

Department of the Treasury  
Treasury Forfeiture Fund

Congressional Justification  
for Appropriations and  
Annual Performance  
Report and Plan

FY 2018

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## **Section I – Purpose**

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### **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 Treasury Forfeiture Fund. The Fund is the receipt account for proceeds from 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.

The Treasury Forfeiture Fund is a special fund. Special funds are federal fund accounts for receipts earmarked by law for specific purposes and the expenditure of these receipts. 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, Federal Law Enforcement Training Center, and Alcohol and Tobacco Tax and Trade Bureau.

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

As the administrator for the Fund, TEOAF performs the following functions:

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

TEOAF intends to maintain a dynamic and evolving asset seizure and forfeiture program that is responsive to the needs of member law enforcement bureaus. The Fund estimates \$416 million in revenue from forfeiture deposits, reverse asset sharing, and interest in FY 2018.

## 1.1 – Appropriations Detail Table

Dollars in Thousands

Treasury Forfeiture Fund Budgetary Resources	FY 2016		FY 2017		FY 2018		FY 2017 to FY 2018			
	Actual		Estimated <sup>5</sup>		Estimated		\$ Change		% Change	
	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
<b>Revenue/Offsetting Collections</b>										
Interest	0	\$7,644	0	\$8,000	0	\$3,000	0	(\$5,000)	0	-62.50%
Restored Temporary Rescission	0	\$944,000	0	\$876,000	0	\$876,000	0	\$0	0	0.00%
Restored Sequestration	0	\$399,291	0	\$124,328	0	\$93,783	0	(\$30,545)	0	-24.57%
Forfeiture Revenue	0	\$876,702	0	\$475,177	0	\$413,000	0	(\$62,177)	0	-13.09%
Recovery from Prior Years	0	\$4,057,885	0	\$30,000	0	\$30,000	0	\$0	0	0.00%
Unobligated Balances from Prior Years	0	\$97,184	0	\$1,034,832	0	\$835,000	0	(\$199,832)	0	-19.31%
<b>Total Revenue/Offsetting Collections</b>		<b>\$6,382,706</b>		<b>\$2,548,337</b>		<b>\$2,250,783</b>		<b>(\$297,554)</b>		<b>-11.68%</b>
<b>Expenses/Obligations</b>										
Asset Forfeiture										
Mandatory Obligations <sup>1</sup>	25	\$451,581	25	\$621,232	25	\$450,000	0	(\$171,232)	0	-27.56%
Secretary's Enforcement Fund	0	\$57,165	0	\$7,075	0	\$30,000	0	\$22,925	0	324.03%
Super Surplus Obligations <sup>2</sup>	0	\$0	0	\$114,634	0	\$100,000	0	(\$14,634)	0	-12.77%
<b>Total Expenses/Obligations</b>	<b>25</b>	<b>\$508,746</b>	<b>25</b>	<b>\$742,941</b>	<b>25</b>	<b>\$580,000</b>	<b>0</b>	<b>(\$162,941)</b>	<b>0</b>	<b>-21.93%</b>
<b>Rescissions/Cancellations</b>										
Sequestration Reduction <sup>3</sup>	0	(\$124,328)	0	(\$93,783)	0		0	\$93,783	0	-100.00%
Temporary Rescission	0	(\$876,000)	0	(\$876,000)	0		0	\$876,000	0	-100.00%
Permanent Cancellation	0	(\$3,800,000)	0	\$0	0	(\$876,000)	0	(\$876,000)	0	NA
Appropriation Precluded from Obligation <sup>4</sup>	0	(\$38,800)	0	\$0	0		0	\$0	0	NA
<b>Total Rescissions/Cancellations</b>		<b>(\$4,839,128)</b>		<b>(\$969,783)</b>		<b>(\$876,000)</b>		<b>\$93,783</b>		<b>-9.67%</b>
<b>Net Results</b>		<b>\$1,034,832</b>		<b>\$835,613</b>		<b>\$794,783</b>		<b>(\$40,830)</b>		<b>-4.89%</b>
<b>Contingent Liabilities</b>		<b>\$485,421</b>		<b>\$352,054</b>		<b>\$300,000</b>		<b>(\$52,054)</b>	<b>0</b>	<b>-14.79%</b>

<sup>1</sup> 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.

<sup>2</sup> Treasury will revise the FY 2017 Super Surplus plan based on the *Consolidated Appropriations Act, 2017*, and resubmit the FY 2017 Super Surplus plan to Congress. For FY 2018, Treasury will submit a spending plan to Congress for the FY 2018 Super Surplus amount.

<sup>3</sup> Treasury reestimated the forfeiture revenue after OMB's A-11 MAX deadline; therefore, the FY 2017 sequestration reduction is slightly higher than the amount in the Budget. Treasury will compute the FY 2018 sequestration reduction once the OMB Report to Congress on the Joint Committee Sequestration for Fiscal Year 2018 is released.

<sup>4</sup> P.L. 114-113 permanently rescinded \$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.

<sup>5</sup> A full-year 2017 appropriation for this account was not enacted at the time the budget was prepared; therefore, the budget assumes this account is operating under the Further Continuing Appropriations Act, 2017 (P.L. 114-254). The amounts included for 2017 reflect the annualized level provided by the continuing resolution.

## 1.2 – Operating Levels Table

Dollars in Thousands

Treasury Forfeiture Fund Object Classification	FY 2016 Actual	FY 2017 Estimated	FY 2018 Estimated
25.2 - Other services from non-Federal sources	\$62,647	\$78,022	\$40,600
25.3 - Other goods and services from Federal sources	\$165,897	\$222,905	\$115,985
26.0 - Supplies and materials	\$14	\$15	\$15
41.0 - Grants, subsidies, and contributions	\$188,677	\$372,349	\$373,390
43.0 - Interests and dividends	\$5	\$5	\$5
44.0 - Refunds	\$34,348	\$69,640	\$50,000
94.0 - Financial transfers	\$57,157	\$5	\$5
<b>Total Non-Personnel</b>	<b>\$508,746</b>	<b>\$742,941</b>	<b>\$580,000</b>
<b>Total Budgetary Resources</b>	<b>\$508,746</b>	<b>\$742,941</b>	<b>\$580,000</b>
<b>Budget Activities:</b>			
Asset Forfeiture Fund	\$508,746	\$742,941	\$580,000
<b>Total Budgetary Resources</b>	<b>\$508,746</b>	<b>\$742,941</b>	<b>\$580,000</b>
<b>FTE</b>	<b>25</b>	<b>25</b>	<b>25</b>

**D – Appropriations Language and Explanation of Changes**

<b>Appropriations Language</b>	<b>Explanation of Changes</b>
<p style="text-align: center;">DEPARTMENT OF THE TREASURY TREASURY FORFEITURE FUND</p> <p style="text-align: center;"><i>(CANCELLATION)</i></p> <p><i>Of the unobligated balances available under this heading, \$876,000,000 are hereby permanently cancelled not later than September 30, 2018.</i></p> <p style="text-align: center;"><i>(INCLUDING RETURN OF FUNDS)</i></p> <p><i>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.</i></p> <p>Note.—A full-year 2017 appropriation for this account was not enacted at the time the budget was prepared; therefore, the budget assumes this account is operating under the Further Continuing Appropriations Act, 2017 (P.L. 114–254). The amounts included for 2017 reflect the annualized level provided by the continuing resolution.</p>	<p>The addition of “not later than September 30, 2018” to the cancellation language will allow Treasury to manage the timing of the reduction and help prevent disruptions to cash flow. Treasury is also proposing to permanently cancel these balances.</p> <p>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.</p>

**E – Legislative Proposals**

The Fund has no legislative proposals for FY 2018.

## **Section II – Annual Performance Plan and Report**

### **A – Strategic Alignment**

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 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. The FY 2018-2022 Strategic Plan is currently under development. The Annual Performance Plan will be updated in the FY 2019 Budget to reflect the new priorities.

**Summary of the Fund’s Authorities:** The enabling legislation for the Fund (31 U.S.C. § 9705) defines the purposes for which the Fund’s revenue may be used. Revenues deposited to 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.

### **Uses of the Fund:**

**Mandatory** items represent the operating costs 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, 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)** represents 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 law enforcement organization participating in the Fund.


**Super Surplus** authority, established by Congress in 31 U.S.C. § 9705(g)(4)(B), allows TEOAF to fund priority 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. This balance can be used for any federal law enforcement purpose.

## 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 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
	Actual	Actual	Actual	Actual	Actual	Actual	Estimated	Estimated
Revenue/Offsetting Collections	\$590,415	\$527,417	\$908,113	\$787,849	\$4,360,617	\$508,746	\$742,941	\$580,000
<b>Budget Activity Total</b>	<b>\$590,415</b>	<b>\$527,417</b>	<b>\$908,113</b>	<b>\$787,849</b>	<b>\$4,360,617</b>	<b>\$508,746</b>	<b>\$742,941</b>	<b>\$580,000</b>

Measure	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2016	FY 2017	FY 2018	FY 2012 -
	Actual	Actual	Actual	Actual	Actual	Target	Target	Target	FY 2016
	Trend								
Percent of Forfeited Cash Proceeds Resulting from High-Impact Cases	76.38	95.09	86.73	98.25	89.09	80.0	80.0	80.0	

#### Treasury Forfeiture Fund Budget and Performance

(\$580,000,000 in obligations from revenue/offsetting collections):

##### Description of Performance

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 high-impact cases, which are cases resulting in 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. 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.

The member bureaus exceeded the target 80 percent by 9.09 percent for FY 2016. For FY 2017 and FY 2018, the target will remain at 80 percent.



## **Section III – Additional Information**

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

A summary of capital investment resources, including major information technology and non-technology investments can be found at:

<http://www.treasury.gov/about/budget-performance/Pages/summary-of-capital-investments.aspx>

This website also contains a digital copy of this document.