**DUE PROCESS Act of 2016**

**General Rules for Civil Forfeiture**

**Timelines.** Ensures statutory timelines apply in all civil forfeitures.

**Notice Deadline.** Shortens the time period in which DOJ must provide notice of a seizure.

**Required Notice.** Requiresthat notice include an address where owners can file a claim and that it inform owners of their right to an initial hearing, to be represented by counsel, and to have counsel provided if indigent. Claims are considered received when mailed. Deadlines can be equitable tolled.

**Property Owner’s Response.** Extends the period for owners to respond to a seizure.

**Filing of a Claim.** The government has 90 days after an objection to begin forfeiture proceedings.

**Initial Hearing.** Gives owner the right to a prompt initial hearing where judge informs of rights and can release property if seizure was illegal or causing undue hardship.

**Transparency.** Seizing agencies must publicize remission and mitigation requests.

**Representation –** Indigent property owners are entitled to counsel at all civil forfeiture proceedings.

**Burden of Proof** – Raises the burden of proof to clear and convincing evidence.

**Right to Counsel** – Protects a defendant’s right to hire counsel of choice. If the government restrains assets pretrial, defendant can move for a hearing to determine whether the seizure should be modified to pay counsel. Court must consider (1) weight of evidence against defendant, (2) weight of evidence for forfeiture, (3) history and characteristics of defendant, and (4) nature and circumstances of case.

**Attorney’s Fees** – Allows for recovery of attorney’s fees when civil forfeiture cases are resolved through settlement assuming the settlement amount is greater than 50% of the property’s value.

**Audit** – Requires IG to conduct annual audit of forfeitures. IG’s report includes an assessment of the fiscal health of the Asset Forfeiture Fund and a projection of expected growth or reduction.

**Public Databases** – Requires AG to establish and maintain two databases. One is a real-time catalogue of federal forfeitures. The other provides broad details on forfeiture to inform Congress and the public.

**Structuring** – Codifies DOJ/IRS policy on forfeitures for structuring. Allows civil forfeiture for structuring only when property is derived from an illegal source or used to conceal illegal activity.

**Innocent Owners** – Protects innocent owners by requiring government to prove (1) a substantial connection between property and offense; and (2) the owner intentionally used the property in the offense, knowingly consented to criminal use, or reasonably should have known it might be used in offense.

**Proportionality** – Gives judges latitude to reduce a forfeiture based on: the value of property, seriousness of offense, claimant’s culpability, claimant’s record, claimant’s financial condition, and statutory intent.