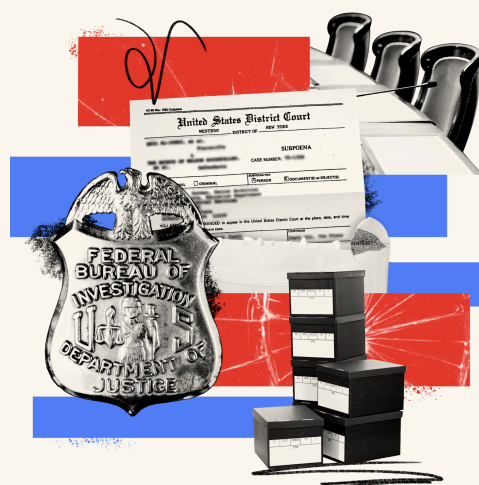


What if ... your organization is concerned about asset freezes and forfeiture?

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Understanding asset freezes

In both criminal and civil investigations, the U.S. government possesses powerful tools to disrupt organizations' financial, physical, and other assets. This primer focuses on how nonprofit organizations can navigate two of these tools: asset freezes and asset forfeiture.¹ It also includes a brief overview of "de-risking" or "de-banking."

What is asset freezing?

Asset freezing is a measure that restricts an individual's or organization's access to funds and other assets, sometimes temporarily and sometimes for longer. If an asset is frozen, the original owner remains the owner of that asset. During the course of an investigation against an individual or organization, the government may freeze assets as a preventative measure to stop the use of these assets for alleged illegal activities. The government can also freeze funds to prevent owners from spending assets derived from or associated with criminal activities. Separately, in the context of anti-terrorism and other economic sanctions, an asset freeze is often one of the government's primary objectives and can last as long as the sanctions are in place.

How does asset freezing work?

Asset freezing is a tool used by various federal agencies, including the Department of Justice (DOJ) and the Treasury Department.

The government has authority to freeze assets during the course of an investigation, including before and after a final conviction of guilt. During a criminal investigation, for example, courts can freeze an owner's assets [prior to a trial](#) based on a grand jury's finding of probable cause that the defendant committed a crime and the assets can be linked to that crime. *See, e.g., 21 U.S.C. § 853(e), 18 U.S.C. § 982(b)(1).* Additionally, in some banking and healthcare fraud cases, a court can freeze, before trial, property "obtained as a result of" the crime; property "traceable" to the crime; and other "property of equivalent value." *See 18 U.S.C. 1345(a)(2).*

The government may freeze accounts pursuant to a warrant and is not always required to give advance notice to property owners. *See, e.g., 21 U.S.C. 853(e)(2).* In some cases, the government may not give prior notice if it has probable cause to believe that notice will jeopardize the availability of the property for future forfeiture. The government can also directly order banks to place a freeze on an account. Banks have [financial agency agreements](#) with the federal government if they manage, among other things, public funds and grants — and these agreements generally require banks to protect the interests of the United States.

¹ This primer focuses on federal government investigations. For information about asset freezes and forfeiture processes in state government investigations, organizations should speak with legal counsel.

Sanction freezes

The government can also freeze assets when it designates a party as a terrorist or other sanctioned bad actor (for example, certain drug traffickers or cyber criminals). In such cases, the government adds the party's name — generally without advance notice — to the Treasury Department's List of [Specially Designated Nationals](#) (the "SDN List") and all U.S. persons are then required to freeze any assets of the designated party that they hold. Most domestic banks check the Treasury list regularly and will freeze any accounts belonging to a designated party. The property remains frozen until the Treasury removes the sanction or a court orders it to do so, although parties can obtain a license to use the funds for designated purposes.

How can organizations challenge asset freezes?

Processes to challenge government-initiated asset freezes vary depending on the context, which is why organizations should consult legal counsel.

Depending on the circumstances, an organization may be able to challenge a freeze as violating their constitutional right to due process. Organizations may also be able to argue the government has not presented sufficient evidence to demonstrate that the assets are linked to criminal activity or that the party was improperly added to the SDN List.

Opportunities to challenge funds frozen also depend on the specific agency ordering the freeze and the underlying justification. For example, organizations whose funds have been frozen by the Treasury Department can apply for a [specific license](#) to unblock those funds. An example of that application is [here](#).

Experienced legal counsel can help organizations assess these and other options.

Examples of government asset freezes

The following two examples highlight how federal agencies might use asset freezes:

Climate Fund v. Citibank, et. al.

In 2022, the Biden administration set up the Greenhouse Gas Reduction Fund (GGRF) program, which granted funds to various environmental nonprofits involved in reducing pollution. Citibank, through a contract with the Environmental Protection Agency (EPA), was [selected](#) as the financial agent to administer and manage the funds, holding them in various accounts.

According to court [filings](#), the FBI contacted Citibank in February 2025 to request a 30-day administrative freeze on certain accounts held by some of the GGRF's nonprofit recipients. The FBI requested this account freezing because it had "credible information" that the accounts were "involved in possible criminal violations," including conspiracy to defraud (18 U.S.C. § 371) and wire fraud (18 U.S.C. § 1343). On March 10, 2025, the EPA extended the administrative freeze, directing Citibank to pause the processing of payments for GGRF accounts "until further notice," citing concerns about the program's alleged misconduct, waste, conflicts of interest, and fraud.

The Climate United Fund — a coalition of three nonprofits who received GGRF funds — sued Citibank, the FBI, EPA, and Treasury Department, requesting a release of the funds. A district court judge initially [ordered](#) the release of funds, but the appeals court [reversed](#) that decision, keeping the accounts frozen. Although the EPA has officially terminated GGRF grant funding, legal challenges by various nonprofit groups [continue](#). Some [officials](#) have called into question the credibility of the government's claims of fraud.

KindHearts for Charitable Humanitarian Development, Inc. v. Geithner et al.

In early [2006](#), the Treasury Department's Office of Foreign Assets Control (OFAC) froze about \$1 million in assets belonging to [KindHearts](#) — a former charitable organization that provided humanitarian assistance in the United States and abroad, including to Muslim-majority countries.

The Treasury Department did not give prior notice to the organization. Rather, upon ordering the freeze, OFAC sent a "blocking notice" to KindHearts stating that all of its property was blocked pending an investigation. The agency was investigating whether KindHearts provided financial or material support to a terrorist group. The notice explained that OFAC did not give prior notice of its determination to block KindHearts' assets due to concerns that, in response, the organization could have transferred its funds and assets elsewhere.

OFAC subsequently “provisionally determined” to designate KindHearts as a “[specially designated global terrorist](#),” meaning that all of its assets in the United States (or in the custody or possession of a US person anywhere in the world) remained frozen as a matter of law.

In 2008, KindHearts, represented by the ACLU, challenged the provisional designation and resulting freeze, arguing that OFAC failed to provide the organization with reasonable notice or meaningful opportunity to defend itself. The ACLU [won](#) (in part) the lawsuit against OFAC in a federal district court in Ohio, which ruled that the government could not lawfully freeze the organization’s assets without first obtaining a warrant based on probable cause (this was the first time a court held that OFAC needed a warrant to freeze the assets of a domestic entity.)² However, the court also found that OFAC’s provisional designation of KindHearts as a “specially designated global terrorist” was not ripe for judicial review and consequently did not violate the organization’s due-process rights.

After years of litigation, KindHearts and the Treasury Department settled the case in 2012. The [settlement](#) allowed KindHearts to pay its debts and distribute the remaining funds across various charities before agreeing to close down. OFAC removed the organization from its list of designated terrorists and allowed KindHearts’ former board members, officers, and employees to engage in legal charitable activity.

² While the court’s ruling requiring a warrant placed an important limitation on OFAC—and the case is important for that reason—it is not certain OFAC will seek warrants in future cases or that other courts will agree that a warrant is required.

Understanding asset forfeiture

What is asset forfeiture?

Asset forfeiture³ is a process by which the government takes possession of property from an individual or organization that it believes is involved in some form of illegal activity, and then *forfeits* that individual or organization's ownership of the property by transferring ownership to the government itself. In other words: first the government takes the property (a "seizure"), then it formally becomes the legal owner of that property ("forfeiture"). All types of property can be forfeited — funds held in bank accounts, stocks and bonds, and digital assets like cryptocurrencies, as well as tangible items such as real estate, vehicles, and cash.

There are different [types](#) of asset forfeiture under federal law:

Forfeiture type

When can the government forfeit property?

Criminal forfeiture

Criminal forfeiture is brought as part of a criminal prosecution against a person or organization. The government indicts property related to the crime along with the defendant(s). Criminal forfeiture can only take place after the defendant is convicted of certain types of underlying crimes. If the defendant is not convicted, the government may not pursue criminal forfeiture. The defendant has the right to challenge the forfeiture through criminal trial proceedings.

In order for a court to forfeit a defendant's property, the government must [establish](#) by a [preponderance of the evidence](#) that a substantial connection exists between the crime of conviction and the property being sought for forfeiture. Generally, this connection can mean the property was either used to commit or facilitate the offense, or was derived from the criminal activity.

Civil judicial forfeiture

Civil forfeiture is a separate legal action against the property itself, not a person or organization. The government does not need to prove a crime or convict a property owner in order to seize their assets and forfeit them. In civil cases, an individual or organization can also contest the forfeiture in court.

In the case of civil forfeiture, no criminal conviction is required to forfeit property; however, the government must still [prove](#) in court by a preponderance of evidence that the property was connected to certain types of criminal activity.

³ For more information about laws applicable to the asset forfeiture processes, see 18 U.S.C. §§ 981-987, 28 C.F.R. §§ 8.1-8.23, and Fed. R. Crim. P. 32.2.

Administrative forfeiture

Administrative forfeiture is a non-judicial civil process where a federal agency can seize property and transfer its ownership to the government without involving the courts. The government is required to provide notice to the property owner and interested parties are permitted to file a claim contesting the forfeiture. When a claim is filed, the government must return the property or file a civil forfeiture complaint in court. Administrative forfeiture is the most [commonly used](#) type of asset forfeiture.

Administrative forfeiture must be [based](#) on [probable cause](#), meaning the government must have a reasonable belief that the assets were linked to criminal activity.

How does asset forfeiture work?

Asset forfeiture is a powerful tool, typically used by law enforcement agencies to disrupt criminal enterprises, including those involved in terrorism financing, drug trafficking, and fraud.

Federal agencies like DOJ, the Treasury Department (which includes the IRS), and the Department of Homeland Security (DHS) can use these mechanisms to target organizations suspected of financial crimes (fraud, embezzlement, money laundering, misuse of donor funds, etc.), terrorism financing (e.g., if the government believes an organization is a front for or is providing material support to a designated foreign terrorist organization), and certain other criminal activities (e.g., smuggling or public corruption). Tax crimes standing alone are generally not a sufficient basis for criminal or civil forfeiture.

Forfeiture follows seizures, meaning the government will seize property in various contexts and then permanently transfer ownership of that property away from its original owner. Seizures can occur at the outset of formal investigations into alleged illegal activity. But federal law enforcement agencies also regularly seize property during arrests, searches, traffic stops, “knock and talks,” etc. Assets can be seized by the government either pursuant to a warrant issued by a judge, or pursuant to an exception to the warrant requirement. For instance, the seizure of a bank account is generally done pursuant to a warrant,⁴ but seizing cash found on a person during a search may not be. See, e.g., [18 U.S.C. § 981\(b\)](#).

Additionally, if property tied to unlawful activity is “commingled” or mixed with other property, and the government is unable to separate the two without difficulty, the government can forfeit all of that individual or organization's property. See, e.g., [IRS Manual 9.7.3.2.1\(4\)\(e\)](#).

⁴ For more information about best practices for navigating search warrants, read our [primer](#).

The avenues for recovering seized property depend on the type of forfeiture. This primer discusses potential ways to challenge forfeiture actions later on.

Notice process

While there are exceptions, when the government attempts to forfeit property, it generally is obligated to provide notice. See, e.g., Fed. R. Crim. P. [32.2\(a\)](#) and [18 U.S.C. § 983](#).

The contours of notice requirements vary depending on whether the forfeiture is criminal, civil, or administrative in nature:

- In criminal cases, the government generally must provide notice to the defendant(s) that it will seek the forfeiture of designated property as part of any criminal conviction brought against them. See Fed. R. Crim. P. [32.2\(a\)](#).
- In civil cases, once the government seizes property, it generally has 60 days to do one of three things: (1) notify the property owner of its intent to forfeit the property; (2) file a civil forfeiture action and provide notice of that action; or (3) if the government obtains an appropriate criminal indictment, follow the criminal forfeiture statute procedures to pursue forfeiture. See [18 U.S.C. § 983\(a\)](#).
- With respect to property that the government seeks to forfeit administratively, the government can notify the public of the forfeiture via: (1) weekly publication for at least three weeks in a newspaper circulated in the judicial district where the property was seized; or (2) posting a notice on an official government [forfeiture site](#) for 30 consecutive days. See [28 C.F.R § 8.9\(a\)\(1\)](#). In addition, agencies may also inform property owners or interested parties about the seizure via personal notice letters.

When organizations receive a notice of the government's intent to forfeit their property, they should notify legal counsel immediately and carefully review the notice to: (1) ensure the notice is accurate, including that it does not misrepresent the owner of the property seized; and (2) note the deadline for the organization to object to the forfeiture.

Interactions with state and local law enforcement

While this primer focuses on federal asset forfeiture, the federal government can and does coordinate with local and state law enforcement agencies in forfeiture cases. The federal government can “adopt” assets seized lawfully by state, local, and tribal law enforcement entities. This means that, though property may initially be seized by local law enforcement, the federal government may attempt to forfeit that property. This federal adoption of assets is authorized whenever the conduct giving rise to the seizure also violates federal law. See Chapter 3, [Asset Forfeiture Policy Manual](#), Department of Justice (2025).

How can organizations challenge asset forfeiture?

Avenues for challenging forfeiture (with the goal of recovering lost property) depend on, among other things, the type of forfeiture (criminal vs. civil vs. administrative) and the specific circumstances of the seizure. Organizations should consult with legal counsel to determine their options and whether challenging the forfeiture is one of them.

Challenging **criminal forfeiture**, which is tied to a criminal conviction, typically requires an organization to defend against the underlying criminal charges in court. If the organization or its representatives are acquitted of the charges, then the government loses its basis for criminal forfeiture. Even in a case where the government obtains a conviction, the government must still prove a connection between the property and the crime. In that case, an organization can show a lack of connection to maintain ownership of the underlying property.

Organizations can challenge a **civil forfeiture** by demonstrating they were not given proper notice, they were an “innocent owner” (*i.e.* they were not aware of the criminal activity that led to the seizure or, upon learning of the activity, they did everything they “reasonably” could to stop misuse of the assets), or the forfeiture was constitutionally excessive (*e.g.*, the magnitude of the forfeiture was not proportional to the offense giving rise to the forfeiture). See [18 U.S.C. § 983](#).

For property subject to **administrative forfeiture**, organizations can contest the forfeiture by filing a motion to set aside the forfeiture where the government did not provide required notice or by filing a [claim](#) with the government agency that gave notice of the seizure and intent to forfeit (the “seizing agency”). Claims should be in writing and describe the seized property as well as the organization’s relationship to or interest in the property. See, *e.g.*, [18 U.S.C. §§ 983\(a\)\(2\)\(C\)](#), 983(e).

Organizations should pay careful attention to the deadlines for filing a claim (which can vary). Filing a claim in a timely manner can halt administrative forfeiture proceedings, but if no one files a claim contesting an administrative forfeiture, the government takes ownership of the property by default. See [28 C.F.R. § 8.12](#). After filing a claim with the seizing agency, that agency will then determine whether to return the property or initiate further criminal or civil proceedings. An example claim form can be found [here](#).

De-risking or de-banking

The focus of this primer is on government-initiated asset freezes and forfeiture, but banks and other financial institutions may also close an organization's financial accounts in part because of a heightened political environment or because of other legal obligations to report "suspicious" activity to the government. Financial institutions can carry out these actions without direct government intervention, such as in the form of an investigation into a customer.

When a bank terminates an account because the customer presents a risk to the bank, it is referred to as [de-risking or de-banking](#). During this process, customers lose access to their accounts, but banks typically return the customer's funds to them so that the customer does not actually lose access to the funds themselves.

Sometimes, the specter of government scrutiny is [enough](#) for a bank to de-risk; financial institutions can preemptively cut ties with customers if they are concerned about future government action in the form of investigations, regulatory audits, etc. Banks can also terminate accounts to reduce any reputational risk from serving politically disfavored customers.

Under federal law, financial institutions are required to engage in extensive due diligence to ensure that a customer is not using the institution for illegal purposes. Banks are also required by law to report to the government any "suspicious activity." [31 C.F.R. § 1020.320](#). Such activity might include transactions that appear "out of pattern" to a customer's regular financial activity, such as larger than normal transfers in or out of an account, transfers to or from global "trouble spots," significant cash deposits or withdrawals (which are separately reported), etc. Moreover, standard account terms and conditions generally permit the banks to take action against an account in the event of possible unlawful activity. Lastly, if the government believes that particular financial account records are possibly relevant to an ongoing investigation, it can issue a subpoena to the financial institution — without the knowledge of the customer — which might alert the institution to potential unlawful activity and cause the institution to freeze or close the customer's account.

Challenging de-risking/de-banking initiated by a financial institution does not generally raise constitutional due process issues, because the parties involved are all private, though there may be ways to challenge these actions as exceeding a bank's contractual authority. If the de-banking is the result of government pressure, however, that may also provide a basis for a legal challenge. Experienced counsel can advise on available options.

Best practices for navigating freezes and forfeiture

Planning ahead

Developing a plan in advance (and in consultation with legal counsel) can help ensure that all relevant staff are aware of what to do and their individual roles in the event an organization receives notice of an asset freeze or forfeiture.

Before suffering a freeze or forfeiture, the following are avenues that may minimize an organization's risk while they continue lawful mission-based work:

- If an organization is preparing to receive or use funds in amounts or ways abnormal to its usual business, it may consider alerting its bank in advance. This will help the institution's overall reputation for compliance and reflect good faith in the event a transaction is later flagged by bank compliance.
- If an organization has components that work entirely abroad, it might consider setting up that part of the organization abroad. When doing so, organizations should consult counsel to ensure they are following all applicable legal requirements.
- If organizations are involved in international activities, they should carefully consider vetting potential partnerships with other organizations, businesses, or donors operating abroad, including, at a minimum, by confirming that none are named on the Treasury Department's SDN list.

Getting a lawyer

Asset freezes and forfeiture are significant and time-sensitive matters, and an organization's initial response can significantly impact the outcome. **Engaging legal counsel in the event of an asset freeze or forfeiture is critical.** If an organization has in-house counsel, that should be the first call. If not, organizations should have a list of outside lawyers ready ahead of time so they can reach someone quickly.

Legal counsel can help evaluate an organization's options in a privileged and confidential way, including determining the basis for a freeze/forfeiture, helping the organization file a formal claim with the seizing agency, and/or challenging the freeze/forfeiture in federal court. Additionally, many rules governing the forfeiture process vary depending on the law enforcement entity responsible for forfeiture (and whether the forfeiture is civil, criminal, or administrative in nature). Experienced legal counsel can help organizations navigate these specific rules.

Getting smart about finances

Part of planning ahead means maintaining good financial hygiene *before* the government freezes or forfeits assets. Organizations may want to consider working with a financial consultant to better understand their options and to ensure they are engaging only in lawful financial operations, but some effective practices may include:

- **Conducting routine financial audits.** Thorough internal audits can help an organization establish a clear financial picture and expose potential funding vulnerabilities and inefficiencies.
- **Maintaining secure financial records.** Keeping safe and detailed financial records can help organizations respond to freezes/forfeiture and present evidence (in the form of bank statements, donor records, invoices, grant agreements, etc.) that may demonstrate a legitimate source for the use of funds/property at issue.
- **Conducting regular and thorough due diligence for all partners, including grant recipients, vendors, and international affiliates.** Conducting regular reviews of the outside entities an organization does business with can help reduce an organization's risk of investigation and related freezes/forfeiture.
- **Gaining a deeper understanding of financial operations and accounts.** Organizations looking to challenge a freeze or forfeiture will need to consider how they can juggle paying for any resulting legal fees and continuing lawful work with the financial hardship these actions present. Ensuring organizational leadership understands the nuances of its operating accounts, including the immediate and long-term impacts of funding disruptions on their ability to operate, may help inform contingency plans. Depending on the advice of legal counsel, organizations may also want to consult with relevant stakeholders, including donors and partner networks, about navigating financial hardship while challenging a freeze or forfeiture.

Developing strong communications policies

Establishing clear internal and external communications policies can reduce panic and ensure consistency around an organization's response to a freeze or forfeiture. When crafting this plan, organizations should seek the advice of legal counsel on whether and how to communicate with government actors, funders, the media, and partner organizations.

The loss of funding and other revenue streams in the event of an asset freeze or forfeiture is an existential threat. An organization may determine a good internal response is to lean into transparency with its employees and board members. However, internal communications plans should take into account that **anything in writing could be disclosed or discoverable as part of a current investigation or future litigation**, including emails and text messages on platforms that promise encryption. Ideally, all such communications (especially written ones) should include legal counsel.

Engaging stakeholders

An organization's communications plan should include details on how to inform various stakeholders about the situation. These stakeholders may include an organization's board of directors, donors and funders, and any creditors or vendors.

Shaping the public narrative

Generally, a communications plan should also weigh whether and how substantively an organization wants to engage in public advocacy about the matter. Organizations navigating politicized government investigations may suffer reputational consequences. **Engaging a crisis communications expert early on may prove particularly useful in getting ahead of the media and other negative spotlighting.** Legal counsel and crisis communications experts should work together to ensure organizations are able to speak publicly about the issue without admitting wrongdoing. Organizations should also be prepared to share compelling information about the important lawful work they do, and how that work positively affects peoples' lives. Generating public support and solidarity may be particularly crucial for organizations facing risks to their funding.

Further reading

- [Terrorism Designations Primer: Process, Authorities, and Recourse](#) - Morrison Foerster
- [Presidential Memorandum Signals Expanded Use of Counterterrorism Tools: Implications for Domestic Organizations and Organizers](#) - Morrison Foerster
- [Crime and Forfeiture](#) - Congressional Research Service
- [Basic Information on OFAC and Sanctions](#) - Office of Foreign Assets Control



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