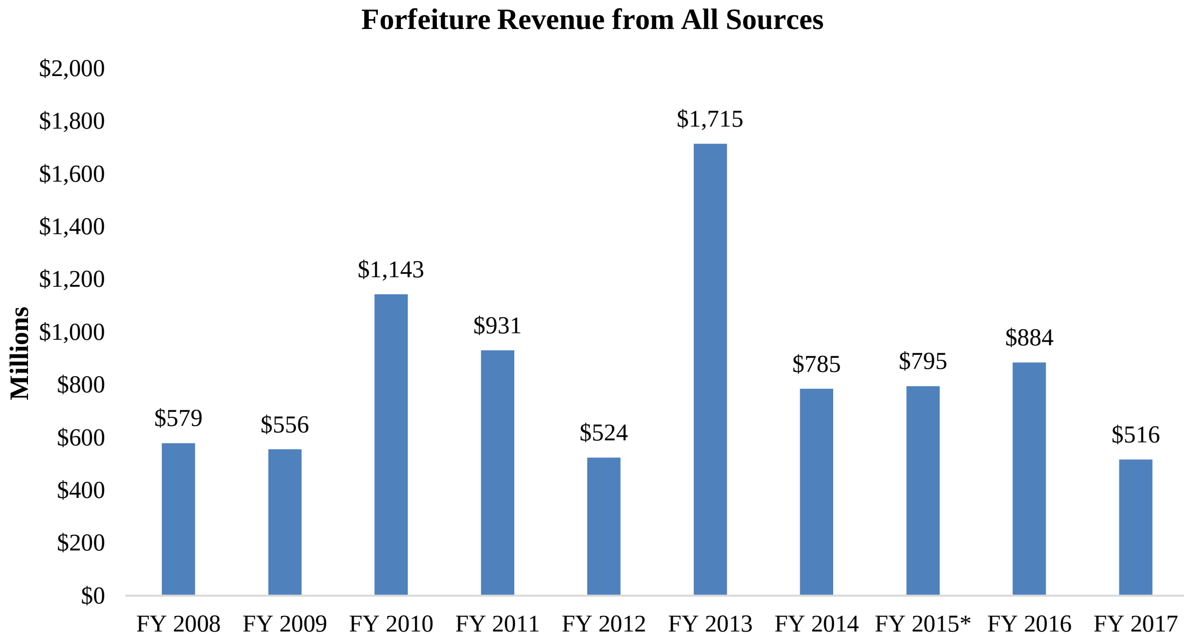
TEOAF focuses on supporting cases and investigations that meet the mission of disrupting and dismantling criminal enterprises. To this end, TEOAF prioritizes major case[1] initiatives when allocating funding to member agencies, including the purchase of evidence and information, joint operations expenses, investigative expenses leading to seizure, and asset identification and removal teams. Major case initiatives are aligned directly to the National Money Laundering and Southwest Border strategies.

TEOAF also combats emerging patterns and practices that threaten our Nation's financial stability. Funds are used to support anti-money laundering/combating financing of terrorism (AML/CFT) investigations and activities. To be effective, analysis of large data caches and cryptocurrency-related crime requires large investments in advanced information technology hardware, software, training, and other capabilities. These investments buttress the AML/CFT strategy of the Secretaries of Homeland Security and the Treasury. If available, TEOAF plans to use Strategic Support (formerly super surplus) funds in FY 2019 to support such investments.

Challenges: Recently-enacted large rescissions have had a severe negative impact on the participating member agencies' investigations. Insufficient and inconsistent funding support, uncertainty about future funding, investigations disrupted by cash flow problems, and inability to obtain necessary technology/infrastructure in the absence of Strategic Support all undermine both current and future financial investigations and forfeitures. FY 2017 total revenue was the lowest since FY 2007, and the substantial drop in "base" revenue (revenue from non-major forfeitures) that is relied upon to cover basic mandatory costs of the forfeiture program is especially troubling. Total FY 2017 "base" revenue was $349 million, as compared to $419 million in FY 2016, $387 million in FY 2015, and $410 million in FY 2014.

[1] A major case refers to a case where the forfeiture results in a deposit greater than $5 million, or a case that disrupts, dismantles, or interrupts money laundering networks or other financial activities that threaten the financial stability, financial system, or financial interests of the United States.

The table below reflects forfeiture revenue from all sources including direct revenue, reverse asset sharing, and interest earned.



*FY 2015 data does not include the BNP Paribas S.A. forfeiture in the amount of $3,839 million. Of that amount, $3,800 million was permanently rescinded and transferred to the newly-created U.S. Victims of State Sponsored Terrorism Fund (USVSST) as directed by Congress under the Consolidated Appropriations Act of 2016, Pub. L. 114-113, Div. O, Tit. IV, §404(e) and §405(b). The remainder is precluded from obligation.

Participating agencies are seeing reluctance in the field to undertake complex major investigations due to the lack of assurance that their efforts would receive continuous support. Strategic Support funding is especially critical as a strategic investment in the agencies' operational capabilities and infrastructure supporting major cases. It provides law enforcement much-needed flexibility to respond in real time to unanticipated critical needs, such as those driven by technology advancements or emerging criminal threats. It often serves as seed funding for innovations that need to be tested and refined prior to full-scale implementation.

It is precisely the most important, high-impact[2] financial investigations that suffer the most from the absence of Strategic Support funding, as they require additional resources and cutting-edge capabilities (e.g., big data analytics, virtual currency tracking, mobile forensics). Undermining these major financial investigations will directly impact the ability of Treasury and DHS to respond to priority threats such as identity theft, fentanyl trafficking, and network intrusion, and to protect the integrity of the U.S. financial system.

In addition, TEOAF tracks future remission payments to third parties as contingent liabilities. However, these amounts are not recorded as obligations from the Fund until the Department of Justice grants the petition for remission. The third parties are predominantly victims of crimes

[2] A high-impact case refers to a case resulting in a cash forfeiture deposit equal to or greater that $100,000.

that triggered the forfeiture (e.g., Ponzi scheme or kleptocracy victims). Amounts recorded are significant because remission payments from multiple years are recorded and carried forward. The amounts change constantly as payments are made and amounts for new remission cases are added. TEOAF considers the amounts recorded as contingent liabilities as unavailable and believes that consideration of contingent liabilities provides a more accurate representation of the financial position of the Fund.

1.1 – Appropriations Detail Table

Dollars in Thousands

Treasury Forfeiture Fund	FY 2017		FY 2018		FY 2019		FY 2018 to FY 2019			
Budgetary Resources	Actual		Estimated[4]		Estimated		$ Change		% Change	
	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Revenue/Offsetting Collections										
Interest	0	$18,930	0	$24,000	0	$9,000	0	(15,000)	0	-62.50%
Restored Temporary Rescission	0	876,000	0	988,000	0	988,000	0	0	0	0.00%
Restored Sequestration	0	124,327	0	96,050	0	96,690	0	640	0	0.67%
Forfeiture Revenue	0	497,096	0	453,000	0	429,000	0	(24,000)	0	-5.30%
Recovery from Prior Years	0	41,622	0	40,000	0	30,000	0	(10,000)	0	-25.00%
Unobligated Balances from Prior Years	0	1,034,832	0	668,529	0	355,158	0	(313,371)	0	-46.87%
Total Revenue/Offsetting Collections		**$2,592,807**		**$2,269,579**		**$1,907,848**		**($361,731)**		**-15.94%**
Expenses/Obligations										
Asset Forfeiture										
Mandatory[1]	25	$479,446	26	$489,833	26	$450,000	0	($39,833)	0	-8.13%
Secretary's Enforcement Fund	0	7,014	0	25,898	0	10,000	0	(15,898)	0	-61.39%
Strategic Support[2]	0	39,768	0	TBD	0	TBD	0	NA	0	NA
Total Expenses/Obligations	**25**	**$526,228**	**26**	**$515,731**	**26**	**$460,000**	**0**	**($55,731)**	**0**	**-10.81%**
Rescissions/Cancellations										
Sequestration Reduction [3]	0	(96,050)	0	(96,690)	0	0	0	96,690	0	-100.00%
Temporary Rescission	0	(988,000)	0	(988,000)	0	0	0	988,000	0	-100.00%
Permanent Cancellation	0	(314,000)	0	(314,000)	0	(400,000)	0	(86,000)	0	27.39%
Total Rescissions/Cancellations		**($1,398,050)**		**($1,398,690)**		**($400,000)**		**$998,690**		**-71.40%**
Net Results		**$668,529**		**$355,158**		**$1,047,848**		**$692,690**		**195.04%**
Contingent Liabilities		**$387,011**		**$355,000**		**$350,000**		**($5,000)**	**0**	**-1.41%**

[1] The Treasury Forfeiture Fund is staffed by Departmental Offices employees and positions are funded via reimbursable agreement. The FTE are shown here for clarity, but are also reflected in the Departmental Offices chapter in the reimbursable FTE total.
[2] For fiscal years 2018 and 2019, Treasury will revise Strategic Support (formerly known as Super Surplus) based on enacted appropriations and submit a plan to Congress if funding is available, once more is known about actual collections and expenses.
[3] Treasury will compute the FY 2019 sequestration reduction once the OMB Report to Congress on the Joint Committee Sequestration for Fiscal Year 2019 is released.
[4] FY 2018 full-year appropriations were not enacted at the time the budget was prepared; therefore, the budget assumes this account is operating under the Continuing Appropriations Act, 2018 (Division D of P.L. 115-56, as amended) and that the 2017 enacted rescission recurs in FY 2018.

1.2 – Operating Levels Table

Dollars in Thousands

Treasury Forfeiture Fund Object Classification	FY 2017 Actual	FY 2018 Estimated	FY 2019 Estimated
25.2 - Other services from non-Federal sources	$56,124	$60,000	$52,000
25.3 - Other goods and services from Federal sources	159,125	120,000	104,000
26.0 - Supplies and materials	19	19	15
41.0 - Grants, subsidies, and contributions	200,689	208,729	200,000
43.0 - Interests and dividends	32	30	30
44.0 - Refunds	43,557	64,953	55,955
94.0 - Financial transfers	46,682	62,000	48000
Total Non-Personnel	**$506,228**	**$515,731**	**$460,000**
Total Budgetary Resources	**$506,228**	**$515,731**	**$460,000**
FTE	**25**	**26**	**26**

D – Appropriations Language and Explanation of Changes

Appropriations Language	Explanation of Changes
DEPARTMENT OF THE TREASURY TREASURY FORFEITURE FUND (CANCELLATION) *Of the unobligated balances available under this heading, $400,000,000 are hereby permanently cancelled not later than September 30, 2019.*	
*(*INCLUDING RETURN OF FUNDS) *In addition, of amounts in the Treasury Forfeiture Fund, $38,800,000 from funds paid to the United States Government by BNP Paribas S.A. as part of, or related to, a plea agreement dated June 27, 2014, entered into between the Department of Justice and BNP Paribas S.A., and subject to a consent order entered by the United States District Court for the Southern District of New York on May 1, 2015, in United States v. BNPP, No. 14 Cr. 460 (S.D.N.Y.), are hereby returned to the General Fund of the Treasury.* Note.— A full-year 2018 appropriation for this account was not enacted at the time the budget was prepared; therefore, the budget assumes this account is operating under the Continuing Appropriations Act, 2018 (Division D of P.L. 115-56). The amounts included for 2018 reflect the annualized level provided by the continuing resolution.	P.L. 114-113 rescinded $3,800,000,000 of the $3,838,800,000 forfeited by BNP Paribas in 2015 and prohibited Treasury from obligating the remaining balance. However, the remaining balance will remain in the Fund unless returned to the General Fund. Return of these funds to Treasury is being done solely to remove them from the Fund's account, but will not count as savings because the funds are already precluded from obligation.

E – Legislative Proposals

The Fund has no legislative proposals for FY 2019.

Section II – Annual Performance Plan and Report

A – Strategic Alignment

The purpose of the Fund is to ensure resources are managed to cover the costs of an effective asset seizure and forfeiture program, including the costs of seizure or the proceedings of forfeiture and sale, including the expenses of detention, inventory, security, maintenance, advertisement, or disposal of the property. Additionally, the Fund is used to support law enforcement priorities, financial investigative capabilities, and the seizure of physical and financial resources to disrupt and dismantle criminal enterprises. TEOAF supports the following Department of the Treasury strategic goal and associated objectives:

- Goal 3: Enhance National Security:
  - 3.1 Strategic Threat Disruption
  - 3.2 AML/CFT Framework

B – Budget and Performance by Budget Activity

2.1.1 - Treasury Forfeiture Fund Resources and Measures

Dollars in Thousands

Treasury Forfeiture Fund Budget Activity							
Resource Level	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Estimated	FY 2019 Estimated
Expenses/Obligations	$908,113	$787,849	$4,360,617	$508,746	$526,228	$515,731	$560,045
Budget Activity Total	$908,113	$787,849	$4,360,617	$508,746	$526,228	$515,731	$560,045

Measures	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2017 Target	FY 2018 Target	FY 2019 Target
Percent of Forfeited Cash Proceeds Resulting from High-Impact Cases	95.09	86.73	98.25	89.09	81.79	80.00	80.00	80.00

Treasury Forfeiture Fund Budget and Performance

($560,045,000 in obligations from revenue/offsetting collections):

The Fund continues to measure the performance of the participating law enforcement bureaus through the use of the performance measure "Percent of forfeited cash proceeds resulting from high-impact cases." This measures the percentage of forfeited cash proceeds resulting from cases that yield a cash forfeiture deposit equal to or greater than $100,000.

Focusing on strategic cases and investigations that result in high-impact forfeitures will do the greatest damage to criminal organizations while accomplishing the ultimate objective, which is to disrupt and dismantle criminal activity. Member law enforcement bureaus participating in the Fund have met or exceeded the performance target since FY 2013. However; the performance declined from 89.09% to 81.79% from FY 2016 to FY 2017. This is attributable to large rescissions which resulted in no Strategic Support funding available to the participating agencies in FY 2015 and FY 2016. For FY 2018 and FY 2019, the target will remain at 80 percent. The Fund maintains a target of 80 percent because some cases may be important to pursue, even if they are not high-impact cases and result in deposits of less than $100,000.

With the publication of the Treasury Strategic Plan for FY 2018-2022, Treasury will work in FY 2018 to baseline its performance against the new strategic objectives. This could result in additional changes to performance measures in the FY 2020 Budget.