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## Civil Forfeiture Actions Against Cryptocurrency and Other Digital Assets: What Are They, and How Do They Affect You?

### What is civil forfeiture and how could this affect me?

With the rising popularity of digital assets, inevitably there will be a concomitant rise in digital assets scams and fraud. To redress such criminal behavior, the federal government has a powerful legal tool called civil asset forfeiture, which it can use (and often uses) to seize property/assets that it believes are connected to or derived from criminal activity. Property can constitute money, digital assets, or real property like cars, houses, etc.

The purpose of a civil forfeiture action is to deprive criminals of the seized property, to allow the property to be forfeited to the United States, and to facilitate compensation to victims. In such a civil forfeiture action, the government typically will assert claims under the federal civil forfeiture statute, 18 U.S.C. § 981, which, among other things, permits property involved in or traceable to various crimes to be forfeited to the United States.

Civil forfeiture actions are *in rem*, meaning the actions are filed against the seized property itself. It might look strange to some, even to lawyers, but in a civil forfeiture action, the Plaintiff is the United States government and the Defendant is the property itself.

### How did the government seize my assets when I was not involved in any wrongdoing?

Notably, when using civil asset forfeiture to seize property or assets, the government does not need to charge anyone with a crime, or convict anyone at trial. The government does not even need to prove that the owners of the assets were even aware of the illegal activities before seizing the property. (This is very different from criminal forfeiture, which is limited to the convicted defendant's interest in the property.) The criminals are not parties to civil forfeiture actions. Although the government may unseal a criminal indictment against the defendant(s) and a related civil forfeiture action against the property at the same time, a criminal indictment is not required to seize property.

In fact, all the government has to do is establish by a preponderance of the evidence (meaning, with a likelihood of greater than 50%) that the property at issue was involved in unlawful activity for a judge to issue a warrant permitting the seizure of the property. Moreover, the government's efforts to seize assets are often done under seal, so by the time the public is aware, the assets are already in the government's custody. Accordingly, innocent victims' property is frequently included in the assets subject to the forfeiture action.

### What are some recent examples of civil forfeiture actions brought against digital assets?

The most notable recent example of a civil forfeiture action brought against digital assets occurred on October 14, 2025. That day, in the largest forfeiture action in the history of the United States Department of Justice (DOJ), the United States filed a civil forfeiture action in the United States District Court for the Eastern District of New York (Case No. 25-cv-05745) against approximately 127,121 Bitcoin (BTC), which, at the time of filing, was valued at around \$15 billion. The BTC was seized from a massive criminal enterprise allegedly led by foreign national Chen Zhi, aka "Vincent," who was separately indicted by a grand jury in the Eastern District of New York. According to the indictment, Chen's enterprise created and operated various "forced-labor scam compounds" in Cambodia and elsewhere, in which workers were forced to participate in and execute cryptocurrency investment scams and other fraudulent schemes that resulted in the

misappropriation of billions of dollars. As part of the scheme, Chen’s enterprise members messaged unwitting victims on social media or otherwise, and used lies and deceit to convince the victims to send them digital assets. The scammers stole the digital assets from the victims, and then laundered the stolen property. Chen’s investment fraud schemes allegedly included a network targeting victims in the United States. The forfeiture matter is currently pending in court.

This is not the first time the federal government has affirmatively used civil forfeiture laws to seize and target digital assets. In 2025 alone, civil forfeiture actions against digital assets include:

- On June 18, 2025, the United States filed an action in the United States District Court for the District of Columbia (Case No. 25-cv-1907) captioned *United States v. Approximately 225,364,961 USDT*. In the action, the government seized digital assets, claiming that these assets were misappropriated from over 430 victims after the fraudsters attempted to launder the proceeds through the OKX exchange.
- On June 30, 2025, the United States filed an action in the United States District Court for the District of Columbia (Case No. 25-cv-02085) captioned *United States of America v. All Virtual Currency Held in the BTC-E Operating Wallets as of July 25, 2017, and Other Assets Further Described Herein*. The action resulted from the seizure of digital assets in the possession of the BTC-e platform, an exchange that the United States alleges operated as an illegal money transmitting business and as a tool for money laundering and other illegal activities.
- On September 2, 2025, the United States filed an action in the United States District Court for the District of Columbia (25-cv-2967) captioned *United States of America v. Approximately 868,247 USDT*. The government seized digital assets resulting from an alleged scam in which, among other things, criminals pretended to be the cryptocurrency arm of the London Metals Exchange and tricked victims into depositing digital assets to what the victims believed was a legitimate exchange.

### **Are there ways to get my money back?**

Short answer, yes. If you believe that your property is subject to a civil forfeiture action, there are two ways to challenge the forfeiture:

- 1) File a verified claim in U.S. federal court to contest the forfeiture; and/or
- 2) File a petition for remission with the U.S. Department of Justice.

These are two different and separate procedures – the first route is a judicial challenge to the seizure in court and the second route is a mechanism where you can petition the DOJ to recognize your interest in the asset and to compensate you for your interest. These two options are not mutually exclusive, and you can avail yourself of both options.

### **What are some key issues I need to know if I want to get my money back?**

If you want to seek recovery of your assets, there are some key strategic issues you must be aware of:

#### *A. Timing*

First, timing is critical. There are special requirements for when you must file a verified claim in court and/or a petition for remission in order to stake your claim. The government is required to provide notice of the seizure, and that notice sets the time limits for when you must file a claim and/or petition. Below are the key timing deadlines:

- 1) Verified Claim in Court

- If you received notice of the forfeiture claim directly from the government, you must file a verified claim within the deadline stated in the notice. It is normally set 35 days after the notice is sent. *See* Suppl. Rule G(4).
- If the government did not send you direct notice, then you must file a verified claim within 30 to 60 days, depending on whether the government published notice and if the property was already in the government’s possession, custody or control when the complaint was filed. *See* Suppl. Rule G(5).

Your claim in court sets the process in motion and there are additional obligations that you must comply with under the law. Timely filing a claim, though, is the first step (and the most important in preserving your legal standing).

## 2) Petition to DOJ

- The timing to file a petition with the DOJ depends on whether you receive a personal notice letter. If you receive a notice letter from the government, then you must comply with the deadline set forth in the personal notice letter. Otherwise, you generally have to submit the petition within thirty (30) days of the last date of publication of the forfeiture on the official government forfeiture website. (There may be exceptions that can extend your time for filing, but that is dependent on your unique facts and circumstances.)

Remember, failure to file a timely claim may result in your claim and petition being dismissed. Consult with a lawyer so you don’t miss a deadline.

## B. *Other Strategic Considerations*

Below are some additional issues to consider when deciding if, and how, to challenge a forfeiture, including the following:

- 1) Proof of “innocent ownership”: Federal law makes clear that an “innocent owner’s interest in property” should not be forfeited under any civil forfeiture statute. In other words, if you are an innocent victim, the seized property should go back to you, and not be forfeited to the government. But the term “innocent owner” has special meaning under the forfeiture law, and it requires a factual analysis of how you obtained interest in the seized property/assets. In addition, under the law, once the assets are seized by the government, you have the burden of proving that you are an “innocent owner” so collecting strong proof of ownership (including possibly tracing analysis) will be important in establishing your position. *See* 18 U.S.C. 983(d).
- 2) Actual Value of Compensation in the Digital Assets Space: Prosecutors have been able to seize and forfeit digital assets that, in some instances, have appreciated in value between the time of the criminal activity and the time of the civil forfeiture action. However, depending on whether you seek to go the judicial route or the DOJ petition route, you may be limited to recovering the value of your digital assets at the time the crime was perpetuated (when the digital asset market might have been at a lower point), and *not* the current value (when there may have been substantial gains during the interim). *See* 28 C.F.R. § 9.8(c). As of April 2025, the DOJ has issued a policy memo indicating that it would evaluate and propose legislative and regulatory changes to address this concern and to improve asset-forfeiture efforts in the digital asset space. Although no official regulatory changes have occurred yet, this could be a point of negotiation with the government.
- 3) False Claims: Be careful of filing false or frivolous claims. If you intentionally file a frivolous claim, you may be subject to a civil fine. *See* 18 U.S.C. § 983(h). If you intentionally file a claim containing false information, you may be subject to criminal prosecution. *See* 18 U.S.C. § 1001.

## Conclusion

Recovering assets seized through civil forfeiture is often a complex and challenging process — especially when going up against the government. Morrison Cohen’s premier **Digital Assets** team has extensive experience in the fields of digital assets litigation and civil forfeiture law. If you believe that your digital assets have been seized by the government in any of the above-referenced actions (or any other actions) and would like to explore legal options, please feel free to contact the attorneys listed below.

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