

Jordan, Sheron

From: _Regulatory Comments
Sent: Tuesday, November 27, 2007 12:03 PM
To: Jordan, Sheron
Subject: FW: VACU Comments on Proposed Guidance (Garnishment of Federal Benefit Payments)

From: Beverley Rutherford [mailto:beverley.rutherford@vacu.org]
Sent: Wednesday, November 21, 2007 12:38 PM
To: _Regulatory Comments
Subject: VACU Comments on Proposed Guidance (Garnishment of Federal Benefit Payments)

Thank you for the opportunity to comment on the proposed guidance outlining best practices to assist financial institutions when the possibility of garnishment or freezing of government funds arises. I am responding on behalf of the largest state chartered credit union in Virginia.

In general, we understand the concern about government benefit funds to individuals being illegally garnished or frozen by financial institutions; however, we find the best practices proposed will have a burdensome effect on financial institutions. Financial institutions are simply the holder of the funds, and it appears the best practices attempt to shift more responsibility and possible liability to us even though we are an impartial party in the process. We believe the individuals affected are well aware of the possibility of a garnishment through copies of the garnishment, and have previously been provided with opportunities to repay any debt prior to this action being taken. There are several of the listed practices where we have concern and believe would cause an additional burden to us. They are outlined and discussed below.

- Provide the consumer with information about what types of federal benefit funds are exempt to aid the consumer in asserting federal protections. We believe the respective agencies providing the benefits are in the best position to provide this information; therefore we believe this would be burdensome and do not support this being defined as a best practice.
- Promptly determine, as feasible, if an account contains only exempt federal benefit funds. Members should be aware of this at the time they receive these benefits; in addition, usually the garnishment documents we receive have a statement that the member should notify us or the garnishee if they are receiving such funds. Further, funds are deposited into members' accounts a variety of ways, from checks to electronic transfers. It would be burdensome to analyze every account to determine which or all of these deposits consist of exempt funds.
- Notify the creditor, collection agent, or relevant state court that the account contains exempt funds in cases in which the financial institution is aware that the account contains exempt funds. We believe this should be the responsibility of the member, not the financial institution.
- Offer consumer segregated accounts that contain only federal benefit funds without commingling of other funds. While this is a possibility, we've found many of our members prefer their deposits consolidated into one account rather than separate accounts. In addition, we are concerned whether this would shift additional liability to us if funds are inadvertently paid out, or transferred to other accounts not designated for federal benefit funds.

Should you have any questions about our comments, please feel free to contact me. Again, we appreciate the opportunity to share our thoughts and concerns with the proposed guidance.

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