United States Government Accountability Office

Report to Congressional Requesters

FINANCIAL INSTITUTIONS

Fines, Penalties, and Forfeitures for Violations of Financial Crimes and Sanctions Requirements

GAO-16-297

GAO Highlights

Highlights of GAO-16-297, a report to congressional requesters

March 2016

FINANCIAL INSTITUTIONS

Fines, Penalties, and Forfeitures for Violations of Financial Crimes and Sanctions Requirements

Why GAO Did This Study

Over the last few years, billions of dollars have been collected in fines, penalties, and forfeitures assessed against financial institutions for violations of requirements related to financial crimes. These requirements are significant tools that help the federal government detect and disrupt money laundering, terrorist financing, bribery, corruption, and violations of U.S. sanctions programs.

GAO was asked to review the collection and use of these fines, penalties, and forfeitures assessed against financial institutions for violations of these requirements—specifically, BSA/AML, FCPA, and U.S. sanctions programs requirements. This report describes (1) the amounts collected by the federal government for these violations, and (2) the process for collecting these funds and the purposes for which they are used. GAO analyzed agency data, reviewed documentation on agency collection processes and on authorized uses of the funds in which collections are deposited, and reviewed relevant laws. GAO also interviewed officials from Treasury (including the Financial Crimes Enforcement Network and the Office of Foreign Assets Control), Securities and Exchange Commission, Department of Justice, and the federal banking regulators.

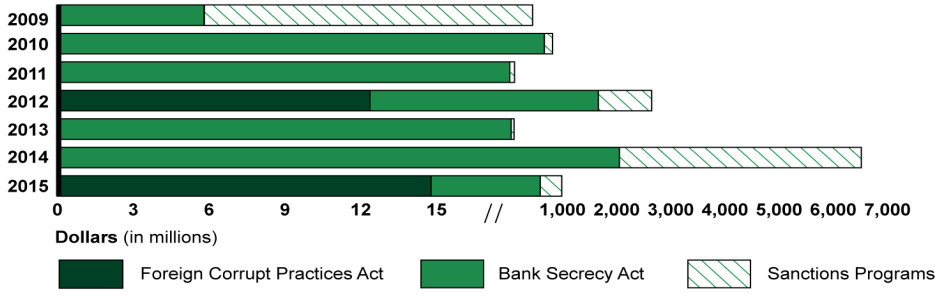
GAO is not making recommendations in this report.

View GAO-16-297. For more information, contact Lawrance Evans at (202) 512-8678 or evansl@gao.gov or Diana C. Maurer at (202) 512-9627 or maurerd@gao.gov.

What GAO Found

Since 2009, financial institutions have been assessed about $12 billion in fines, penalties, and forfeitures for violations of Bank Secrecy Act/anti-money-laundering regulations (BSA/AML), Foreign Corrupt Practices Act of 1977 (FCPA), and U.S. sanctions programs requirements by the federal government. Specifically, GAO found that from January 2009 to December 2015, federal agencies assessed about $5.2 billion for BSA/AML violations, $27 million for FCPA violations, and about $6.8 billion for violations of U.S. sanctions program requirements. Of the $12 billion, federal agencies have collected all of these assessments, except for about $100 million.

Collections of Fines, Penalties, and Forfeitures from Financial Institutions for Violations of Bank Secrecy Act/Anti-Money Laundering, Foreign Corrupt Practices Act, and U.S. Sanctions Programs Requirements, Assessed in January 2009–December 2015



Source: Department of the Treasury, Department of Justice, regulators' data. | GAO-16-297

Agencies have processes for collecting payments for violations of BSA/AML, FCPA, and U.S. sanctions programs requirements and these collections can be used to support general government and law enforcement activities and provide payments to crime victims. Components within the Department of the Treasury (Treasury) and financial regulators are responsible for initially collecting penalty payments, verifying that the correct amount has been paid, and then depositing the funds into Treasury's General Fund accounts, after which the funds are available for appropriation and use for general support of the government. Of the approximately $11.9 billion collected, about $2.7 billion was deposited into Treasury General Fund accounts. The BSA and U.S. sanctions-related criminal cases GAO identified since 2009 resulted in the forfeiture of almost $9 billion through the Department of Justice (DOJ) and Treasury. Of this amount, about $3.2 billion was deposited into DOJ's Asset Forfeiture Fund (AFF) and $5.7 billion into the Treasury Forfeiture Fund (TFF), of which $3.8 billion related to a sanctions case was rescinded in fiscal year 2016 appropriations legislation. Funds from the AFF and TFF are primarily used for program expenses, payments to third parties, including the victims of the related crimes, and payments to law enforcement agencies that participated in the efforts resulting in forfeitures. As of December 2015, DOJ and Treasury had distributed about $1.1 billion to law enforcement agencies and about $2 billion was planned for distribution to crime victims. Remaining funds from these cases are subject to general rescissions to the TFF and AFF or may be used for program or other law enforcement expenses.

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Abbreviations

AFF	Asset Forfeiture Fund
AML	anti-money laundering
BFS	Bureau of Fiscal Service
BSA	Bank Secrecy Act
DOJ	Department of Justice
FCPA	Foreign Corrupt Practices Act of 1977
FDIC	Federal Deposit Insurance Corporation
Federal Reserve	Board of Governors of the Federal Reserve System
FinCEN	Financial Crimes Enforcement Network
FRBR	Federal Reserve Bank of Richmond
IRS	Internal Revenue Service
NCUA	National Credit Union Administration
OCC	Office of the Comptroller of the Currency
OFAC	Office of Foreign Assets Control
SEC	Securities and Exchange Commission
TFF	Treasury Forfeiture Fund
Treasury	Department of the Treasury
USA PATRIOT Act	United and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001

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March 22, 2016

The Honorable Michael G. Fitzpatrick
Chairman
Task Force to Investigate Terrorism Financing
Committee on Financial Services
House of Representatives

The Honorable Stephen F. Lynch
Ranking Member
Task Force to Investigate Terrorism Financing
Committee on Financial Services
House of Representatives

The Honorable Robert Pittenger
Vice Chairman
Task Force to Investigate Terrorism Financing
Committee on Financial Services
House of Representatives

Over the last few years, billions of dollars have been collected in fines, penalties, and forfeitures from financial institutions for violations related to the Bank Secrecy Act (BSA), Foreign Corrupt Practices Act of 1977 (FCPA), and U.S. sanctions programs requirements—referred to as "covered violations" in this report. These requirements are significant tools that aid the federal government in detecting, disrupting, and inhibiting financial crimes, terrorist financing, bribery, corruption, and economic interactions with entities that undermine U.S. policy interest, among other things. For example, Congress passed BSA and FCPA to combat money laundering, prohibit U.S. businesses from paying bribes to foreign officials, and target the financial resources of terrorist organizations.[1] Similarly, federal agencies have developed regulations related to U.S. sanctions programs to enforce the blocking of assets and trade restrictions to accomplish foreign policy and national security goals. As part of these efforts to stop the illegal flow of funds and to deter

[1]Pub. L. No. 91-508, tits. I-II, 84 Stat. 1114 (1970) (codified as amended at 12 U.S.C. §§ 1829b, 1951-1959; 31 U.S.C. §§ 5311-5330); Pub. L. No. 95-123, tit. I, 91 Stat. 1494 (codified as amended at 15 U.S.C. §§ 78dd-1 – 78dd-3).

financial crimes, federal agencies—including the Department of Justice (DOJ), Department of the Treasury (Treasury), and Securities and Exchange Commission (SEC) and other financial regulators—have the ability to reach settlements, take enforcement actions against institutions and individuals, and, in the case of DOJ and Treasury, seize assets. These actions may result in fines, penalties, or forfeitures that the agencies collect.[2]

You asked us to review the amounts of fines, penalties, and forfeitures federal agencies have collected from financial institutions for violations of BSA and related anti-money-laundering (AML) requirements (referred to as "BSA/AML requirements"), FCPA, and U.S. sanctions programs requirements, how these funds and forfeitures are used and the policies and controls governing their distribution.[3] This report describes (1) the amount of fines, penalties, and forfeitures that the federal government has collected for these violations from January 2009 through December 2015, and (2) the process for collecting these funds and the purposes for which they are used.[4]

To describe the fines, penalties, and forfeitures federal agencies have assessed on, and collected from, financial institutions, we identified and analyzed relevant agencies' data on enforcement actions taken and cases brought against financial institutions that resulted in fines, penalties, or forfeitures for the covered violations. Specifically, we

[2]Fines and penalties result from enforcement actions that require financial institutions to pay an amount agreed upon between the financial institution and the enforcing agency, or an amount set by a court or in an administrative proceeding. Forfeitures result from enforcement actions and are the confiscation of money, assets, or property, depending on the violation.

[3]With respect to U.S. sanctions programs requirements, we included violations by financial institutions of U.S. sanctions programs enforced by the Department of the Treasury's Office of Foreign Assets Control (OFAC), such as trade and financial sanction programs and related compliance requirements that are part of federal financial regulators' examination programs. With respect to anti-money-laundering (AML) requirements, our review focused on those requirements that financial institutions must implement to be in compliance with BSA, for example establishing an AML compliance program.

[4]The Bank Secrecy Act defines financial institutions as depository institutions, money services businesses, insurance companies, travel agencies, broker-dealers, and dealers in precious metals, among other types of businesses. 31 U.S.C. § 5312(a)(2). Money services business is defined by regulation generally as money transmitters, dealers in foreign exchange, check cashers, issuers or sellers of traveler's checks or money orders, providers or sellers of prepaid access, and the Postal Service. 31 C.F.R. §1010.100(ff). Unless otherwise noted, we use the BSA definition of financial institutions in this report.

analyzed publicly available data on the number and amounts of fines and penalties that were assessed from January 2009 through December 2015 by the Board of Governors of the Federal Reserve System (Federal Reserve), Federal Deposit Insurance Corporation (FDIC), DOJ, National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), SEC, and the Financial Crimes Enforcement Network (FinCEN), a bureau within Treasury.[5] We also reviewed enforcement actions listed on Treasury's Office of Foreign Assets Control (OFAC) website and identified any actions taken against financial institutions.[6] To identify criminal cases against financial institutions for violations of BSA and sanctions-related requirements, we reviewed press releases from DOJ's Asset Forfeiture and Money Laundering Section and related court documents, as well as enforcement actions listed on OFAC's website. To determine the amounts forfeited for these cases, we obtained data from DOJ's Consolidated Asset Tracking System and verified any Treasury-related data in DOJ's system by obtaining information from the Treasury Executive Office for Asset Forfeiture.[7]

We assessed the reliability of the data from financial regulators and Treasury that we used by reviewing prior GAO evaluations of these data, interviewing knowledgeable agency officials, and reviewing relevant

[5]NCUA officials we spoke with explained that they had not assessed any penalties against financial institutions for violations of BSA/AML requirements from January 2009 through December 2015.

[6]To identify enforcement actions taken against financial institutions from the actions listed on OFAC's website, we applied OFAC's definitions of financial institutions which covers regulated financial entities in the financial industry—such as insured and commercial banks, an agency or branch of a foreign bank in the U.S., credit unions, thrift institutions, securities brokers and dealers, operators of credit card systems, insurance or reinsurance companies, and money transmitters, among others. OFAC's definitions do not include travel agencies or dealers in precious metals (which are included under BSA's definition of a financial institution).

[7]We generally identified criminal cases (and related forfeiture and fines) brought against financial institutions for violations of BSA and sanctions-related requirements by DOJ and other law enforcement agencies by reviewing press releases on DOJ's Asset Forfeiture and Money Laundering Section website and associated court documents, as well as enforcement actions listed on OFAC's website. We developed this approach in consultation with DOJ officials, as their data system primarily tracks assets forfeited by the related case, which can include multiple types of violations, rather than by a specific type of violation, such as BSA or sanctions-related violations. As a result, this report may not cover all such criminal cases, as some may not be publicized through press releases. However, our approach does include cases that involved large forfeiture amounts for the period under our review.

documentation, such as agency enforcement orders for the fines, penalties, and forfeitures assessed. To verify that these amounts had been collected, we requested verifying documentation from agencies confirming that these assessments had been collected, and also obtained and reviewed documentation for a sample of the data to verify that the amount assessed matched the amount collected. As a result, we determined that these data were sufficiently reliable for our purposes. We assessed the reliability of relevant data fields from DOJ's Consolidated Asset Tracking System by reviewing prior GAO and DOJ evaluations of this system and interviewing knowledgeable officials from DOJ. We determined that these data were sufficiently reliable for purposes of this report.

To describe how payments were collected for the covered violations, we identified and summarized documentation of the various steps and key agency internal controls for collection processes. We also obtained documentation, such as statements documenting receipt of a penalty payment, for a sample of penalties. We interviewed officials from each agency about the process used to collect payments for assessed fines and penalties and, for relevant agencies, the processes for collecting cash and assets for forfeitures. To describe how these collections were used, we obtained documentation on expenditures from the accounts into which the payments were deposited. Specifically, we obtained documentation on the authorized or allowed expenditures for accounts in the Treasury General Fund, Treasury Forfeiture Fund (TFF), and DOJ's Assets Forfeiture Fund (AFF) and Crime Victims Fund. We also reviewed relevant GAO reports, agency Office of Inspector General reports, and laws governing the various accounts.

We conducted this performance audit from July 2015 to March 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Bank Secrecy Act/Anti-Money-Laundering Requirements

BSA established reporting, recordkeeping, and other anti-money-laundering (AML) requirements for financial institutions. By complying with BSA/AML requirements, U.S. financial institutions assist government agencies in the detection and prevention of money-laundering and terrorist financing by maintaining effective internal controls and reporting suspicious financial activity.[8] BSA regulations require financial institutions, among other things, to comply with recordkeeping and reporting requirements, including keeping records of cash purchases of negotiable instruments, filing reports of cash transactions exceeding $10,000, and reporting suspicious activity that might signify money laundering, tax evasion, or other criminal activities.[9] In addition, financial institutions are required to have AML compliance programs that incorporate (1) written AML compliance policies, procedures, and controls; (2) an independent audit review; (3) the designation of an individual to assure day-to-day compliance; and (4) training for appropriate personnel.[10] Over the years, these requirements have evolved into an important tool to help a number of regulatory and law enforcement agencies detect money laundering, drug trafficking, terrorist financing, and other financial crimes.

[8]For prior GAO reports on BSA-related issues and financial institutions, see GAO, *Bank Secrecy Act: Federal Agencies Should Take Action to Further Improvement Coordination and Information-Sharing Efforts,* GAO-09-227 (Washington, D.C.: Feb. 12, 2009) and *Bank Secrecy Act: Opportunities Exist for FinCEN and the Banking Regulators to Further Strengthen the Framework for Consistent BSA Oversight*, GAO-06-386 (Washington, D.C.: Apr. 28, 2006).

[9]See, e.g., 31 C.F.R. § 1010.311, § 1010.320, and § 1010.340.

[10]In October 2001, the enactment of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 ("USA PATRIOT Act") expanded BSA to require that all financial institutions have AML programs unless they are exempted by regulation. Pub. L. No. 107-56, § 352, 115 Stat. 272, 322 (codified at 31 U.S.C. § 5318(h)). Entities not previously required under BSA to have such a program, such as mutual funds, broker-dealers, money service businesses, certain futures brokers, and insurance companies, were required to do so under this act and related regulations. Moreover, among other things, the act mandated that Treasury issue regulations requiring registered securities brokers-dealers to file Suspicious Activity Reports and provided Treasury with authority to prescribe regulations requiring certain futures firms to submit these reports. § 356, 115 Stat. at 324.

The regulation and enforcement of BSA involves several different federal agencies, including FinCEN, the federal banking regulators—FDIC, Federal Reserve, NCUA, and OCC—DOJ, and SEC. FinCEN oversees the administration of BSA, has overall authority for enforcing compliance with its requirements and implementing regulations, and also has the authority to enforce the act, primarily through civil money penalties. BSA/AML examination authority has been delegated to the federal banking regulators, among others. The banking regulators use this authority and their independent authorities to examine entities under their supervision, including national banks, state member banks, state nonmember banks, thrifts, and credit unions, for compliance with applicable BSA/AML requirements and regulations.[11] Under these independent prudential authorities, they may also take enforcement actions independently or concurrently for violations of BSA/AML requirements and assess civil money penalties against financial institutions and individuals.[12] The authority to examine broker-dealers and investment companies (mutual funds) for compliance with BSA and its implementing regulations has been delegated to SEC, and SEC has independent authority to take related enforcement actions.

DOJ's Criminal Division develops, enforces, and supervises the application of all federal criminal laws except those specifically assigned to other divisions, among other responsibilities.[13] The division and the 93

[11]The Federal Reserve, FDIC, and NCUA share safety and soundness examination responsibility with state banking departments for state-chartered institutions. State agencies' assessments and collections are outside the scope of this report. In addition, BSA examination authority has been delegated to the Commodity Futures Trading Commission for futures firms and to the Internal Revenue Service (IRS) for money services businesses, casinos, and other financial institutions not under the supervision of a federal financial regulator. See 31 C.F.R. § 1010.810(b)(8)-(9). This report focuses on Treasury, the federal banking regulators, and DOJ and SEC (which also have FCPA responsibilities). The roles of the Commodity Futures Trading Commission and IRS in assessing and collecting fines and penalties are outside the scope of this report. However, included in this report are civil penalties assessed by FinCEN against IRS-examined financial institutions for BSA violations. We also did not include self-regulatory organizations in our review that impose anti-money-laundering rules or requirements consistent with BSA on their members, such as the Financial Industry Regulatory Authority, because penalties resulting from their enforcement actions against members generally are remitted to the organizations and not to the federal government.

[12]See 12 U.S.C. § 1818 (i)(2). Enforcement actions may also be taken concurrently with other federal or state authorities.

[13]DOJ's Criminal Division also has other responsibilities, such as prosecuting many nationally significant cases and formulating and implementing criminal enforcement policy.

U.S. Attorneys have the responsibility for overseeing criminal matters as well as certain civil litigation. With respect to BSA/AML regulations, DOJ may pursue investigations of financial institutions and individuals for both civil and criminal violations that may result in dispositions including fines, penalties, or the forfeiture of assets. In the cases brought against financial institutions that we reviewed, the assets were either cash or financial instruments. Under the statutes and regulations that guide the assessment amounts for fines, penalties, and forfeitures, each federal agency has the discretion to consider the financial institution's cooperation and remediation of their BSA/AML internal controls, among other factors.[14]

Foreign Corrupt Practices Act and U.S. Sanctions Programs

The FCPA contains both antibribery and accounting provisions that apply to issuers of securities, including financial institutions.[15] The antibribery provisions prohibit issuers, including financial institutions, from making corrupt payments to foreign officials to obtain or retain business. The accounting provisions require issuers to make and keep accurate books and records and to devise and maintain an adequate system of internal accounting controls, among other things.[16] SEC and DOJ are jointly responsible for enforcing the FCPA and have authority over issuers, their officers, directors, employees, stockholders, and agents acting on behalf of the issuer for violations, as well as entities that violate the FCPA. Both SEC and DOJ have civil enforcement authority over the FCPA's antibribery provisions as well as over accounting provisions that apply to issuers. DOJ also has criminal enforcement authority.

Generally, financial sanctions programs create economic penalties in support of U.S. policy priorities, such as countering national security threats. Sanctions are authorized by statute or executive order, and may be comprehensive (against certain countries) or more targeted (against individuals and groups such as regimes, terrorists, weapons of mass destruction proliferators, and narcotics traffickers). Sanctions are used to, among other things, block assets, impose trade embargos, prohibit trade and investment with some countries, and bar economic and military

[14]See, e.g., 12 U.S.C. § 1818(i)(2)(F); 31 C.F.R. pt. 501, App. A. The actions of criminal prosecutors are also guided by the application of the Principles of Federal Prosecution of Business Organizations. See U.S. Attorneys' Manual, § 9-28.000 (1997).

[15]Issuers include U.S. and foreign companies that are listed on U.S. stock exchanges or that are required to file periodic reports with SEC.

[16]15 U.S.C. §§ 78dd-1 –78dd-3; 15 U.S.C. § 78m(b)(42).

assistance to certain regimes. For example, financial institutions are prohibited from using the U.S. financial system to make funds available to designated individuals or banks and other entities in countries targeted by sanctions. Financial institutions are required to establish compliance and internal audit procedures for detecting and preventing violations of U.S. sanction laws and regulations, and are also required to follow OFAC reporting requirements. Financial institutions are to implement controls consistent with their risk assessments, often using systems that identify designated individuals or entities and automatically escalate related transfers for review and disposition. Institutions may also have a dedicated compliance officer and an officer responsible for overseeing blocked funds, compliance training, and in-depth annual audits of each department in the bank.

Treasury, DOJ, and federal banking regulators all have roles in implementing U.S. sanctions programs requirements relevant to financial institutions. Specifically, Treasury has primary responsibility for administering and enforcing financial sanctions, developing regulations, conducting outreach to domestic and foreign financial regulators and financial institutions, identifying sanctions violations, and assessing the effects of sanctions. Treasury and DOJ also enforce sanctions regulations by taking actions against financial institutions for violations of sanctions laws and regulations, sometimes in coordination with the federal and state banking regulators. As part of their examinations of financial institutions for BSA/AML compliance, banking regulators and SEC also review financial institutions to assess their compliance programs for sanction laws and regulations.

Funds for Depositing Collections

Treasury and DOJ maintain funds and accounts for fines, penalties, and forfeitures that are collected.[17] Expenditure of these funds is guided by statute, and Treasury and DOJ are permitted to use the revenue from their funds to pay for expenses associated with forfeiture activities.[18] Treasury administers and maintains the Treasury General Fund and TFF. Treasury General Fund receipt accounts hold all collections that are not earmarked by law for another account for a specific purpose or presented in the President's budget as either governmental (budget) or offsetting

[17]Funds provide a fiscal and accounting mechanism with a self-balancing set of accounts which are segregated for the purpose of carrying on specific activities or attaining certain objectives.

[18]31 U.S.C. § 9705(a); 28 U.S.C. § 524(c).

receipts. It includes taxes, customs duties, and miscellaneous receipts.[19] The TFF is a multidepartmental fund that is the receipt account for agencies participating in the Treasury Forfeiture Program (see table 1).The program has four primary goals: (1) to deprive criminals of property used in or acquired through illegal activities; (2) to encourage joint operations among federal, state, and local law enforcement agencies, as well as foreign countries; (3) to strengthen law enforcement; and (4) to protect the rights of the individual. Treasury's Executive Office for Asset Forfeiture is responsible for the management and oversight of the TFF.

Table 1: Treasury Asset Forfeiture Program Components

Agencies participating in the Treasury program	Description
Treasury: Internal Revenue Service - Criminal Investigation	It is a seizing agency for the program and investigates financial crimes such as money laundering, corporate fraud, and terrorism financing.
Department of Homeland Security: U.S. Immigration and Customs Enforcement	It is a seizing agency for the program and is responsible for the investigation of immigration crimes, human-rights violations, and human smuggling.
Department of Homeland Security: U.S. Customs and Border Protection	It is a seizing agency for the program and seizes property primarily from U.S. border-related criminal investigations and passenger/cargo processing. Prohibited forfeited items, such as counterfeit goods, narcotics, or firearms, are held by it until disposed of or destroyed.
Department of Homeland Security: U.S. Secret Service	It is a seizing agency for the program and has primary investigative authority for counterfeiting, access-device fraud, and cybercrimes.
Department of Homeland Security: U.S. Coast Guard	The Coast Guard participates in the Treasury program, is the lead federal agency for maritime drug interdiction, and shares lead responsibility for air interdiction with U.S. Customs and Border Protection.

Source: GAO, Financial Institutions: Fines, Penalties, and Forfeitures for Violations of Financial Crimes and Sanctions Requirements. I GAO-16-297

DOJ administers and maintains deposit accounts for the penalties and forfeitures it assesses, including the AFF and the Crime Victims Fund. The AFF is the receipt account for forfeited cash and proceeds from the sale of forfeited assets generated by the Justice Asset Forfeiture Program (see table 2).[20] A primary goal of the Justice Asset Forfeiture Program is preventing and reducing crime through the seizure and forfeiture of

[19]See GAO, *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP (Washington, D.C.: Sept. 1, 2005).

[20]For prior GAO work on the Justice Asset Forfeiture Program, see GAO, *Justice Assets Forfeiture Fund: Transparency of Balances and Controls over Equitable Sharing Should Be Improved,* GAO-12-736 (Washington, D.C.: July 12, 2012).

assets that were used in or acquired as a result of criminal activity. The Crime Victims Fund is the receipt account for criminal fines and special assessments collected from convicted federal offenders, as well as federal revenues from certain other sources. It was established to provide assistance and grants for victim services throughout the United States.[21]

Table 2: Justice Asset Forfeiture Program Components

Department of Justice	Description
The Asset Forfeiture and Money Laundering Section of the Criminal Division	It is responsible for the coordination, direction, and general oversight of the program.
Asset Forfeiture Management Staff	Asset Forfeiture Management Staff are responsible for the management of the AFF, program wide contracts, oversight of program internal controls, and the Consolidated Asset Tracking System—the computer system that tracks all assets.
Bureau of Alcohol, Tobacco, Firearms and Explosives	It is a seizing agency for the program and is responsible for enforcing federal laws and regulations relating to alcohol, tobacco, firearms, explosives, and arson by working directly and in cooperation with other federal, state, and local law enforcement agencies. The bureau has the authority to seize and forfeit firearms, ammunition, explosives, alcohol, tobacco, currency, conveyances, and certain real property involved in violations of law.
Drug Enforcement Administration	It is a seizing agency for the program and implements major investigative strategies against drug networks and cartels. It maintains custody over narcotics and other seized contraband.
Federal Bureau of Investigation	It is a seizing agency for the program and investigates a broad range of criminal violations, integrating the use of asset forfeiture into its overall strategy to eliminate targeted criminal enterprise.
The U.S. Marshals Service	The U.S. Marshals Service serves as the primary custodian of seized property for the program and manages and disposes of the majority of property seized for forfeiture. Marshals also contracts with qualified vendors to assist in the management and disposition of property. In addition to serving as the custodian of property, it provides information and assists prosecutors in making informed decisions about property that is targeted for forfeiture.
The U. S. Attorneys' Offices	These offices are responsible for the prosecution of both criminal and civil actions against property used or acquired during illegal activity.

Source: GAO. I GAO-16-297

Note: There are several agencies outside the Department of Justice that also participate in the Justice Asset Forfeiture Program, including the United States Postal Inspection Service, the Food and Drug Administration's Office of Criminal Investigations, the United States Department of Agriculture's Office of the Inspector General, the Department of State's Bureau of Diplomatic Security, and the Department of Defense's Criminal Investigative Service.

[21]See 42 U.S.C. § 10601(d). See also GAO, *Department of Justice: Alternative Sources of Funding Are a Key Source of Budgetary Resources and Could Be Better Managed*, GAO-15-48 (Washington, D.C.: Feb. 19, 2015).

In addition, the Consolidated Appropriations Act, 2016, established a new forfeiture fund—the United States Victims of State Sponsored Terrorism Fund—to receive the proceeds of forfeitures resulting from sanctions-related violations.[22] Specifically, the fund will be used to receive proceeds of forfeitures related to violations of the International Emergency Economic Powers Act and the Trading with the Enemy Act, as well as other offenses related to state sponsors of terrorism.

Financial Institutions Have Paid Billions for Violations of Financial Crimes-Related Requirements since 2009

Since 2009, financial institutions have been assessed about $12 billion in fines, penalties, and forfeitures for violations of BSA/AML, FCPA, and U.S. sanctions program requirements. Specifically, from January 2009 through December 2015, federal agencies assessed about $5.2 billion for BSA violations, $27 million for FCPA violations, and about $6.8 billion for violations of U.S. sanctions program requirements. Of the $12 billion, federal agencies have collected all of these assessments, except for about $100 million. The majority of the $100 million that was uncollected was assessed in 2015 and is either subject to litigation, current deliberations regarding the status of the collection efforts, or bankruptcy proceedings.

Since 2009, Financial Institutions Have Paid about $5.1 Billion to the Federal Government for BSA Violations

From January 2009 to December 2015, DOJ, FinCEN, and federal financial regulators (the Federal Reserve, FDIC, OCC, and SEC), assessed about $5.2 billion and collected about $5.1 billion in penalties, fines, and forfeitures for various BSA violations. Financial regulators assessed a total of about $1.4 billion in penalties for BSA violations for which they were responsible for collecting, and collected almost all of this amount (see fig. 1). The amounts assessed by the financial regulators and Treasury are guided by statute and based on the severity of the violation.[23] Based on our review of regulators' data and enforcement orders, the federal banking regulators assessed penalties for the failure to implement or develop adequate BSA/AML programs, and failure to identify or report suspicious activity. Of the $1.4 billion, one penalty (assessed by OCC) accounted for almost 35 percent ($500 million). This OCC enforcement action was taken against HSBC Bank USA for having a long-standing pattern of failing to report suspicious activity in violation of BSA and its underlying regulations and for the bank's failure to comply

[22]Pub. L. No. 114-113, Div. O, § 404(e), 129 Stat. 2242 (2015).

[23]12 U.S.C. § 1818(i); 15 U.S.C. § 78u-2; and 31 U.S.C. § 5321.

fully with a 2010 cease-and-desist order.[24] Financial regulators assess penalties for BSA violations both independently and concurrently with FinCEN. In a concurrent action, FinCEN will jointly assess a penalty with the regulator and deem the penalty satisfied with a payment to the regulator. Out of the $1.4 billion assessed, $651 million was assessed concurrently with FinCEN to 13 different financial institutions.[25] FinCEN officials told us that it could take enforcement actions independently, but tries to take actions concurrently with regulators to mitigate duplicative penalties.[26] During this period, SEC also assessed about $16 million in penalties and disgorgements against broker-dealers for their failure to comply with the record-keeping and retention requirements under BSA. SEC's penalties ranged from $25,000 to $10 million—which included a $4.2 million disgorgement.[27] As of December 2015, SEC had collected about $9.4 million of the $16 million it has assessed.[28] In the case resulting in a $10 million assessment, Oppenheimer & Company Inc. failed to file Suspicious Activity Reports on an account selling and depositing large quantities of penny stocks.[29]

[24]*In re* HSBC Bank USA, Consent Order for the Assessment of a Civil Money Penalty, OCC Order No. 2012-262 (Dec. 11, 2012).

[25]For example, in 2013 OCC and FinCEN assessed against TD National Bank a $37.5 million penalty, which was collected by OCC. See *In re* TD Bank, Assessment of Civil Money Penalty, FinCEN Order No. 2013-1 (Sept. 22, 2013).

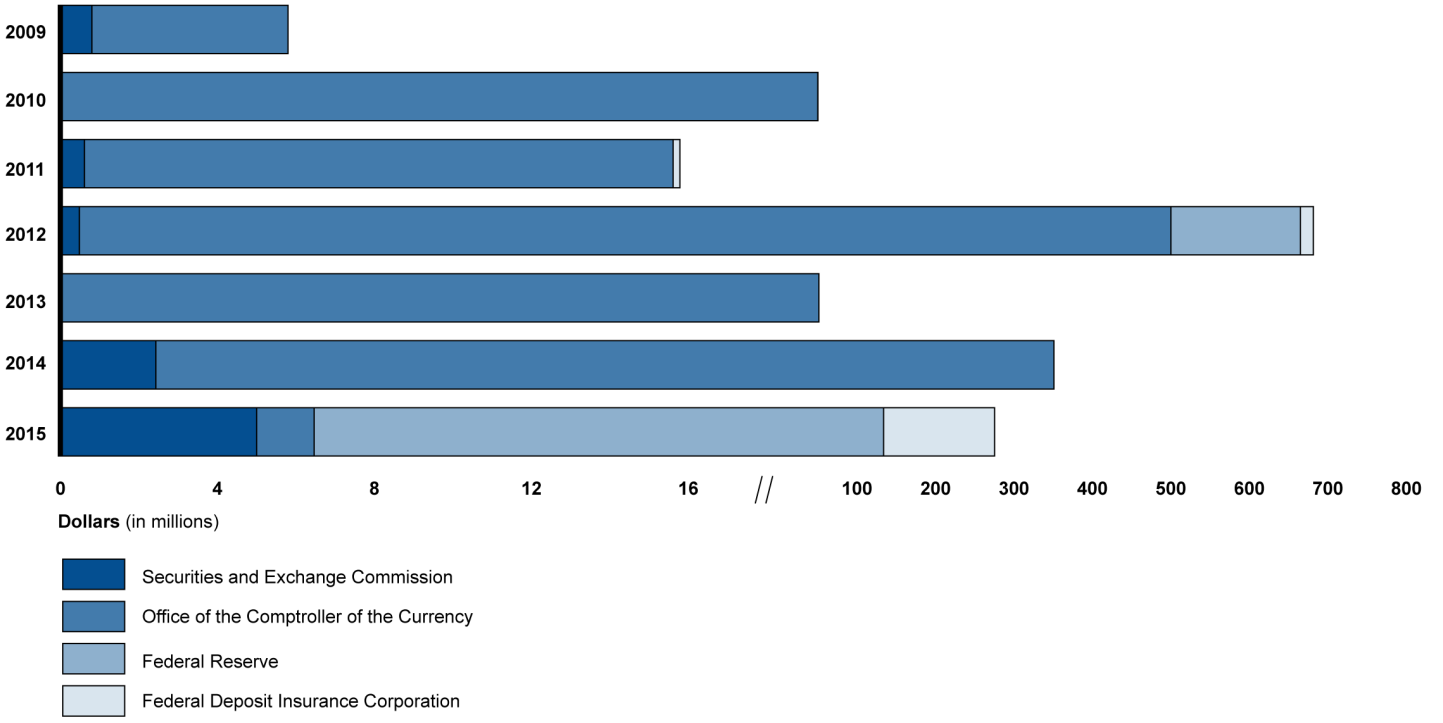
[26]FinCEN officials stated that they decide whether to assess consecutive or concurrent penalties on the basis of a number of factors, including the seriousness of the violation, the financial institution's cooperation, its history of compliance with BSA, and its willingness to reveal the BSA violation. In actions taken parallel with other regulators, FinCEN will often consult with these other agencies in determining whether all or a part of the penalties should be concurrent.

[27]Disgorgement is a repayment of ill-gotten gains that is imposed by the court or an agency on those violating the law.

[28]SEC has collected part of the full amount due for two cases during the time frame of our review. In one case, the debtor has until January 2017 to fully satisfy the payment and has placed funds in an escrow account to meet the full payment by the due date. In the other case, the debtor defaulted on the penalty payment and SEC has filed an application in the United States District Court for the District of New Jersey seeking to require the debtor to pay the remaining balance of over $2 million in disgorgements, civil penalties, and post-order interest.

[29]*In re* Oppenheimer & Co. Inc., Order Instituting Administrative and Cease-and-Desist Proceedings, Exchange Act Release No. 74,141 (Jan. 27, 2015). Oppenheimer also agreed to pay an additional $10 million to settle a parallel action by FinCEN.

Figure 1: Collections from Financial Institutions for Bank Secrecy Act-Related Penalties Assessed by Federal Financial Regulators, Independently and Concurrently with the Financial Crimes Enforcement Network in January 2009–December 2015



Source: GAO analysis of agency data. | GAO-16-297

Note: In this figure, we included collections for actions taken concurrently by federal financial regulators and FinCEN, as well as actions taken independently by federal financial regulators. The regulators collect all of the penalties that they assess both independently and concurrently with FinCEN. This figure does not include any independent assessments collected by FinCEN. Of the about $1.4 billion assessed from January 2009 through December 2015, almost all of this amount has been collected except for about $6 million.

In addition, FinCEN assessed about $108 million in penalties that it was responsible for collecting. Based on our analysis, almost all of the $108 million was assessed in 2015 of which $9.5 million has been collected as of December 2015.[30] Of the $108 million FinCEN assessed, three large penalties totaling $93 million—including a $75 million penalty—were assessed in 2015 and, according to FinCEN officials, have not been collected due to litigation, current deliberations regarding the status of the

[30]The $108 million assessed by FinCEN also includes the assessment amounts of several partially concurrent enforcement actions that FinCEN took with regulators for which FinCEN was responsible for collecting.

collection efforts, or pending bankruptcy actions. FinCEN's penalty assessments amounts ranged from $5,000 to $75 million for this period and are guided by statute and regulations, the severity of the BSA violation, and other factors.[31] For example, in a case resulting in a $75 million penalty assessment against Hong Kong Entertainment (Overseas) Investments, FinCEN found that the casino's weak AML internal controls led to the concealment of large cash transactions over a 4-year period.[32] We found that institutions were assessed penalties by FinCEN for a lack of AML internal controls, failure to register as a money services business, or failure to report suspicious activity as required.[33]

Through fines and forfeitures, DOJ, in cooperation with other law enforcement agencies and often through the federal court system, collected about $3.6 billion from financial institutions from January 2009 through December 2015 (see fig. 2).[34] Almost all of this amount resulted from forfeitures, while about $1 million was from fines. As of December 2015, $1.2 million had not been collected in the cases we reviewed.[35] These assessments consisted of 12 separate cases and totaled about 70 percent of all penalties, fines, and forfeitures assessed against financial institutions for BSA violations. DOJ's forfeitures ranged from about

[31]31 U.S.C. § 5321(a); 31 C.F.R. § 1010.820.

[32]*In re* Hong Kong Entertainment (Overseas) Investments, Ltd., Assessment of Civil Money Penalty, FinCEN Order No. 2015-07 (June 3, 2015).

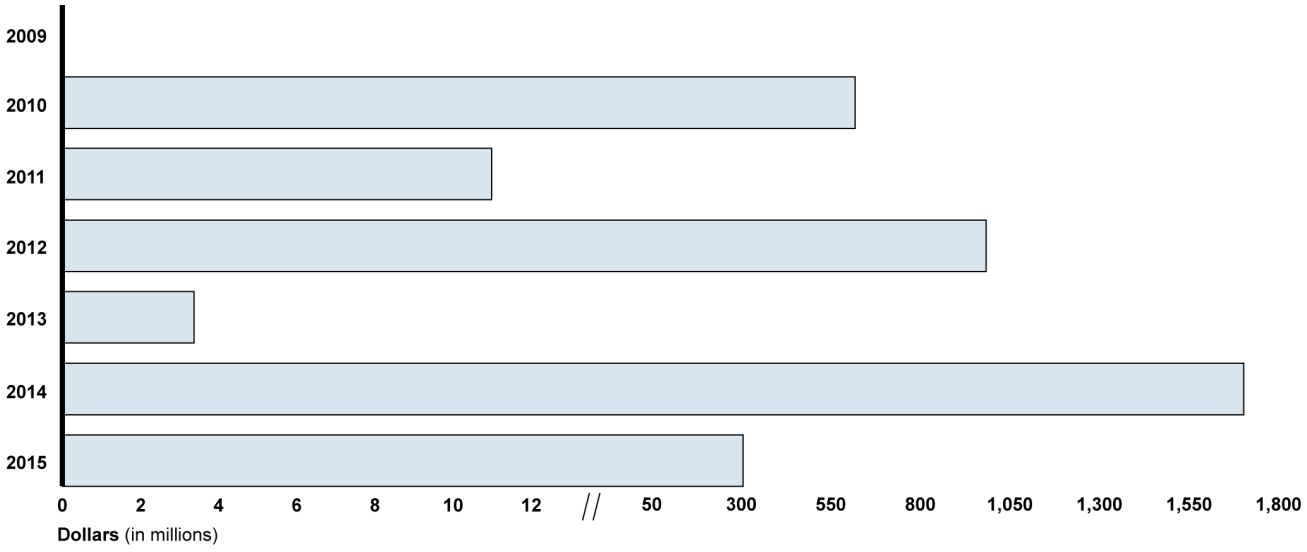
[33]For purposes of BSA, certain nonbank financial institutions, such as currency exchanges and check cashing businesses, are considered money services businesses. With few exceptions, each money services business must register with the Department of the Treasury.

[34]DOJ can assess BSA-related forfeitures and fines through prosecutions initiated by a U.S. Attorney, the Asset Forfeiture and Money Laundering Section, or a combination of both, often in coordination with other law enforcement agencies, including the Federal Bureau of Investigation, Immigration and Customs Enforcement, IRS-Criminal Investigation, United States Post Office Inspector General, and State District Attorney's Offices. As noted previously, for this report, we identified BSA-related forfeitures by DOJ and other law enforcement agencies by reviewing press releases on DOJ's Asset Forfeiture and Money Laundering Section website, and obtaining and reviewing related court documents. The $3.6 billion does not comprise the entire universe of BSA/AML-related forfeitures because DOJ may have made other BSA-related forfeitures not publicized through this channel. However, our approach does include cases that involved large forfeiture amounts for the period under our review.

[35]As of December 2015, DOJ officials told us that no payment had been collected for one case with an outstanding amount of about $1.2 million, due in part to the incarceration of the violator.

$240,000 to $1.7 billion, and six of the forfeitures were at least $100 million. According to DOJ officials, the amount of forfeiture is typically determined by the amount of the proceeds of the illicit activity. In 2014, DOJ assessed a $1.7 billion forfeiture—the largest penalty related to a BSA violation—against JPMorgan Chase Bank. DOJ cited the bank for its failure to detect and report the suspicious activities of Bernard Madoff. The bank failed to maintain an effective anti-money-laundering program and report suspicious transactions in 2008, which contributed to their customers losing about $5.4 billion in Bernard Madoff's Ponzi scheme.[36] For the remaining cases, financial institutions were generally assessed fines and forfeitures for failures in their internal controls over AML programs and in reporting suspicious activity.

Figure 2: Collections of Forfeitures and Fines from Financial Institutions for Bank Secrecy Act-Related Criminal Cases, Assessed in January 2009–December 2015



Source: GAO analysis of Department of Justice data. | GAO-16-297

Note: Of the $3.6 billion assessed in forfeitures and fines against financial institutions for Bank Secrecy Act-related criminal cases from January 2009 through December 2015, almost all of this amount was collected, except for $1.2 million.

[36]U.S. v. JPMorgan Chase, No. 1:14-cr-00007 (S.D.N.Y. Jan. 8, 2014) (information); see also U.S. v. $1,700,000,000 in United States Currency, No. 1:14-cv-00063 (S.D.N.Y. Jan. 7, 2014).

SEC Has Collected Millions of Dollars from Financial Institutions for FCPA Violations

From January 2009 through December 2015, SEC collected approximately $27 million in penalties and disgorgements from two financial institutions for FCPA violations. SEC assessed $10.3 million in penalties, $13.6 million in disgorgements, and $3.3 million in interest combined for the FCPA violations. The penalties were assessed for insufficient internal controls and FCPA books and records violations. SEC officials stated the fact that they had not levied more penalties against financial institutions for FCPA violations than they had against other types of institutions may be due, in part, to financial institutions being subject to greater regulatory oversight than other industries. While DOJ and SEC have joint responsibility for enforcing FCPA requirements, DOJ officials stated that they did not assess any penalties against financial institutions during the period of our review.

Financial Institutions Incurred Billions of Dollars in Fines, Penalties, and Forfeitures for U.S. Sanctions Programs Violations since 2009

From January 2009 through December 2015, OFAC independently assessed $301 million in penalties against financial institutions for sanctions programs violations.[37] The $301 million OFAC assessed was comprised of 47 penalties, with penalty amounts ranging from about $8,700 to $152 million. Of the $301 million, OFAC has collected about $299 million (see fig. 3). OFAC's enforcement guidelines provide the legal framework for analyzing apparent violations. Some of the factors which determine the size of a civil money penalty include the sanctions program at issue and the number of apparent violations and their value.[38] For example, OFAC assessed Clearstream Banking a $152 million penalty because it made securities transfers for the central bank of a sanctioned country.[39]

DOJ, along with participating Treasury offices and other law enforcement partners, assessed and enforced criminal and civil forfeitures and fines totaling about $5.7 billion for the federal government for sanctions

[37]OFAC's website includes all of its independent enforcement actions and any concurrent actions taken with DOJ or other agencies. In the case of a concurrent action, the forfeiture or penalty assessed by DOJ or the other agency also satisfied payment of OFAC's assessment.

[38]31 C.F.R. pt. 501, App. A, III.

[39]*In re* Clearstream Banking, Settlement Agreement, OFAC Order No. IA-673090 (Jan. 23, 2014).

programs violations.[40] This amount was the result of eight forfeitures that also included two fines. Of the $5.7 billion collected for sanctions programs violations, most of this amount was collected from one financial institution—BNP Paribas. In total, BNP Paribas was assessed an $8.8 billion forfeiture and a $140 million criminal fine in 2014 for willfully conspiring to commit violations of various sanctions laws and regulations.[41] BNP Paribas pleaded guilty to moving more than $8.8 billion through the U.S. financial system on behalf of sanctioned entities from 2004 to 2012. Of the $8.8 billion forfeited, $3.8 billion was collected by Treasury's Executive Office for Asset Forfeiture, with the remainder apportioned among participating state and local agencies.[42] In addition to BNP Paribas, DOJ and OFAC assessed fines and forfeitures against other financial institutions for similar violations, including processing transactions in violation of the International Emergency Economic Powers Act, OFAC regulations, and the Trading with the Enemy Act.[43]

From January 2009 through December 2015, the Federal Reserve independently assessed and collected about $837 million in penalties

[40]In October 2015, DOJ and the IRS - Criminal Investigation announced that Credit Agricole Corporate and Investment Bank had agreed to a $312 million forfeiture for violating U.S. sanctions programs, of which the bank is to forfeit $156 million to the federal government (specifically, through the U.S. Attorney's Office for the District of Columbia for deposit into the Treasury Forfeiture Fund) and $156 million to the New York County District Attorney's Office. However, because this forfeiture was pending as of January 2016, we did not include it in our analysis for this report.

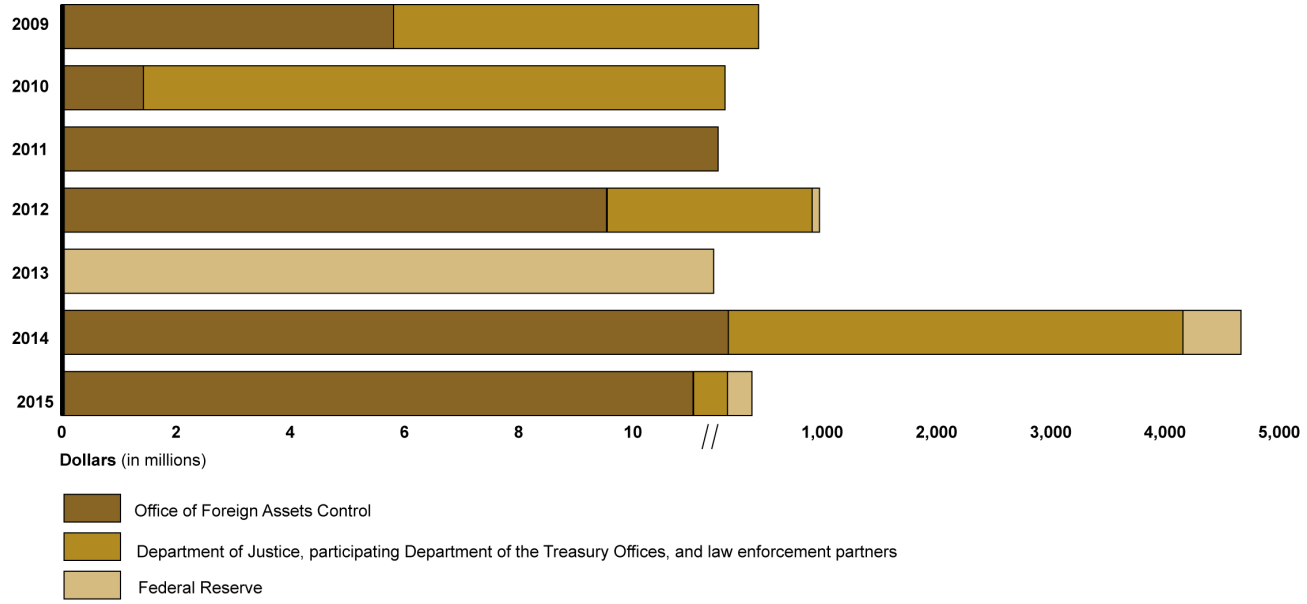
[41]U.S. v. BNP Paribas, No. 1:14-cr-00460 (S.D.N.Y. July 9, 2014). The forfeiture order was signed in May 2015.

[42]Of the $8.8 billion enforced by Justice, BNP Paribas is to pay $4.9 billion to state and local agencies and the Federal Reserve—specifically a $2.2 billion payment to the New York County District Attorney's Office and $2.2 billion payment to the New York State Department of Financial Services. The Federal Reserve separately assessed a penalty of $508 million against BNP Paribas.

[43]OFAC issues regulations pursuant to the International Emergency Economic Powers Act, Pub. L. No. 95-223, 91 Stat. 1626 (1977) (codified as amended at 50 U.S.C. § 1701-1705), and the Trading with the Enemy Act, Pub. L. No. 65-91, 40 Stat. 411 (1917) (codified as amended at 50 U.S.C. app. §§ 3, 5-6). The following regulations were cited in the enforcement actions for the period of our review: 31 C.F.R pts. 501, 515 (Cuban Assets Control), 536 (Narcotics Trafficking Sanctions), 537 (Burmese Sanctions), 544 (Weapons Of Mass Destruction Proliferators Sanctions), 550 (repealed Libyan Sanctions), 560 (Iranian Transactions And Sanctions), 594 (Global Terrorism Sanctions), and 598 (Foreign Narcotics Kingpin Sanctions); 15 C.F.R. pts. 730-774; and E.O.13382.

from six financial institutions for U.S. sanctions programs violations.[44] The Federal Reserve assessed its largest penalty for $508 million against BNP Paribas for having unsafe and unsound practices that failed to prevent the concealing of payment information of financial institutions subject to OFAC regulations. It was assessed as part of a global settlement with DOJ for concealing payment information of a financial institution subject to OFAC regulations.[45] Federal Reserve officials stated that the remaining assessed penalties related to OFAC regulations were largely for similar unsafe and unsound practices.

Figure 3: Collections from Financial Institutions for U.S. Sanctions-Related Forfeitures and Penalties, Assessed in January 2009–December 2015



Source: GAO analysis of agency data. | GAO-16-297

Note: Of the $6.8 billion assessed against financial institutions for U.S. sanctions programs violations from January 2009 through December 2015, almost all of this amount has been collected, except for about $2.4 million.

[44]The Federal Reserve assessed and collected one penalty against HSBC Holdings for both BSA and sanctions program violations and did not break down the penalty amount by type of violation. We included the entire penalty as part of our BSA analysis to ensure that we did not double count the penalty.

[45]U.S. v. BNP Paribas, No. 1:14-cr-00460 (S.D.N.Y. July 9, 2014).

Collections for Violations Are Used to Support General Government and Law Enforcement Activities and Victims Payments

FinCEN and financial regulators have processes in place for receiving penalty payments from financial institutions—including for penalties assessed for the covered violations—and for depositing these payments.[46] These payments are deposited into accounts in Treasury's General Fund and are used for the general support of federal government activities.[47] From January 2009 through December 2015, about $2.7 billion was collected from financial institutions for the covered violations and deposited into Treasury General Fund accounts.[48] DOJ and Treasury also have processes in place for collecting forfeitures, fines, and penalties related to BSA and sanctions violations. Depending on which agency seizes the assets, forfeitures are generally deposited into two accounts—either DOJ's AFF or Treasury's TFF. From January 2009 through December 2015, about $3.2 billion was deposited into the AFF and $5.7 billion into the TFF, of which $3.8 billion related to a sanctions case was rescinded in the fiscal year 2016 appropriation legislation. Funds from the AFF and TFF are primarily used for program expenses, payments to third parties—including the victims of the related crimes—and equitable sharing payments to law enforcement agencies that participated in the efforts resulting in forfeitures. For the cases in our review, as of December 2015, DOJ and Treasury had distributed about $1.1 billion in payments to law enforcement agencies and approximately $2 billion is planned to be distributed to victims of crimes. The remaining funds from these cases are subject to general rescissions to the AFF and TFF or may be used for program or other law enforcement expenses. DOJ officials stated that DOJ determines criminal fines on a case-by-case basis, in consideration of the underlying criminal activity and in compliance with relevant statutes.

[46]In the case of OFAC, Treasury's Bureau of Fiscal Service collects and tracks payments for civil money penalties that OFAC assesses, and then deposits the payments into the appropriate Treasury General Fund accounts.

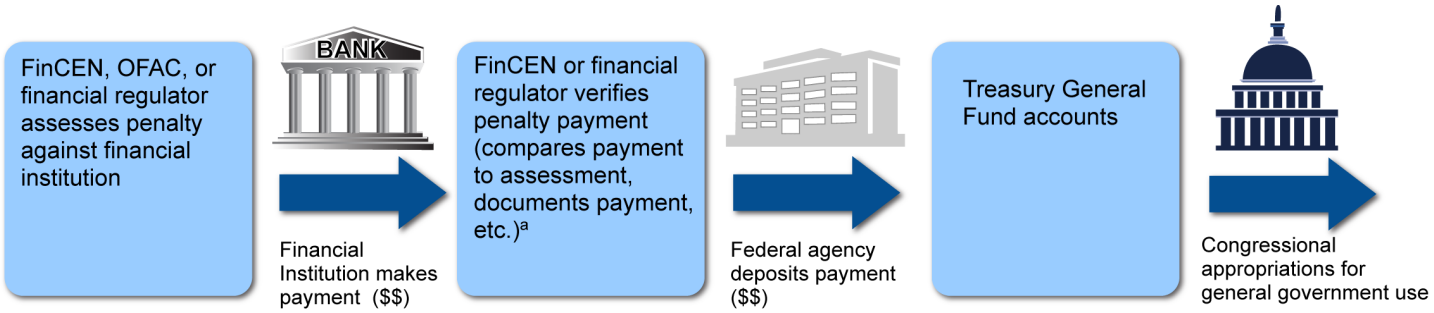
[47]Certain agencies in our review have the authority to seek civil money penalties but do not have the statutory authority to deposit those penalties into a separate fund. See, e.g., 28 U.S.C. § 2041 (DOJ); 12 U.S.C. § 1818(i)(2)(J) (FDIC, OCC, and Federal Reserve); see also 12 C.F.R. § 109.103(b)(2) (OCC). The miscellaneous receipts statute requires that "an official or agent of the Government receiving money for the Government from any source shall deposit the money in the Treasury as soon as practicable without deduction for any charge or claim." 31 U.S.C. § 3302(b).

[48]Of the $2.7 billion, FinCEN, OFAC, and the financial regulators collected approximately $2.6 billion and DOJ collected a $79 million civil penalty for U.S. sanctions program violations.

Penalties Collected by Treasury and Financial Regulators Are Deposited in Treasury's Accounts for General Government Use

FinCEN and financial regulators deposit collections of penalties assessed against financial institutions—including for the covered violations—into Treasury's General Fund accounts (see fig. 4).

Figure 4: Process for Collecting and Depositing Penalty Payments



Legend

FinCEN - Financial Crimes Enforcement Network

OFAC - Office of Foreign Assets Control

Source: GAO. | GAO-16-297

[a]In the case of OFAC, Treasury's Bureau of Fiscal Service collects and tracks payments for civil money penalties that OFAC assesses, and then deposits the payments into the appropriate Treasury General Fund accounts.

FinCEN deposits the penalty payments it receives in accounts in Treasury's General Fund. First, FinCEN sends financial institutions a signed copy of the final consent order related to the enforcement action it has taken along with instructions on how and when to make the penalty payment. Then, Treasury's Bureau of Fiscal Service (BFS) collects payments from financial institutions, typically through a wire transfer. OFAC officials explained that BFS also collects and tracks, on behalf of OFAC, payments for civil money penalties that OFAC assesses. BFS periodically notifies OFAC via e-mail regarding BFS's receipt of payments of the assessed civil monetary penalties. FinCEN officials said that its Financial Management team tracks the collection of their penalties by comparing the amount assessed to Treasury's Report on Receivables, which shows the status of government-wide receivables and debt collection activities and is updated monthly. Specifically, FinCEN staff compares their penalty assessments with BFS's collections in Treasury's Report on Receivables to determine if a penalty payment has been received or is past due. Once Treasury's BFS receives payments for

FinCEN- and OFAC-assessed penalties, BFS staff deposits the payments into the appropriate Treasury General Fund accounts.

Financial regulators also have procedures for receiving and depositing these collections into Treasury's General Fund accounts, as the following examples illustrate:

- SEC keeps records of each check, wire transfer, or online payment it receives, along with a record of the assessed amount against the financial institution, the remaining balance, and the reasons for the remaining balance, among other details related to the penalty. For collections we reviewed from January 2009 to December 2015 for BSA and FCPA violations, SEC had deposited all of them into a Treasury General Fund receipt account. [49]

- Upon execution of an enforcement action involving a penalty, the Enforcement and Compliance Division within OCC sends a notification of penalties due to OCC's Office of Financial Management. When the Office of Financial Management receives a payment for a penalty from a financial institution, it compares the amount with these notifications. The Office of Financial Management records the amount received and sends a copy of the supporting documentation (for example, a wire transfer or check) to the Enforcement and Compliance Division. OCC holds the payment in a civil money penalty account—an account that belongs to and is managed by OCC—before it deposits the payment in a Treasury General Fund receipt account on a monthly basis.

- The Federal Reserve directs financial institutions to wire their penalty payment to the Federal Reserve Bank of Richmond (FRBR). The Federal Reserve then verifies that the payment has been made in the correct amount to FRBR, and when it is made, FRBR distributes the penalty amount received to a Treasury General Fund receipt account. Federal Reserve officials explained that when they send the penalty to Treasury, they typically e-mail

[49]According to SEC officials, in general, penalties collected by SEC can be distributed to three different funds: the Treasury General Fund; the Federal Account for Investor Restitution Fund, which is a fund that SEC uses to return money to harmed investors; and the Investor Protection Fund, which is a fund that distributes money to whistleblowers. All penalties SEC collected related to BSA/AML and FCPA violations from January 2009 through December 2015 have been deposited in the Treasury General Fund.

Treasury officials to verify that they have received the payment. They noted that when Treasury officials receive the penalty payment, they send a verification e-mail back to the Federal Reserve. According to officials, to keep track of what is collected and sent to the Treasury General Fund, FRBR retains statements that document both the collection and transfer of the penalty to a Treasury General Fund receipt account.

- FDIC has similar processes in place for collecting penalties related to BSA violations. When enforcement orders are executed, financial institutions send all related documentation (the stipulation for penalty payment, the order, and the check in the amount of the penalty payment) to FDIC's applicable regional office Legal Division staff, which in turn sends the documentation to Legal Division staff in Washington, D.C. If the payment is wired, FDIC compares the amount wired to the penalty amount to ensure that the full penalty is paid. If the payment is a check, FDIC officials make sure the amount matches the penalty, document receipt of the payment in an internal payment log, and then send the check to FDIC's Department of Finance. Once a quarter, FDIC sends penalty payments it receives to a Treasury General Fund receipt account.

In addition to the processes we discuss in this report for penalty collections, SEC, Federal Reserve, OCC, and FDIC all have audited financial statements that include reviews of general internal controls over agency financial reporting, including those governing collections.

From January 2009 through December 2015, FinCEN, OFAC, and financial regulators collected in total about $2.6 billion from financial institutions for the covered violations but they did not retain any of the penalties they collected. Instead, the collections were deposited in Treasury General Fund accounts and used to support various federal government activities. Officials from these agencies stated that they have no discretion over the use of the collections, which must be transmitted to

the Treasury.[50] Once agencies deposit their collections into the Treasury General Fund, they are unable to determine what subsequently happens to the money, since it is commingled with other deposits.

Treasury Office of Management officials stated that the collections deposited into the General Fund accounts are used according to the purposes described in Congress's annual appropriations. More specifically, once a penalty collection is deposited into a receipt account in the Treasury General Fund, only an appropriation by Congress can begin the process of spending these funds. Appropriations from Treasury General Fund accounts are amounts appropriated by law for the general support of federal government activities. The General Fund Expenditure Account is an appropriation account established to record amounts appropriated by law for the subsequent expenditure of these funds, and includes spending from both annual and permanent appropriations.[51]

Treasury Office of Management officials explained that the Treasury General Fund has a general receipt account that receives all of the penalties that regulators and Treasury agencies collect for BSA, FCPA, and sanctions violations. Treasury officials explained that to ensure that the proper penalty amounts are collected, Treasury requires agency officials to reconcile the amount of deposits recorded in their general ledger to corresponding amounts recorded in Treasury's government-wide accounts.[52] If Treasury finds a discrepancy between the General

[50]As noted above, certain agencies in our review have the authority to seek civil money penalties for general prudential violations but do not have the statutory authority to deposit penalties into a separate fund. See 12 U.S.C. § 1818(i)(2)(J) (FDIC, OCC, and Federal Reserve). In general, penalties collected by SEC can be distributed to three different funds: the Treasury General Fund (see 15 U.S.C. § 78u(d)(3)(C)(i); the Federal Account for Investor Restitution Fund, created by a provision commonly known as the Fair Fund provision, which is a fund that SEC uses to return money to harmed investors for specific cases (see 15 U.S.C. § 7246(a)); and the Investor Protection Fund, which is a fund that distributes money to whistleblowers and includes any monetary sanction, including civil money penalties, collected by SEC that is not added to an investor restitution fund (unless the balance of the fund at the time of the monetary sanction exceeds $300 million)(see 15 U.S.C. § 78u-6(g)).

[51]Annual appropriation acts that provide funding for the continued operation of federal departments, agencies, and various government activities are considered by Congress annually. Permanent appropriations are appropriations that are the result of previously enacted legislation and do not require further action by the Congress.

[52]Agency general ledgers are required to conform to the United States Standard General Ledger, which provides a uniform chart of accounts and technical guidance for standardizing federal agency accounting.

Ledger and the government-wide accounts, it sends the specific agency a statement asking for reconciliation. Treasury's Financial Manual provides agencies with guidance on how to reconcile discrepancies and properly transfer money to the general receipt account. Treasury officials explained that they cannot associate a penalty collected for a specific violation with an expense from the General Fund as collections deposited in General Fund accounts are comingled.

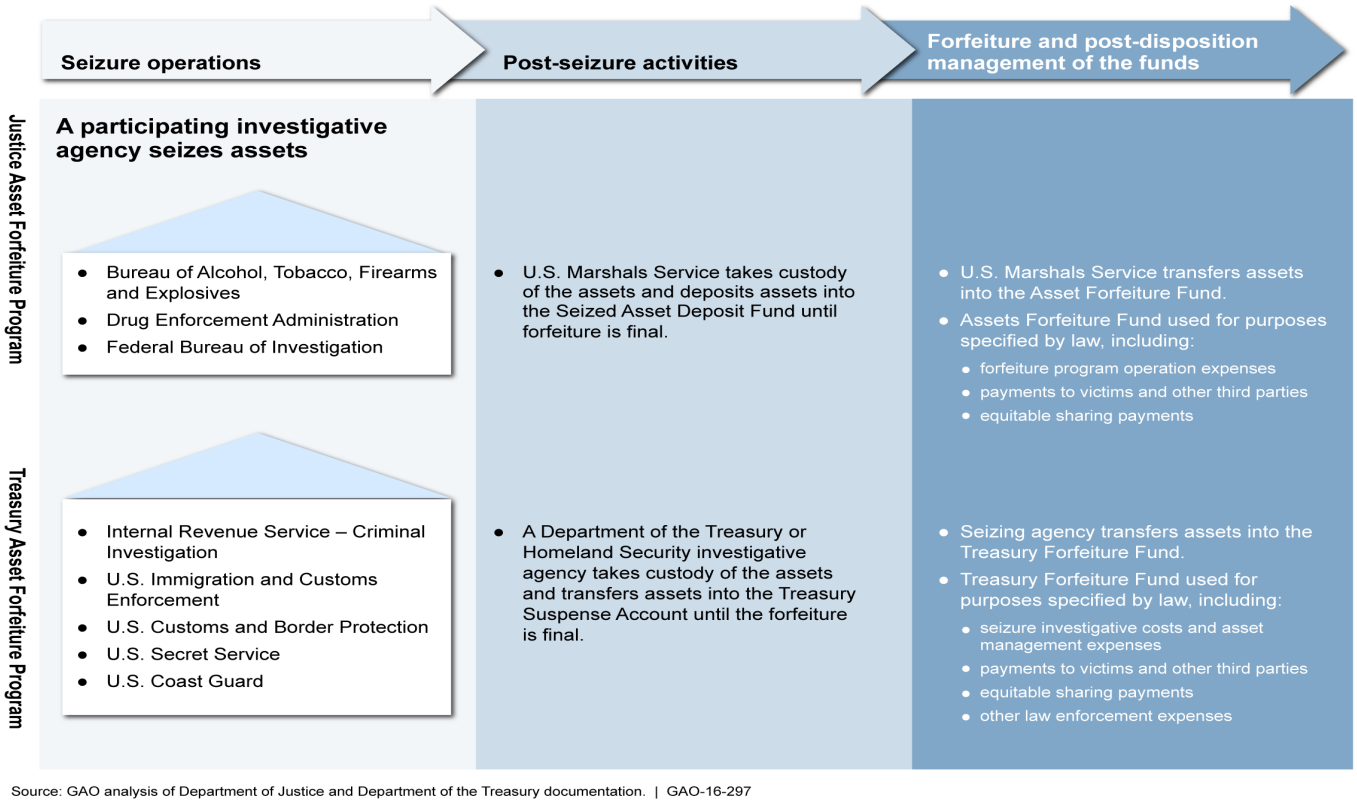
Forfeitures Are Deposited into Accounts with Several Authorized Uses, Including Payments to Crime Victims and Law Enforcement Partners

Forfeitures—including those from financial institutions for violations of BSA/AML and U.S. sanctions programs requirements—are deposited into three accounts depending in part on the agency seizing the assets (DOJ and other law enforcement agencies use the AFF, Treasury and the Department of Homeland Security use the TFF, and U.S. Postal Inspection Service uses the Postal Service Fund).[53] In the cases we reviewed, financial institutions forfeited either cash or financial instruments, which were generally deposited into the AFF or the TFF.[54] Figure 5 shows the processes that govern the seizure and forfeiture of assets for the Justice Asset Forfeiture Program and the Treasury Forfeiture Program.

[53]In addition, the Consolidated Appropriations Act, 2016, established a new forfeiture fund—the United States Victims of State Sponsored Terrorism Fund—to receive the proceeds of forfeitures resulting from sanctions violations, Pub. L. No. 114-113, Div. O, § 404(e), 129 Stat. 2242 (2015).

[54]In the cases we identified, approximately $100 million of forfeitures from MoneyGram International also went into the Postal Service Fund. According to DOJ officials, forfeitures go into this account—which is a fund designed to help the U.S. Postal Service carry out its purposes, functions, and powers—when the U.S. Postal Service administratively forfeits assets. Of the $100 million forfeited, DOJ data showed that $62 million had been distributed to victims of fraud.

Figure 5: Justice Asset Forfeiture Program and Treasury Forfeiture Program Asset Forfeiture Processes



Source: GAO analysis of Department of Justice and Department of the Treasury documentation. | GAO-16-297

The Justice Asset Forfeiture Program and the Treasury Forfeiture Program follow similar forfeiture processes. Under the Justice Asset Forfeiture Program, a DOJ investigative agency seizes an asset (funds in the cases we reviewed), and the asset is entered into DOJ's Consolidated Asset Tracking System. The asset is then transferred to the U.S. Marshals Service for deposit into the Seized Asset Deposit Fund.[55] The U.S. Attorney's Office or the seizing agency must provide notice to interested parties and conduct Internet publication prior to entry of an administrative declaration of forfeiture or a court-ordered final order of

[55]Justice Asset Forfeiture Program investigative agencies leading seizures in the cases we reviewed included the Drug Enforcement Administration and the Federal Bureau of Investigation. The Seized Asset Deposit Fund is the DOJ holding account for seized assets pending resolution of forfeiture cases. These processes are described in further detail in DOJ's Asset Forfeiture Policy Manual.

forfeiture. Once the forfeiture is finalized, the seizing agency or the U.S. Attorney's Office enters the forfeiture information into the Consolidated Asset Tracking System. U.S. Marshals Service subsequently transfers the asset from the Seized Asset Deposit Fund to the AFF. Similarly, the asset forfeiture process for the Treasury Forfeiture Program involves a Department of Homeland Security or Treasury investigative agency seizing the asset (funds, in the cases we reviewed). The seizing agency takes custody of the asset, enters the case into their system of record, and transfers the asset to the Treasury Suspense Account.[56] Once forfeiture is final, the seizing agency subsequently requests that Treasury's Executive Office for Asset Forfeiture staff transfer the asset from the Treasury Suspense Account to the TFF. According to Treasury's Executive Office for Asset Forfeiture staff, each month, TFF staff compares deposits in the TFF with records from seizing agencies to review whether the amounts are accurately recorded.

From January 2009 through December 2015, for the cases we reviewed, nine financial institutions forfeited about $3.2 billion in funds through the Justice Asset Forfeiture Program due to violations of BSA/AML and U.S. sanctions programs requirements. AFF expenditures are governed by the law establishing the AFF, as we have previously reported.[57] Specifically, the AFF is primarily used to pay the forfeiture program's expenses in three major categories:

[56]Treasury Forfeiture Program investigative agencies leading seizures in the cases we reviewed included IRS-Criminal Investigation and U.S. Immigration and Customs Enforcement. Treasury's Seized Asset and Case Tracking System is the system of record for the Treasury Forfeiture Program, but some of the participating investigative agencies also maintain their own asset tracking systems. The Treasury Suspense Account is the Treasury holding account for seized assets pending resolution of forfeiture cases. These processes are described in further detail in the Treasury Guidelines for Seized and Forfeited Property and, according to Treasury officials, in relevant policy directives.

[57]28 U.S.C. § 524(c). Additionally, use of the AFF is controlled by laws and regulations governing the use of public monies and appropriations such as 31 U.S.C. §§ 1341-1353 and 1501-1558 and 28 C.F.R. pt. 9,, OMB Circulars, and provisions of annual appropriation acts. The AFF is further controlled by the *Attorney General's Guidelines on Seized and Forfeited Property* (July 1990), policy memoranda, and statutory interpretations issued by appropriate authorities. Unless otherwise provided by law, restrictions on the use of AFF monies continue after any monies are made available to a recipient agency. See also GAO-12-736) and GAO, *Department of Justice: Alternative Sources of Funding Are a Key Source of Budgetary Resources and Could Be Better Managed,* GAO-15-48 (Washington, D.C.: Feb. 19, 2015).

1. program operations expenses in 13 expenditure categories such as asset management and disposal, storage and destruction of drugs, and investigative expenses leading to a seizure;

2. payments to third parties, including payments to satisfy interested parties such as owners or lien holders, as well as the return of funds to victims of crime;[58] and

3. equitable sharing payments to state and local law enforcement agencies that participated in law enforcement efforts resulting in the forfeitures.[59]

In addition, after DOJ obligates funds to cover program expenses, any AFF funds remaining at the end of a fiscal year may be declared an excess unobligated balance and used for any of DOJ's authorized purposes, including helping to cover rescissions.[60]

Court documents and DOJ data indicate that forfeitures from the Justice Asset Forfeiture Program cases we reviewed will be used to compensate victims and have been used to make equitable sharing payments. Although DOJ data showed that DOJ has not yet remitted payments to any victims in the cases we reviewed, court documents and comments from DOJ officials indicated that approximately $2 billion of the forfeited funds deposited in the AFF would be remitted to victims of fraud. For

[58]DOJ Asset Forfeiture and Money Laundering Section officials—including attorneys, accountants, auditors, and claims analysts—coordinate with the U.S. Attorneys' Offices, federal law enforcement agencies, and federal regulators to return forfeited assets to victims of crime through the granting of petitions for remission, or by transferring forfeited funds to courts for payment of restitution through restoration.

[59]GAO-12-736. A 2012 GAO report reviewed the extent to which DOJ had established controls to help ensure that the AFF's equitable sharing program is implemented in accordance with established guidance, among other things. Based on our recommendations, DOJ took steps to improve these controls, such as creating an online portal to monitor whether key information—such as work hours—in support of equitable sharing determination and its accompanying supporting documentation is recorded. Also, in December 2015, DOJ announced that it was immediately deferring any equitable sharing payments from the Justice Asset Forfeiture Program in order to help maintain the program's financial solvency under fiscal year 2016 rescissions.

[60]28 U.S.C. § 524(c)(8). Also, the AFF previously included deposits that were unavailable for obligation pursuant to a statutory limitation, and the most recent appropriation legislation rescinded $458 million from the AFF's Legal Activities account. See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Div. B, tit. V, § 524(b)(7), 129 Stat. 2242 (2015).

example, according to Asset Forfeiture and Money Laundering Section officials, DOJ has set up the Madoff Victim Fund in part from the related $1.7 billion forfeited by JPMorgan Chase to collect and review victim claims related to the Ponzi scheme operated by Bernard Madoff.[61] DOJ intends to distribute the funds to eligible victims of Madoff's fraud. Additionally, DOJ data for seven cases showed that it had made approximately $660 million in equitable sharing payments.

From January 2009 through December 2015, for the cases we reviewed, seven financial institutions forfeited about $5.7 billion in funds due to violations of BSA/AML and U.S. sanctions programs requirements through the Treasury Forfeiture Program. These forfeitures have been deposited in the TFF and can be used for certain purposes as specified by law.[62] In the cases we identified, all seized and forfeited assets were cash. TFF expenditures are governed by the law establishing the TFF and, as we have previously reported, are primarily used to pay the forfeiture program's expenses in major categories including program operation expenses, payments to third parties including crime victims, equitable sharing payments to law enforcement partners, and other expenses.[63] Of the $5.7 billion contained in the TFF, the $3.8 billion paid by BNP Paribas as part of the bank's settlement with DOJ was permanently rescinded from the TFF and is unavailable for obligation.[64] The remaining funds, if not subject to general rescissions, can be used for

[61]For more information on the JPMorgan Chase forfeitures, see U.S. v. JPMorgan Chase Bank, No. 1:14-cr-00007 (S.D.N.Y. Jan. 8, 2014) (information); see also U.S. v. $1,700,000,000 in United States Currency, No. 1:14-cv-00063 (S.D.N.Y. Jan. 7, 2014). For more information on the Madoff Victim Fund, see www.madoffvictimfund.com. DOJ officials stated that they are considering similar actions related to the forfeitures obtained through resolution of Commerzbank's violation of BSA/AML requirements if an eligible victim pool is identified.

[62]As mentioned earlier, Credit Agricole Corporate and Investment Bank agreed in October 2015 to forfeit $156 million to the federal government for violations of U.S. sanctions programs. This amount is to be deposited into the TFF; however, as this forfeiture is still pending we did not include it in our analysis. According to Treasury officials, 50 percent of the amount eventually deposited into the TFF will be subject to 2016 Omnibus requirements and the other 50 percent will be subject to a standard equitable sharing review.

[63]31 U.S.C. § 9705; GAO-14-318. According to Treasury, use of the TFF is also governed by law, policy, and precedent as interpreted by Treasury.

[64]See Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Div. O, tit. IV, § 405(b), 129 Stat. 2242 (2015). The same act also rescinded $876 million from the TFF's unobligated balances. See Div. E, tit. I and Div. F, tit. V, § 570.

a variety of purposes. As of December 2015, DOJ was considering using approximately $310 million in TFF forfeitures for victim compensation and, according to Treasury officials, Treasury had made approximately $484 million in equitable sharing payments and obligated a further $119 million for additional equitable sharing payments.[65] As with the AFF, after Treasury obligates funds to cover program expenses, any TFF funds remaining at the end of a fiscal year, if not rescinded, may be declared an excess unobligated balance. These funds can be used to support a variety of law enforcement purposes, such as enhancing the quality of investigations.[66]

Criminal Fines and Civil Penalties Are Eligible for Deposit in Treasury General Fund Accounts, Crime Victims Fund, and Three Percent Fund

DOJ has litigated court cases against financial institutions for criminal violations of BSA/AML and U.S. sanctions programs requirements resulting in criminal fines ordered by the federal courts. According to DOJ officials, DOJ determines criminal fines on a case-by-case basis, in consideration of the underlying criminal activity and in compliance with relevant statutes. Court documents, such as court judgments and plea agreements, communicate the amount of the criminal fine to the financial institution.[67] DOJ U.S. Attorneys' Offices are primarily responsible for collecting criminal fines. They begin the collection process by issuing a demand letter to the financial institution. Upon receipt of the demand letter, the financial institution makes the payment to the Clerk of the Courts. According to officials from the Administrative Office of the U.S.

[65]Each Department of Homeland Security and Treasury investigative agency participating in the TFF handles requests for remission or restoration to victims according to their own procedures, and also coordinates with the Treasury Executive Office for Asset Forfeiture, the U.S. Attorneys' Offices, and the DOJ Asset Forfeiture and Money Laundering Section, according to the 2008 Treasury Executive Office for Asset Forfeiture *Guidelines for Treasury Forfeiture Fund Agencies on Refunds Pursuant to Court Orders, Petitions for Remission, or Restoration Requests*. Also, a 2014 GAO report reviewed the extent to which DHS components have designed controls to help ensure compliance with Treasury's guidance when implementing the TFF equitable sharing program, among other things. Based on our recommendations, Treasury took steps to improve these controls, such as developing additional guidance on qualitative factors to be used when making adjustments to equitable sharing percentages. See GAO-14-318.

[66]31 U.S.C. § 9705(g)(4). See also GAO-14-318. Treasury's use of unobligated balance requires Office of Management and Budget approval and is subject to congressional notification.

[67]Court documents also include special assessments, which are standard fees that are automatically imposed on a defendant for each count of conviction. 18 U.S.C. § 3013(a).

Courts, the Clerk of the Courts initially collects the payments which are deposited into a Treasury account for DOJ's Crime Victims Fund. Funds in the Crime Victims Fund can be used for authorized purposes including support of several state and federal crime victim assistance–related grants and activities, among other things.[68] DOJ officials told us that all criminal fines, with a few exceptions, are deposited into the Crime Victims Fund. This may include criminal fines related to violations of BSA/AML requirements and U.S. sanctions regulations. In the cases we identified from January 2009 through December 2015, the court ordered about $141 million in criminal fines for violations of BSA/AML and U.S. sanctions programs requirements. The $140 million fine assessed against BNP Paribas was deposited into the Crime Victims Fund.[69]

Additionally, in the cases we reviewed, DOJ had litigated a court case against a financial institution for civil violations of U.S. sanctions programs requirements which resulted in a civil penalty. The civil penalty collection process is similar to the criminal fine collection process, but the financial institution makes the payment to DOJ's accounts in the Treasury General Fund instead of to the Clerk of the Courts. As previously discussed in this report, monies in the Treasury General Fund are used according to the purposes described in Congress's annual appropriations. Civil penalties are also eligible to be assessed up to a 3 percent fee for disbursement to DOJ's Three Percent Fund, which is primarily used to offset DOJ expenses related to civil debt collection.[70] Of the cases we identified, one case involved a civil penalty of $79 million against Commerzbank for violating U.S. sanctions program requirements. DOJ collected the Commerzbank civil penalty, deposited it into DOJ's accounts in the Treasury General Fund, and assessed a nearly 3 percent fee (about $2.3 million) that was deposited into the Three Percent Fund.

[68]42 U.S.C. §§ 10601-10603. See also GAO-15-48. Similar to the AFF, the Crime Victims Fund included deposits that were unavailable for obligation pursuant to a statutory limitation.

[69]U.S. v. BNP Paribas, No. 1:14-cr-00460 (S.D.N.Y. July 9, 2014). Of the $141 million in criminal fines, approximately $1 million has not yet been paid.

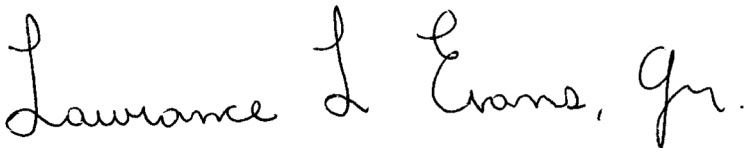
[70]See Pub. L. No. 107-273, § 11013, 116 Stat. 1758, 1823 (2002) (codified at 28 U.S.C. § 527 note). The Three Percent Fund is available for expenses related to processing and tracking civil and criminal debt collection litigation. Thereafter, it is available for financial systems and debt collection–related personnel, administrative, and litigation expenses. Available amounts are determined by calculating 3 percent of eligible amounts collected. If, for example, a civil settlement results in $100 for the government, DOJ generally manages the transaction from the debtor to the government entity receiving the funds. Of the $100, $3 would be deposited into the Three Percent Fund. See also GAO-15-48.

Agency Comments

We provided a draft of this report to Treasury, DOJ, SEC, OCC, FDIC, and the Federal Reserve for review and comment. Treasury, DOJ, OCC, FDIC, and the Federal Reserve provided technical comments, which we incorporated as appropriate.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to Treasury, DOJ, SEC, OCC, FDIC, and the Federal Reserve, and interested congressional committees and members. In addition, the report will be available at no charge on the GAO website at http://www.gao.gov.

If you or your staffs have any questions about this report, please contact Lawrance Evans at (202) 512-8678 or evansl@gao.gov or Diana C. Maurer at (202) 512-9627 or maurerd@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix II.



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Appendix I: Objectives, Scope, and Methodology

This report describes the fines, penalties, and forfeitures federal agencies have collected from financial institutions for violations of Bank Secrecy Act and related anti-money-laundering requirements (BSA/AML), Foreign Corrupt Practices Act of 1977 (FCPA), and U.S. sanctions programs requirements.[1] Specifically, our objectives in this report were to describe (1) the amount of fines, penalties, and forfeitures that the federal government has collected for these violations from January 2009 through December 2015; and (2) the process for collecting these funds and the purposes for which they are used.[2]

To address these objectives, we reviewed prior GAO and Office of the Inspector General reports and relevant laws and regulations.[3] We also reviewed data and documentation and interviewed officials from key agencies responsible for implementing and enforcing BSA/AML, FCPA, and U.S. sanctions programs requirements. The agencies and offices included in this review were: (1) offices within the Department of the Treasury's (Treasury) Office of Terrorism and Financial Intelligence, including officials from the Financial Crimes Enforcement Network (FinCEN), Office of Foreign Assets Control (OFAC), and Treasury Executive Office for Asset Forfeiture, and Treasury's Office of Management; (2) Securities and Exchange Commission (SEC); (3) the federal banking regulators—Board of Governors of the Federal Reserve

[1]Bank Secrecy Act, Pub. L. No. 91-508, tits. I-II, 84 Stat. 1114 (1970) (codified as amended at 12 U.S.C. §§ 1829b, 1951-1959; 31 U.S.C. §§ 5311-5330); Foreign Corrupt Practices Act of 1977, Pub. L. No. 95-123, tit. I, 91 Stat. 1494 (codified as amended at 15 U.S.C. §§ 78dd-1 – 78dd-3).

[2]Fines and penalties result from enforcement actions that require financial institutions to pay an amount agreed upon between the financial institution and the enforcing agency, or an amount set by a court or in an administrative proceeding. Forfeitures result from enforcement actions and are the confiscation of money, assets, or property, depending on the violation. The Bank Secrecy Act defines financial institutions as depository institutions, money services businesses, insurance companies, travel agencies, broker-dealers, and dealers in precious metals, among other types of businesses. 31 U.S.C. § 5312(a)(2). Unless otherwise noted, this is the definition of financial institutions we use in this report.

[3]For prior GAO reports, see GAO, *Bank Secrecy Act: Federal Agencies Should Take Actions to Further Improve Coordination and Information-Sharing Efforts,* GAO-09-227 (Washington, D.C.: Feb. 12, 2009), *Bank Secrecy Act: Opportunities Exist for FinCEN and the Banking Regulators to Further Strengthen the Framework for Consistent BSA Oversight*, GAO-06-386 (Washington, D.C.: Apr. 28, 2006), *Department of Justice: Alternative Sources of Funding Are a Key Source of Budgetary Resources and Could Be Better Managed*, GAO-15-48 (Washington, D.C.: Feb. 19, 2015), and *Justice Assets Forfeiture Fund: Transparency of Balances and Controls Over Equitable Sharing Should Be Improved,* GAO-12-736 (Washington, D.C.: July 12, 2012).

System (Federal Reserve), Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC); and (4) the Department of Justice (DOJ).[4]

To respond to our first objective, we identified and analyzed these agencies' data on enforcement actions taken against financial institutions that resulted in fines, penalties, or forfeitures for violations of BSA/AML, FCPA, and U.S. sanctions programs requirements.[5] Specifically, we analyzed publicly available data from January 2009 through December 2015 on penalties assessed against financial institutions by the Federal Reserve, FDIC, OCC, SEC, and the Financial Crimes Enforcement Network (FinCEN), a bureau within Treasury, for violations of BSA/AML requirements. NCUA officials we spoke with explained that they had not assessed any penalties against financial institutions for violations of BSA/AML requirements from January 2009 through December 2015. FDIC and SEC provided us with a list of enforcement actions they took for BSA/AML violations since 2009, as we were not able to identify all of their actions through their publicly available data. We also reviewed Federal Reserve data on penalties for violations of U.S. sanctions programs

[4]The Federal Reserve, FDIC, and NCUA share safety and soundness examination responsibility with state banking departments for state-chartered institutions. State agencies' assessments and collections are outside the scope of this report. In addition, BSA examination authority has been delegated to the Commodity Futures Trading Commission for futures firms and to the Internal Revenue Service (IRS) for money service businesses, casinos, and other financial institutions not under the supervision of a federal financial regulator. This report focuses on Treasury, the federal banking regulators, and DOJ and SEC (which also have FCPA responsibilities). The roles of the Commodity Futures Trading Commission and IRS in assessing and collecting fines and penalties are outside the scope of this report. However, included in this report are civil penalties assessed by FinCEN against IRS-examined financial institutions for BSA violations. We also did not include self-regulatory organizations that impose anti-money-laundering rules or requirements consistent with BSA on their members, such as the Financial Industry Regulatory Authority, in our review because penalties resulting from their enforcement actions against members generally are remitted to the organizations and not to the federal government.

[5]With respect to U.S. sanction programs requirements, we included violations of sanction programs enforced by the Department of the Treasury's Office of Foreign Assets Control (OFAC), such as trade and financial sanction programs, and compliance requirements that are part of federal financial regulators' examinations programs.

requirements and data that SEC provided on FCPA violations.[6] In addition, we reviewed enforcement actions listed on Treasury's Office of Foreign Assets Control (OFAC) website to identify penalties assessed against financial institutions for violations of U.S. sanctions programs requirements enforced by OFAC. To identify enforcement actions taken against financial institutions from the actions listed on OFAC's website, we applied Treasury's definition of financial institutions, which covers regulated entities in the financial industry.[7]

To identify criminal cases against financial institutions for violations of BSA and sanctions-related requirements, we reviewed press releases from DOJ's Asset Forfeiture and Money Laundering Section, associated court documents, and enforcement actions taken against financial institutions from the actions listed on OFAC's website (see table 3 for a list of these cases).[8] We developed this approach in consultation with DOJ officials as their data system primarily tracks assets forfeited by the related case, which can include multiple types of violations, rather than by a specific type of violation, such as BSA or sanctions-related violations. Therefore, this report does not cover the entire universe of such criminal cases as they may not have all been publicized through this channel. However, this approach does include key cases for the period under our review that involved large amounts of forfeitures. We obtained data from DOJ's Consolidated Asset Tracking System to determine the amounts forfeited for these cases, and verified any Treasury-related data in DOJ's

[6]All of Federal Reserve's civil money penalty actions taken for unsafe practices related to OFAC regulations were taken against foreign banks operating in the United States. The Federal Reserve has oversight over branches and agencies of foreign banking organizations operating in the United States and the U.S. operations of their parent banks.

[7]To identify enforcement actions taken against financial institutions from the actions listed on OFAC's website, we applied OFAC's definitions of financial institutions, which covers regulated financial entities in the financial industry—such as insured and commercial banks, an agency or branch of a foreign bank in the U.S., credit unions, thrift institutions, securities brokers and dealers, operators of credit card systems, insurance or reinsurance companies, and money transmitters, among others. OFAC's definitions do not include travel agencies or dealers in precious metals (which are included under BSA's definition of a financial institution).

[8]In October 2015, DOJ and the IRS - Criminal Investigation announced that Credit Agricole Corporate and Investment Bank had agreed to a $312 million forfeiture for violating U.S. sanctions programs, of which the bank is to forfeit $156 million to the federal government (specifically, through the U.S. Attorney's Office for the District of Columbia for deposit into the Treasury Forfeiture Fund) and $156 million to the New York County District Attorney's Office. However, because this forfeiture was pending as of January 2016 we did not include it in our analysis.

system by obtaining information from the Treasury Executive Office for Asset Forfeiture. DOJ had not brought any criminal cases against financial institutions for violations of FCPA.

Table 3: GAO-Identified Bank Secrecy Act and U.S. Sanctions-Related Criminal Cases, January 2009–December 2015

Financial institution	Violation type	Press release date and link
Bank of Mingo	BSA/AML	6/15/2015[a]
Commerzbank AG and Commerzbank AG New York Branch	BSA/AML and Sanctions	3/12/2015
CommerceWest Bank	BSA/AML	3/10/2015
BNP Paribas S.A.	Sanctions	5/1/2015
JPMorgan Chase Bank, N.A.	BSA/AML	1/7/2014
Belair Payroll Services, Inc.	BSA/AML	11/5/2013
G&A Check Cashing	BSA/AML	1/14/2013
HSBC Bank USA, N.A. and HSBC Holdings PLC	BSA/AML and Sanctions	12/11/2012
Standard Chartered Bank	Sanctions	12/10/2012
MoneyGram International, Inc.	BSA/AML	11/9/2012
AAA Cash Advance, Inc.	BSA/AML	6/14/2012
ING Bank, N.V.	Sanctions	6/12/2012
Ocean Bank	BSA/AML	8/22/2011
Barclays Bank PLC	Sanctions	8/18/2010
The Royal Bank of Scotland N.V., formerly known as ABN AMRO Bank N.V.	BSA/AML	5/10/2010
Pamrapo Savings Bank, S.L.A.	BSA/AML	3/29/2010
Wachovia Bank, N.A.	BSA/AML	3/17/2010
Credit Suisse AG	Sanctions	12/16/2009
Lloyds TSB Bank PLC	Sanctions	1/9/2009

Source: GAO analysis of the Department of Justice's Asset Forfeiture and Money Laundering Section press releases and the Department of the Treasury's Office of Foreign Asset Control's website. I GAO-16-297

[a]This case was not listed in DOJ's Asset Forfeiture and Money Laundering Section press releases, but we included the case in our scope because we were previously aware of it.

We assessed the reliability of the data we used in this report by reviewing prior GAO assessments of these data, interviewing knowledgeable agency officials, and reviewing relevant documentation, such as agency enforcement orders for the assessments. To verify that these amounts had been collected, we requested verifying documentation from agencies confirming that these assessments had been collected, and also obtained and reviewed documentation for a sample of the data to verify that the amount assessed matched the amount collected. As a result, we determined that these data were sufficiently reliable for our purposes. We also assessed the reliability of the DOJ data fields we reported on by reviewing prior GAO and DOJ evaluations of these data and interviewing

knowledgeable officials from DOJ. We determined that these data were also sufficiently reliable for our report.

To respond to our second objective—to describe how funds for violations of BSA/AML, FCPA, and U.S. sanctions programs requirements were collected—we identified and summarized documentation of the various steps and key agency internal controls for collection processes, such as procedures for how financial institutions remit payments. We also obtained documentation, such as statements documenting receipt of a penalty payment, for a sample of penalties. We interviewed officials from each agency about the process used to collect payments for assessed fines or penalties and, for relevant agencies, the processes for collecting cash and assets for forfeitures and where funds were deposited. To describe how these collections were used, we reviewed documentation on the types of expenditures that can be authorized from the accounts and funds they are deposited in. Specifically, we obtained documentation on the authorized or allowed expenditures for accounts in the Treasury General Fund, Treasury Forfeiture Fund (TFF), and DOJ's Assets Forfeiture Fund (AFF) and Crime Victims Fund. We also reviewed relevant GAO and Office of Inspector General reports, and laws governing the various accounts.

We conducted this performance audit from July 2015 to March 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: GAO Contact and Staff Acknowledgments

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Staff Acknowledgments

In addition to the contacts named above, Allison Abrams (Assistant Director), Tarek Mahmassani (Analyst-in-Charge), Bethany Benitez, Chloe Brown, Emily R. Chalmers, Chuck Fox, Tonita Gillich, Thomas Hackney, Valerie Kasindi, Dawn Locke, Jeremy Manion, Joshua Miller, John Mingus, and Jena Sinkfield made significant contributions to this report.