

# Treasury Forfeiture Fund

FY 2017

President's Budget

February 9, 2016

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## Section 1 – Purpose

### 1A – Mission Statement

To affirmatively influence the consistent and strategic use of asset forfeiture by our participating agencies to disrupt and dismantle criminal enterprises.

The Treasury Executive Office for Asset Forfeiture (TEOAF) administers the Treasury Forfeiture Fund. 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 participating Treasury and Department of Homeland Security agencies. The Fund was established in 1992 as the successor to the Customs Forfeiture Fund.

### 1.1 – Resource Detail Table

Dollars in Thousands

Treasury Forfeiture Fund Budgetary Resources	FY 2015		FY 2016		FY 2017		FY 2016 to FY 2017			
	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
<b>Revenue/Offsetting Collections</b>										
Interest	0	955	0	1,000	0	1,000	0	0	0	0.00%
Restored Temporary Rescission	0	836,000	0	944,000	0	876,000	0	(68,000)	0	-7.20%
Restored Sequestration	0	124,923	0	399,291	0	97,302	0	(301,989)	0	-75.63%
Forfeiture Revenue	0	4,632,791	0	485,909	0	413,000	0	(72,909)	0	-15.00%
Recovery from Prior Years	0	25,567	0	3,588,568	0	30,000	0	(3,558,568)	0	-99.16%
Unobligated Balances from Prior Years	0	144,147	0	97,184	0	157,131	0	59,947	0	61.68%
<b>Total Revenue/Offsetting Collections</b>		<b>\$5,764,383</b>		<b>\$5,515,952</b>		<b>\$1,574,433</b>		<b>(\$3,941,519)</b>		<b>-71.46%</b>
<b>Expenses/Obligations</b>										
Asset Forfeiture										
Mandatory Obligations <sup>1</sup>	25	4,302,751	25	481,159	25	450,000	0	(31,159)	0	-6.48%
Secretary's Enforcement Fund	0	21,157	0	65,560	0	30,000	0	(35,560)	0	-54.24%
Super Surplus Obligations	0	0	0	0	0	0 <sup>2</sup>	0	0	0	N/A
<b>Total Expenses/Obligations</b>	<b>25</b>	<b>\$4,323,908</b>	<b>25</b>	<b>\$546,719</b>	<b>25</b>	<b>\$480,000</b>	<b>0</b>	<b>(\$66,719)</b>	<b>0</b>	<b>-12.20%</b>
<b>Rescissions/Cancellations</b>										
Sequestration Reduction	0	(399,291)	0	(97,302)	0	0 <sup>3</sup>	0	97,302	0	-100.00%
Temporary Rescission	0	(944,000)	0	(876,000)	0	0	0	876,000	0	-100.00%
Permanent Cancellation	0	0	0	(3,800,000)	0	(657,000)	0	3,143,000	0	-82.71%
Appropriations Precluded from Obligation	0	0	0	(38,800) <sup>4</sup>	0	(38,800)	0	0	0	0.00%
<b>Total Rescissions/Cancellations</b>		<b>(\$1,343,291)</b>		<b>(\$4,812,102)</b>		<b>(\$695,800)</b>		<b>\$4,116,302</b>		<b>-85.54%</b>
<b>Net Results</b>		<b>\$97,184</b>		<b>\$157,131</b>		<b>\$398,633</b>		<b>\$241,502</b>		<b>153.69%</b>

1. The Treasury Forfeiture Fund is staffed by Departmental Offices employees and positions are funded via reimbursable agreement.
2. Treasury is planning for a tentative \$100 million Super Surplus in FY 2017 and will submit a spend plan to Congress once more is known about actual collections and expenses. See pages 6-7 for additional details.
3. Treasury will calculate the FY 2017 sequestration reduction once the OMB Report to Congress on the Joint Committee Sequestration for Fiscal Year 2017 is released.
4. P.L. 114-113 cancelled \$3,800,000,000 of the \$3,838,800,000 forfeited in *United States v. BNPP, No. 14 Cr. 460 (S.D.N.Y.)*. Treasury is unable to obligate the remaining \$38,800,000 due to a provision in section 405, Title IV limiting the use of these funds.

### 1B – Vision, Priorities and Context

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 bureaus participating in the Fund. Special funds are federal fund collections that are earmarked by law for a specific purpose. The enabling legislation for the Treasury Forfeiture Fund (31 U.S.C. § 9705) defines those purposes for which Treasury forfeiture revenue may be used. In addition to the agencies listed below, the funds can be allocated to other law enforcement entities that do not have forfeiture authority, such as the Financial Crimes Enforcement Network (FinCEN), Federal Law Enforcement

Training Center (FLETC), and Alcohol & Tobacco Tax and Trade Bureau (TTB).

The principal revenue-producing member bureaus include the Internal Revenue Service's Criminal Investigation (IRS-CI), Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), and the U.S. Secret Service (Secret Service). The latter three bureaus are part of the Department of Homeland Security pursuant to the Homeland Security Act of 2002. These member bureaus are joined by the U.S. Coast Guard, Department of Homeland Security, as a result of the longstanding close law enforcement relationship with CBP and ICE.

**Vision:** As the administrator for the Treasury Forfeiture Fund, TEOAF performs the following functions:

- Promotes the use of proceeds from asset forfeiture to fund programs and activities aimed at disrupting criminal enterprises and enhancing forfeiture capabilities;
- Manages revenue to cover the costs of asset forfeiture programs;
- Promotes the financial stability and vitality of the Fund;
- Identifies and addresses program risks.

TEOAF focuses on supporting cases and investigations that result in high impact forfeitures. This approach will have the greatest impact on criminal organizations and facilitate the ultimate mission of the Fund to disrupt and dismantle criminal enterprises. To this end, TEOAF prioritizes major case 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.

**Goals and Relationship to Departmental Goal:** The goal of the Fund is to support the asset forfeiture programs of member law enforcement bureaus 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 punish and deter criminal activity. "High impact" is defined as a cash forfeiture equal to or greater than \$100,000 in value.

The Fund supports Treasury Strategic Goal 4: *Safeguard the financial system and use financial measures to counter national security threats*. A primary feature of asset forfeiture as a criminal sanction is that it disrupts and dismantles criminal syndicates by removing their financial assets and viability. This feature of asset forfeiture relates to Treasury Strategic Objective 4.2: *Develop, implement, and enforce sanctions and other targeted financial measures*.

**Priorities:** Asset seizure and forfeiture is a priority for the Fund's participating law enforcement organizations and is linked directly to the National Money Laundering and Southwest Border Strategy. TEOAF has identified the following priorities for mission success:

- Continue to educate and focus stakeholders on the vision and mission of Treasury's multi-Departmental asset forfeiture program (i.e., affirmatively influence the consistent and strategic use of asset forfeiture by law enforcement bureaus participating in the Fund to disrupt and dismantle criminal enterprises);
- Focus resources in a manner that supports law enforcement's implementation of the National Money Laundering Strategy, Southwest Border Strategy, and counter-terrorism financing efforts;

- Use forfeiture resources to promote program excellence and strengthen the overall quality of criminal investigations led by participating law enforcement bureaus; and
- Develop and modify forfeiture training and awareness programs to be responsive to the current environment and continually re-evaluate training to incorporate best practices.

**Context:** The Fund continues to represent the forfeiture interests of law enforcement components of the Department of the Treasury and the Department of Homeland Security. In the midst of the budget constraints and policy changes, the Fund's law enforcement bureaus continue the difficult work of enforcing and applying asset forfeiture as a criminal sanction.

**FY 2015:** The Consolidated Appropriations Act of 2015 (P.L. 113-235) temporarily rescinded \$944 million of the Fund's unobligated balances. In addition, approximately \$399 million was sequestered from the Fund as part of the government-wide sequestration order. The Fund received collections from two major cases that contributed to total revenue of approximately \$4.6 billion. The proceeds were used to fund investigations, asset management, joint operations, remission and mitigation payments, equitable sharing, and the cancellation enacted by the Consolidated Appropriations Act, 2016 (P.L. 114-113).

**FY 2016:** P.L. 114-113 cancelled \$3.8 billion of the Fund's budget authority and temporarily rescinded \$876 million in unobligated balances. An estimated \$97 million will be sequestered from the Fund as part of the government-wide sequestration order. TEOAF forecasts another successful forfeiture program in FY 2016 with estimated revenue of \$487 million from forfeiture deposits and interest. This estimate does not account for ongoing investigations where TEOAF lacks sufficient information to project an outcome. TEOAF estimates \$481 million in mandatory authority expenses and \$66 million in Secretary's Enforcement Fund (SEF) expenses in FY 2016. SEF expenses are higher than previously estimated in the FY 2016 President's Budget due to a new case that is expected to result in a deposit of \$46 million.

**FY 2017:** TEOAF intends to maintain a dynamic and evolving asset forfeiture program that is responsive to the needs of member law enforcement bureaus. Treasury proposes a \$657 million permanent cancellation of unobligated balances and will provide regular updates to Congress on the Fund's balances. The Fund estimates \$414 million in revenue from forfeiture deposits and interest in FY 2017.

**Super Surplus:** Treasury proposes a \$100 million Super Surplus in FY 2017. The Super Surplus authority, established by Congress in 31 U.S.C. § 9705 (g)(4)(B), allows TEOAF to use unobligated balances to fund priority law enforcement initiatives once enough funds have been reserved for the next fiscal year's operating expenses. Since the Fund's establishment in 1992, the Super Surplus has been used to fund high priority information technology projects, multiyear criminal investigations, pilot programs, and urgent homeland security needs at no cost to taxpayers. The investigations funded by the Super Surplus bring criminals to justice and generate a significant share of the revenue used to pay for forfeiture program expenses, including the management of seized and forfeited assets.

Due to a shortage of resources, TEOAF was unable to declare a Super Surplus in FY 2015 and does not expect to in FY 2016. FY 2015 marked the first time in the Fund's 22 years history that

law enforcement was unable to rely on this funding source. Member agencies have less funding to sustain long-term investigations and have postponed several projects.

TEOAF intends to reverse this trend in FY 2017 by proposing a \$100 million in Super Surplus. A Super Surplus of this size would allow TEOAF to fund backlog of investigations, technology upgrades, and infrastructure projects at the member agencies. Provided funding is available, TEOAF will prioritize the following initiatives with the FY 2017 Super Surplus:

- Priority investigative areas at IRS-CI such as identity theft, as well as IT infrastructure upgrades to enhance investigative data analysis;
- Technology upgrades at ICE, specifically the Technical Operations division within Homeland Security Investigations (HSI), for operational support of investigations involving trade-based money laundering; computer/mobile forensics and cyber investigation capabilities, and initiatives supporting major financial investigations;
- On-going efforts at CBP to strengthen outbound monitoring infrastructure, as well as enhancing Border Patrol capabilities and upgrades of seizure vaults; and
- Secret Service network intrusion and cybercrime investigations.

If funding is available, Treasury will submit a Super Surplus plan to Congress in accordance with 31 U.S.C. § 9705.

## Section 2 – Budget Adjustments and Appropriation Language

### 2.2 – Operating Levels Table

Dollars in Thousands

Treasury Forfeiture Fund Object Classification	FY 2015 Actual	FY 2016 Estimated	FY 2017 Estimated
25.2 - Other services	53,327	38,270	40,600
25.3 - Other purchases of goods & serv frm Govt accounts	164,212	109,344	116,000
41.0 - Grants, subsidies, and contributions	4,106,369 <sup>1</sup>	399,105	323,400
<b>Total Non-Personnel</b>	<b>4,323,908</b>	<b>546,719</b>	<b>480,000</b>
<b>Total Budgetary Resources</b>	<b>\$4,323,908</b>	<b>\$546,719</b>	<b>\$480,000</b>
<b>Budget Activities:</b>			
Asset Forfeiture Fund	4,323,908	546,719	480,000
<b>Total Budgetary Resources</b>	<b>\$4,323,908</b>	<b>\$546,719</b>	<b>\$480,000</b>

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1. The \$3.589 billion obligated in FY 2015 for victim's compensation related to the BNP Paribas case was permanently cancelled by P.L. 114-113, which increased recoveries in FY 2016, as shown in Table 1.1.

### 2B – Appropriations Language and Explanation of Changes

Appropriations Language	Explanation of Changes
<p>DEPARTMENT OF THE TREASURY TREASURY FORFEITURE FUND</p> <p>Of the unobligated balances available under this heading, [<del>\$700,000,000</del>]<del>\$657,000,000</del> are [<del>rescinded</del>]<i>hereby permanently cancelled not later than September 30, 2017.</i> (Department of the Treasury Appropriations Act, 2016.)</p>	<p>The addition of “not later than September 30, 2017” will allow Treasury to manage the timing of the reduction and help prevent cash flow disruptions.</p>

### 2C – Legislative Proposals

The Fund has no legislative proposals for FY 2017.

## **Section 3 – Budget and Performance Plan**

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### **3A – Asset Forfeiture Fund**

*(\$480,000,000 in obligations from revenue/offsetting collections):*

The function 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 seizing, evaluating, inventorying, maintaining, protecting, advertising, forfeiting, and disposing of property. The goal owner for this budget activity is the Director of TEOAF.

The Treasury Forfeiture Fund is special fund with permanent indefinite budget authority. Special fund collections are earmarked by law for a specific purpose. The enabling legislation for the Fund (31 U.S.C. § 9705) defines those purposes for which the Fund's revenue may be used. Revenue deposited to the Fund can be allocated and expended as the result of the permanent indefinite appropriation provided by Congress.

The 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 proceeds are transferred (deposited) to the Fund as revenue. Forfeited property is usually sold and the proceeds are also deposited into the Fund as revenue. This revenue composes the budget authority for meeting the 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.

#### **Spending Authorities:**

**Mandatory** authority is generally used for operating expenses, including storing and maintaining seized and forfeited assets, liens and mortgages, investigative expenses incurred in 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 are paid to state and local law enforcement agencies that contributed to the seizure activity at a level proportionate to their involvement, as required by the enabling legislation.

**Secretary's Enforcement Fund (SEF)** authority is derived from equitable shares received from the Department of Justice (DOJ) or U.S. Postal Service (USPS) forfeitures. These shares represent Treasury's participation in investigative efforts that result in forfeiture. SEF revenue is available to member agencies for any federal law enforcement purpose.

**Super Surplus (SS)** authority represents the remaining unobligated balance at the close of the fiscal year after an amount is reserved for the Fund's operations in the next fiscal year. This balance can be used for any federal law enforcement purpose.

#### **Description of Performance Measure:**

The Fund continues to track the performance of the participating law enforcement bureaus by measuring the percentage of forfeited cash proceeds from high impact cases, which are cases that result in a cash forfeiture deposit of \$100,000 or more.

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 to disrupt and dismantle criminal activity. Member law enforcement bureaus participating in the Fund have met or exceeded the performance target in nine of the eleven fiscal years since the measure was established in FY 2002. As a result, TEOAF increased the target from 75 percent in FY 2010 to 80 percent beginning in FY 2011. The Fund maintains a target of 80 percent, recognizing that some otherwise high priority cases may not produce a forfeiture of \$100,000.

In FY 2015, the member bureaus exceeded the target 80 percent by more than 18 percentage points. The target has been set at 80 percent for FY 2016 and FY 2017.

### 3.1.1 – Asset Forfeiture Fund Budget Activity Budget and Performance Plan

Dollars in Thousands

<b>Asset Forfeiture Fund Budget Activity</b>									
<b>Resource Level</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	
	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Estimated</b>	<b>Estimated</b>	
Expenses/Obligations	\$852,078	\$590,415	\$527,417	\$908,113	\$787,849	\$4,323,908	\$546,719	\$480,000	
<b>Budget Activity Total</b>	<b>\$852,078</b>	<b>\$590,415</b>	<b>\$527,417</b>	<b>\$908,113</b>	<b>\$787,849</b>	<b>\$4,323,908</b>	<b>\$546,719</b>	<b>\$480,000</b>	

  

<b>Measure</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Target</b>	<b>Actual</b>	<b>Estimated</b>	<b>Estimated</b>
Percent of Forfeited Cash Proceeds Resulting from High-Impact Cases (%)	93.11	91.44	76.38	95.01	86.73	80.00	98.25	80.0	80.0

Key: DISC - Discontinued

## **Section 4 – Supplemental Information**

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### **4A – Summary of Capital Investments**

TEOAF is a component of the Departmental Offices (DO) and is included in the DO capital investment plan.

A summary of capital investment resources, including major information technology and non-technology investments, can be viewed and downloaded at: <http://www.treasury.gov/about/budget-performance/pages/summary-of-capital-investments.aspx>.

This website also contains a digital copy of the plan.