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Proposal: Proposed Guidance on Garnishment of Exempt Federal Benefit Funds

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Comments:

November 26, 2007 Ms. Jennifer J. Johnson, Secretary Board of Governors of the Federal Reserve System 29th Street and Constitution Ave, NW Washington, DC 20551 RE: Docket No. OP-1294 Dear Ms. Johnson: Thank you for giving us the opportunity to comment on the proposed guidance on Garnishment of Exempt Federal Benefit Funds. 1st Source Bank is a bank with \$4.4 billion in assets located in northern Indiana and southwest Michigan. 1st Source Bank respects any court order received and will place a hold on funds, as directed, in the affected account(s). Please keep in mind that the bank is rarely a party to the action resulting in a garnishment order. The dispute is between the claimant, garnishee defendant and the court. Unfortunately, the bank becomes involved since the money is located at the bank. In response to the questions included in the proposal, we submit the following: 1. Are there practices that would enable an institution to avoid freezing funds altogether by determining at the time of receipt of a garnishment order that the funds are federally protected and not subject to an exception? 1st Source would have to analyze and monitor the accounts subject to the garnishment order to verify if the account receives any type of protected federal benefit funding and whether the account receives deposit funding from other sources. We feel that is not the bank's job and places an undue burden on the bank. 2. Are there other permissible practices that would better serve the interest of consumers who have accounts containing federal benefit payments? Are there ways to provide consumers with reasonable access to their funds during the garnishment process? The bank is required to freeze funds once we receive a garnishment order. Any attempt to segregate and allocate dollars within an account based on federal protections of some deposits would prove to be extremely difficult at best and could result in challenges and possibly involve the bank in litigation if multiple parties are competing to secure payment from the garnishee defendant. 3. Are customers adequately informed of their rights when a creditor attempts to garnish their

funds? What could be done to provide consumers with better information? It is our practice to notify the customer as instructed when we receive a court order. It is not the banks responsibility to provide legal counseling or advice to inform the customer of their rights regarding a court order for garnishment. 4. Institutions often charge customers a fee for freezing an account. How do these fees compare to those charged separately when an account holds insufficient funds to cover a check presented for payment? Are there operational justifications for both types of fees to be assessed? Our practice is to charge a processing fee for garnishment orders however, we are not always able to collect the fee due to the lack of funds. The fee collected (if any) helps to cover or defray the additional time and paperwork that we complete on the account. We feel that by requiring the bank to police accounts to determine if federal protected funds are part of the account when garnishment notices are received will place an undue burden on the bank. Thank you for the opportunity to provide comments on this proposal. If you have questions, please contact me at (574) 235-2857.
Yours truly, 1ST SOURCE BANK Brian Johnston Vice President Deposit Operations