



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

9.7.1

JANUARY 30, 2023

## EFFECTIVE DATE

(01-30-2023)

## PURPOSE

- (1) This transmits a revised 9.7.1, Roles, Responsibilities, and Authorities.

## MATERIAL CHANGES

- (1) This IRM has been reviewed by Asset Recovery and Investigative Services, Criminal Investigation (SE:CI:GO:ARIS) and accurately reflects CI's current operating practices and procedures.
- (2) Name change from "Warrants and Forfeiture" to "Asset Recovery & Investigative Services (ARIS)" and updated throughout IRM.
- (3) Subsection 9.7.1.1.2, Updated acronym table. Deleted acronym AFMLS and definition of Asset Forfeiture and Money Laundering section. Changed acronym COTR to COR and changed the definition "Contracting Officer's Technical Representative" to "Contractor Officer's Representative". Changed acronym FRCrP to FCCR. Deleted acronym EOAF and definition of Executive Office for Asset Forfeiture. Added acronym MLARS and definition of "Money Laundering and Asset Recovery Section". Deleted "the" in the definition of "Treasury Executive Office of Asset Forfeiture". Updated all sections of the IRM to reflect updates.
- (4) Subsection 9.7.1.2.1, name changed from "Department of the Treasury, Executive Office for Asset Forfeiture" to "Treasury Executive Office for Asset Forfeiture". Added acronym TEOAF.
- (5) Subsection 9.7.1.2.1, updated title to "Treasury Executive Office for Asset Forfeiture" and added acronym TEOAF abbreviation.
- (6) Subsection 9.7.1.2.1(1), added "TEOAF",
- (7) Subsection 9.7.1.2.1.(2), added verbiage to state "The participating agencies are Internal Revenue Service Criminal Investigations Division (IRS-CI), U.S. Department of the Treasury; U.S. Customs and Border Protection (CBP), Department of Homeland Security; U.S. Homeland Security Investigations (HSI), Department of Homeland Security; U.S. Secret Service (USSS), Department of Homeland Security; U.S. Coast Guard, Department of Homeland Security. Other statutory member agencies include the Federal Law Enforcement Training Center (FLETC), Financial Crimes Enforcement Network (FinCEN), and the Tax and Trade Bureau (TTB).
- (8) Subsection 9.7.1.2.2, name changed from "Warrants and Forfeiture Section" to "Asset Recovery & Investigative Service Section" and added acronym "ARIS".
- (9) Subsection 9.7.1.2.3, added acronym "USAO" after United States Attorney's Office.
- (10) Subsection 9.7.1.2.4, added acronym "CT" after Criminal Tax Attorney.
- (11) Subsection 9.7.1.2.5, name changed from "Asset Forfeiture and Money Laundering" to "Money Laundering and Asset Recovery".
- (12) Subsection 9.7.1.2.5, added acronym "SAC" after Special Agent in Charge.
- (13) Subsection 9.7.1.2.5(4), deleted "if necessary" and added "ARIS will provide training support for AFC if requested by the field office".

- (14) Subsection 9.7.1.2.6(1)(a), added period after “group” and deleted the remaining sentences, information was duplicated in paragraph (b).
- (15) Subsection 9.7.1.2.7, added acronym “AFC” after Asset Forfeiture Coordinator.
- (16) Subsection 9.7.1.2.7(3)(4)(5), new paragraph added for (3) “The AFC should ensure that the field office is in compliance with all policies, procedures, and guidelines contained in IRM 9.7. Asset Seizure and Forfeiture, moving other bullets down creating (4) and (5).
- (17) Subsection 9.7.1.2.7(2), added “TEOAF” and deleted the last sentence.
- (18) Subsections 9.7.1.2.9(2) and 9.7.1.2.10(1) updated USC references to 31 USC 9705(a)(1)(B)
- (19) Subsection 9.7.1.2.10(4) deleted “The EOAF Directive Number 10, Points to Remember Regarding Work with Contract Employees” and added “There are important policies that TFF law enforcement agencies must abide by when working with contract employees, including:”
- (20) Subsection 9.7.1.2.10(5)(a), deleted original paragraph “Direct public contact by the contract employee should generally be avoided as it gives the appearance or belief that the contract employee is representing CI”.
- (21) Subsection 9.7.1.2.11. added acronym SOW
- (22) Subsection 9.7.1.2.11(2), deleted “in an automated word processing system” and “update the SOW and highlight (bold) and underline all the new changes made to the SOW”. Added “receive, maintain, and update copy of the revised contract”. Added TEOAF. Name change from “Warrants and Forfeiture” to “ARIS”.
- (23) Subsection 9.7.1.2.11(4), added TEOAF.
- (24) Subsection 9.7.1.3.1(6), name change from “Director of Warrants & Forfeitures” to “Director of Asset Recovery & Investigative Services” throughout section.
- (25) Deleted 9.7.3.1(8) due to repetitive information.
- (26) Subsection 9.7.1.3.1(9) removed remission or mitigation of administrative forfeiture
- (27) Added Subsection 9.7.3.1(10) Remission or mitigation of administrative forfeiture are governed by the DOJ regs at 28 CFR Part 9
- (28) Subsection 9.7.1.3.3(4)(e), deleted “associate” and name change from “Warrants and Forfeiture” to “Director, Asset Recovery & Investigative Services”.
- (29) Subsection 9.7.1.3.3(4)(f) updated CI Director title to Director, Global Operations Policy and Support
- (30) Subsection 9.7.1.3.4, name changed from “Executive Office for Asset Forfeiture Policy Directives and Guides” to “Treasury Executive Office for Asset Forfeiture Policy and Guides”.
- (31) Subsection 9.7.1.3.4, added “Treasury” to the office title.
- (32) Subsection 9.7.1.3.4(1), updated “EOAF” to “TEOAF” throughout the paragraph.
- (33) Subsection 9.7.1.3.4(3), updated verbiage to state “ The U.S. Department of Justice and U.S. Department of the Treasury Guide to Equitable Sharing for State, Local and Tribal Law Enforcement Agencies is a necessary reference for the AFC and should be provided to federal, state, local, and tribal law enforcement agencies, and foreign countries that submit equitable sharing requests to CI.”
- (34) Subsection 9.7.1.3.4(4), updated verbiage to state “The Guidelines for Seized and Forfeited Property,

the U.S. Department of Justice, and U.S. Department of the Treasury Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies and a complete set of Policy Directives, are available by contacting the Asset Recovery & Investigative Services Section.” Deleted the reference to TEOAF and the contact number.

- (35) Subsection 9.7.1.3.5, name changed from “Asset Forfeiture and Money Laundering” to “Money Laundering and Asset Recovery Section” and updated acronyms from “AFMLS” to “MLARS” throughout the section.
- (36) Subsection 9.7.1.3.5(1) added “All MLARS publications can be accessed online”.
- (37) Subsection 9.7.1.3.5(2), deleted contact number 202-305-3049
- (38) Additional revisions, deletions, and grammatical changes were made throughout the section, that did not result in substantive changes but contributed to procedural clarity of the subject matter.

#### **EFFECT ON OTHER DOCUMENTS**

This IRM supersedes IRM 9.7.1, Roles, Responsibilities, and Authorities, dated February 15, 2021.

#### **AUDIENCE**

CI

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9.7.1

Roles, Responsibilities, and Authorities

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9.7.1.1  
(02-15-2021)  
**Program Scope and Objectives**

- (1) The Criminal Investigation (CI) Asset Seizure and Forfeiture program utilizes CI's seizure and forfeiture authority as an investigative tool and/or to disrupt and dismantle criminal enterprises. The program seeks to deprive criminals of property used in, or acquired through, illegal activities by directing CI's financial expertise and resources towards significant seizure and forfeiture investigations in which CI can take a leading or key role.
- (2) The Asset Seizure and Forfeiture chapter of IRM 9.7 contains thirteen sections. Sections 9.7.2 through 9.7.10 cover Title 18 seizure and forfeiture. Title 26 forfeiture, known as "Code" forfeiture, is covered separately in section 9.7.13. Sections 9.7.11 and 9.7.12 cover seizures for abandonment and evidence.

9.7.1.1.1  
(02-15-2021)  
**Authority**

- (1) See IRM 9.1.4, Authority for the delegated authority relating to IRM 9.7.1, Roles, Responsibilities, and Authorities and IRM 9.7.1.3, Assets Forfeiture Authorities.

9.7.1.1.2  
(01-30-2023)  
**Acronyms**

- (1) The table lists commonly used acronyms and their definitions:

Acronym	Definition
AFC	Asset Forfeiture Coordinator
AFTRAK	Asset Forfeiture Tracking and Retrieval System
ARIS	Asset Recovery & Investigative Services
ASAC	Assistant Special Agent in Charge
AUSA	Assistant US Attorney
CAFRA	Civil Asset Forfeiture Reform Act
CBP	US Customs and Border Protection
CFR	Code of Federal Regulations
CI	Criminal Investigation
CT	Criminal Tax
COR	Contracting Officer's Representative
DOJ	Department of Justice
FCCR	Federal Criminal Code and Rules
IC	Internal Controls
ICE	US Immigration and Customs Enforcement
IRS-CI	Internal Revenue Service-Criminal Investigations
LRC	Law Revision Counsel
MLARS	Money Laundering and Asset Recovery Section
MOU	Memoranda of Understanding
SAC	Special Agent in Charge
SIA	Seizure Investigation Activity

SOW	Statement of Work
SSA	Supervisory Special Agent
TEOAF	Treasury Executive Office for Asset Forfeiture
TFF	Treasury Forfeiture Fund
USAO	United States Attorney's Office
USC	United States Code
USCG	US Coast Guard
USSS	US Secret Service

9.7.1.2  
(07-31-2002)  
**Roles and  
Responsibilities**

- (1) There are numerous departments, agencies, sections, offices, and individuals that often have to coordinate their activities and work together to accomplish the goals of the asset forfeiture program. This section of the IRM will introduce and define the roles and responsibilities of key participants in the asset forfeiture process.
- (2) All personnel involved in asset forfeiture have a responsibility to follow the National Code of Professional Conduct for Asset Forfeiture (Exhibit 9.7.1–1).

9.7.1.2.1  
(01-30-2023)  
**Treasury Executive  
Office for Asset  
Forfeiture (TEOAF)**

- (1) The Secretary of the Treasury, through the Under Secretary for Enforcement, has delegated responsibility for the operation and administration of the Treasury Forfeiture Fund to the Director of the TEOAF. Treasury Directive 27-03, describes the functions that TEOAF is responsible for, some of which are listed below:
  - a. Develop and implement an overall plan with respect to the seizure and forfeiture policy for the Department of the Treasury and the law enforcement agencies that participate in the TFF
  - b. Issue guidelines and procedures to be followed by the Department of the Treasury and participating law enforcement agencies in the implementation of the TFF's seizure and forfeiture policy
  - c. Enter into agreements and undertake program initiatives to implement seizure and forfeiture policy
  - d. Coordinate seizure and forfeiture programs with the DOJ
- (2) The Department of the Treasury Forfeiture Fund was created by Section 638 of Public Law 102-393 (1992), codified at 31 USC 9705, to provide a Treasury wide forfeiture fund into which forfeited cash and proceeds from the sale of forfeited property could be deposited. The participating agencies are the Internal Revenue Service Criminal Investigations Division (IRS-CI), U.S. Department of the Treasury; U.S. Customs and Border Protection (CBP), Department of Homeland Security; U.S. Homeland Security Investigations (HSI), Department of Homeland Security; U.S. Secret Service (USSS), Department of Homeland Security; U.S. Coast Guard, Department of Homeland Security. Other statutory member agencies include the Federal Law Enforcement Training Center (FLETC), Financial Crimes Enforcement Network (FinCEN), and the Tax and Trade Bureau (TTB).



- (3) The mission of the TFF is to promote the consistent and strategic use of asset forfeiture by participating law enforcement agencies to disrupt and dismantle criminal enterprises. Within this mission are four primary goals:
  - a. Deprive criminals of property used in, or acquired through, illegal activities
  - b. Encourage joint operations among Federal, state, and local law enforcement agencies, as well as with foreign countries
  - c. Strengthen law enforcement
  - d. Protect the rights of individuals from whom property is seized or forfeited

9.7.1.2.2  
(01-30-2023)  
**Asset Recovery &  
Investigative Services  
Section (ARIS)**

- (1) The ARIS Section of CI reports to the Deputy Director, Mission Operations, Global Operations Policy and Support, in the CI organizational structure. The ARIS Section provides policy, direction, oversight, and support to the field offices relating to warrants and the asset forfeiture program. Areas covered by the section include training, real property, petitions, equitable sharing, budget, and reimbursable expenditures.
- (2) The ARIS Section is responsible for the AFTRAK. The AFTRAK is the CI information system designed to track assets held for potential forfeiture or evidence from seizure to disposition.
- (3) The ARIS Section provides a liaison between the field offices and TEOAF to (among other things):
  - a. Ensure that the field offices are aware of, and are complying with, policies established by the Department of the Treasury
  - b. Advise TEOAF of any highprofile seizure and forfeiture actions
  - c. Assist field offices in resolving seized property management issues
  - d. Provide TEOAF with AFTRAK information for congressionally mandated budgetary and expenditure reports

9.7.1.2.3  
(01-30-2023)  
**United States Attorney's  
Office (USAO)**

- (1) Most, if not all, US Attorney's Offices have one or more AUSAs specifically assigned to handle forfeiture cases. The forfeiture AUSA may work in the civil or criminal division of the US Attorney's Office and serves as the expert in forfeiture law and procedure.
- (2) The forfeiture AUSA can provide valuable assistance in assessing the advisability and legality of potential seizures and should become involved in any potential forfeiture action before the seizure or indictment of property. The forfeiture AUSA should maintain close contact with the case agent and the AFC throughout the processing of the entire forfeiture action.
- (3) The duty to undertake a careful review of the underlying facts and circumstances supporting forfeiture before proceeding against the property is specifically imposed on an AUSA by law. The AUSA must fully evaluate the merits of an investigation and the justification for forfeiture prior to institution of forfeiture proceedings. Otherwise, the AUSA and seizing agent could be liable if the court determines that there was no reasonable cause for the seizure and forfeiture action. In addition, if a claimant substantially prevails, the United States will be liable for reasonable attorney fees and other litigation costs, and post-judgment interest.

9.7.1.2.4  
(01-30-2023)  
**Criminal Tax Attorney  
(CT)**

- (1) A CT Attorney's early involvement in investigations with seizure and forfeiture potential is recommended especially when an administrative forfeiture action is contemplated. A CT Attorney can provide legal assistance, identify weaknesses up front, and ensure evidence is legally sufficient to support the required burdens of proof to seize and proceed against property. A CT Attorney can also assist in the preparation of an affidavit for a seizure warrant.
- (2) One of the CT Attorney's primary responsibilities is the preparation of the Law and Fact Memorandum after a seizure in an administrative forfeiture action. The Law and Fact Memorandum is the means that the CT Attorney uses to provide an opinion to the SAC on the legal basis of a potential forfeiture action.

9.7.1.2.5  
(01-30-2023)  
**Special Agent in Charge  
(SAC)**

- (1) The SAC is delegated seizure and forfeiture authority under Delegation Order 9-2, Authority to Initiate Investigations and to Seize and Forfeit Property under the Money Laundering Control Act and the Bank Secrecy Acts (formerly DO 158). The specific authority of the SAC can be found in the Delegation Orders, which are available on the CI Web and in IRM 1.2.2, Delegation of Authorities for Criminal Investigation Activities.
- (2) The SAC should ensure that field office management actively promotes and supports the asset forfeiture program, and that local policies or procedures are in place to identify investigations with seizure and forfeiture potential. The SAC is responsible and accountable for the overall effectiveness of the field office's asset forfeiture program.
- (3) The SAC should strive to maintain an efficient and effective program that properly utilizes the asset forfeiture statutes. The field office's program should ensure the proper management and disposition of seized property and the protection of the constitutional rights of all persons involved in the asset forfeiture process. The SAC should institute procedures to ensure the seized asset database is accurately maintained on a timely basis.
- (4) The SAC is responsible for selecting a qualified special agent to serve as the field office's AFC. Dependent upon the field office's forfeiture activity, the AFC position can either be full or part time. The SAC can also assign a backup AFC: If necessary, ARIS will provide training support for AFC if requested by the field office.
- (5) The SAC is responsible for either directly supervising the AFC, or for assigning supervisory responsibility of the AFC to an ASAC or an SSA. The SAC should ensure that the AFC is provided appropriate training, time, resources, and field assistance necessary to perform his/her duties. If necessary, ARIS is available to assist the field office with training support.
- (6) The SAC should liaison with other federal, state, and local law enforcement agencies and the US Attorney's Office for the purpose of supporting the field office's asset forfeiture program, addressing issues in multi-agency investigations, and preventing any false expectations or ill will in the equitable and reverse sharing processes.

9.7.1.2.6  
(01-30-2023)  
**Supervisory Special  
Agent (SSA)**

- (1) The SSA is responsible for directing, coordinating, and overseeing work of special agents to ensure the goals and objectives the SAC has established for the asset forfeiture program are met. In order to support these goals, the SSA should:

- a. Work with the AFC to provide asset forfeiture and seizure presentations and training to his/her group.
- b. Involve the AFC in periodic reviews to provide guidance in existing seizure and forfeiture investigations and assist in identifying investigations with seizure and forfeiture potential
- c. Ensure special agents contact the AFC, as soon as seizure and forfeiture actions are anticipated
- d. Liaison with other federal, state, and local law enforcement, as well as the US Attorney's Office

9.7.1.2.7  
(01-30-2023)  
**Asset Forfeiture  
Coordinator (AFC)**

- (1) The AFC is responsible for ensuring the goals and objectives that the SAC has established for the field office's asset forfeiture program are met. The AFC's roles and responsibilities are to:
  - a. Act as the field office's expert in the seizure and forfeiture process, providing advice, performing analysis, and giving guidance to special agents and managers.
  - b. Promote the field office's asset forfeiture program.
  - c. Use CIMIS and other managerial reports to monitor SIA and to identify investigations with forfeiture potential.
  - d. Ensure that proper and timely pre-seizure planning is conducted.
  - e. Process and document assets seized for forfeiture and evidence.
  - f. Regularly review AFTRAK reports and ensure that AFTRAK is accurately and completely updated on a timely basis.
  - g. Assign asset seizure and forfeiture related work; direct and review, but not supervise, the support services contract employee(s) assigned to the field office.
  - h. Work closely with, and provide timely responses to, the Asset Recovery and Investigative Services Section.
- (2) The AFC has the responsibility to ensure that the field office is in compliance with all seizure and forfeiture statutes, processes, policies and guidelines issued by TEOAF, the DOJ, and the US Attorney's Office.
- (3) The AFC should ensure that the field office is in compliance with all policies, procedures, and guidelines contained in IRM Chapter 9-7, Asset Seizure and Forfeiture.
- (4) The AFC will attend basic asset forfeiture training sponsored by the ARIS Section, as well as contract management training for COR. The COR training is required for the AFC to sign Disposition Orders, which instruct or task the seized property contractor to perform seized property management services.
- (5) The AFC should also attend training, continuing professional education, and conferences sponsored by the ARIS Section, TEOAF, and the DOJ, MLARS, to ensure he/she is informed of the latest laws, court cases, policies, and trends in asset forfeiture and money laundering.

9.7.1.2.8  
(01-30-2023)  
**Special Agent (SA)**

- (1) It is the responsibility of the special agent to:
  - a. Explore and recognize opportunities in investigations where asset forfeiture can be used to deprive criminals of property used in, or acquired through, illegal activities.

- b. Inform the AFC of any potential seizure or forfeiture action as early as possible so the AFC can ensure that timely and proper pre-seizure planning occurs.
  - c. Seek assistance from, and work closely with, the AFC throughout the entire seizure and forfeiture process.
- (2) The special agent should ensure that the AFC is included in any seizure and forfeiture related meetings with the US Attorney's Office or other law enforcement agencies.
- (3) Special agents are delegated specific authorities under Delegation Order 9-1 and Delegation Order 9-2; however, these duties are usually performed by the AFC.

9.7.1.2.9  
(01-30-2023)  
**Seized Property  
Contractor**

- (1) An important component of the asset forfeiture program is the management and protection of seized and forfeited property. The program should attempt to achieve efficiencies in the storage and maintenance of seized and forfeited property while ensuring that the property is protected from harm or damage.
- (2) Under the authority of 31 USC 9705(a)(1)(B), the TFF is available for contracting services related to the seizure and forfeiture of property under the provisions of Titles 18 and 31.
- (3) The duties of the seized property contractor in fulfilling the requirements of this contract are covered in IRM 9.7.4, Pre-Seizure Planning; IRM 9.7.6, Custody and Storage of Seized Assets; and IRM 9.7.8, Disposition of Seized and Forfeited Property.

9.7.1.2.10  
(01-30-2023)  
**Asset Forfeiture Support  
Services Contractor**

- (1) Under the authority of 31 USC 9705(a)(1)(B), the TFF is available for contracting services related to the seizure and forfeiture of property under the provisions of Titles 18 and 31. Contract services support may also be reimbursed from the TFF for the approved seizure and/or forfeiture activities of the law enforcement agencies participating in the TFF.
- (2) The IRS secures the services of personnel through a national contract to support the CI asset forfeiture program. Each field office will generally be assigned one full or part time support service contract employee to assist the AFC with administrative duties as outlined in the contract. The assignment of full or part time support service contract employees is dependent upon the volume of seizure and forfeiture activity conducted by each field office.
- (3) The principal management of the support services program and contract employees is provided by the Project Manager, who is an employee of the support services contractor. The Project Manager is responsible for the overall management and coordination of the contract and acts as the central point of contact with CI. The authorized CI representative responsible for communicating with the Project Manager is the COR assigned to the ARIS Section.
- (4) , There are important policies that TFF law enforcement agencies must abide by when working with contract employees , including:
  - a. Recruiting, hiring, day-to-day supervision, and termination of contract employees is the responsibility of the contractor
  - b. Contract employees may only perform tasks within the terms of the categories enumerated in the contract

- c. Maintaining the distinction between government employees and contract employees is the responsibility of both organizations
- (5) Other important points to remember in working with the support services contract employee are that:
  - a. The support services contract employee is not authorized to obligate the government for any services or expenses.
  - b. All the duties of the support services contract employee should be seizure or forfeiture related, and not tasks reserved for CI employees.
  - c. The appearance that the support services contract employee is exercising more authority over the asset forfeiture program than the AFC should be avoided.
- (6) The following duties are generally authorized for contract employees under the asset forfeiture support services contract:
  - a. Research
  - b. Preparation and review of forms, memoranda, and correspondence
  - c. Record analyses
  - d. Data entry and update
  - e. Processing
  - f. File maintenance and documentation
  - g. Conducting and reconciling inventories
  - h. Photocopying
  - i. Telephone and written contact with other Federal, state, and local law enforcement agencies

9.7.1.2.11  
(01-30-2023)  
**Statements of Work  
(SOW)**

- (1) A SOW is the part of a federal contract that describes the contractor's work requirements.
- (2) The objective of the seized property management contract SOW and its appendices is to describe the work requirements for contractors of TFF law enforcement agencies related to the receipt, custody, management, and disposition of seized and forfeited property. The appendices in the SOW describe unique requirements for each TFF law enforcement agency including IRS-CI.
- (3) The seized property contractor is required to maintain the contract's SOW. Whenever an addition, deletion, or modification to the SOW is approved, the seized property contractor will receive, maintain, and update copy of the revised contract. A copy of the revised contract should be forwarded to the Contracting Officer and the Director, TEOAF, within the time period specified in the SOW. Each AFC should have the most recent revision of the SOW, which may be obtained by contacting the ARIS Section, or from the local point of contact for the property contractor.
- (4) The SOW for the support services contract describes the support services requirements for CI and the TEOAF. Each field office should have a copy of the SOW, which may be obtained from the COR for the support services contract in the ARIS Section. The field office support services contract employee should be provided with a copy of the SOW by his/her employer.

9.7.1.3  
(07-31-2002)  
**Assets Forfeiture  
Authorities**

- (1) There are numerous sources of statutory and delegated authorities and policies for the CI asset forfeiture program. In addition, CI has established its own internal policies and guidelines. The AFC should establish an asset forfeiture reference library for the use of the field office that include some or all of the following references.

9.7.1.3.1  
(01-30-2023)  
**United States Code and  
Code of Federal  
Regulations**

- (1) The office of the LRC of the US House of Representatives prepares and publishes the USC. The LRC Internet site <http://uscode.house.gov/> contains search and download options for search of the USC. The CFR can be researched at <http://www.gpoaccess.gov/cfr/index.html>
- (2) The FCCR which is published annually, includes Title 18, Crimes and Criminal Procedure; Title 26, 7201 to 7217; and Title 31. The FCCR also contains Rules of Criminal Procedure, such as Rule 32.2-Criminal Forfeiture; and Rule 41-Search and Seizure. Current editions of the FCCR should be available in all field offices and posts-of-duty. The FCCR can also be researched at <http://uscode.house.gov/>.
- (3) The following sections in Title 18 relate to civil and criminal forfeitures for violations of 18 USC 1956 and 1957, and 31 USC 5313 and 5324:
  - a. 18 USC 981 - Civil Forfeiture
  - b. 18 USC 982 - Criminal Forfeiture
  - c. 18 USC 983 - General Rules for Civil Forfeiture Proceedings
  - d. 18 USC 984 - Civil Forfeiture of Fungible Property
  - e. 18 USC 985 - Civil Forfeiture of Real Property
  - f. 18 USC 986 - Subpoenas for Bank Records
- (4) The following sections relate to civil forfeitures for Title 26 violations:
  - a. 26 USC 7301 - Property Subject to Tax
  - b. 26 USC 7302 - Property Used in Violation of Internal Revenue Laws
- (5) 31 USC 5317(c) provides for civil and criminal forfeiture for violations of 31 USC 5313 and 5324.
- (6) The Taxpayer First Act 1201 amended 31 USC 5317(c)(2) (civil forfeiture provision) to limit the IRS's authority to seize property associated with structuring violations (31 USC 5324). Pursuant to this change, CI may only seize property by reason of a claimed violation of section 5324 if the property to be seized was: (1) derived from an illegal source, or (2) the funds were structured for the purpose of concealing the violation of a criminal law or regulation other than section 5324.
  - a. CI must provide notice not later than 30 days after the seizure to all who have an ownership interest in the seized property (and not the 60 days required by CAFRA). The notice must advise the person of their right to a post-seizure hearing. CI will post the notice of the seizure on [www.Forfeiture.gov](http://www.Forfeiture.gov).
  - b. CI may apply to a court of competent jurisdiction for one 30-day extension of the notice requirement if CI can establish probable cause to believe there is an imminent threat to national security or personal safety necessitating such extension. No additional extensions are possible or will be granted.
  - c. If a person with an ownership interest in property seized by CI requests a hearing in a court of competent jurisdiction within 30 days after the date



- on which notice is provided, such property shall be returned unless the court holds an adversarial hearing within 30 days of such request (or such longer period as the court may provide, but only on request of an interested party) and finds that there is probable cause to believe that: (i) there is a structuring violation involving the property, and (ii)(a) the property to be seized was derived from an illegal source, or (b) the funds were structured for the purpose of concealing the violation of a criminal law or regulation other than structuring.
- d. The Taxpayer First Act § 1202 added section 139H to Title 26, stating that interest received from the Federal Government in connection with an action to recover seized property by the IRS pursuant to section 5317(c)(2) of Title 31 shall not be included in gross income. This section applies to interest received after July 1, 2019.
  - e. The Director of Asset Recovery & Investigative Services will be responsible for informing TEOAF that such interest is tax exempt to ensure TEOAF indicates such on the issued Form 1099-INT.

(i)	The Director of Asset Recovery & Investigative Services will write a memo to the TEOAF Director and the TEOAF Assistant Director of Financial Management and Operations.
(ii)	This memorandum will provide the necessary information to inform TEOAF of the seizure, including the individual or entity name, their taxpayer identification number, case name and number, and specifically address the nature of the case as being a legal source structuring case under Title 31. The memorandum will also indicate that any interest income to be paid to the subject of the case will be tax-exempt, as required by the Internal Revenue Code, and that it should be indicated in box 8 on the Form 1099-INT that TEOAF will issue to the subject.
(iii)	This memorandum will represent the official record that CI notified TEOAF of the tax-exempt nature of the interest being paid on the returned funds and will be filed with the case file for the subject of the investigation.

- (7) The IRS Structuring Investigation Policy Change, dated October 17, 2014 (Structuring Policy), provides that CI will not pursue the seizure and forfeiture of funds associated solely with “legal source” structuring cases unless there are exceptional circumstances justifying the seizure and forfeiture and the case has been approved at the Director, Field Operations (Criminal Investigation) level. IRM 9.7.1.3.1(6).
  - a. The amendment to 31 USC 5317(c)(2) eliminates the ability to seize “legal source” structured funds based on exceptional circumstances. To the extent that the 2014 Policy is more restrictive than the Taxpayer First Act amendment, the CI Policy controls.
  - b. In cases where legal source income is involved in alleged structuring activity, consideration should be given to initiating a Title 26 criminal tax investigation. In certain circumstances, the structuring activity can be treated as an affirmative act of evasion under 26 USC 7201, evidence of willfulness, an overt act of conspiracy under 18 USC 371, or it may support Title 31 violations.

- c. Funds alleged to be involved in structuring activity solely for the purpose of concealing a Title 26 violation are not considered to be derived from an illegal source within the meaning of the Structuring Policy.
- (8) The provisions of the Customs laws 19 USC 1602–1621 (relating to seizure, administrative and judicial forfeiture, disposition of property or proceeds from the sale) insofar as they are applicable and not inconsistent with the provisions of 18 USC 981, apply to civil seizures and forfeitures under 18 USC 981 and 31 USC 5317(c).
- (9) Remission or mitigation of administrative forfeiture are governed by the DOJ regulations at 28 CFR Part 9.
- (10) Proceedings under the criminal forfeiture statutes 18 USC 982 and 31 USC 5317(c)(1) are governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 USC 853).

## 9.7.1.3.2

(01-30-2023)

**Supplemental Rules for Certain Admiralty and Maritime Claims**

- (1) The Supplemental Rules for Certain Admiralty and Maritime Claims are found at the end of the FCCR in Title 28 of the USC and are commonly referred to as the Supplemental Rules. The Supplemental Rules and the FCCR can be researched on the LRC Internet site <http://uscode.house.gov/>. Civil judicial forfeiture actions proceed under the Supplemental Rules and the FCCR. The Supplemental Rules set forth requirements and procedures, such as the filing a civil forfeiture complaint and the issuance and execution of warrants of arrest *in rem*.

## 9.7.1.3.3

(01-30-2023)

**Treasury Orders, Treasury Directives, Delegation Orders, Memoranda of Understanding**

- (1) The authority for CI and CI personnel to seize and forfeit property originates with the Secretary of the Treasury in the United States Code, and is delegated through Treasury Orders, Treasury Directives, and Delegation Orders.
- (2) Treasury Orders relevant to asset forfeiture include Treasury Order 101-05, which delegates certain authorities vested in the Secretary of the Treasury to various officials, offices, and bureaus. Another pertinent Treasury Order, 102-14, delegates authority with respect to the Treasury Forfeiture Fund.
- (3) Treasury Directives relevant to asset forfeiture include Treasury Directive 15-42, which delegates authorities to the IRS Commissioner investigate violations of 18 USC 1956 and 1957. Another pertinent Treasury Directive, 27-03, describes the responsibilities of TEOAF. The United States Treasury web site <http://www.treasury.gov/about/role-of-treasury/orders-directives/Pages/default.aspx> contains the Treasury Orders and Treasury Directives indexed numerically and by subject.
- (4) The Commissioner also delegated seizure and forfeiture authority to CI personnel through Delegation Order Number 9-2, Authority to Initiate Investigations and to Seize and Forfeit Property under the Money Laundering Control Act of 1986 and the Bank Secrecy Act, for seizures and forfeitures pursuant to Titles 18 and 31. Delegation Order 9-2 is available on the CI Web and in IRM Chapter 1.2.48. The CI personnel delegated varying levels of seizure and forfeiture authority through Delegation Order 9-2 include:
  - a. Special Agents
  - b. SACs
  - c. Lead Development Center Supervisory Special Agent(s)
  - d. Directors, Field Operations



- e. Director, Asset Recovery & Investigative Services
- f. Director, Global Operations Policy and Support

- (5) The Department of the Treasury and IRS also enter into MOU with other departments and agencies relating to seizures and forfeitures. The most significant of these is the MOU between the Secretary of the Treasury, the Attorney General, and the Postmaster General Regarding Money Laundering Investigations dated August 31, 1990. This memorandum allocates jurisdiction to investigate violations of 18 USC 1956 and 1957, and related seizure and forfeiture authority.

9.7.1.3.4  
(01-30-2023)  
**Treasury Executive  
Office for Asset  
Forfeiture Policy and  
Guides**

- (1) The TEOAF sets policy for Treasury law enforcement agencies in the areas of asset seizure and forfeiture through the issuance of Policy Directives that contain guidelines under which TFF law enforcement agencies must operate. The TFF law enforcement agencies may, however, establish policies or issue guidelines for their respective agencies that are more restrictive than the Policy Directives issued by TEOAF. The TEOAF Policy Directives are periodically revised due to changes in the law or to improve the efficiency and effectiveness of TFF operations. The TEOAF Policy Directives are available on the CI Web.
- (2) The most global statement of Department of the Treasury policy may be found in the Department of the Treasury Guidelines for Seized and Forfeited Property.
- (3) The U.S. Department of Justice and U.S. Department of the Treasury Guide to Equitable Sharing for State, Local and Tribal Law Enforcement Agencies is a necessary reference for the AFC and should be provided to federal, state, local, and tribal law enforcement agencies, and foreign countries that submit equitable sharing requests to CI.
- (4) The Guidelines for Seized and Forfeited Property, the U.S. Department of Justice, and U.S. Department of the Treasury Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies and a complete set of Policy Directives, are available by contacting the Asset Recovery & Investigative Services Section.

9.7.1.3.5  
(01-30-2023)  
**Money Laundering and  
Asset Recovery Section  
Publications**

- (1) The MLARS in the Criminal Division of the DOJ is an important resource for the dissemination of forfeiture and money laundering information. The MLARS publishes newsletters, pamphlets, and manuals, which provide technical assistance and legal advice. The MLARS publications are available at no cost to the federal, state, and local government communities. All MLARS publications can be accessed online
- (2) To obtain a catalog of MLARS publications or order the items described below, contact MLARS at (202) 616-9327. .
- (3) Some of the newsletters available from MLARS include:
  - a. *Quick Release*, a monthly publication containing summaries of the most recent federal forfeiture cases.
  - b. *Asset Forfeiture News*, a bimonthly publication dedicated to federal forfeiture news.
  - c. *Money Laundering Monitor*, a semiannual publication containing articles written by money laundering professionals on the latest domestic and in-

ternational developments, case law, policy decisions, congressional issues, changes in statutes, and other items of interest relative to seizure and forfeiture law.

- (4) *The Asset Forfeiture Law and Practice* manual contains a comprehensive discussion of all the major aspects of forfeiture law and practice with an emphasis on the government's perspective. Much of the information in IRM 9.7 is derived from the *Asset Forfeiture Law and Practice Manual*.

**Exhibit 9.7.1-1 (07-31-2002)****National Code of Professional Conduct for Asset Forfeiture****National Code of Professional Conduct for Asset Forfeiture**

- I. Law enforcement is the principal objective of forfeiture. Potential revenue must not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations, or the due process rights of citizens.
- II. No prosecutors or sworn law enforcement officer's employment or salary shall be made to depend upon the level of seizures or forfeitures he/she achieves.
- III. Whenever practicable, and in all cases involving real property, a judicial finding of probable cause shall be secured when property is seized for forfeiture. Seizing agencies shall strictly comply with all applicable legal requirements governing seizure practice and procedure.
- IV. If no judicial finding of probable cause is secured, the seizure shall be approved in writing by a prosecuting agency or by a supervisory-level official.
- V. Seizing entities shall have a manual detailing the statutory grounds for forfeiture and all-applicable policies and procedures.
- VI. The manual shall include procedures for prompt notice to interest holders, the expeditious release of seized property where appropriate, and the prompt resolution of claims of innocent ownership.
- VII. Seizing entities retaining forfeited property for official law enforcement use shall ensure that the property is subject to internal controls consistent with those applicable to property acquired through the normal appropriations of that entity.
- VIII. Unless otherwise provided by law, forfeiture proceeds shall be maintained in a separate fund or account subject to appropriate accounting controls and annual financial audits of all deposits and expenditures.
- IX. Seizing agencies shall strive to ensure that seized property is protected and its value preserved.
- X. Seizing entities shall avoid any appearance of impropriety inquisition in the sale or acquisition of forfeited property.

