



United States Marshals Service Directives

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Revision Date: 08/20/03

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13.4G APPENDICES

1. Acronyms

AFMLS, Asset Forfeiture and Money Laundering Section

AFMS, Asset Forfeiture Management Staff

AUSA, Assistant United States Attorney

BPD, Bureau of Public Debt

CATS, Consolidated Asset Tracking System

CD, Certificate of deposit

C.F.R, Code of Federal Regulations

CO, Contracting Officer

COTR, Contracting Officer's Technical Representative

DBA, Doing business as

DOJ, Department of Justice

IRS, Internal Revenue Service

PAR, Policy Authorization Review

UCC, Uniform Commercial Code

USAO, United States Attorney's Office

U.S.C., United States Code

USMO, United States (District) Marshal's Office

USMS, United States Marshals Service

Definitions

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2. Definitions

Administrative Declaration of Forfeiture: An administrative ruling issued by the investigative agency processing an administrative forfeiture, following publication of notice of intent to forfeit, declaring that no claims to the property had been received and that the seized property has therefore been forfeited to the United States. Such a declaration has the force and effect of a court order. [19 USC 1609] (See also administrative forfeiture.)

Administrative Forfeiture: The process by which property may be forfeited to the United States by the investigative agency that seized it, without judicial involvement. [19 USC 1602–21]. (See also administrative declaration of forfeiture.)

Ancillary Proceedings: Proceedings following a preliminary order of forfeiture in a criminal case. These proceedings are similar to civil forfeiture proceedings, except they deal only with the ownership rights that third parties may assert to the forfeited property. After notice of the hearing is published, any party asserting an interest in the property must petition the court for a hearing to adjudicate the validity of his/her interest in the property. At this hearing, the petitioner must establish by a preponderance of the evidence that he/she has a legal ownership interest in the property. Ownership interests may include liens and mortgages on the forfeited property. After the hearing, a final order of forfeiture will be issued, which will resolve and dispose of the interest of any third party. [21 USC 853(n); 18 USC 1963(1)]. This can include rejecting that third party's interest or providing satisfaction of that interest.

Appraisal: An opinion of the value of personal property, generally made by a licensed appraiser.

Asset Forfeiture Fund: A fund in the Treasury of the United States (Account 15X5042) into which forfeited cash and proceeds from the sale of forfeited property are deposited and from which expenses are paid to cover the management and disposition of forfeited property, equitable sharing distributions, awards for information, and other law enforcement costs. [28 USC 524(c)(1) and (4); 21 USC 881(e)(2)(B)].

Auction: The sale of property to the highest eligible bidder where any and all persons participating in the auction may offer bids. Bids can be taken verbally, by mail, or by other electronic means (e.g., e-mail, fax). In any auction, the USMS shall always reserve the right to reject any bidder.

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Bill of Sale: A written agreement by which one person assigns or transfers his/her right to or interest in goods and personal property to another.

Business Forecast: A calculation or prediction of the likely future condition of a business based on the study and analysis of available pertinent data.

Business Review: A financial assessment and a comprehensive analysis of an operating business targeted for forfeiture, including a determination as to whether it is in the Government's best interest to continue the operation of the business. A business review must investigate and consider all relevant information concerning the business and its financial and operating conditions. It should include best- and worst-case scenarios for the operation of the business as well as exit strategies. If the business is likely to lose money or to be sold at a loss, the business review should include a plan to mitigate loss or a plan to liquidate the business.

Capital Assets: Long-term assets that are not bought or sold in the normal course of business. Capital assets include such property as land, machinery, and equipment.

Cash Flow: An analysis of all changes during an accounting period that affect the cash account.

Civil Order of Forfeiture: In a civil case, the court order issued following a judgment for the United States declaring that the property, which is the named defendant in the case, is forfeited. The civil order of forfeiture affects "the whole world," including unknown claimants. (See also final order of forfeiture.)

Claim: A written notification filed by a party asserting an interest in property seized for forfeiture which requires the Government to proceed with a judicial forfeiture action against the seized property. 19 USC 1608 sets forth the requirement for a claim subject to administrative forfeiture, while Admiralty Rule C(6) sets forth the requirement for a claim subject to judicial forfeiture.

Consanguinity: Kinship; blood relationship; the connection or relation of persons who are descended from the same lineage or from a common ancestor.

Encumbrance: Any claim, lien, charge, or liability attached to and binding on property that may lessen its value or burden, obstruct, or impair the use of a property but not necessarily prevent transfer of title; a right or interest in a property held by one who is not the legal owner of the property.

Ex Parte: A judicial proceeding, order, injunction, etc., taken or granted at the instance and for the benefit of one party only, and without notice to or contestation by any person adversely interested.

Final Order of Forfeiture: In a criminal case, the court order issued following the disposition of all petitions, or if no petitions are filed in a timely manner, by which the United States gains clear title to property subject to the preliminary order of forfeiture. The preliminary order of forfeiture becomes final as to third parties only when the ancillary proceeding is concluded. (See Fed. R. Crim. P. 32[d][2]).

Forfeiture: A Federal forfeiture is the taking by the United States of property that has been used or acquired illegally, without compensating the owner. [*United States v. Eight (8) Rhodesian Stone Statues*, 449 F. Supp. 193 (C.D. Ca. 1978); *Mayo v. United States*, 413 F. Supp. 160 (E.D. Ill. 1976); *Kahn v. Janowski*, 60 A.2d 519 (MD. 1948).]

Indictment: A formal written accusation originating with a prosecutor and issued by a grand jury against a party charged with a crime. [Black's Law Dictionary 2 (6th ed.

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1990).]; [Black's Law Dictionary 779 (6th ed. 1990).]

Information: An accusation in the nature of an indictment, which differs from an indictment only in that it is being presented by a competent public officer on his/her oath of office, instead of by a grand jury on their oath. [Black's Law Dictionary 2 (6th ed. 1990).]; [Black's Law Dictionary 779 (6th ed. 1990).] An information may only be used when the accusation is a misdemeanor, or when the accusation is a felony and the accused has waived indictment.

Interlocutory Sale: A sale of the property before a final decision is entered in the forfeiture action, with the proceeds provisionally held under the jurisdiction of the court, to be released to whichever party finally prevails in the judicial action.

Internal Controls: Methods, procedures, or systems designed to promote efficiency, ensure that policy is implemented, and safeguard assets.

Inventory: The value of a firm's raw materials, works in progress, supplies used in operations, and finished goods.

In Personam: Any legal proceeding directed against an individual. In the context of asset forfeiture, in personam decisions determine ownership of property in relation only to the parties before the court. The power of a court to issue in personam decisions depends upon its ability to obtain jurisdiction over the individual, and affects only the interests of that individual.

In Rem: Any legal proceeding directed solely against property that will determine the ownership of that property. The defendant in an in rem proceeding is the property itself, and the proceeding is totally independent of any criminal action taken against the owner. [*The Palmyra*, 25 U.S. (12 Wheat.) 1 (1827); see *United States v. One Assortment of 89 Firearms*, 465 U.S. 354, 357-61 (1984)]. In rem decisions affect "the whole world," including unknown claimants.

Judgment: The official and authentic decision of a court of justice upon the respective rights and claims of the parties to an action or suit before it. Judgments may include:

Consent judgment, the provision and terms of which are settled and agreed upon by the parties to the action.

Default judgment, rendered as a result of the nonappearance of the defendant.

Judgment after trial, rendered on the merits of the case.

Summary judgment, following a motion by one or both parties based upon the court's determination that there is no genuine issue of fact and that the party requesting summary judgment is entitled to prevail as a matter of law.

Jurisdiction: The power and authority to hear and determine a case.

Lien: Qualified rights that a creditor has in certain property of his/her debtor, as security for the debt, or his/her performance of some act for the debtor.

Lis Pendens ("suit pending"): A notice that is filed with either the county re-corder or the registrar of deeds and that serves as a warning to all persons that (1) the title to the property is in litigation and (2) potential purchasers are in danger of being bound by an adverse judgment against the property. The objective of a lis pendens is to prevent a bona fide sale of the property or its refinancing pending the outcome of the forfeiture

litigation.

Market Value: The price that a purchaser might be willing but not compelled to pay to purchase, and the lowest price a seller, willing to but not compelled to sell, would accept. It assumes a motivated buyer and seller and reasonable marketing time.

Monitor: An individual appointed by the court who (1) is responsible for examining the operations of a business or enterprise and (2) reports his/her findings to the court as to whether the assets of a business or enterprise are being dissipated and will be available for forfeiture to the United States. A monitor does not control the operations of a business or enterprise, but merely reports his/her findings. A monitor may be responsible for approving payments (e.g., all payments of more than \$10,000, payments not in the ordinary course of business) or performing other very limited oversight functions. [See page 2 of DOJ Policy Directive 98-2, Department of Justice Policy: Trustees and Monitors in Forfeiture Cases.].

Net Equity: The potential amount of sales revenue (proceeds) that the United States will realize after the property is sold, deducting all of the Marshal's expenses (including sales commissions, the transaction costs to dispose of property) and recognized liens.

Net Present Value: The present value of the business minus the initial investment in the business equals the net present value. In addition, the present value of the cash inflows of an investment project minus the present value of the cash out-flows of an investment project, taking the time value of money into consideration in addition to dealing with cash flows.

Newspaper of General Circulation: A publication, usually in sheet form, intended for general circulation, and published at short intervals, containing information and editorials on current events and news of general interest.

Notice: Information, advice, or written warning intended to apprise an individual of some proceeding in which his/her interests are involved.

Party in Interest: An individual who participates in the performance of any act, or who is directly interested in any affair, contract, or conveyance, or who is actively concerned in the prosecution and defense of any legal proceeding relevant to the property. [See Fed. R. Civil P. 17(a)].

Personal Service: Actual delivery of a pleading, notice, or other paper to any party or person interested in an action so as to charge him/her with the receipt of it and subject him/her to its legal effect.

Petition for Remission or Mitigation: A petition submitted to a DOJ official requesting administrative relief from the effects of the forfeiture.

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- Remission of the forfeiture returns the property to the petitioner without any penalty. Generally, remission will be granted to a party whose property was used without his/her knowledge or negligence. This includes financial institutions with a security interest in the property (lien or mortgage) and other innocent persons.
 - Mitigation is partial relief from the forfeiture, usually conditioned upon the payment of a money penalty.

Plea Agreement: The process whereby the accused and the prosecutor in a criminal case work out a mutually satisfactory disposition of the case subject to court approval. Plea agreement procedures in federal courts are governed by Fed. R. Crim. P. 11(e).

Posting: The form of service of process specified by Admiralty Rule C(4)(b). It consists of affixing, in a conspicuous place, a copy of the forfeiture complaint and the warrant of arrest in rem, issued by the clerk of the court pursuant to Admiralty Rule C(3), to the defendant property in rem.

Preliminary Order of Forfeiture: The order entered by the court forfeiting all the defendant's interests in assets that the jury has found to be forfeitable in its special verdict. [United States v. Godoy, 678 F.2d 84, 88 (9th Cir.1982), cert. denied, 464 U.S. 959 (1983)]. The order should identify specifically each forfeited asset and state that the interest of the defendant in each asset is "forfeited to the United States for disposition in accordance with law." In addition, the order "must authorize the Attorney General to seize the interest or property subject to forfeiture on terms that the court considers proper." (Fed. R. Crim. P. 32[d][2])

Pre-seizure Planning: Planning that involves the USAO, the seizing agency, and the USMO and that anticipates and makes intelligent decisions about **what** property is being seized, **how** and **when** it is going to be seized, and, most important, **whether** it should be seized. [Taken from *AFPM*, Section 1.1.B.2. (emphasis in the original)]

Probable Cause: The existence of facts and circumstances within an individual's knowledge and of which the individual has reasonably trustworthy information, that lead someone of reasonable caution to believe that, in the context of an arrest, a crime has been committed or that, in the context of a search and seizure, property subject to seizure is at a designated location.

Promissory Note: A written promise that commits the note's maker to pay the payee a specified sum of money, either on demand or at a fixed determinable future day, with or without interest.

Protective Order: Any order or decree of a court whose purpose is to protect a person from further harassment or service of process or discovery. [See, e.g., Fed R. Civil P. 26(c); Fed R. Crim. P 16(d)(1)] Also, as used in this manual, any order issued during a forfeiture action or upon entry of a forfeiture order that is "necessary to protect the interests of the United States in the property ordered forfeited." [18 USC 1963(e); 21 USC 853(g)].

Publication: The placement—under conditions prescribed by law—of an advertisement in a newspaper to give notice of the suit to interested parties upon whom personal service cannot be made. Admiralty Supplemental Rule C(4) requires that notice of the forfeiture action be published in a newspaper of general circulation in the district where the lawsuit was filed. Local district court rules govern the specific requirements as to the number and frequency of publication of notice.

Quick Release: An investigative agency's release of assets—after seizure but before administrative forfeiture begins—to any party having an immediate right to their possession.

Restraining Order: An order of the court forbidding a party to perform certain acts until a hearing can be held.

Seizure: The act of taking possession of property by virtue of a warrant or by legal authority. [Webster's Third New International Dictionary (1981. Merriam-Webster, Inc.)]. As used in this manual, it includes the bringing of the property into the custody of the court or investigative agency.

Seizure Warrant (warrant of seizure): A form of process issued pursuant to Fed. R. Crim. P. Rule 41, and authorized by 21 USC 881(b) and 18 USC 981(b)(2) that secures a judicial determination of probable cause but does not confer jurisdiction upon the

court issuing the warrant. (AFPM, Section 1.II.C.2.)

Settlement Agreement: A contractual agreement to end legal disputes.

Special Verdict of Forfeiture: A special verdict that may be returned by a jury after conviction when the indictment contains a forfeiture allegation. As authorized by Fed. R. Crim. P. 31(e), the special verdict must specify "the extent of the interest or property subject to forfeiture, if any."

Substitute Assets: Assets belonging to a defendant that the court may order forfeited in lieu of directly forfeitable assets if the forfeitable assets are unavailable at the time the jury returns its special verdict of forfeiture due to any act of omission by the defendant. Such assets, up to an equivalent value of those that are unavailable, may be forfeited upon motion to the district court filed by the AUSA. See 21 USC 853(p). Substitute assets are subject to criminal forfeiture only.

Takedown: The act or action of taking possession, power over, or control of an asset subject to forfeiture in accordance with a preconceived schedule or plan. As used in this manual, it primarily refers to actions directed against a business or enterprise that is currently in operation, the operation of which is being taken over by the USMS.

Trustee: An individual appointed by a court and granted the authority to manage and/or dispose of property. Trustees may be appointed before or after property has been seized or forfeited. [See page 2 of DOJ Policy Directive 98-2, Department of Justice Policy: Trustees and Monitors in Forfeiture Cases].

Uniform Commercial Code (UCC): One of the uniform laws that was drafted by the National Conference of Commissioners on Uniform State Laws and governs commercial transactions (e.g., sale of goods, commercial paper, and investment securities).

Warrant of Arrest in Rem: A written order of the court, based upon a verified complaint, issued under the authority of Admiralty Rule C(3), which commands the Marshal to arrest (seize) the property named therein, and which gives the court jurisdiction over the property to be seized.

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ASSET FORFEITURE

13.4 Businesses, Commercial Real Property, and Financial Instruments

Footnotes

1. In this manual "commercial real property" means residential real property comprising five or more units and other real property held for commercial purposes. Noncommercial real property and commercial real property comprising four or fewer units are covered in the *Real Property Manual*.
2. See list of all acronyms used in this manual and their meanings.
3. See PAR decision request form
4. See list of the statutes enforced by DOJ under which assets may be forfeited to the United States.
5. Published by AFMLS, Criminal Division, DOJ.
6. See directive. [Criminal Division Policy Directive 98-2 titled Department of Justice Policy: Trustees and Monitors in Forfeiture Cases (November 2, 1998)]
7. Federal Rules of Criminal Procedure (Fed. R. Crim. P.), Rule 7(c)(2)
8. Fed. R. Crim. P. 31(e).
9. USMOs should use the "Pre-seizure Questionnaire-Business" provided in Appendix M of this manual. USMOs may make additions to this questionnaire.
10. In the AFPM, this is referred to as the "Business Evaluation and Seizure Team." See AFPM, Section 1.I.C.4.
11. See, e.g., USMS Real Property section 13.3, Personal Property section 13.2, and section 13.4-6.
12. The AFO is responsible for this function unless it assigns the responsibility to a USMO that has the necessary resources and experience.
13. See Appendix D for detailed instruction of how to perform a thorough business review and a checklist of business information to be collected and evaluated.
14. See AFPM, Section 3.I.D.2.
15. In undertaking a forfeiture action, the United States is obligated by statute "to protect the rights of innocent persons." See, e.g., 21 U.S.C. § 853(i).

16. See sample language that may be included in such orders.
17. See 18 U.S.C. § 1963(d)(1)(B) and 21 U.S.C. § 853(e)(1)(B).
18. See, e.g., 18 U.S.C. § 1963(e) and 21 U.S.C. § 853(g).
19. 21 U.S.C. § 853(f) and 18 U.S.C. § 982(b)(1).
20. See AFPM, Section 1.II.D.
21. See Appendix L for the form "Operational Plan for Takedown."
22. See model protective order.
23. The AFO will be responsible for this function unless it assigns the responsibility to a USMO that has the necessary resources and experience.
24. See "Monitoring or Operating the Business," for guidelines and information.
25. The AFO will be responsible for this function unless it assigns the responsibility to a USMO that has the necessary resources and experience.
26. See model protective order.
27. See model court orders regarding the appointment of monitors and trustees.
28. The AFO will be responsible for this function unless it assigns the responsibility to a USMO that has the necessary resources and experience.
29. 18 U.S.C. § 1963(e) and 21 U.S.C. § 853(g).
30. See model court orders regarding the appointment of monitors and trustees.
31. The U.S. district judge will typically receive recommendations from the case AUSA.
32. The CO has the overall and primary responsibility for the administration of a contract. The CO is authorized to take the following actions on behalf of the Government: modify or deviate from the contract terms, conditions, requirements, specifications, and details; make final decisions involving deductions from contract payments or other considerations that are due to the Government because of nonperformance or unsatisfactory performance; terminate the contract for convenience or default; and issue final decisions regarding contract questions or matters under dispute. The CO may delegate certain matters or responsibilities to an authorized representative, such as the Ordering Officer or the Contracting Officer's Technical Representative. The CO should receive input from the technical evaluation board in establishing the contract and from the Ordering Officer in modifying the contract.
33. The responsible AUSA is involved for legal matters involving forfeiture; the responsible USMS official is involved for property management or disposition matters.
34. The Ordering Officer is the CO's authorized representative and issues requests for service in accordance with the contract.
35. If the USMO is responsible, a supervisory deputy U.S. marshal should assume this role; if the AFO is responsible, a senior property management specialist or team

leader should assume this role.

36. The COTR is responsible for monitoring the performance of the monitor/trustee through the inspection or analysis of specific activities; providing direction to the monitor/trustee for routine matters; clarifying the contract effort (e.g., clarifying the contractual work statement); evaluating performance; and certifying all properly submitted invoices for payment.
 37. See DOJ's policy on monitors and trustees.
 38. See DOJ's policy on selecting and appointing monitors and trustees.
 39. See Appendix E, Section XIII, for DOJ's policy.
 40. The AFO will be responsible for this function unless it assigns the responsibility to a USMO that has the necessary resources and experience.
 41. See Appendix E, for a discussion of circumstances in which a monitor or trustee should be appointed.
 42. See Appendix E, Section IX, for DOJ's policy on the duties and responsibilities of monitors and trustees.
 43. The AFO will be responsible for this function unless it assigns the responsibility to a USMO that has the necessary resources and experience.
 44. See Appendix E, Section VIII, for DOJ's policy on payment of fees and expenses charged by monitors and trustees.
 45. See Appendix E, for a list of the DOJ requirements that must be met before monitor/trustee fees and expenses may be paid from the Assets Forfeiture Fund.
 46. See Appendix E, Section X, for DOJ's policy on the accountability of monitors and trustees.
 47. The AFO will be responsible for this function unless it assigns the responsibility to a USMO that has the necessary resources and experience.
 48. The AFO will be responsible for this function unless it assigns the responsibility to a USMO that has the necessary resources and experience.
 49. Appendix I is the "Monitor/Trustees Guide to Applications for Professional Compensation ('Fee Guide')," which includes the USMS billing guidelines.
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50. See Appendix E, Section XIV, for DOJ's policy on dispute resolution.
 51. The AFO will be responsible for this function unless it assigns the responsibility to a USMO that has the necessary resources and experience.
 52. The AFO will be responsible for this function unless it assigns the responsibility to a USMO that has the necessary resources and experience.
 53. Sources available for identifying a competent monitor and trustee include DOJ's Executive Office of U.S. Trustees.

54. See Appendix G for model statements of work regarding a monitor and a trustee.
 55. See Appendix E, for DOJ's policy on the reporting obligations of a monitor or trustee.
 56. See Appendix J for a explanation of internal control requirements and Appendix K for model written guidance that may be provided to a monitor or trustee.
 57. See Appendix M for the form "Personnel Qualifications Statement for Evaluating Applicants for Monitor or Trustee Positions."
 58. See Appendix M for the form "Statement of Intent and Certification of Monitor/Trustee and Staff."
 59. See Appendix G for model statements of work regarding a monitor and a trustee.
 60. See Appendix E, Section X, for DOJ's policy on the reporting requirements of a monitor or trustee.
 61. For legal issues surrounding the *monitor's* or *trustee's* duties or functions, the AUSA who is responsible for the forfeiture case will be the responsible AUSA. If there are more than one AUSAs involved with the case, the USAO will determine who will be the responsible AUSA.
 62. When a contract is used to engage the services of a monitor or trustee, the responsible USMS official is the COTR. The COTR will personally approve all major decisions, being aware at all times of what work is being done, by whom it is being done, and how much time each person is spending on the work. The COTR will take an active role in all major or key monitor and trustee matters and transactions.
 63. See "USAO's primary oversight responsibility for monitors and trustees" in section 13.4-3.E.32.
 64. See Appendix I for this guide.
 65. See "Payment of trustee expenses" in section 13.4-3.E.29.
 66. See Appendix K for guidelines on monitor or trustee reports.
 67. See Appendix H for model court orders regarding the appointment of monitors and trustees.
 68. See Appendix I for sample models of a monitor's/trustee's budget. The sample budget is for a 6-month period. The facts of the individual case will dictate the actual period of time to be covered by the budget.
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69. A summary of activity code categories is included in Appendix I
 70. See Appendix I for a sample format for the submission of monthly invoices.
 71. See Appendix J for an explanation of internal control requirements.
 72. See Appendix E, Section X, for DOJ's policy on oversight responsibilities.
 73. See 28 C.F.R. 9.9(a).

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74. See 28 U.S.C. § 524(c)(1)(H), which provides that all applicable taxes may be paid on any property until the date of the final order of forfeiture, and 28 U.S.C. § 960, which provides that all applicable taxes on a business may continue to be paid after the business has been forfeited, if the business itself is the subject of the forfeiture order.
 75. The AFO will be responsible for this function unless it assigns it to a USMO that has the necessary resources and experience.
 76. See Appendix L for the form "Operational Plan for Takedown."
 77. See "Evaluation of the targeted business" in section 13.4-3.C.3.
 78. See 28 C.F.R., Part 20, Subpart C.
 79. Payment of unsecured business debts in excess of \$5,000 requires PAR approval. See "Payment of pre-existing business debts" in section 13.4-3.E.33.
 80. See "Selection and appointment of monitors and trustees" in section 13.4-3.E.7.
 81. First preferred ship mortgages are governed by 19 U.S.C. § 1609(b) and 46 U.S.C. § 961.
 82. 18 U.S.C. § 1963(l)(4) and 21 U.S.C. § 853(n)(4).
 83. See AFPM, Section 3.I.E.1.
 84. See AFPM, Section 3.I.A.7.
 85. See Asset Forfeiture Law and Practice Manual, Section 4.II.
 86. See "Criminal Prosecutions Including Forfeiture Counts," section 13.4-3.A, for a discussion of these considerations.
 87. See Admiralty Rule E(4)(b). See also 13.3-3 in the Real Property section for a discussion of civil forfeiture.
 88. The USMS is authorized by 28 U.S.C. § 566(c) to "command all necessary assistance to execute its duties."
 89. Admiralty Rule C specifies the publication and notice requirements.
 90. If the person refuses to accept or acknowledge the notice, the USMO must notify the AUSA.
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91. See "Criminal Forfeiture of an Ongoing Business" in section 13.4-A.
 92. See AFPM, Section 3.I.A.7.
 93. See AFPM, Section 3.I.A.2.
 94. The Federal Tort Claims Act, 28 U.S.C. §§ 2671 *et seq.*, is the exclusive waiver of sovereign immunity for torts alleged against the Government.
 95. In *Bivens v. Six Unknown Named Agents*, 403 US 388 (1971), the Supreme Court acknowledged a private citizen's right to sue Federal officers in their individual

- capacities for certain constitutional torts committed in the performance of their official duties.
96. See Admiralty Rule E(9).
 97. 21 U.S.C. § 881(e), 21 U.S.C. § 853(h), and 18 U.S.C. § 1963(f) and (g).
 98. See AFPM, Section 5.III.B.1.a.
 99. For example, 21 U.S.C. § 881(e)(1), 21 U.S.C. § 853(h), and 18 U.S.C. § 1963(f) and (g).
 100. 28 C.F.R. § 0.111(i).
 101. See Admiralty Rule E(9)(b).
 102. See AFPM, Section 5.III.B.1.b. and 5.III.C.
 103. See "Final orders of forfeiture" in section 13.4-5.G.
 104. See 21 U.S.C. § 881(e)(2)(A)(i).
 105. 28 C.F.R. § 9.4(g).
 106. See 19 U.S.C. § 1613(c).
 107. The AFO will be responsible for these actions unless the business plan assigns the responsibility to a USMO.
 108. Commercial real property is normally conveyed by a quit claim deed. See Real Property, section 13.3, for other methods of conveying real property.
 109. 28 C.F.R. § 0.156.
 110. See 13.2-3.B in the Personal Property section for a detailed discussion of pre-seizure planning.
 111. See AFPM, Section 1.V, for the procedures and responsibilities for handling financial instruments.
 112. See 13.2-3.E in the Personal Property section for more details on these procedures.
 113. See 13.2-3.D in the Personal Property section for more details on these procedures.
 114. See 13.2-3.F in the Personal Property section for more details on these procedures.
 115. The Uniform Commercial Code (UCC) provides that personal checks will be honored only for a 6-month period after they are drawn. After that time, such checks are considered "stale-dated" and cannot be negotiated. The UCC limitation should not apply to cashier's checks, but these checks may also require special negotiation when they are more than 6 months old.
 116. The letter and all subsequent correspondence, should be sent to the National Money Order Coordinator, Postal Inspection Service, 1735 N. Lynn St. Rm. 4033, Arlington, VA 22209.

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117. Upon the seizure of American Express traveler's checks, the investigative agency should call American Express and provide the number(s) on the check(s). The 24-hour-a-day telephone number is (800) 221-7282.
118. The checks should be sent to the American Express Company, TRS Security, 4315 South 2700 West, Salt Lake City, UT 84184-0309.
119. The letter should be sent to the U.S. Department of the Treasury, Bureau of the Public Debt, Savings Bond Division, Parkersburg, WV 26106.
120. See also "Additional Duties and Responsibilities Regarding Specific Financial Instruments" in section 13.4-6.C for instructions regarding the actions to be taken on financial instruments prior to forfeiture.
121. The complete address is National Money Order Coordinator, Postal Inspection Service, 1735 N. Lynn St. Rm. 4033, Arlington, VA 22209.
122. The complete address is [REDACTED] First Data Corporation, 6200 South Quebec, Suite 330, Greenwood Village, CO 80111. [REDACTED] may be contacted at [REDACTED] if there are any questions regarding the handling of Western Union money orders. b7c
123. The information in this section was obtained from the Asset Forfeiture Policy 97-2, "Liquidating Forfeited Savings Bonds."
124. See Appendix M for a sample Form 1522.
125. The complete address is U.S. Marshals Service, Asset Forfeiture Office, CS III, Washington, D.C. 20530-1000.
126. The BPD will pay interest on the savings bond(s) only from the date of issuance to the date of forfeiture.
127. The transfer agent is usually a commercial bank that is appointed by a corporation to maintain records of stock and bond owners; cancel and issue certificates; and resolve problems arising from lost, destroyed, or stolen certificates. The transfer agent's name and telephone number can be obtained from the stockbroker.