



May 2024

U.S. VICTIMS OF STATE SPONSORED TERRORISM FUND

Options for Increasing Deposits and Their Potential Impacts

GAO Highlights

Highlights of [GAO-24-106863](#), a report to congressional committees

Why GAO Did This Study

Acts of international state sponsored terrorism resulted in the deaths and injuries of thousands of people. In 2015, the Justice for U.S. Victims of State Sponsored Terrorism Act established the U.S. Victims of State Sponsored Terrorism Fund. The Fund provides compensation to certain U.S. persons injured in acts of state sponsored terrorism. The Fund did not authorize a round of payments in January 2024 due to insufficient funds. The Fund's balance at the end of fiscal year 2023 was down to \$281 million.

The 2022 Fairness for 9/11 Families Act includes a provision for GAO to evaluate three specific options for increasing deposits to the Fund, including the impact of these options. This report addresses the potential effects of, among other things, (1) increasing the percentage of civil penalties and fines that are currently deposited to the Fund under existing statutes from 75 percent to 100 percent; (2) expanding the scope of the criminal offenses for which funds are deposited in the Fund; and (3) expanding the type of the civil penalties or fines for which funds are deposited in the Fund.

GAO reviewed Department of Justice and Treasury reports and analyzed data on all prior and current sources of deposits into the Fund from criminal and civil penalties and fines. GAO also conducted a literature review of funding mechanisms used by other government trust funds, and interviewed agency officials and representatives from groups representing or advocating for victims of state-sponsored terrorism.

View [GAO-24-106863](#). For more information, contact Triana McNeil at (202) 512-8777 or mcnelt@gao.gov.

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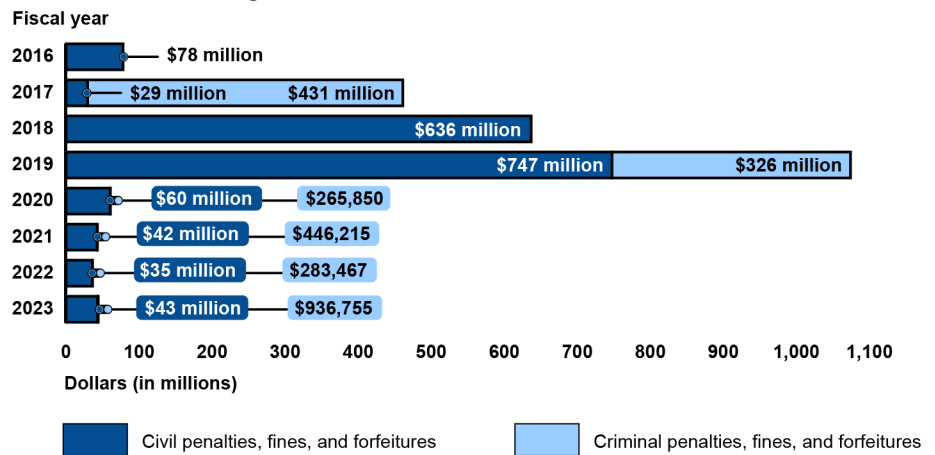
U.S. VICTIMS OF STATE SPONSORED TERRORISM FUND

Options for Increasing Deposits and Their Potential Impacts

What GAO Found

The U.S. Victims of State Sponsored Terrorism Fund (Fund) was created in 2015 to provide compensation to certain U.S. persons injured in acts of state sponsored terrorism. It is financed through the collection of certain criminal or civil penalties, fines, and proceeds from asset forfeitures. From fiscal years 2016 through 2023, the Fund received deposits of about \$3.4 billion, including \$2.4 billion from civil and criminal receipts. Since 2020, the Fund has experienced a declining balance mostly attributable to lower deposits from civil and criminal penalties, fines and forfeitures.

Civil and Criminal Case Deposits to the U.S. Victims of State Sponsored Terrorism Fund, Fiscal Years 2016 through 2023



Source: GAO analysis of Department of Justice data. | GAO-24-106863

GAO evaluated the three options for increasing deposits to the Fund, as identified in the 2022 Fairness for 9/11 Families Act, and identified potential impacts associated with each option. Specifically:

- **Increase percentage of civil fines and penalties deposited from 75 to 100 percent:** Using Department of Justice data from 2016 to 2023, GAO estimated this option would likely increase the annual amount deposited to the Fund in future years by about \$17 million, with a range of \$13 to \$23 million.
- **Expand scope of criminal offenses:** GAO found this option would result in an increase in deposits to the Fund. However, the change could adversely impact other funds and programs such as the Department of Justice's Assets Forfeiture Fund.
- **Expand type of civil penalties or fines:** GAO found this option may result in an increase in deposits to the Fund. For example, deposits may increase if applicable civil penalties were expanded to include providing material support to a Foreign Terrorist Organization. However, the change would result in an inconsistency in the types of covered actions for which penalties are deposited and the claimants eligible for the Fund.

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Abbreviations

DOJ	Department of Justice
Fairness Act	The Fairness for 9/11 Families Act
Fund	U.S. Victims of State Sponsored Terrorism Fund
Treasury	Department of the Treasury

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May 1, 2024

Congressional Committees

Acts of international state sponsored terrorism have resulted in the death and injury of thousands of U.S. persons and the suffering of victims' family members.¹ This includes victims of the Iran hostage crisis and the 1983 and 1996 bombings of the U.S. Marine barracks in Beirut and Khobar Towers in Saudi Arabia, and the 9/11 attacks, among others.

In 2015, the Justice for U.S. Victims of State Sponsored Terrorism Act was enacted, establishing the U.S. Victims of State Sponsored Terrorism Fund (Fund).² The Fund provides compensation to certain U.S. persons injured in acts of international state-sponsored terrorism and their immediate family members. As of January 2023, the Fund had allocated approximately \$3.4 billion in four payment rounds between 2017 and 2023.

The Special Master who oversees the Fund determined that there will be insufficient funds to authorize an additional round of payments in 2024.³ Additionally, according to Department of Justice (DOJ) data, from 2020 through 2023, total criminal and civil case deposits to the Fund totaled \$184 million, but case deposits have declined since 2020. The statute governing the Fund provides that deposits to the Fund are to come from

¹State sponsors of terrorism are countries determined by the Secretary of State to have repeatedly provided support for acts of international terrorism and are designated pursuant to three laws: section 1754(c) of the National Defense Authorization Act for Fiscal Year 2019, section 40 of the Arms Export Control Act, and section 620A of the Foreign Assistance Act of 1961. See 50 U.S.C. § 4813(c); 22 U.S.C. §§ 2371, 2780. As of December 2023, there are four countries designated under these authorities: Cuba, the Democratic People's Republic of Korea (North Korea), Iran, and Syria.

²Pub. L. No. 114-113, tit. IV, § 404, 129 Stat. 2242, 3007-3017 (2015) (codified at 34 U.S.C. § 20144). The Act, as amended, sets forth the sources of funding and establishes that the Fund shall be managed and invested in the same manner as a trust fund under 26 U.S.C. § 9602. The Act authorizes payment from the Fund for each eligible claim of a U.S. person to that person or, if that person is deceased, to the personal representative of the estate of that person.

³The Fund is administered by a Special Master and supported by Department of Justice personnel. The Special Master is statutorily required to authorize additional rounds of payments annually on January 1, if sufficient funds are available. See 34 U.S.C. § 20144(d)(4)(A). If sufficient funds are available, the Special Master will authorize future rounds of payments by January 1, 2025, or in subsequent years, until the Fund terminates in 2039.

criminal and civil forfeitures, fines, and penalties for specific offenses identified in the statute—for example, offenses related to doing business with a state sponsor of terrorism.⁴ For criminal violations of those specific offenses, 100 percent of the forfeiture, penalty, or fine is to go to the Fund. For civil offenses, the Fund is to receive 75 percent with the remaining 25 percent from qualifying cases to be deposited according to the original collecting agencies' authorities.

The Fairness for 9/11 Families Act (Fairness Act), enacted in December 2022, includes a provision for us to evaluate specified options for increasing deposits to the Fund, including the effects of these options.⁵

This report addresses the potential impacts of the following options:

- increasing the percentage of civil penalties, fines, or the proceeds of asset forfeitures that are deposited in the Fund under existing statutes from 75 percent to 100 percent;
- expanding the scope of the criminal offenses for which funds are deposited in the Fund;
- expanding the scope of civil penalties, fines, or the proceeds of asset forfeitures for which funds are deposited in the Fund; and
- additional funding options we identified through our work, such as allowing donations and gifts to the Fund.

To address our objective, we took the following steps:

- Increasing deposits from civil matters from 75 percent to 100 percent. We analyzed DOJ's data on all deposits to the Fund. The allocation

⁴The statute governing the fund, 34 U.S.C. § 20144, provides for the deposit of all funds, and the net proceeds from the sale of property, forfeited or paid to the United States after December 18, 2015, as a criminal penalty or fine arising from a violation of any license, order, regulation, or prohibition issued under the International Emergency Economic Powers Act or the Trading with the Enemy Act, or any related criminal conspiracy, scheme, or other Federal offense arising from the actions of, or doing business with or acting on behalf of, a state sponsor of terrorism. 34 U.S.C. § 20144(e)(2)(A)(i). It also directs that 75 percent of all funds, and 75 percent of the net proceeds from the sale of property, forfeited or paid to the United States as a civil penalty or fine arising from violation of any license, order, regulation, or prohibition issued under the International Emergency Economic Power Act or the Trading with the Enemy Act, or any related conspiracy, scheme, or other Federal offense arising from the actions of, or doing business with or acting on behalf of a state sponsor of terror. 34 U.S.C. § 20144(e)(2)(A)(ii).

⁵Pub. L. No. 117-328, div. MM, § 101(c), 136 Stat. 4459, 6110 (2022). The first three options we address are included specifically in this provision. Below, we discuss how we selected the additional options to assess.

was 50 percent from 2016 until November 21, 2019, when it was changed to 75 percent, as provided by law.⁶ Using the data, we conducted a simulation to assess the varying monetary impacts of increasing the percentage of eligible civil penalties, fines and forfeitures. The simulation used historical data on civil penalties, fines, and forfeitures deposited to the Fund from fiscal years 2016 to 2023, the years with complete data available during our review.⁷ This methodology enabled us to use all available data to project the additional receipts that could become available from increasing the percentage of penalties, fines, and forfeitures from 75 to 100 percent. We assessed the reliability of the Fund data by reviewing relevant documentation and interviewing knowledgeable agency officials. We found that the data on civil penalties, fines, and forfeitures were sufficiently reliable for the purpose of assessing how much additional funds could be deposited into the Fund from such a change.

- Expanding the scope of criminal offenses for deposit. We reviewed three other federal funds that could potentially be impacted by expanding the scope of criminal offenses for which deposits are made to the Fund. These include DOJ's Crime Victims Fund and Assets Forfeiture Fund and the Department of the Treasury Forfeiture Fund. We reviewed the legal authorities and characteristics of these funds to inform us about the types of receipts (e.g., asset forfeitures and criminal penalties and fines) collected and deposited. We also obtained available data from DOJ on receipts collected and deposited into these funds from fiscal years 2016 through 2023 and from Treasury from fiscal years 2016 to 2022.⁸ Additionally, we analyzed obligation data and any unobligated balances in these funds during this time period. We assessed the reliability of DOJ's and Treasury's fund data by reviewing related documentation and interviewing knowledgeable agency officials. Our review of the data found it to be reliable for the purposes of identifying the amounts deposited to the

⁶In November 2019, the statute governing the Fund was amended to increase the percentage of civil penalties and fines deposited to the Fund from 50 percent to 75 percent. See Pub. L. No. 116-69, div. B, tit. VII, § 1701(b)(1)(D)(i), 133 Stat. 1134, 1142 (2019).

⁷We selected 2016 as the starting date for the use of historical data in our simulation because that is the date civil penalties, fines and forfeitures began to be deposited in the Fund. Furthermore, this enabled us to assess the additional receipts from penalties, fines, and forfeitures that could become available from increasing the percentage of fines from 75 percent to 100 percent using all the available complete data.

⁸We included fiscal year 2023 because there was available data on receipts collected for the entire fiscal year.

funds from fiscal year 2016 through 2023 and the end of year unobligated balance in fiscal year 2023.

Further, we interviewed DOJ and Treasury officials to identify how criminal funds (e.g., asset forfeitures, and criminal penalties and fines) are collected from cases, and subsequently deposited to the three criminal funds. We also obtained their perspectives on how DOJ's Crime Victims Fund and Assets Forfeiture Fund, and Treasury's Forfeiture Fund, would be potentially impacted by depositing receipts from these funds to the U.S. Victims of State Sponsored Terrorism Fund.

- Expanding the scope of civil fines and other proceeds for deposit. We reviewed relevant laws, the Fund's Special Master reports, Treasury's bulletin reports, and our prior work in this area to inform our understanding about the sources of funding (e.g., civil penalties and fines).⁹ Additionally, we met with representatives from seven advocacy groups and four individuals who represented the views of victims of state-sponsored terrorism and had prior experience and expertise with the Fund's administration.¹⁰ We obtained their perspectives on ways to expand the type of civil penalties and fines to increase deposits to the Fund.¹¹ See appendix I for more information on certain assets identified by advocacy groups for potential deposit to the Fund.

⁹DOJ, Special Master's Report Regarding the Fourth Distribution, January 2023; Department of the Treasury, Treasury Bulletin, Profile of the Economy Financial Operations International Statistics Special Reports, March 2023; and GAO, *U.S. VICTIMS OF STATE SPONSORED TERRORISM FUND: Estimated Lump Sum Catch-Up Payments*, [GAO-21-105306](#) (Washington, D.C.: Aug. 11, 2021).

¹⁰We identified the seven advocacy groups and four individuals based on 1) advocacy groups that provided comments to GAO's Federal Register notice issued on March 21, 2021 (Notice of Methodology for Estimating Lump Sum Catch-Up Payments to Eligible 9/11 Victims, 9/11 Spouses and 9/11 Dependents; Request for Comment, 86 Fed. Reg. 16,211); 2) advocacy group and individual outreach to GAO; and 3) referrals from congressional staff. The seven advocacy groups are law firms representing some of the Fund's eligible claimants, and the four individuals are eligible claimants who are knowledgeable about the Fund and potential sources of funds for deposit. The information we obtained through these interviews is not generalizable to the views of all advocacy groups or eligible claimants but provided important insights on how the Fund is currently administered along with potential future funding options.

¹¹Specifically, we were to include in this analysis civil penalties or fines imposed, including as part of a settlement agreement, on an entity for providing material support to an organization designated as a foreign terrorist organization under section 219 of the Immigration and Nationality Act, 8 U.S.C. § 1189. See Pub. L. No. 117-328, div. MM, § 101(c), 136 Stat. at 6110.

Further, we interviewed DOJ and Treasury officials to identify how civil fines, penalties, and the proceeds of asset forfeitures are collected from cases and subsequently deposited to the Fund. We also obtained their perspectives on how funds administered by DOJ and Treasury would be potentially impacted by depositing additional types of civil penalties and fines to the Fund.

- Additional funding options. We conducted a literature search to identify government reports and other publications noting additional funding options, including the benefits and disadvantages of different funding mechanisms, and any leading practices or lessons learned to increase deposits and achieve fund sustainability.¹² Our search parameters were from 2000 to 2023 and included web and database searches using ProQuest, Scopus, and Westlaw Edge. Our search identified funds, such as the Black Lung Disability Trust Fund that is authorized to receive revenue through a tax.¹³ We also interviewed representatives from the seven advocacy groups and the four individuals described above to discuss their perspectives on options for increasing deposits to the Fund.

We conducted this performance audit from May 2023 to May 2024 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.

¹²For example, we previously reported on leading practices reviews that provide guidance to help public sector organizations become world-class organizations, including leading practices related to financial management. See GAO, *Results-Oriented Cultures: Implementation Steps to Assist Mergers and Organizational Transformations*, [GAO-03-669](#), (Washington, D.C.: July 2, 2003).

¹³Black Lung Disability Trust Fund has coal tax revenue collected from mine operators by Treasury's Internal Revenue Service and then transferred to the Trust Fund where it is then used by Department of Labor officials to pay black lung benefits and the costs of administering the program. We identified other funds such as the Highway Trust Fund established by the Highway Revenue Act of 1956. The Highway Trust Fund is the major source of federal surface transportation funding for programs that include the federal-aid highway program and various transit-oriented programs. It is primarily supported by revenues from federal motor fuel and truck-related taxes.

Background

U.S. Victims of State Sponsored Terrorism Fund

In 2015, the Justice for U.S. Victims of State Sponsored Terrorism Act was enacted, establishing the Fund.¹⁴ To be eligible to receive compensation from the Fund, a claimant must hold a final judgment issued by a United States district court awarding the claimant compensatory damages arising from acts of international terrorism for which a foreign state sponsor of terrorism was found not immune from the jurisdiction of the courts of the United States under the Foreign Sovereign Immunities Act.¹⁵

Since the Fund's establishment in 2015, the statute has been amended on multiple occasions. For example, the 2019 Clarification Act expanded eligibility to receive payments from the Fund by, among other things, removing the statutory provision that precluded Fund payments to certain eligible 9/11 victims, spouses, and dependents.¹⁶ The act also changed the payment calculation methodology, extended the life of the Fund, and increased the potential Fund deposit amounts from certain kinds of cases, among other things.¹⁷

Most recently, the 2022 Fairness Act directed the Special Master to authorize lump sum catch-up payments to certain 9/11 victims and appropriated funds necessary to pay them.¹⁸ The act directed the Special Master to make the payments in amounts equal to those we previously

¹⁴Pub. L. No. 114-113, tit. IV, § 404, 129 Stat. 2242, 3007-3017 (2015) (codified at 34 U.S.C. § 20144).

¹⁵Claimants who were taken and held hostage from the U.S. Embassy in Tehran, Iran, during the period beginning November 4, 1979, and ending January 20, 1981, and certain of their spouses and children may also be eligible for compensation from the Fund. Eligible claims are paid on pro rata basis out of available funds, based on the amounts of outstanding and unpaid eligible claims, until all such amounts are paid out in full, or when the Fund terminates in 2039. See 34 U.S.C. § 20144(c), (d)(3), (e)(5)-(6).

¹⁶See U.S. Victims of State Sponsored Terrorism Fund Clarification Act, Pub. L. No. 116-69, tit. VII, § 1701, 133 Stat. 1134, 1140-1144 (2019) (Clarification Act).

¹⁷See Pub. L. No. 116-69, div. B, tit. VII, § 1701(b)(1), 133 Stat. at 1140-42.

¹⁸Pub. L. No. 117-328, div. MM, § 101, 136 Stat. at 6108-09. In August 2021, we reported on the estimated lump sum catch-up payments for 9/11 victims, spouses, and dependents. [GAO-21-105306](#). According to DOJ officials, in 2023, the Fund allocated \$2.65 billion in lump sum catch-up payments to eligible 9/11 claimants.

calculated.¹⁹ Additionally, the act established a reserve fund for future lump sum catch-up payments that we are to calculate for eligible 1983 Beirut barracks bombing victims and 1996 Khobar Towers bombing victims.²⁰ Further, the act established a new application period for all eligible 1983 Beirut barracks bombing victims and 1996 Khobar Towers bombing victims who were awarded final judgments before December 29, 2022.²¹

Deposits to the Fund

The statute provides that deposits to the Fund are to come from criminal and civil forfeitures, fines, and penalties for identified violations of certain laws.²² These violations are those arising from any license, order, regulation, or prohibition issued under the International Emergency Economic Powers Act or the Trading with the Enemy Act, or any related criminal conspiracy, scheme, or other federal offense arising from the actions of, or doing business with or acting on behalf of, a state sponsor

¹⁹[GAO-21-105306](#). According to DOJ, the Special Master authorized the lump sum catch up payments to certain 9/11 victims and the Fund issued 90 percent of the payments to the eligible claimants within 1 month of informing them about their payment amounts.

²⁰The Fairness Act appropriated \$3 billion to the reserve fund. Pub. L. No. 117-328, div. MM, § 101(b)(3)(ii), 136 Stat. at 6109. We published a Notice of Planned Methodology for Estimating Lump Sum Catch-up Payments for Eligible 1983 Beirut Barracks Bombing Victims and 1996 Khobar Towers Bombing Victims and request for comments on December 28, 2023. 88 Fed. Reg. 89,693 (Dec. 28, 2023). As stated in that notice, after consideration of the comments, we will again seek public comment on a second notice published in the Federal Register.

²¹Generally, claimants have 90 days to apply to the Fund after obtaining their final judgment. See 34 U.S.C. § 20144(c)(3).

²²According to DOJ officials, cases or matters with publicly available information where some or all of the proceeds qualified for deposit into the Fund are listed on DOJ's U.S. Victims of State Sponsored Terrorism Fund website. According to DOJ, deposits to the Fund can result from enforcement actions brought by numerous agencies, not just DOJ. The Fund administrator is to coordinate with the appropriate entity to initiate transfer of qualifying amounts after the penalty, fine, or forfeiture proceeds have been received by the government. Additionally, according to DOJ officials, DOJ coordinates with the appropriate entity to initiate transfer of qualifying amounts after the penalty, fine, or forfeiture proceeds have been received by the government. According to DOJ officials, DOJ attorneys determine whether penalties, fines, or forfeiture proceeds received by the government qualify for deposit to the Fund. For example, DOJ attorneys assess forfeiture proceeds deposited to the Asset Forfeiture Fund to determine whether the penalty arose from a violation of any license, order, regulation, or prohibition issued under the International Emergency Economic Powers Act or the Trading with the Enemy Act, or any related criminal conspiracy, scheme, or other federal offense arising from the actions of, or doing business with or acting on behalf of, a state sponsor of terrorism.

of terrorism.²³ Additionally, deposits to the Fund are to be made for 75 percent of all funds and net proceeds from the sale of property forfeited or paid to the U.S. as a civil penalty or fine arising out of the same types of violations.²⁴

Various financing mechanisms support the Fund. From fiscal year 2016 through 2023, the Fund received deposits of about \$3.4 billion.²⁵ Congress provided a one-time appropriation of \$1.025 billion to the Fund in fiscal year 2017. Since that time, the Fund also received deposits from payments from qualifying cases.²⁶ From fiscal years 2016 through 2023, the Fund collected \$2.4 billion in qualifying case deposits.²⁷ Most of the case deposits occurred in 2017, 2018, and 2019, with about \$1.4 billion from civil penalties, fines, and forfeitures, and \$757 million from criminal penalties, fines, and forfeitures. Additionally, of the \$2.4 billion in case qualifying deposits, 68 percent were from civil penalties, fines, and forfeitures, and 32 percent were from criminal penalties, fines, and forfeitures. Figure 1 shows the amounts of civil and criminal receipts deposited to the Fund from fiscal year 2016 through 2023.

²³See 34 U.S.C. § 20144(e)(2)(A)(i). For example, criminal violations can include conspiracy to provide false statements in connection to the illegal export of goods to Iran, and civil violations can include violations of the Cuban Assets Control Regulations, 31 C.F.R. part 515 (CACR).

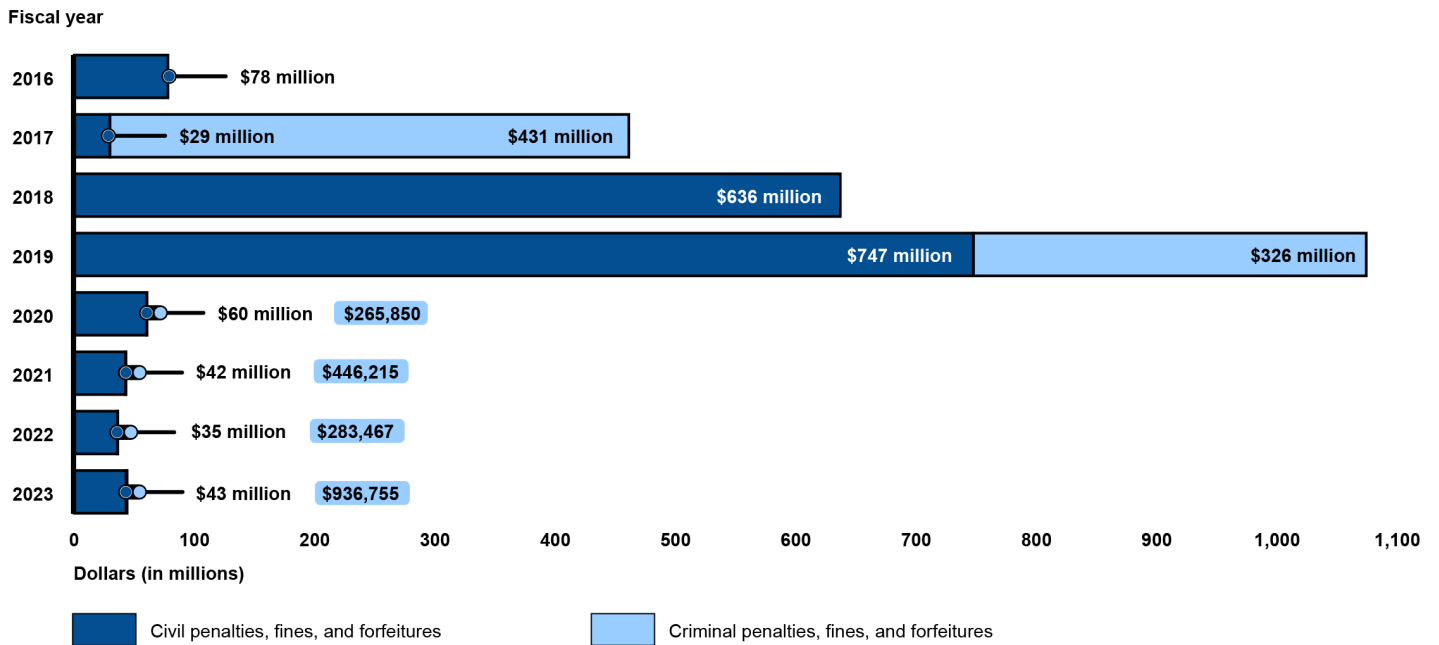
²⁴See 34 U.S.C. § 20144(e)(2)(A)(ii). According to DOJ officials, the remaining 25 percent of civil penalties and fines from qualifying cases are deposited in other funds administered by various government agencies.

²⁵In addition, the Fund received appropriations for lump sum catch up payments for certain eligible claimants who are victims of the 9/11 attacks and eligible victims of the 1983 Beirut barracks bombing and 1996 Khobar Towers bombing. Pub. L. No. 117-328, div. MM, § 101(b)(3)(ii), 136 Stat. at 6109.

²⁶According to DOJ officials, the department identifies potential qualifying cases by, among other things, monitoring agency enforcement websites and press releases, conducting docket and asset tracking system searches, and gathering information from agency offices. Additionally, prosecutors are advised to consult DOJ officials who administer the Fund as early as possible in a case that may result in a deposit.

²⁷For example, in 2018, Société Générale S.A., a financial institution headquartered in Paris, France, agreed to pay Treasury's Office of Foreign Assets Control \$53.9 million to settle a potential civil liability for the 1,077 apparent violations of the Cuban Assets Control Regulations, 31 C.F.R. Part 515 (CACR); the Iranian Transactions and Sanctions Regulations, 31 C.F.R. Part 560 (ITSR); and the Sudanese Sanctions Regulations, 31 C.F.R. Part 538.

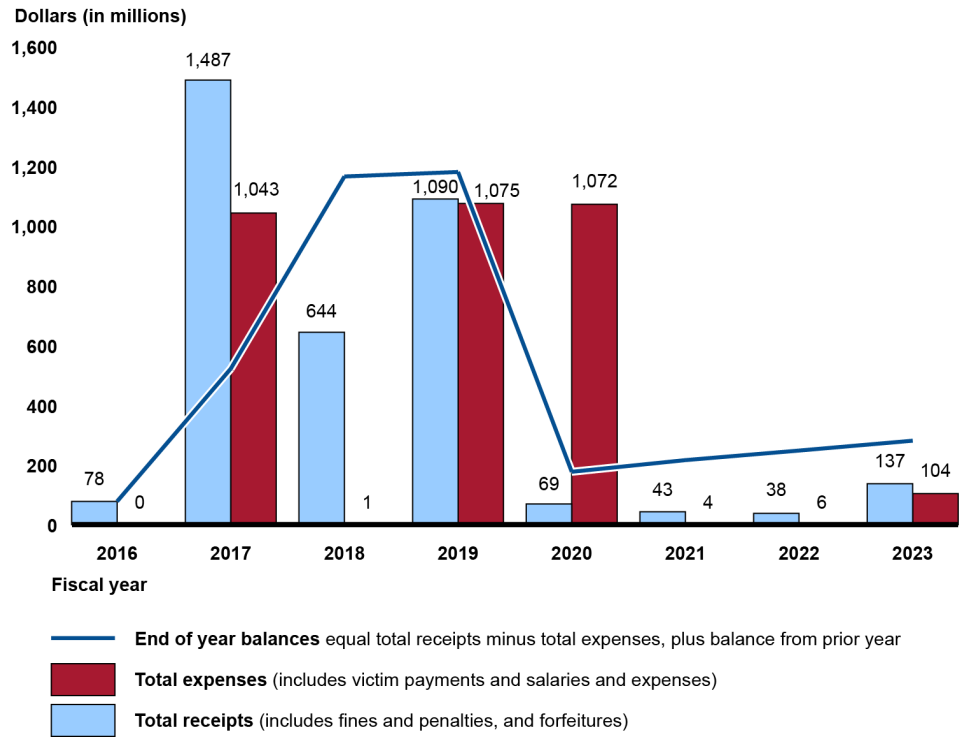
Figure 1: Civil and Criminal Case Deposits to the U.S. Victims of State Sponsored Terrorism Fund, Fiscal Years 2016 through 2023



Source: GAO analysis of Department of Justice data. | GAO-24-106863

The Fund has experienced declining balances from 2020 to 2023 relative to 2016 to 2019. For example, the average end of year balance from fiscal years 2016 to 2019 was about \$736 million. However, from fiscal years 2020 through 2023 the average end of year balance was about \$231 million. The declining balances in fiscal years 2020 to 2022 are mostly attributable to the lower deposits from civil and criminal penalties, fines, and forfeitures, according to DOJ data. For example, in 2020, total deposits to the Fund were \$69 million; in 2021, they were \$43 million. Figure 2 shows the total deposits and end of year balance in the Fund for fiscal years 2016 through 2023.

Figure 2: Total Receipts, Total Expenses, and End of Year Balances in the U.S. Victims of State Sponsored Terrorism Fund, Fiscal Years 2016 through 2023



Source: GAO analysis of Department of Justice data. | GAO-24-106863

Note: Total deposits to the Fund include civil and criminal receipts. Congress provided an appropriation of \$1.025 billion to the Fund in FY 2017. We excluded from the receipts appropriated funds of \$5.654 billion in fiscal year 2023 for lump sum catch-up payments (comprising \$2.65 billion for 9/11 victims and \$3 billion for Beirut Barracks Bombing and Khobar Towers Bombing victims). We also excluded from the expenses payments of \$2.72 billion in fiscal year 2023 (except for the \$100 million of payment distribution in January 2023). From fiscal years 2017 to 2023, salaries and expenses averaged 5.3 percent of total receipts, ranging from 0.1 to 10.9 percent. According to DOJ, the Fund balances include monies that are not available for immediate distribution, such as monies the statute requires the Special Master to allocate and preserve for conditional claims.

Fund Allocations for Payment Distribution

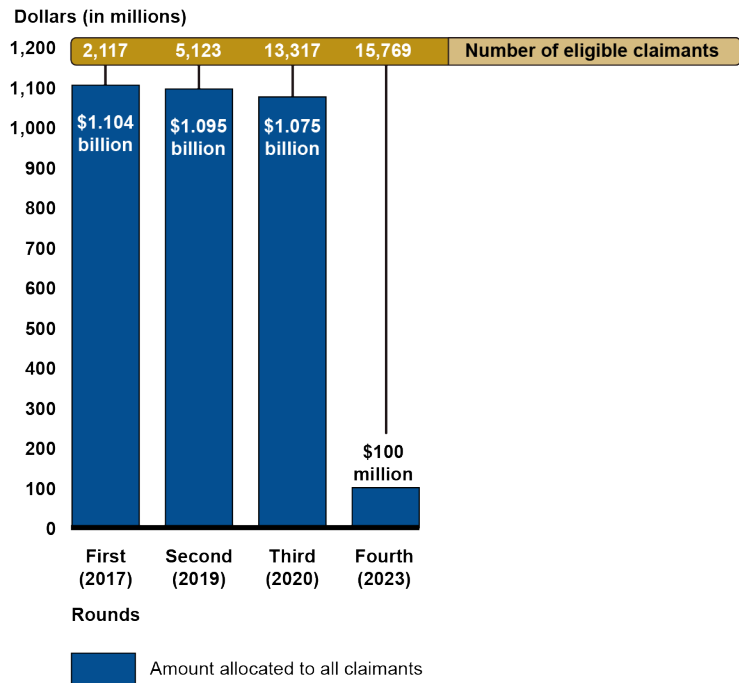
When the Special Master authorizes a payment distribution to eligible claimants, the Fund allocates a specified amount for payment

distribution.²⁸ Since 2017, the Fund has allocated nearly \$3.4 billion in four rounds of distributions to all claimants eligible to receive payment, with the allocations occurring in 2017, 2019, 2020, and 2023.²⁹ The largest allocation of \$1.1 billion occurred in 2017, when the Special Master authorized a payment distribution to 2,117 eligible claimants. In January 2023, the Fund allocated \$100 million to eligible claimants when the Special Master authorized the fourth payment distribution to 15,769 eligible claimants. Figure 3 shows the allocations made to eligible claimants from 2017 to January 2023.

²⁸According to DOJ, if sufficient funds are available for a distribution to all eligible claimants, the Special Master will authorize the next round of payments by January 1, 2025, or in subsequent years, until the Fund sunsets in 2039. In July 2023, the Special Master announced that there would be insufficient funds to authorize an additional round of payments by January 1, 2024. The Fund's balance at the end of fiscal year 2023 was down to \$281 million. All decisions made by the Special Master with regard to compensation from the Fund are to be in writing and provided to the Attorney General; each claimant; and, if applicable, the attorney for each claimant. See 34 U.S.C. § 20144(b)(3), (d)(4)(A), (e)(6).

²⁹In fiscal year 2017, the Fund allocated \$1.104 billion for the first round of payments. In fiscal year 2019, the Fund allocated \$1.095 billion for the second round of payments. In fiscal year 2020, the Fund allocated \$1.075 billion for the third round of payments.

Figure 3: Total Amounts Allocated to Eligible Claimants by the U.S. Victims of State Sponsored Terrorism Fund, 2017 to January 2023



Source: GAO analysis of Department of Justice data. | GAO-24-106863

DOJ's and Treasury's Collection of Criminal Penalties and Forfeitures

Aside from the U.S. Victims of State Sponsored Terrorism Fund, DOJ and Treasury collect criminal penalties, fines, and forfeitures from criminal cases that are generally deposited into three other funds administered by these agencies.³⁰ Eligible criminal penalties and fines collected by DOJ are deposited in the Crime Victims Fund, and eligible forfeitures are deposited in the Assets Forfeiture Fund. Eligible criminal forfeitures collected by Treasury are deposited in its own Forfeiture Fund. According to DOJ and Treasury officials, the funds serve specific goals, as follows:

- DOJ's Crime Victims Fund. The Victims of Crime Act of 1984 established the Crime Victims Fund to provide assistance for U.S.

³⁰Some amounts collected may be otherwise specified for deposit. See, e.g., 34 U.S.C. § 20101(b) (identifying fines collected from persons convicted of criminal offenses that shall not be deposited into the Crime Victims Fund).

victims of crimes.³¹ The Crime Victims Fund’s largest programs are formula grants to states and territories to provide compensation and assistance to victims of crimes. Compensation grants reimburse victims for out-of-pocket expenses such as medical and mental health counseling, lost wages, and funeral and burials costs. Assistance grants are provided to states to administer to domestic violence shelters, rape crisis centers, and child abuse programs, among other advocacy groups that support comprehensive services to victims.³² With some exceptions, all fines, penalties, and proceeds of forfeited appearance bonds, bail bonds, and collateral resulting from convictions of offenses “against the United States” are to be deposited into the Crime Victims Fund.³³ This act, as amended, provides DOJ the authority to obligate all Crime Victims Fund monies for specified purposes without further congressional action; however, annual appropriations acts have limited the funding amount available for DOJ to obligate during the year.³⁴

- DOJ’s Assets Forfeiture Fund. The Comprehensive Crime Control Act of 1984 established the Assets Forfeiture Fund, which is to prevent and reduce crime through forfeiture of assets acquired as a result of criminal activity.³⁵ The Assets Forfeiture Fund is financed primarily through the forfeiture of assets (e.g., forfeited cash and proceeds of sales of forfeited assets) that were seized as a result of criminal activity pursuant to any law enforced or administered by DOJ. Such funds are available to pay the forfeiture program’s expenditures, including payments to satisfy lienholders and return of funds to victims of large-scale fraud, equitable sharing payments to state and law

³¹See Pub. L. No. 98-473, tit. II, § 1402, 98 Stat. 1837, 2170 (codified as amended at 34 U.S.C. § 20101).

³²GAO, *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).

³³34 U.S.C. § 20101(b). In general, this section provides that fines, penalties, and proceeds of forfeited assets resulting from convictions for federal criminal offenses not otherwise identified for deposit in other funds are to be deposited into the Crime Victims Fund. In 2021, the VOCA Fix to Sustain the Crime Victims Fund Act of 2021 additionally required monetary penalties from federal deferred prosecution and non-prosecution agreements to be deposited into the Crime Victims Fund. Pub. L. No. 117-27, § 2(a), 135 Stat. 301 (amending 34 U.S.C. § 20101(b)).

³⁴Since at least fiscal year 2000, Congress has placed limitations on DOJ’s ability to use amounts in the Crime Victims Fund in excess of annual obligation limits.

³⁵See Pub. L. No. 98-473, tit. II, §§ 310, 98 Stat. 1837, 2052-53 (codified as amended at 28 U.S.C. § 524(c)).

enforcement agencies, and all other program operations expenses.³⁶ The excess unobligated balance may be available to the Attorney General for any federal law enforcement, litigative or prospective, correctional activities, or for any other authorized purpose of DOJ, subject to congressional notification requirements.³⁷

Treasury Forfeiture Fund. The Treasury Forfeiture Fund Act of 1992 established the Treasury Forfeiture Fund as a successor to the Customs Forfeiture Fund.³⁸ Accordingly, revenues resulting from forfeitures are used to support all costs of running the Treasury seizure and forfeiture program. These costs include seizure investigative costs, asset management expenses, remission to eligible victims and innocent owners, and equitable sharing payments.³⁹ Additionally, the Fund is to ensure resources are managed to cover the costs of an asset seizure and forfeiture program. The costs include the seizure or the proceedings of forfeiture and sale and the expenses of detention, inventory, security, maintenance, advertisement, or disposal of the property. The Fund is primarily financed through proceeds from forfeitures under any law enforced by the federal agency members of the Treasury Forfeiture Fund.⁴⁰ This includes the Internal Revenue Service- Criminal Investigation, Customs and Border Protection; Homeland Security Investigations, and the U.S. Secret Service. At the end of each fiscal year, any unobligated funds are carried forward to the next fiscal year. Funds are carried forward at the end of each fiscal year to maintain

³⁶All other program operations expenses include a total of 13 expenditure categories, such as asset management and disposal, the storage and destruction of drugs, and investigative expenses leading to a seizure. 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).

³⁷See 28 U.S.C. § 524(c)(8)(E); [GAO-15-48](#).

³⁸See Pub. L. No. 102-393, tit. VI, § 638(b)(1), 160 Stat. 1729, 1779 (codified as amended at 31 U.S.C. § 9705).

³⁹According to Treasury officials, the costs include the seizure and the proceedings of forfeiture and sale and the expenses of detention, inventory, security, maintenance, advertisement, or disposal of seized and forfeited assets. It also includes paying valid liens and innocent owners, compensating eligible victims of offenses leading to forfeiture; and paying state and local law enforcement partners for their work on cases leading to a federal forfeiture. Officials also said that once these expenses are met, the Treasury Forfeiture Fund has authority to use funds in connection with any other federal law enforcement expenses, subject to congressional notification requirements.

⁴⁰According to Treasury officials, Treasury Forfeiture Fund revenue and expenses vary depending on the mix of cases, victim's claims, and costs of specialized services.

operations, including the anticipated costs associated with continuing forfeiture activities at the start of the next fiscal year.⁴¹

Selected Options for Increasing Deposits to the U.S. Victims of State Sponsored Terrorism Fund and Their Potential Impacts

Our evaluation indicates that the three options for increasing deposits to the Fund as provided in the Fairness Act, if enacted through legislation, would involve trade-offs. Specifically, while deposits to the Fund may increase, the changes could adversely impact other funds and programs that assist victims, such as DOJ's Crime Victims Fund and Treasury's and DOJ's asset forfeiture programs. In addition, through our literature review and interviews with representatives from advocacy groups and other individuals, we identified additional options for increasing deposits to the Fund and evaluated their potential impacts. The options we identified are not intended to be exhaustive, and we are not endorsing any particular option or combination of options. We included funding options that 1) have a clear connection to the options identified in our mandate, 2) have a clear nexus to the Fund, or 3) reflect practices identified from our literature search of other trust funds. We discuss these funds in more detail later in this report.

Increasing Civil Penalties and Fines Deposited to the Fund from 75 to 100 Percent

Our evaluation indicates that an amendment to the statute increasing the percentage of certain civil penalties, fines, and forfeitures deposited to the Fund from 75 to 100 percent may increase the amount of funds available to pay eligible claims.⁴² The allocation was 50 percent from 2016 until November 21, 2019, when it was changed to 75 percent, as provided by law.⁴³ We conducted a simulation using historical data on civil penalties, fines, and forfeitures deposited to the Fund from fiscal years 2016 to 2023. This approach allowed us to use all available data to project the additional receipts that could become available from increasing the percentage of penalties, fines, and forfeitures from 75 to 100 percent. Based on our analysis, increasing the percent of civil penalties, fines, and forfeitures from 75 to 100 percent would likely increase the annual amount collected in future years by about \$17 million, with a range of \$13

⁴¹The remaining unobligated balance at the close of the fiscal year after an amount is reserved to fund operations is referred to the Strategic Support in the next fiscal year. Strategic Support can be used for any federal law enforcement purpose. [GAO-14-318](#).

⁴²See 34 U.S.C. § 20144(e)(2)(A)(ii).

⁴³In November 2019, the United States Victims of State Sponsored Terrorism Fund Clarification Act amended the percentage of certain civil penalties, fines, and forfeitures allocated to the Fund from 50 to 75 percent. Pub. L. No. 116-69, div. B, tit. VII, § 1701(b)(1)(D)(i), 133 Stat. 1134, 1142 (2019) (codified at 34 U.S.C. § 20144(e)(2)(A)(ii)).

to \$23 million.⁴⁴ However, these estimates may not come to fruition due to the uncertainty of whether future qualifying cases will result in similar amounts of civil penalties, fines, and forfeitures.

In 2019, the Clarification Act increased the percentage of civil penalties and fines that must be deposited into the Fund from 50 percent to 75 percent of the amounts collected.⁴⁵ From 2016 to 2023, about \$1.65 billion in civil penalties, fines, and forfeitures have been collected and deposited to the Fund. These amounts represent the largest source of deposits during this period of time. The other source includes proceeds from certain criminal penalties, fines, and forfeitures, which totaled about \$760 million.⁴⁶ According to DOJ officials, the remaining 25 percent of civil penalties, fines, and forfeitures from qualifying cases are deposited according to the original collecting agencies' authorities. For example, Treasury officials said deposits in its Forfeiture Fund are used to help offset the cost of seizing assets.

With the uncertainty of what qualifying cases will be brought or result in civil penalties, fines, and forfeitures in the future, it is not known whether similar amounts of funds will be collected and deposited in the Fund each year or in the future or at any given time. In addition, increasing the percentage deposited into the Fund may reduce funding for programs that are currently supported by the other DOJ and Treasury funds, such as

⁴⁴Using a simulated analysis, we calculated the additional funding that could be deposited into the Fund, using historical data on civil penalties, fines, and forfeitures deposited to the Fund, from fiscal years 2016 to 2023. By using all available data during this period, we projected the additional receipts that could become available from increasing the percentage of penalties, fines, and forfeitures from 75 to 100 percent. The projected range of \$13 to \$23 million represents the 25th percentile and 75th percentile of potential additional amounts deposited to the Fund in the near future based on simulated analysis using a lognormal distribution, and the \$17 million represents the median. Our estimates, which rely on historical data, are necessarily uncertain and speculative.

⁴⁵See Pub. L. No. 116-69, tit. VII, § 1701(b)(1)(D)(i), 133 Stat. at 1142 (codified as amended at 34 U.S.C. § 20144(e)(2)(A)(ii)). According to DOJ officials, as of November 21, 2019, for qualifying civil matters, seventy-five percent of all funds and seventy-five percent of the net proceeds from the sale of property must be deposited into the Fund.

⁴⁶According to DOJ data, from 2016 to 2019, civil penalties, fines, and forfeitures deposited in the Fund totaled \$1.492 billion, and criminal penalties, fines and forfeitures deposited totaled \$758 million. Additionally, from 2020 to 2023, civil penalties, fines and forfeitures deposited in the Fund totaled \$182 million, and criminal penalties, fines, and forfeitures deposited totaled \$1.9 million.

costs associated with Treasury's efforts to seize and forfeit assets and to provide compensation to eligible victims.⁴⁷

Expanding the Scope of Criminal Offenses Resulting in Deposits to the Fund

Our evaluation indicates that an amendment to the statute expanding the scope of eligible criminal offenses would result in an increase in deposits to the Fund. Currently under the statute, only funds from certain qualifying criminal cases, such as those involving an offense arising from the actions of, or doing business with or acting on behalf of, a state sponsor of terrorism, among other offenses, are deposited into the Fund.⁴⁸ However, many other criminal offenses result in criminal penalties, such as white-collar fraud in the financial, health care sectors; violent crime; and public corruption. The extent to which an amendment to the statute increases the deposits to the Fund will depend on how the scope of eligible criminal offenses is expanded.

Based on our review of relevant literature and interviews with representatives from advocacy groups, we identified three additional federal funds that receive deposits of criminal fines, penalties, and the proceeds of asset forfeitures. The three funds are DOJ's Crime Victims Fund, DOJ's Assets Forfeiture Fund, and the Treasury Forfeiture Fund. Table 1 shows the purpose and funding characteristics of the three funds as compared to those of the U.S. Victims of State Sponsored Terrorism Fund.

⁴⁷For example, in the *United States v. All Petroleum Product Cargo Aboard the Bella* case, it cost \$18.3 million to seize \$44.9 million in assets from four large vessel ships destined for Venezuela. The net proceeds from the forfeiture were \$26.7 million. Assuming the entire penalty in the *Bella* matter met the Fund's qualifying case requirement, 75 percent, which is \$20 million, would be transferred to the Fund. The remaining 25 percent or \$6.7 million would be deposited into the Treasury Forfeiture Fund. According to the Department of Treasury officials, the cost to seize assets is first recovered and deposited in the Treasury Forfeiture Fund before any of the net proceeds are deposited to the Fund.

⁴⁸The statute governing the fund, 34 U.S.C. § 20144, currently provides for the deposit of all funds, and the net proceeds from the sale of property, forfeited or paid to the U.S. after December 18, 2015, as a criminal penalty or fine arising from a violation of any license, order, regulation, or prohibition issued under the International Emergency Economic Powers Act or the Trading with the Enemy Act, or any related criminal conspiracy, scheme, or other Federal offense arising from the actions of, or doing business with or acting on behalf of, a state sponsor of terrorism. 34 U.S.C. § 20144(e)(2)(A)(i). For example, criminal offenses under the statute include conspiracy to provide false statements in connection to the illegal export of goods to Iran or conspiracy to unlawfully export U.S. goods to Iran.

Table 1: Purpose and Funding Characteristics of Department of Justice’s (DOJ) Crime Victims Fund and Assets Forfeiture Fund, U.S. Victims of State Sponsored Terrorism Fund, and Treasury’s Forfeiture Fund

Fund	Purpose	Funding characteristics
DOJ’s Crime Victims Fund	The Victims of Crime Act of 1984 established the Crime Victims Fund to provide assistance for U.S. victim services. ^a Goal: Support several state and federal crime victim assistance-related grants and activities.	Criminal fines and penalties collected from offenders, among the sources, are deposited in the Crime Victims Fund.
DOJ’s Assets Forfeiture Fund	The Comprehensive Crime Control Act of 1984 established the Assets Forfeiture Fund. ^b Goal: Punish and deter criminal activity by depriving criminals of property used or acquired through illegal activities; enhance cooperation among foreign, federal, state, and local law enforcement agencies; and produce revenues in support of law enforcement investigations and related forfeiture activities.	The Assets Forfeiture Fund is financed primarily through the forfeiture of assets that were seized as a result of criminal activity.
DOJ’s U.S. Victims of State Sponsored Terrorism Fund	In 2015, the Justice for U.S. Victims of State Sponsored Terrorism Act was enacted, establishing the U.S. Victims of State Sponsored Terrorism Fund (Fund). Goal: Provide compensation to certain U.S. persons injured in acts of international state-sponsored terrorism and their immediate family members.	The U.S. Victims of State Sponsored Terrorism Fund is funded by various financing mechanisms. Congress provided a one-time appropriation of \$1.025 billion to the Fund in fiscal year 2017. Since that time, the Fund has received deposits from certain criminal and civil penalties, fines, and forfeitures.
Treasury Forfeiture Fund	The Forfeiture Fund was established by the Treasury Forfeiture Fund Act of 1992 as the successor to the Forfeiture Fund of the U.S. Customs Service. ^c Goal: Influence the consistent and strategic use of asset forfeiture by law enforcement agencies to disrupt and dismantle criminal enterprises.	The Forfeiture Fund is primarily financed through proceeds from non-tax forfeitures under any law enforced by the federal agency members of the Treasury Forfeiture Fund, which includes Internal Revenue Service-Criminal Investigation, U.S. Customs and Border Protection, Homeland Security Investigations, and the U.S. Secret Service.

Source: GAO analysis of DOJ and Treasury information. | GAO-24-106863

^aSee Pub. L. No. 98-473, tit. II, § 1402, 98 Stat. 1837, 2170 (codified as amended at 34 U.S.C. § 20101).

^bSee Pub. L. No. 98-473, tit. II, §§ 310, 98 Stat. 2052 (codified as amended at 28 U.S.C. § 524(c)).

^cSee Pub. L. No. 102-393, tit. VI, § 638(b)(1), 160 Stat. 1729, 1779 (codified as amended at 31 U.S.C. § 9705).

However, our evaluation also indicates that designating new offenses—such as white-collar fraud in the financial and health care sectors—for deposit to the Fund will likely reduce the amount of criminal penalties and fines deposited in the three other funds, thereby impacting their ability to meet their intended purposes, to include reducing or eliminating the ability to compensate victims of those crimes.

Additional details on the potential effects on the other three funds follow.

Potential effect of expansion on DOJ's Crime Victims Fund. Expanding the scope of criminal offenses for which fines and penalties are to be deposited into the Fund may result in those funds being available to the Fund instead of the Crime Victims Fund.⁴⁹ Although this option would increase deposits to the Fund, we found that these changes may decrease the amount available in Crime Victims Fund and may not allow the fund to fully cover the disbursements for programs, such as the grants provided to states and territories.⁵⁰ For example, decreases to the Crime Victims Fund's annual receipts would decrease the amount of monies available for state grants that provide crime victim compensation and victim assistance to domestic violence shelters, rape crisis centers, and child abuse programs.

According to DOJ, the Crime Victims Fund disbursed \$1.6 billion in grants to states and territories to assist victims of crimes in fiscal year 2022, and \$1.3 billion in fiscal year 2023. According to DOJ, from fiscal years 2016 through July 2023, receipts in the Crime Victims Fund totaled about \$12.2 billion, and total obligations and transfers totaled \$21.1 billion. As of July 2023, the unavailable balance in the Crime Victims Fund was about \$2.4 billion.⁵¹

Potential effect of expansion on the Treasury Forfeiture Fund. Expanding the scope of criminal offenses that are to be deposited into the Fund may result in those funds being available to the Fund instead of the Treasury

⁴⁹This action may require DOJ to update its guidance to provide additional criteria for determining whether penalties, fines, and forfeitures collected under DOJ's Crime Victims Fund qualify for deposit to the Fund.

⁵⁰Available funds are disbursed pursuant to the Victims of Crime Act of 1984, and the provisions in the Commerce, Justice, Science, and Related Agencies Appropriations Acts.

⁵¹The Crime Victims Fund's unavailable balance are funds that DOJ may not obligate during the fiscal year. Since at least fiscal year 2000, Congress has placed limitations on DOJ's ability to use amounts in the Crime Victims Fund in excess of annual obligation limits. The amounts in the Crime Victims Fund that are above the obligation limit remain in the Crime Victims Fund, and additional receipts are added to the Crime Victims Fund each month. Any funds that remain unobligated at the end of the year from the amount under the obligation limit remain in the Crime Victims Fund and are available for obligation the following year to the extent allowed by the following year's obligation limit. When annual deposits to the Crime Victims Fund exceed the limit in allowable obligations, funds not available for obligation by DOJ in this account have served as a credit or offset to DOJ's total discretionary budget, as reported in DOJ's budget submissions. This savings resulted in DOJ reporting a lower level of net budget authority because the unavailable Crime Victims Fund balance is applied as a credit to DOJ's total discretionary budget. See [GAO-15-48](#). At the end of fiscal year 2018, the end of year balance was \$9.2 billion and was reduced in subsequent years through fiscal 2023 due to annual receipts being lower than annual obligations.

Forfeiture Fund.⁵² Although this option could increase deposits to the Fund, we found that these changes would decrease the amount available in the Treasury Forfeiture Fund to cover the costs of asset seizures and the forfeiture program.

According to Treasury officials, decreasing the amount in the Treasury Forfeiture Fund would result in less remission to victims of other crimes. In particular, they noted that cases with other victims who normally would be eligible for compensation from the Treasury Forfeiture Fund might end up diverted to the Fund, resulting in another group of victims who would be out compensation.

Further, Treasury officials stated that criminal investigations leading to asset forfeitures are time consuming and costly, and in some instances, the net amount of assets forfeited do not cover the investigative costs, which can result in negative equity. Treasury officials added that decreasing the amount in the Treasury Forfeiture Fund could further reduce funds available to support a compelling law enforcement investigation to seize assets that may lack equity. Additionally, Treasury officials said managing an inconsistent revenue stream, such as forfeiture revenue, creates a challenge to meet the investigative needs of member agencies, which are becoming increasingly expensive. Member agencies often need specialized software and analytical tools to pursue criminal activities that are increasingly cyber-based, according to officials.

According to the Treasury's 2024 Congressional Budget Justification and Annual Performance Report, from fiscal years 2016 through 2022, collections in the forfeiture fund totaled about \$6.1 billion, and total expenses totaled about \$5.7 billion. According to Treasury officials, as of September 2022, the unobligated balance in the Treasury Forfeiture Fund was \$876 million.⁵³

⁵²This action may require DOJ to update its guidance to provide additional criteria for determining whether penalties, fines, and forfeitures collected under Treasury's Forfeiture Fund qualify for deposit to the Fund.

⁵³According to Treasury officials, the Treasury Forfeiture Fund carryover balance as of September 2023 was \$1.635 billion, of which \$1.143 billion was set aside for expected victim and equitable sharing payments. Treasury officials said the Treasury Forfeiture Fund paid over \$158 million to victims in fiscal year 2022 and almost \$561 million in fiscal year 2023. Officials also said the victim cases do not result in a net gain to the forfeiture program but are part of the Treasury Forfeiture Fund member agencies' core mission.

Potential effect of expansion on DOJ's Assets Forfeiture Fund. Expanding the scope of criminal offenses that are to be deposited into the Fund may result in those funds being available to the Fund instead of the Assets Forfeiture Fund.⁵⁴ Our evaluation indicates that although this option could increase deposits to the Fund, these changes could decrease the amount available in DOJ's Assets Forfeiture Fund to pay the forfeiture program's expenses. For example, the forfeiture program's expenses include the return of funds to victims of large-scale fraud and equitable sharing payments to state and local law enforcement agencies.⁵⁵ According to DOJ, the Assets Forfeiture Fund will rely heavily on deposits from large cases in the upcoming fiscal year to sustain the Asset Forfeiture Program. Additionally, according to DOJ, a minimum of \$1.543 billion is required for solvency to continue the department's operational and investigative initiatives for its Asset Forfeiture Program into fiscal year 2024. According to DOJ, as of August 2023, the program's liabilities include a current rescission of \$500 million and another \$634 million in victim and sharing payments that would continue into fiscal year 2024.

According to DOJ, from fiscal years 2016 through 2022, collections in the Assets Forfeiture Fund totaled about \$12 billion, and total disbursement totaled about \$13 billion.⁵⁶ As of September 2022, the unobligated balance in the Asset Forfeiture Fund was \$1.3 billion.

Expanding the Type of Civil Penalties or Fines Deposited to the Fund

Our evaluation indicates that an amendment to the statute expanding the type of civil penalties or fines to be deposited in the Fund, to include those imposed on an entity for providing material support to a Foreign Terrorist Organization, would result in an increase in deposits to the

⁵⁴This action may require DOJ to update its guidance to provide additional criteria for determining whether penalties, fines, and forfeitures collected under DOJ's Assets Forfeiture Fund qualify for deposit to the Fund.

⁵⁵[GAO-12-736](#). Forfeited assets may be distributed to victims of crime as compensation for their losses if their loss is a direct result of the commission of the offense underlying forfeiture or a related offense. 28 C.F.R. §§ 9.8, 9.9.

⁵⁶According to DOJ, the Assets Forfeiture Fund's average expenses exceeded the average revenue during this period and was able to stay solvent because of the funds carried forward from previous years. DOJ also stated that the fund is still recovering from delays and impacts of the COVID-19 pandemic.

Fund.⁵⁷ As described earlier, the statute directs that certain civil penalties and fines arising from the actions of, or doing business with or acting on behalf of, state sponsors of terrorism be deposited into the Fund.⁵⁸

Civil penalties and fines may also result from actions related to Foreign Terrorist Organizations, such as penalties or fines imposed on an entity for providing material support to an organization designated as a Foreign Terrorist Organization. These penalties and fines are not currently deposited in the Fund because the statute limits penalties deposited into the Fund to those associated with specified offenses involving state sponsors of terrorism. We previously reported that DOJ may bring civil forfeiture actions against assets connected to terrorism offenses, including the provision of material support to Foreign Terrorist Organizations. U.S. law authorizes, among other things, the forfeiture of property involved in money laundering, property derived from or used to commit certain foreign crimes, and the proceeds of certain unlawful activities.⁵⁹ (See appendix I for additional information on selected cases and assets).

⁵⁷Foreign Terrorist Organizations are foreign organizations that are designated by the Secretary of State in accordance with 8 U.S.C. § 1189. State sponsors of terrorism are countries determined by the Secretary of State to have repeatedly provided support for acts of international terrorism. See 50 U.S.C. § 4813; 22 U.S.C. §§ 2371, 2780. Currently, there are four countries designated under these authorities: Cuba, the Democratic People's Republic of Korea (North Korea), Iran, and Syria. This action may require DOJ to update its guidance to provide additional criteria for determining whether penalties, fines, and forfeitures collected under such violations qualify for deposit to the Fund.

⁵⁸As described, 34 U.S.C. § 20144 establishes the Fund, and directs that seventy-five percent of all funds and seventy-five percent of the net proceeds from the sale of property, forfeited or paid to the U.S. as a civil penalty or fine arising from violation of any license, order, regulation, or prohibition issued under the International Emergency Economic Power Act or the Trading with the Enemy Act, or any related conspiracy, scheme, or other Federal offense arising from the actions of, or doing business with or acting on behalf of a state sponsor of terror.

⁵⁹GAO, *Combating Terrorism: Foreign Terrorist Organization Designation Process and U.S. Agency Enforcement Actions*, [GAO-15-629](#) (Washington, D.C.: June 25, 2015). Once the government establishes that an individual or entity is engaged in terrorism, it may bring forfeiture actions by proceeding directly against the assets (1) of an individual, entity, or organization engaged in planning or perpetrating crimes of terrorism against the U.S. or U.S. citizens; (2) acquired or maintained by any person intending to support, plan, conduct, or conceal crimes of terrorism against the U.S. or U.S. citizens; (3) derived from, involved in, or used or intended to be used to commit terrorism against the United States or U.S. citizens or their property; or (4) of any individual, entity, or organization engaged in planning or perpetrating any act of international terrorism against an international organization or foreign government.

While such an amendment to expand beyond civil penalties and fines associated with actions related to state sponsors of terrorism could increase Fund deposits, it would also result in an inconsistency in the types of covered actions for which penalties are deposited and the claimants eligible for the Fund. The current statute governing the Fund limits the types of covered actions for which penalties are deposited to those related to the actions of state sponsors of terrorism. The current statute correspondingly limits eligible claimants to those with eligible final judgments issued by a U.S. district court against state sponsors of terrorism arising from international terrorism attacks. There are individuals who are victims of attacks by Foreign Terrorist Organizations who have final judgments issued by a U.S. district court against such organizations arising from such attacks. These individuals are not currently eligible for the Fund, but under this amendment, civil penalties for offenses related to Foreign Terrorist Organizations would be deposited.

Additional Options for Increasing Deposits to the Fund and Their Potential Impacts

Through our literature review and interviews with representatives from advocacy groups and other individuals, we identified additional options for increasing deposits to the Fund and evaluated their potential impacts. The options include allowing donations and gifts to the Fund, imposing a tax on travel to foreign countries designated as state sponsors of terrorism, and establishing a loan from Treasury's General Fund.

Allowing donations and gifts to the Fund. Our evaluation indicates that an amendment to the statute allowing the general public to make donations and gifts to the Fund would increase the available funds.⁶⁰ By statute certain trust funds, such as Crime Victims Fund, are authorized to accept for deposit gifts and donations from private entities.⁶¹ For example, according to DOJ, from fiscal years 2016 to 2023, the amount of gifts and donations deposited in the Crime Victims Fund was \$370,663.

Although this option would increase deposits to the Fund, there is uncertainty about the amount of gifts and donations the general public would make in future years to the Fund. For example, according to DOJ data, from 2016 to 2022, the total amount of gifts and donations to the Crime Victims Fund was \$3,448. However, in 2023, the total amount of gifts and donations was \$367,215. Additionally, based upon our analysis, any payments resulting from the gifts and donations may be low. For example, if donations to the Fund were similar to those deposited in the

⁶⁰34 U.S.C. § 20144 does not currently allow for donations from the general public.

⁶¹See 34 U.S.C. § 20101(b)(5).

Crime Victims Fund, as noted above, the average one-time payment to 15,769 eligible claimants in the Fund would be about \$24 per claimant.⁶²

Imposing a tax on travel to foreign countries designated as state sponsors of terrorism and countries allowing safe havens for Foreign Terrorist Organizations. Our evaluation indicates that imposing a tax on travel to foreign countries designated as state sponsors of terrorism and countries allowing safe havens for Foreign Terrorist Organizations would increase deposits to the Fund.⁶³ By statute, certain trust funds are authorized to receive revenue primarily through a tax.⁶⁴ Through our review of relevant literature, we identified other trust funds that have used this practice. For example, the Black Lung Disability Trust Fund is financed primarily through a coal tax collected from mine operators by Treasury's Internal Revenue Service. The revenue is then transferred to the Trust Fund to allow Department of Labor officials to pay black lung benefits and program administration costs.⁶⁵ In 2018, we reported that since fiscal year

⁶²In January 2023, DOJ reported a total of 15,769 were claimants eligible to receive future payments from the Fund. DOJ, U.S. Victims of State Sponsored Terrorism Fund, Special Master's Report Regarding the Fourth Distribution, January 2023.

⁶³The Secretary of State must demonstrate that the entity of concern has met three criteria to allow the Department to designate it as a Foreign Terrorist Organization. The suspected terrorist group must 1) be a foreign organization, 2) engage in or retain the capability and intent to engage in terrorism, and 3) threaten the security of U.S. nationals or the national defense, foreign relations, or the economic interests of the United States. According to the Department of State, terrorist safe havens include ungoverned, under-governed, or ill-governed physical areas where terrorists are able to organize, plan, raise funds, communicate, recruit, train, transit, and operate in relative security because of inadequate governance capacity, political will, or both.

⁶⁴The Black Lung Disability Trust Fund, established in 1978 by the Black Lung Benefits Revenue Act of 1977, funds benefits to certain coal miners who have been totally disabled due to pneumoconiosis, also known as black lung disease. Their surviving dependents may also receive compensation. That Act authorized the Trust Fund to pay benefits in certain circumstances including in cases where no responsible mine operator could be identified or when the liable mine operator does not pay.

⁶⁵Another trust fund that receives income from taxes includes the Airport and Airway Trust Fund. The fund was established by the Airport and Airway Revenue Act of 1970 providing a dedicated source of funds for the U.S. aviation system. See Pub. L. No. 91-258, § 208, 84 Stat. 219, 250 (1970). Income sources for the trust fund include taxes on airline passenger ticket sales, segment fees, air cargo fees, and aviation fuel taxes paid by both commercial and general aviation aircraft.

1990, revenue received from the coal tax has generally exceeded combined benefit payments and administrative costs.⁶⁶

If enacted, an amendment to impose a tax on travel to foreign countries designated as state sponsors of terrorism and countries that allow safe havens for Foreign Terrorist Organizations would increase the available funds in the Fund. However, any tax revenue collected from a tax on travel to countries designated as state sponsors of terrorism may be low because the Department of State has issued the highest level travel advisories to not travel to Iran, North Korea, and Syria.

Establishing a loan from Treasury's General Fund. Our evaluation indicates that establishing a loan from Treasury's General Fund would provide the Fund with borrowing authority that could increase the amount of funds available to pay eligible claims.⁶⁷ Through our review of relevant literature, we identified other trust funds that have used this practice. For example, in May 2018 we reported that the Black Lung Disability Trust Fund borrowed from Treasury's General Fund to cover the annual differences between its expenditures and revenues.⁶⁸ According to Treasury officials, to establish a loan with the Treasury, the Fund would need borrowing authority in statute.

If the Fund received such borrowing authority, a loan from the Treasury's General Fund could increase the available funds in the Fund to pay eligible claims. However, borrowing funds creates a future liability that would require the Fund to pay off the debt and interest over a period of

⁶⁶GAO, *Black Lung Benefits Program: Options for Improving Trust Fund Finances*, [GAO-18-351](#) (Washington, DC: May 30, 2018). From fiscal years 1979 through 1989, the Trust Fund borrowed primarily through 30-year term loans from Treasury's general fund at interest rates that varied from about 6.5 percent to about 13.9 percent.

⁶⁷The General Fund of the U.S. government, which is managed by Treasury, consists of assets and liabilities used to finance the daily and long-term operations of the U.S. government as a whole. It also includes accounts used in management of the budget of the U.S. government.

⁶⁸From fiscal years 1979 through 1989, the Trust Fund borrowed—primarily through 30-year term loans according to Treasury officials—from Treasury's general fund at interest rates that varied from about 6.5 percent to about 13.9 percent. Since fiscal year 1990, revenue has generally exceeded combined benefit payments and administrative costs, although interest payments on the Trust Fund's outstanding debt kept the fund in a position whereby its total expenditures continued to exceed its total revenues. [GAO-18-351](#). Other trust funds include National Flood Insurance Fund created by Congress in 1968 to help reduce escalating costs of providing federal flood assistance to repair damaged homes and businesses. Congress authorized the Federal Emergency Management Agency (FEMA) to borrow from Treasury, within limits. [GAO-20-156](#)

time. For example, borrowing \$2 billion from the General Fund would require an average annual repayment of \$146 million from fiscal years 2024 through 2039, according to our analysis. Further, with the uncertainty about how much the Fund will collect in receipts (e.g., qualifying criminal and civil penalties and fines), a loan would potentially create a risk of insolvency for the Fund. Table 2 shows the repayment amounts when borrowing from the Treasury’s General Fund under certain assumptions.

Table 2: U.S. Victims of State Sponsored Terrorism Fund Repayment Amounts to the Treasury’s General Fund Under Certain Scenarios

Amount borrowed from the General Fund ^a	Average potential payment to eligible victims per year ^b	Repayment of principal and interest per year (minimum)	Repayment of principal and interest per year (maximum)	Average repayment of principal and interest per year	Total repayment of principal and interest
\$1 billion	\$63 million	\$64 million	\$83 million	\$73 million	\$1.2 billion
\$2 billion	\$125 million	\$128 million	\$165 million	\$146 million	\$2.3 billion
\$3 billion	\$188 million	\$191 million	\$248 million	\$219 million	\$3.5 billion

Source: GAO analysis. | GAO 24 106863

Note: We do not account for interest from investing balances each year from borrowed amount, if the borrowed amount is paid to victims as annuity over the 16 years. We also rounded the reported estimates.

^aAmount borrowed from the General Fund assumes a one-time borrowing rate of 2 percent, for 16 years, from 2024 to 2039. A 16-year payback period is used because the Fund terminates in 2039.

^bAverage potential payment to eligible victims per year is an annual amount available for a potential distribution 16 years, from 2024 to 2039. According to the Department of Justice, the Fund’s Special Master will authorize additional payment rounds if sufficient funds are available.

^cRepayment of interest of about \$200 million for the \$1 billion loan, about \$300 million for the \$2 billion loan, and about \$500 million for the \$3 billion loan would likely come from deposits that would otherwise have gone to eligible victims.

Agency Comments

We provided a draft of this report to DOJ and Treasury for review and comment. DOJ and Treasury provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Attorney General, Secretary of the Treasury, and other interested parties. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8777 or McNeilT@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 key contributions to this report are listed in appendix II.

A handwritten signature in black ink, appearing to read "Triana McNeil". The signature is written in a cursive style with a large initial 'T'.

Triana McNeil
Director, Homeland Security and Justice

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Appendix I: Assets Identified by Advocacy Groups for Potential Deposit to U.S. Victims of State Sponsored Terrorism Fund

To obtain information on assets for potential deposit to the Fund, we interviewed representatives from advocacy groups and other individuals.¹ Below, we summarize the information that we obtained from our interviews. In our interviews with advocacy groups and individuals, they identified certain assets resulting from government enforcement actions and private litigation for potential consideration for deposit to the U.S. Victims of State Sponsored Terrorism Fund. We did not evaluate whether all or any part of the assets referenced below are eligible for deposit into the Fund based on the current statutory framework.

Select Assets Resulting from Government Enforcement Actions

We identified select assets resulting from government enforcement actions during our interviews with advocacy groups and individual representing victims of state-sponsored terrorism. Some of the enforcement actions described below include cases where the Department of Justice (DOJ) issued penalties and fines for sanctions violations.

- Da Afghanistan Bank assets held in U.S. financial institutions. At the end of 2020, Afghanistan's central bank reserves were \$9.8 billion. To prevent the Taliban from accessing the reserves, the U.S. deposited \$7 billion with the Federal Reserve Bank of New York, with the remaining reserves deposited in foreign financial institutions.²

Some victims of terrorism attacks who hold judgments against the Taliban, including certain victims of the 9/11 attacks, are attempting to attach their claims to \$3.5 billion of the reserve funds. However, a federal court found that the Afghan reserve assets are immune from

¹Specifically, we identified seven advocacy groups and four individuals based on 1) advocacy groups that provided comments to GAO's Federal Register notice issued on March 21, 2021 (Notice of Methodology for Estimating Lump Sum Catch-Up Payments to Eligible 9/11 Victims, 9/11 Spouses and 9/11 Dependents; Request for Comment, Vol. 86 Fed. Reg. 16,211), 2) advocacy group and individuals outreach to GAO, and 3) referrals from other advocacy groups or individuals. The seven advocacy groups are law firms representing some of the Fund's eligible claimants and the four individuals are eligible claimants who are knowledgeable about the Fund and potential sources of funds for deposit. The information we obtained through these interviews is not generalizable to the views of all advocacy groups or eligible claimants but provided important insights on how the Fund is currently administered along with potential future funding options.

²Congressional Research Service, *Afghanistan Central Bank Reserves*, Version 4, IF12052, March 13, 2023.

**Appendix I: Assets Identified by Advocacy
Groups for Potential Deposit to U.S. Victims of
State Sponsored Terrorism Fund**

attachment and not available for the victims claims.³ The decision is on appeal at the U.S. Court of Appeals for the Second Circuit.

The remaining \$3.5 billion in the U.S. Federal Reserve Bank is being held with the purpose of disbursing the funds to the Afghan people for economic and humanitarian assistance.⁴

- British American Tobacco penalties and fines. According to DOJ, British American Tobacco, one of the world's largest manufacturers of tobacco products, has agreed to pay penalties and fines of more than \$629 million to resolve bank fraud and sanctions violations charges with U.S. authorities. The violations were related to the companies' scheme of doing business with North Korea, in violation of the bank fraud statute and the international Emergency Economic Powers Act. Representatives from two advocacy groups told us the British American Tobacco case is under review by DOJ to determine how much of the \$629 million in penalties and fines are eligible for deposit to the U.S. Victims of State Sponsored Terrorism Fund.
- Lafarge criminal fines and forfeiture. According to DOJ, in October 2022, Lafarge, a global building materials manufacturer, and its subsidiary pleaded guilty to conspiring to provide material support and resources in Northern Syria from 2012 to 2014 to the Islamic State of Iraq and al-Sham and to the al-Nusra Front, both U.S. designated Foreign Terrorist Organizations. Lafarge was sentenced to terms of probation and to pay financial penalties, including criminal fines and forfeiture totaling \$777.8 million.

From May 2010 to September 2014, Lafarge operated a cement plant in northern Syria that Lafarge constructed at a cost of \$680 million. After the start of the Syrian Civil War in 2011, Lafarge and its subsidiary negotiated agreements to pay armed factions in the civil war to protect employees, to ensure continued operation of the cement plant, and to obtain economic advantage over their competitors in the Syrian cement market.

³See *In Re: Terrorist Attacks on September 11, 2001*, No. 1:03-MD-01570 (Feb. 21, 2023) (memorandum decision and order).

⁴On February 11, 2022, President Biden signed Executive Order 14064 to prevent disbursements from \$3.5 of the \$7 billion held in the U.S. Federal Reserve Bank. Executive Order 14064, *Protecting Certain Property of Da Afghanistan Bank for the Benefit of the People of Afghanistan*, 87 Fed. Reg. 8,391 (Feb. 11, 2022).

Select Assets from Private
Litigation Action Identified
by Advocacy Groups for
Consideration for Deposit
to the Fund

Representatives from the advocacy groups and other individuals identified select assets resulting from private litigation action taken to satisfy judgments against Iran under the Foreign Sovereign Immunities Act.

- Assets held by Clearstream financial institution in Luxembourg. In March 2023, a federal district court ruling from the Southern District of New York ordered Iran’s central bank and Luxembourg-based Clearstream Banking SA to pay \$1.68 billion to family members of victims of the 1983 Beirut barracks bombing who hold judgments against Iran.⁵ This ruling followed a number of years of ongoing litigation in which the U.S. Supreme Court in January 2020 overturned a lower court ruling in favor of the claimants. The Supreme Court ordered the case to be reconsidered in light of a new law that authorizes U.S. courts to allow the seizure of assets held outside the country to satisfy judgments against Iran in terrorism cases, notwithstanding other laws such as the Foreign Sovereign Immunities Act that would grant immunity.⁶ As of October 2023, this case was ongoing and the March 2023 decision was partially stayed pending appeal to the Second Circuit U.S. Court of Appeals.

⁵See Peterson v. Islamic Republic of Iran, No. 13-CV-09195 (S.D.N.Y. Mar. 22, 2023) (opinion and order).

⁶See Clearstream Banking S.A. v. Peterson, No. 17-1529 (S. Ct. Jan. 13, 2020) (certiorari – summary dispositions for No. 17-1529 and related cases Nos. 17-1530 and 17-1534).

Appendix II: GAO Contact and Staff Acknowledgement

GAO Contact

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Staff Acknowledgments

In addition to the contact named above, David Lutter (Assistant Director), James Lawson (Analyst-in-Charge), Ben Crossley, John Karikari, Paloma Lopez, Amanda Miller, Heidi Nielson, Kevin Reeves, and Janet Temko-Blinder made key contributions to this report.

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