Congressional Research Service
Informing the legislative debate since 1914

IN FOCUS

Updated March 13, 2023

Afghanistan Central Bank Reserves

Since the Taliban's August 2021 return to power, Afghanistan has faced an extreme recession and a humanitarian crisis. A U.S. hold on assets of the Afghan central bank (Da Afghanistan Bank, or DAB) deposited in the United States has attracted particular scrutiny from some observers who describe this as one of the most important factors impacting the humanitarian and economic situations in Afghanistan. Members of Congress have expressed a range of views on how to proceed with the assets, including whether the U.S. government should continue holding or utilizing the assets for economic assistance or other purposes.

According to a June 2021 DAB financial statement, total international reserves were around $9.5 billion. Of this amount, $7 billion was deposited at the Federal Reserve Bank of New York, with the rest remaining in Afghanistan or deposited in foreign financial institutions.

On February 11, 2022, President Biden signed Executive Order 14064 to block U.S.-held Afghanistan central bank reserves, and separately stated his intention to disburse $3.5 billion of the $7 billion currently held in the U.S. Federal Reserve Bank "for the benefit of the Afghan people." In September 2022, the Biden Administration announced the establishment of the "Afghan Fund" to "protect, preserve, and—on a targeted basis—disburse $3.5 billion for the benefit of the Afghan people." Based in Switzerland, the new Afghan Fund has a four-member board made up of a U.S. Treasury Department official (Counselor Andrew Baukol), a Swiss foreign ministry official (Ambassador Alexandra Elena Baumann), and two Afghans (former finance minister Anwar-ul-Haq Ahady and Shah Mehrabi, a U.S.-based economic expert who remains on the DAB governing board). The board met for the first time in November 2022 and again in February 2023 and, as of March 2023, has not made any disbursements. The U.S. Agency for International Development reports that DAB must undergo a third-party assessment of its performance in three areas prior to any disbursement from the Afghan Fund: (1) overseeing anti-money laundering measures, (2) combatting the financing of terrorism, and (3) maintaining its "independence from outside interference."

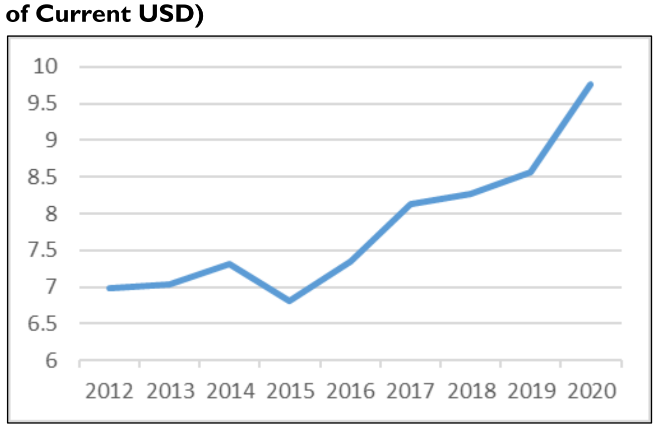
Against the backdrop of establishing the Afghan fund for the benefit of the Afghan people, there is ongoing litigation brought by some victims of the September 11, 2001 (9/11), terrorist attacks to use the Afghan assets to satisfy their judgments against the Taliban. The Afghan assets held in the Federal Reserve were subject to writs of execution in these cases, but a court found that the assets are immune from attachment. The decision is on appeal at the U.S. Court of Appeals for the Second Circuit. After setting aside half of the Afghan assets for humanitarian or economic assistance, E.O. 14064 leaves the remaining $3.5 billion unavailable until these legal challenges are resolved.

Economic Impact in Afghanistan

Afghanistan's economy has been hamstrung by a number of factors, including a lack of natural resources, rampant corruption, and decades of conflict. The country's economy has contracted sharply since the Taliban's August 2021 takeover, exacerbating the humanitarian situation. Along with other factors, including the cessation of international development assistance and U.S. and international sanctions on the Taliban, the U.S. hold on Afghanistan's central bank assets has arguably contributed to the country's economic breakdown.

The U.S.-backed former government relied heavily on international development assistance. Foreign donors financed more than half of the government's $6 billion annual budget and as much as 80% of total public expenditures. Between 2002 and 2021, the United States provided more than $17 billion to the Afghan government in on-budget assistance—funds that went directly, or indirectly through multilateral trust funds, to Afghan government entities. That aid and other support for Afghanistan helped raise the country's per capita gross domestic product from $179 in 2002 to $508 in 2020. Afghanistan's central bank reserves grew from just under $7 billion in 2013 to $9.8 billion at the end of 2020 (**Figure 1**).

Figure 1. Afghanistan Central Bank Reserves (Billions of Current USD)



Source: International Monetary Fund.

The United States held the DAB assets days after the Taliban entered Kabul to prevent the group from accessing them. That decision has contributed to instability in Afghanistan's currency, the *afghani* (which lost considerable value against the U.S. dollar after August 2021 but has been relatively stable since March 2022), and a severe liquidity crisis. Afghanistan is a highly cash-dependent society: According to the World Bank, 85% of

Afghans did not have bank accounts as of 2020. Afghanistan does not have the technical capability to print its own currency. Even in parts of the country where food is available, many Afghans struggle to pay for it, illustrating the impact of the country's financial crisis on the broader humanitarian and economic conditions.

Taliban and International Response

The Taliban view the U.S. hold on DAB assets as a pressing policy priority and have sought to marshal domestic Afghan and international pressure on the United States to release the funds. In a November 2021 open letter to Congress, the Taliban's acting foreign minister wrote, "Currently the fundamental challenge of our people is financial security and the roots of this concern lead back to the freezing of assets of our people by the American government," and he called on the United States both to lift the hold on DAB assets and end sanctions on the Taliban. The Taliban have also allowed and amplified public protests in Kabul where marchers called for the release of DAB assets. A number of countries with which the Taliban have ties—including China, Russia, Iran, Uzbekistan, and Pakistan—have also called on the United States to release the assets.

Potential Impact of 9/11 Litigation on U.S.-Held DAB Assets

Several groups of 9/11 victims—including those injured, the estates of those killed, and spouses and other family members of victims—who have or are seeking judgments against the Taliban for their role in supporting the 2001 terrorist attacks seek access to the frozen Afghan government assets in order to collect damages. One group, known as the *Havlish* plaintiffs, has a default judgment against the Taliban and other defendants worth approximately $7 billion. The U.S. government filed a statement of interest arguing that a portion of the DAB funds will be set aside for humanitarian uses and is not blocked within the meaning of the Terrorism Risk Insurance Act (TRIA, 28 U.S.C. §1610 note), making it unavailable for attachment under that statute.

The United States advised the court that the judgment creditors should have the opportunity to pursue the remaining DAB assets under applicable law, but it observed that TRIA permits attachment only to satisfy compensatory and not punitive damages. The court granted the government's request to modify the writs of execution to enable the transfer of $3.5 billion to the Afghan Fund. Under the Foreign Sovereign Immunities Act (28 U.S.C. §§1602–1611), foreign sovereign central bank assets in the United States are generally immune from attachment to satisfy judgments. The U.S. government argued that the case requires deciding whether the DAB assets belong to the Taliban and are attachable to satisfy its debts without implicitly recognizing the Taliban as the government of Afghanistan.

The court denied the judgment creditors' motion for turnover of the assets for lack of subject matter jurisdiction because the DAB is an instrumentality of Afghanistan and its assets are entitled to immunity. The court also found itself "constitutionally restrained from determining the Taliban is the legitimate government of Afghanistan." The court declined to issue a stay while the creditors appeal, although the appellate court may reverse the decision.

U.S. Policy and Issues for Congress

U.S. policymakers have grappled with the question of what to do with the U.S.-based assets of governments in flux before, as the ultimate disposition of assets may serve as leverage to influence the behavior of foreign actors. Several Presidents and Congresses have each at times determined the ownership of and rights to assets to further foreign policy goals. Presidents have used frozen foreign assets as a bargaining tool during foreign policy crises, in some instances, by returning the assets to the sanctioned foreign government or by channeling them to successor governments, as occurred after the breakup of Yugoslavia. In some cases, a President has made frozen assets available to opposition governments, as occurred in the case of Panama and Venezuela. Sometimes a portion of frozen assets has serviced the debts of the foreign government. In the case of Iraq after the First Gulf War, the President directed some blocked assets be used for humanitarian relief or to finance the United Nations Compensation Commission. The United States retained the remaining Iraqi assets until vesting (taking title to) them in 2003 to provide humanitarian assistance and to assist in reconstruction. Congress has in some cases directed that frozen foreign assets be used to pay terrorism judgments owed by a foreign government designated under U.S. law as a state sponsor of terrorism, including Cuba and Iran.

Congressional reaction to the establishment of the Afghan Fund appears relatively muted, though Members of Congress have expressed a range of views about the assets in general. Some Members contend that the assets represent one of few remaining points of U.S. leverage over the Taliban and that the United States should not release them without securing concessions from the Taliban with regard to the role and security of women or other issues. Other Members have advocated for releasing the assets, arguing that doing so would ameliorate humanitarian and economic conditions in the country.

Many Members appear to be balancing addressing the humanitarian crisis and economic contraction in Afghanistan with the risk of buttressing a Taliban government viewed as hostile to U.S. interests, as well as a desire to secure compensation for 9/11 victims. Releasing the assets conditionally or in small, monitored tranches may minimize (though likely not eliminate) the risk of the Taliban having access to additional financial resources. Applying the assets solely to humanitarian relief might help stave off mass suffering in the short term, but it might not be sufficient to address the underlying currency liquidity and broader economic contraction.

Martin A. Weiss, Coordinator, Specialist in International Trade and Finance
Clayton Thomas, Specialist in Middle Eastern Affairs
Jennifer K. Elsea, Legislative Attorney

IF12052

Disclaimer