



November 27, 2007

Via electronic delivery

Ms. Jennifer J. Johnson
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, D. C. 20551
Attn: Docket No. OP-1294

**Re: Proposed Guidance about Garnishments of Exempt Federal Benefit Funds,
Docket No. OP-1294**

Regions Financial Corporation¹ welcomes the opportunity to comment on the interagency (including the Federal Reserve System) proposed guidance on the garnishment of exempt federal benefit funds. Regions supports the goals of the guidance that seek to minimize the hardship on beneficiaries who face garnishment orders. Although the guidance prudently raises key ideas, it does not offer the proper solutions to solve a complex matter in which banks are ensnared improperly in disputes between creditors and debtors. The matter requires further discussion among regulators and the federal agencies in order to protect these benefits from debt collection. We look forward to the opportunity to participate in those discussions.

¹ Regions Financial Corporation is a member of the S&P 100 Index and Forbes Magazine's "Platinum 400" list of America's best big companies. With \$138 billion in assets, Regions is one of the nation's largest full-service providers of consumer and commercial banking, trust, securities brokerage, mortgage and insurance products and services. Regions serves customers in 16 states across the South, Midwest and Texas, and through its subsidiary, Regions Bank, operates more than 2,000 AmSouth and Regions banking offices and nearly 2,600 ATMs. Its investment and securities brokerage, trust and asset management division, Morgan Keegan & Company Inc., provides services from over 400 offices. Additional information about Regions and its full line of products and services can be found at www.regions.com.

General Observations

Regions supports efforts to lessen the financial impact of garnishment on customers with accounts that contain exempt benefits. However, banks are currently unable to serve as gatekeepers for the protection of federal benefit funds. First, the guidance assumes that banks can determine that an account contains federal benefits for the intended beneficiary and can isolate exempt funds from other deposits into an account. Moreover, banks are subject to specific state garnishment laws that make them liable if they do not provide the money requested in the order. The bank does not have discretion in responding to a garnishment order.

Benefit recipients should know their rights about the exemptions and be given the best opportunity to protect those benefits, particularly if they are a person's sole or major source of income. An effective solution would better inform beneficiaries of their rights and clarify banks' actions under the law. Timely notification to the customer would help them to assert their rights to the creditor. The impact on consumers would be limited however because more effective communication would not affect current state laws that require the accounts to be frozen. That would require states to change their laws or a single federal law to supersede them. Even so, vexing questions would remain, because banks are not in the best position to identify and protect exempt funds from garnishment.

Considering the current banking and legal environment, Regions recommends that the Federal Reserve consider the following points about the limitations of the bank's ability to identify exempt funds as well as the restraints imposed by state garnishment laws before issuing any formal guidance or rules.

Limitations of Bank-centered Solutions

The proposed guidance assumes that the electronic nature of the direct deposit system makes it easier for banks to identify and isolate exempt deposits and protect them from garnishment.² This is not the case. The Treasury Department's electronic deposit rules, for example, do not require that the benefits be deposited into the beneficiary's account.³ At Regions the incoming benefits are identified by account number not the beneficiary's Social Security Number. Beyond the fact that federal rules don't mandate deposits into a beneficiary's account, the majority of exempt funds at Regions are deposited into jointly-held accounts, where the balance is legally owned by multiple customers. This further complicates any attempt to trace the source of funds in response to a garnishment order against a particular customer.

² Prior federal law encouraged the electronic direct deposit of federal payments. A recent Treasury study found that nearly three-fourths of federal benefits are deposited that way.

³ For Treasury's Financial Management Service guidelines, see <http://www.fms.treas.gov/greenbook/index.html>

Even definitive answers to these deposit and account issues will not clarify the matter from a bank's perspective because exempt federal benefits may be mixed, or "commingled," in an account with other non-exempt deposits. It is not feasible to trace which deposits, exempt or non-exempt, have been spent if an account is active. In fact, a majority of all Regions accounts that have Social Security deposits have other deposits, too. Moreover, these federal benefits are only identifiable to a bank if they were received through an electronic deposit from the federal agency. A bank cannot determine if they are exempt benefits if a customer deposits a check or transfers the money from a different account.

On its website, the Social Security Administration notes that it ceases to protect benefits once it pays the beneficiary. Once paid, it notes that the benefits remain protected "as long as they are identifiable as Social Security benefits using normal banking practices." The SSA makes one limited attempt to define this vague concept, adding that this "normal banking" protection includes an account in which "only Social Security benefits are deposited." A bank, however, cannot exclude non-Social Security deposits, so this is not a distinction under which a bank can operate, according to current rules.

Finally, and all technical limitations aside, the exemption of federal benefits is not absolute. There are exceptions to the broad exemptions, including orders related to the payment of alimony or child support, and banks do not always know the reason for the garnishment.

Adequate Notice for Federal Beneficiaries

Any move to significantly alter current garnishment practices (such as allowing depositors access to exempt funds during garnishment proceedings) would require a law from Congress that would preempt existing state laws. The best solution would remove banks from the center of this creditor-debtor struggle. Adequate, informative notice should be delivered before a garnishment is issued, either by the creditor or the court. Further, only a new national law could effectively address questions about freezes and it would have to provide a safe harbor to allow banks to avoid liability if they did not freeze or turn over potentially exempt funds to satisfy a garnishment order.

If Congress does not pass a law clarifying the broad exemption of federal benefits, banking regulators could take steps to improve notice to people whose accounts have been garnished. Regulators could create a standard federal form that lists the exemptions (as well as the exceptions) from garnishment for certain federal benefits, which banks could send when they receive an order. Banks should not have to send their own letters to account holders because this could be interpreted as the banks' providing legal advice to a depositor. While a standard federal form would not keep an account from being frozen, it would allow the customer to claim the exemption to the creditor or appropriate

state court or agency.⁴ This could lead the court or agency to lift the order sooner, allowing the customer quicker access to their account.

Regions understands that a garnishment can have a significant financial impact on a customer. As a creditor, Regions' policy is to not collect debts owed to it by bank customers from accounts that have received exempt deposits. Regions believes that federal beneficiaries should be adequately informed of their rights to challenge a garnishment order. Under existing state laws, garnishment leads to the freezing of an account and that may result in assessment of other banking fees. The garnishment fee that the bank charges the account-holder goes to pay for the costs of responding to the order, including a legal filing fee. In instances in which the bank freezes exempt funds to satisfy a garnishment order, the bank's policy is to waive the NSF fees it charged the customer.

Comments on Recommended Practices

Regions is concerned that the characterization of the interagency proposed guidance on the garnishment of exempt federal benefit funds represents "best practices." In contrast to the assumptions of the guidance, the bank does not have the means to automatically identify and trace benefit funds, nor is it best equipped to determine if deposits are exempt from garnishment. Better notification — from either the court or the creditor — would help to give beneficiaries a clear understanding of their rights and a chance to exclude the federal benefits from garnishment. The proposal's possible enactment not only creates unrealistic expectations of financial institutions but is an impractical and inappropriate imposition of legal responsibility for financial institutions. Further discussion is needed to develop the best possible solutions.

Regions thanks you again for the chance to comment on this subject. If you have additional questions, please contact me at 205-264-5521.

Sincerely,

[Signed]

Chris Scribner
Vice President, Issues Management

⁴ Rules for Treasury-created Electronic Transfer Agreement accounts, designed to ensure that federal beneficiaries could open a low-cost account that allowed for electronic direct deposits, mandate that the bank send a form to account-holders when the account is garnished.