

Using Forfeited Assets to Compensate Victims of Federal Crimes

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Program Management and Training Unit

What We Will Cover

- Brief Overview of MLARS
- Federal Forfeiture and Restitution
- How Federally-Forfeited Assets Flow Back to Victims

Money Laundering and Asset Recovery Section

- Prosecutes and coordinates the prosecution of complex domestic and international money laundering and asset forfeiture cases
- Provides nationwide legal and policy assistance and training to federal, state, and local prosecutors and law enforcement
- Manages the Department's Asset Forfeiture Program

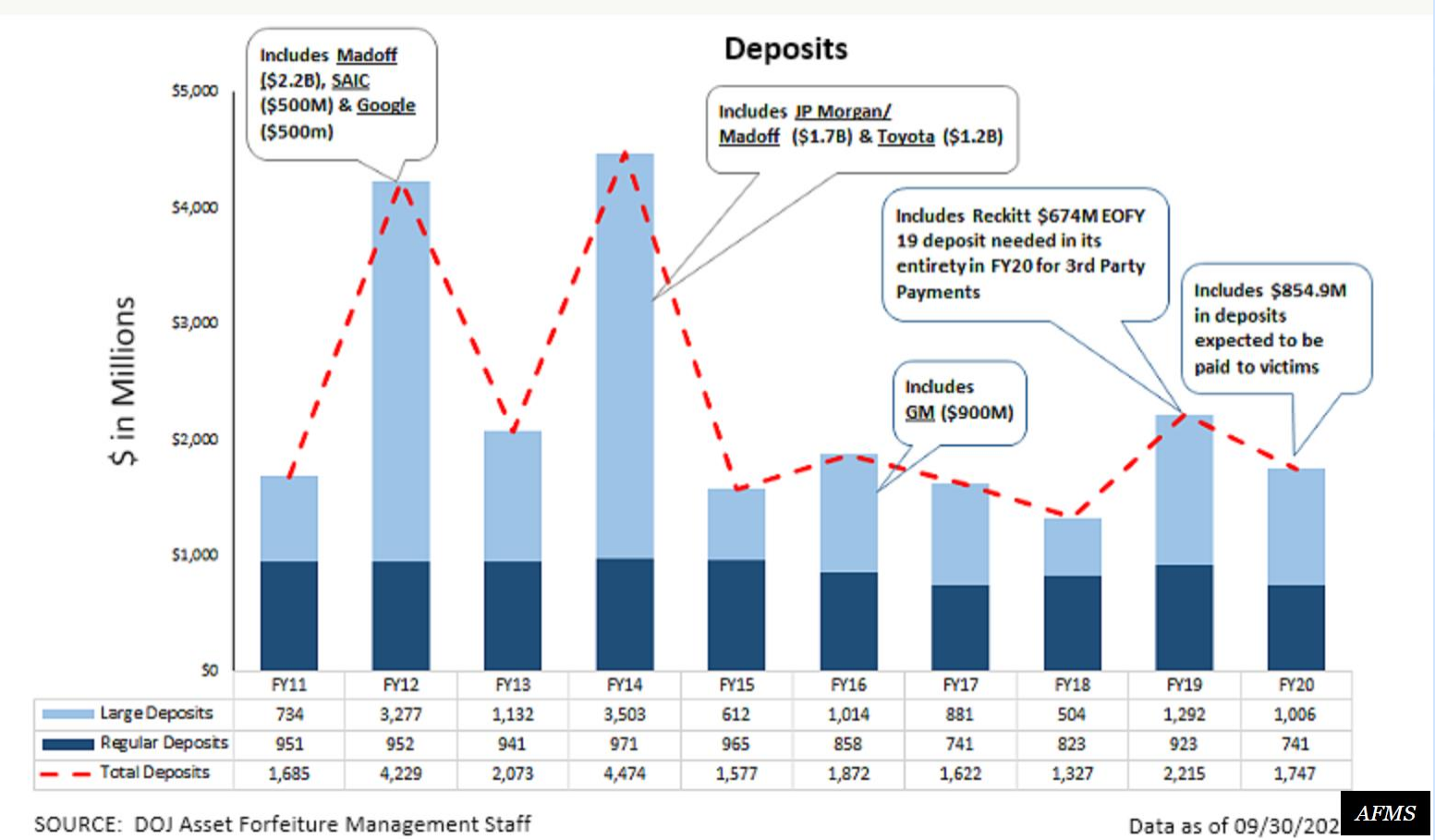


MLARS

- Units
  - Bank Integrity
  - International/Kleptocracy
  - Money Laundering and Forfeiture
  - Program Management and Training
  - Special Financial Investigations
    - SFIU is comprised of attorneys, investigators and analysts who serve as MLARS' experts on complex financial investigations.
  - Policy
  - Program Operations
  - Office Support

Forfeiture Statistics

Total deposits into the Assets Forfeiture Fund have exceeded $1 billion in each of the past 10 years.



	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19	FY20
Large Deposits	734	3,277	1,132	3,503	612	1,014	881	504	1,292	1,006
Regular Deposits	951	952	941	971	965	858	741	823	923	741
Total Deposits	1,685	4,229	2,073	4,474	1,577	1,872	1,622	1,327	2,215	1,747

Federal Asset Forfeiture and Restitution

What is Asset Forfeiture







Asset Forfeiture is:

The taking of property

by the government

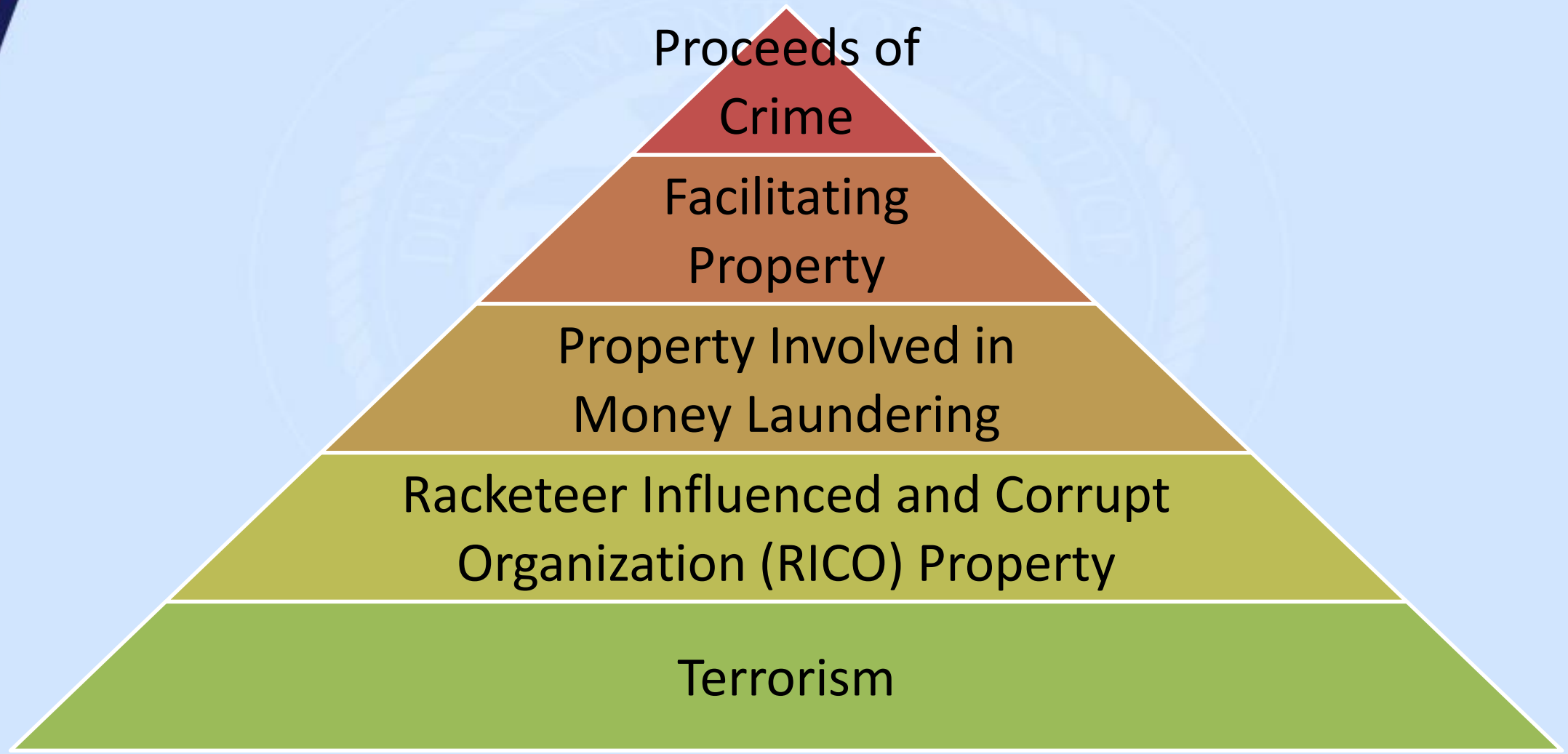




without compensation

because it was obtained or used in a manner contrary to the law.

What Property is Subject to Forfeiture?



Types of Federal Forfeiture

Criminal

- Federal criminal case, must have a conviction before forfeiting
- Can only forfeit defendant's interest

Civil

- Judicial
  - Civil case filed against the asset itself
  - Extinguishes interests of non-innocent third-parties (straw owners, nominees, spouses)
- Administrative
  - Summary procedure, only for uncontested cases
  - Due Process: If claim is filed, a judicial case must be initiated or settled pre-complaint
  - Only cash, vehicles, and certain other kinds of property – no real property

Federal Forfeiture

- Not a general victim compensation fund.
  - State victim compensation offices receive federal grants from the Crime Victims Fund (CVF)

- Not applicable to criminal cases brought under state law.
  - A federal crime must have occurred, and the assets must have been forfeited federally.

What is Restitution



An order for the benefit of VICTIMS based on their quantifiable losses



Imposed upon a criminal defendant but focused on victims



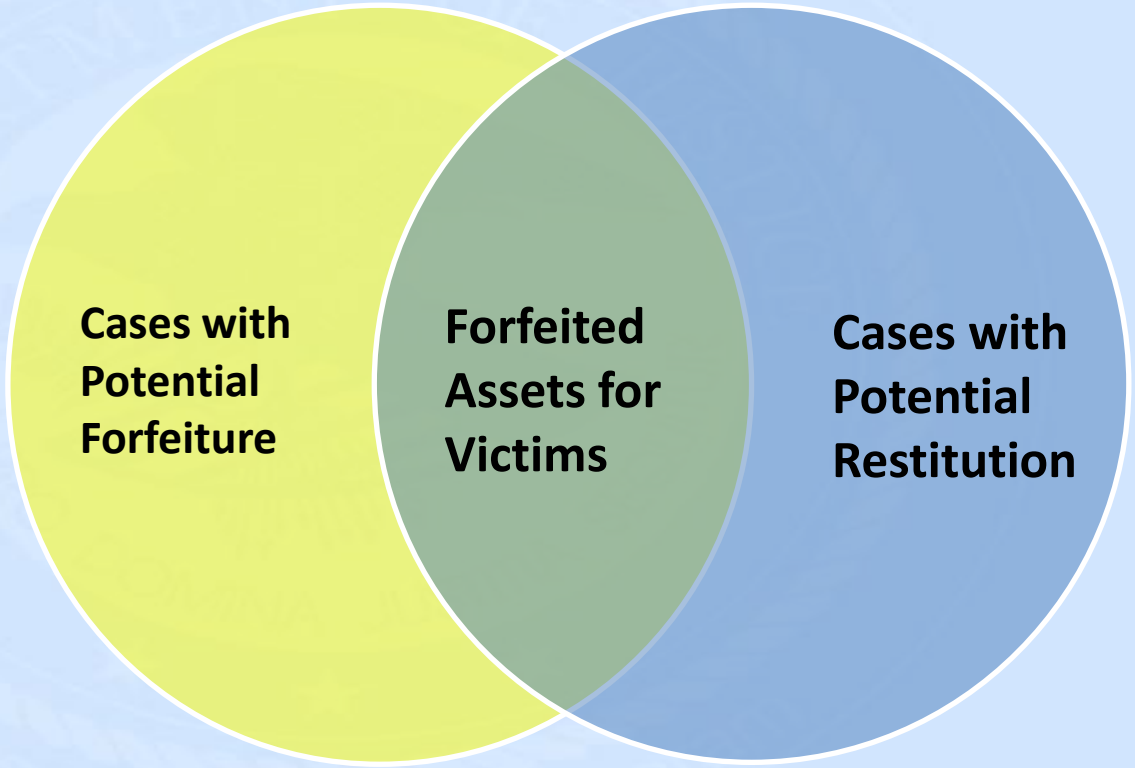
at sentencing

MVRA & CVRA

- **Mandatory Victims Restitution Act** 18 U.S.C. § 3663A(a)(1)
  - In most instances, the court ***shall*** order that the defendant make restitution to the victim of the offense.
  - **Victim**: person directly and proximately harmed as a result of the offense (loss or destruction of property, bodily injury, expenses)

- **Crime Victims Rights Act** 18 U.S.C. § 3771(a)
  - Provides victims with the right to "full and timely" restitution as provided by law.
  - Prosecutors and others must make "best efforts" to obtain restitution for victims

Forfeiture and Restitution Overlapping Goals: Return Assets to Victims



These processes are complementary to one another, and work best when both are ordered.

Compare & Contrast: Forfeiture & Restitution

Restitution	Criminal Forfeiture
Mandatory for certain crimes	Mandatory for certain crimes
Part of defendant's sentence	Part of defendant's sentence
Criminal conviction required	Civil forfeiture available
Calculation: What amount makes victim whole?	Calculation: What amount deprives the defendant of criminal proceeds?
Post-sentencing collection, limited ability to freeze pre-judgment	Pre-sentencing seizure and restraint
Clerk of court receives and disburses funds but does not typically maintain tangible items	Custodial agencies have infrastructure and contracts to maintain and liquidate tangible assets
Foreign countries are less likely to recognize a restitution order	Foreign countries will likely recognize a criminal forfeiture order
Can garnish wages and pursue certain categories of assets	Can obtain money judgments and pursue untainted assets and TOP offsets

How Federally-Forfeited Assets Flow Back to Victims

Restoration

- Forfeited proceeds are sent to the Clerk of Court to be applied to the restitution order in the federal criminal case
- Most common method of transfer
- Happens behind-the-scenes, victims often don’t know restoration has occurred until they receive a check
- Transfer must comply with 28 C.F.R. Part 9 (Remission) and the Restoration Policy

Restoration Process

COURT ORDER	• Court enters restitution order.
RESTORATION REQUEST	• USAO submits restoration request and supporting documentation to MLARS.
MLARS	• MLARS approves and directs USMS or Treasury to pay the Clerk of Court.
CLERK	• Clerk pays victims pursuant to restitution order.
FLU	• FLU receives notice of payment from Clerk of Court; verifies information

Representations

- All victims have been notified and are properly accounted for in the restitution order.
- Losses have been verified by the seizing agency and reflect any compensation already received by the victims.
- Reasonable efforts were made to locate other assets.
- Victims were not involved in, or willfully blind, to the offense.

Petition for Remission

What is Remission?

- Governed by 28 C.F.R. Part 9
- Approval is an “act of grace” by the Sovereign
- Attorney General can return forfeited money and property to:
  - Victims
  - Innocent Owners
  - Lienholders

Petition for Remission Procedure

NOTICE
- U.S. Attorney or federal seizing agency sends notice to known victims, or victim sees ad on forfeiture.gov.

PETITION
- Victim files petition with USAO or agency.

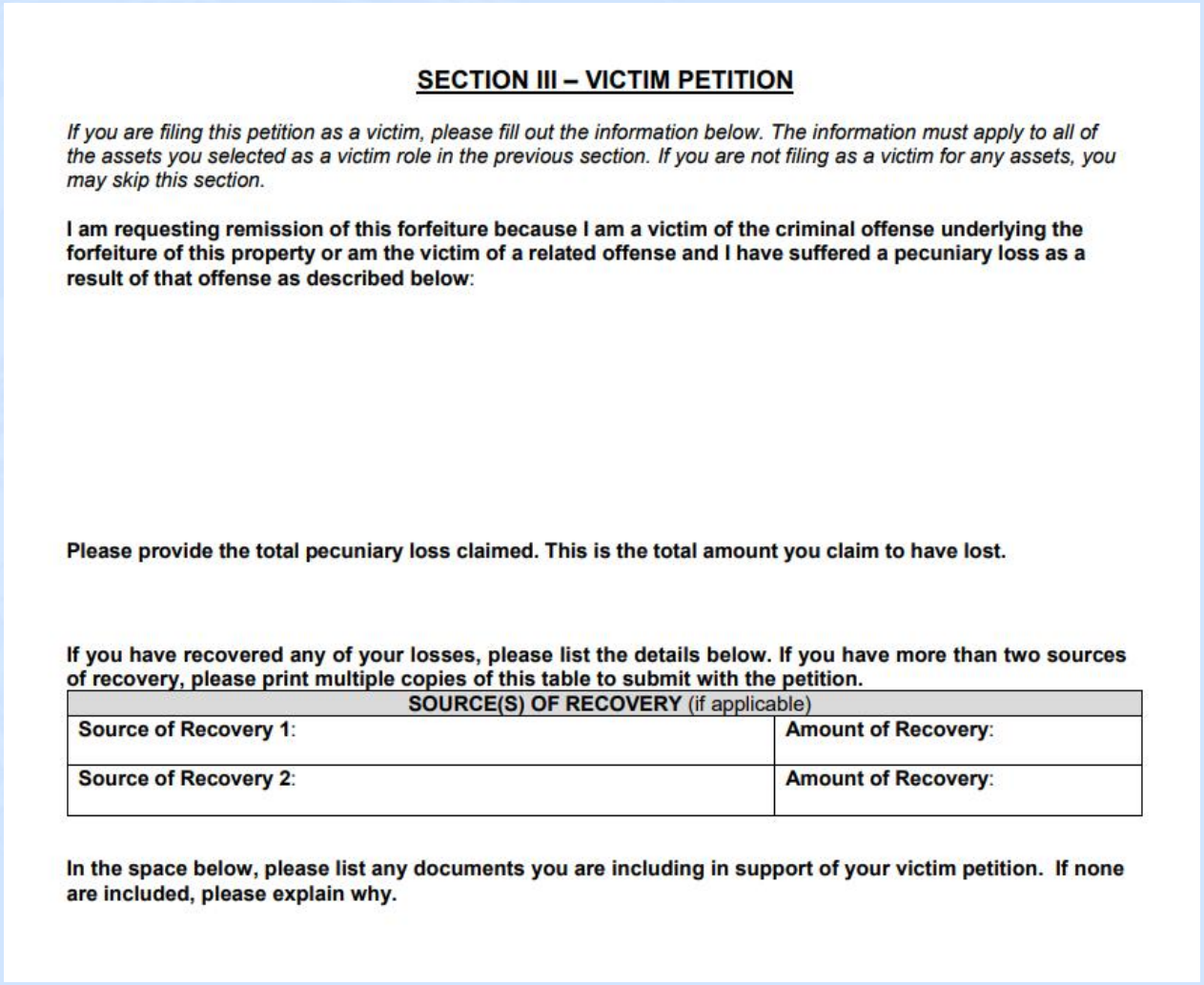
REPORT
- Seizing agency investigates the merits of petition and issues a report & recommendation.

USAO
- USAO writes its recommendation and forwards the petition package to MLARS.

DECISION
- MLARS rules on petition and directs USMS or Treasury to pay individual petitioners. Petitioners submit ACH forms, and payments are subject to TOP. When paid, USAO-FL offsets related federal restitution, if any.

Filing a Petition Online

- www.forfeiture.gov



SECTION III – VICTIM PETITION

If you are filing this petition as a victim, please fill out the information below. The information must apply to all of the assets you selected as a victim role in the previous section. If you are not filing as a victim for any assets, you may skip this section.

I am requesting remission of this forfeiture because I am a victim of the criminal offense underlying the forfeiture of this property or am the victim of a related offense and I have suffered a pecuniary loss as a result of that offense as described below:

Please provide the total pecuniary loss claimed. This is the total amount you claim to have lost.

If you have recovered any of your losses, please list the details below. If you have more than two sources of recovery, please print multiple copies of this table to submit with the petition.

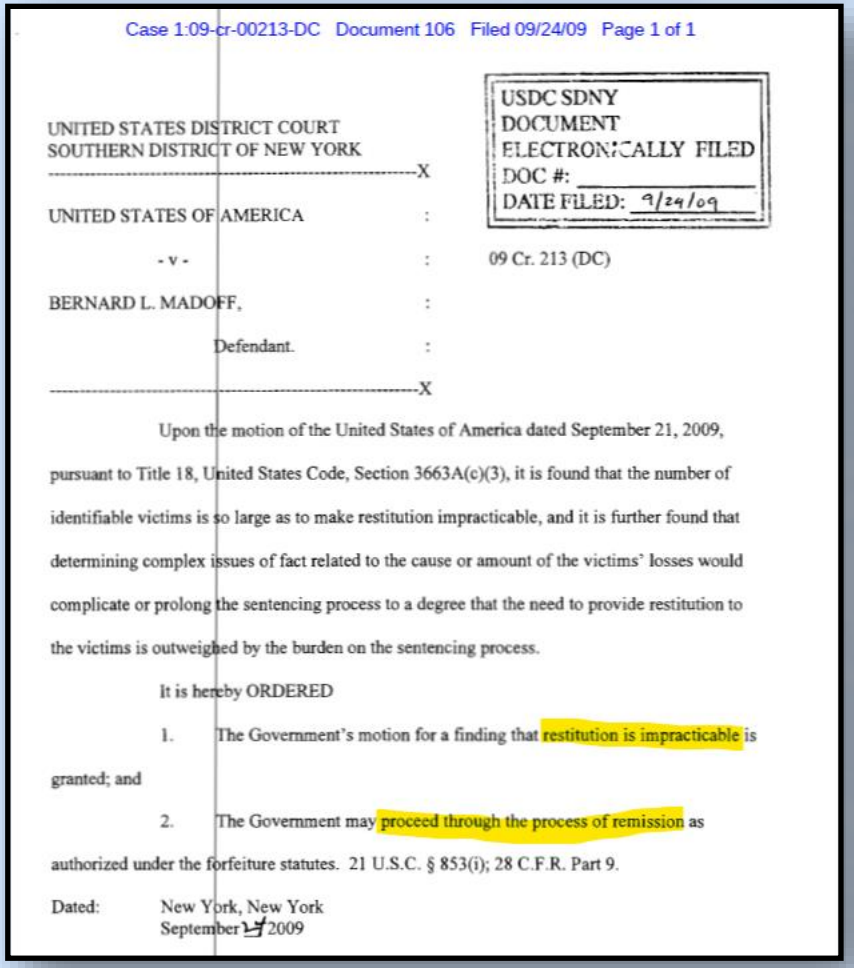
SOURCE(S) OF RECOVERY (if applicable)	
Source of Recovery 1:	**Amount of Recovery:**
Source of Recovery 2:	**Amount of Recovery:**

In the space below, please list any documents you are including in support of your victim petition. If none are included, please explain why.

Large Victims Cases

- In remission cases involving 50 or more victims, consult with MLARS to discuss strategy for processing of petitions
- Choose from a variety of options including notice, petition review, payment distribution
- Websites, toll free phone lines

Large Remission Matters



Case 1:09-cr-00213-DC Document 106 Filed 09/24/09 Page 1 of 1

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 9/24/09

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v -

BERNARD L. MADOFF,

Defendant.

09 Cr. 213 (DC)

Upon the motion of the United States of America dated September 21, 2009, pursuant to Title 18, United States Code, Section 3663A(c)(3), it is found that the number of identifiable victims is so large as to make restitution impracticable, and it is further found that determining complex issues of fact related to the cause or amount of the victims' losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to the victims is outweighed by the burden on the sentencing process.

It is hereby ORDERED

1. The Government's motion for a finding that restitution is impracticable is granted; and

2. The Government may proceed through the process of remission as authorized under the forfeiture statutes. 21 U.S.C. § 853(i); 28 C.F.R. Part 9.

Dated: New York, New York
September 24, 2009

"Restitution is impractical"

"Government may proceed through the process of remission"

18 U.S.C. § 3663A(c)(3)

Payment of Remission

- Funds will be paid by the custodial agency (USMS if a DOJ forfeiture) directly to the petitioner.
- Multiple petitions: payments are generally made *pro rata* based on loss amounts.
- Payments made by Electronic Funds Transfer (EFT).
- Payment is subject to the Treasury Offset Program (TOP).

Madoff

- Payouts now exceed $4.078 billion
- 40,454 victims have received assistance
- Minimum recoveries have reached 88.35% of fraud losses

JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE — Wednesday, September 28, 2022

Justice Department Announces Total Distribution of Over $4 Billion to Victims of Madoff Ponzi Scheme

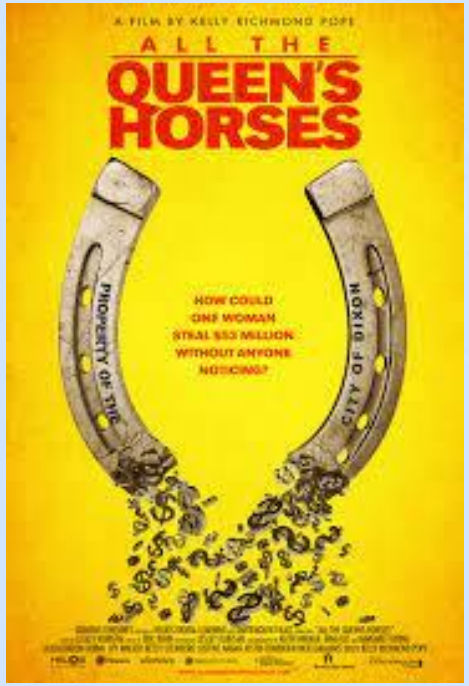
The Department of Justice announced today that the Madoff Victim Fund (MVF) began its eighth distribution of approximately $372 million in funds forfeited to the U.S. government in connection with the Bernard L. Madoff Investment Securities LLC (BLMIS) fraud scheme.

In this distribution, payments will be sent to 27,219 victims across the globe, bringing their total recovery to 88.35%. The total amount distributed now exceeds $4 billion to more than 40,000 victims as compensation for losses they suffered from the collapse of BLMIS.



Crundwell

- Dixon, Illinois former comptroller stole nearly $54 million over 20 years
- ~$10 million from forfeiture
- City's lawsuit against former auditors (~$40 million).



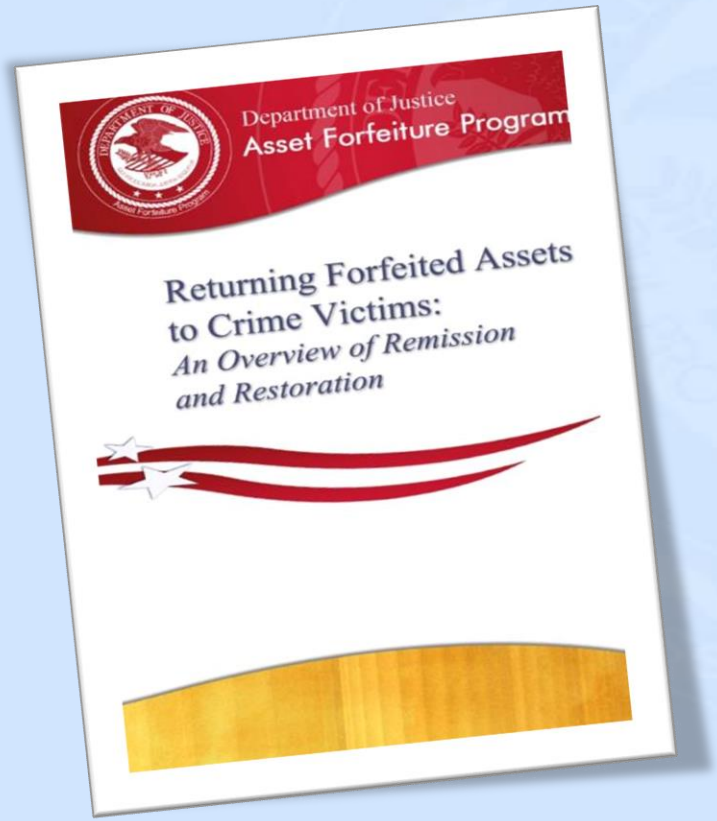


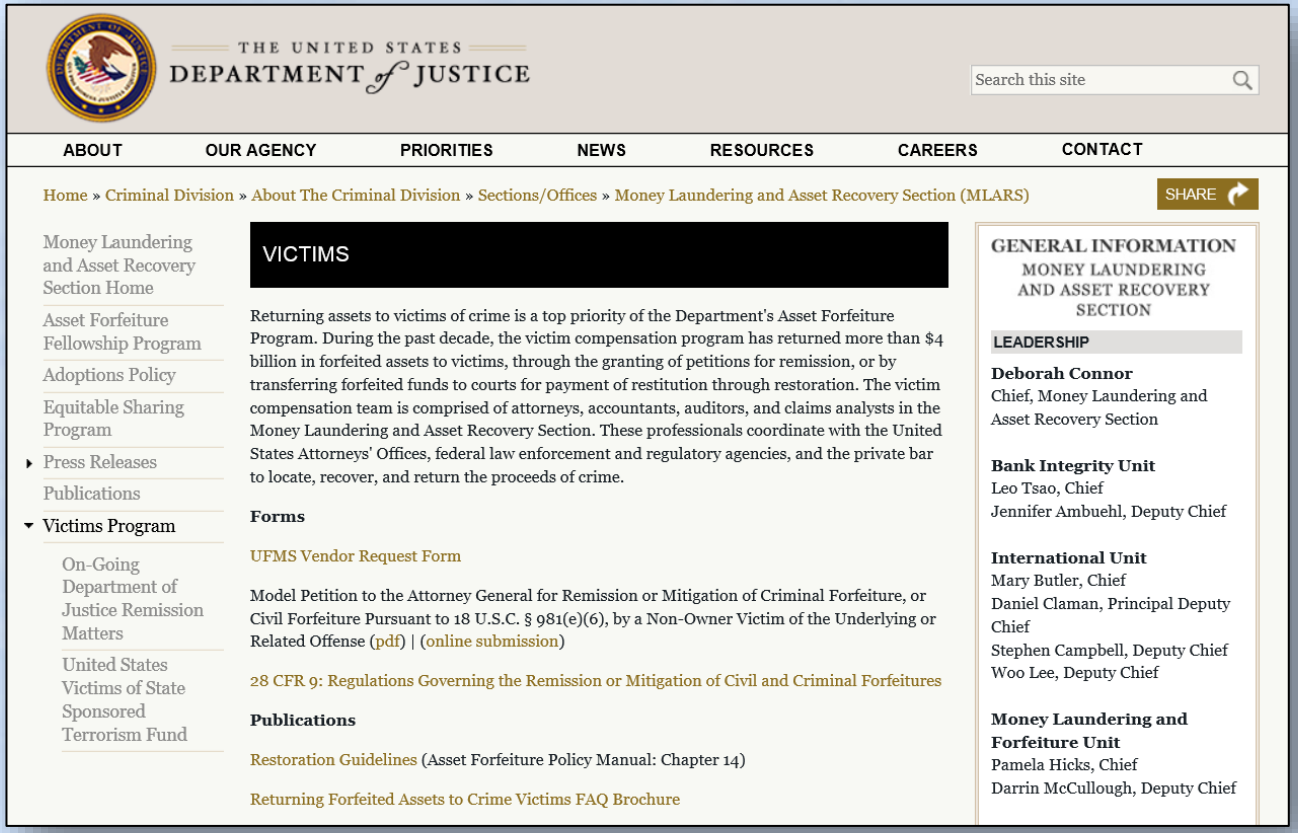
Western Union

- Phase One
  - DPA (violations of BSA and aiding and abetting wire fraud, agreed to forfeit $586 million)
  - $366 million distributed to over 148,000 victims – full compensation
- Phase Two
  - Additional forfeited funds

Resources

- https://www.justice.gov/criminal-mlars/victims







Questions?

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