

November 23, 2007

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

Office of the Comptroller
Of the Currency
250 E Street, SW
Mail Stop 1-5
Washington, DC 20219
Attn: ID OCC-2007-0015

Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Attn: Garnishment Statement

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attn: OTS-2007-0018

Re: Proposed Guidance on Garnishment of Exempt Federal Benefit Funds

Federal Banking Regulators:

First Mariner Bank is a FDIC insured Financial Institution organized under the laws of the State of Maryland and we appreciate the opportunity to comment on the Proposed Guidance for the Garnishment of Exempted Federal Benefit Funds.

Our response, which reflects the views of our Operations and Legal Department, is outlined in the attached addendum. First Mariner Bank supports every attempt to protect the rights of our customers and improve the efficiency of the United States legal system.

The Maryland Code and Rules of Civil Procedure provide the set of laws, which Maryland Financial Institutions must adhere to when a writ of garnishment is issued for one of their customers. In our opinion, the best way to reduce the hardships of the garnishment process on the consumer is through the legislative and judicial branches of our government. Financial institutions are not qualified to make legal determinations regarding our customers that are normally reserved for courts.

We hope that our comments are beneficial in the construction and implementation of the Guidance on Garnishment of Exempt Federal Benefit Funds.

Sincerely,

Joseph F. Howard
Deputy Corporate Counsel
First Mariner Bank

Addendum on Garnishment of Exempt Federal Benefit Funds

<p>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 funds are federally protected and not subject to an exception?</p>	<p>This would be a complicated manual procedure that presents operations problems due to the many existing variables. Variables include the length of the account history, the amount of funds, source of funds and number of accounts, which must be considered. Financial institutions should not be forced to make legal determinations regarding customer funds. Complicated fund determinations will require institutions to make discretionary decisions, which could result in liability. The best way to remedy this problem is through the court system and not the banks.</p>
<ol style="list-style-type: none"> 1. Are there other permissible practices that would better serve the interests of consumers who have accounts containing federal benefits? 2. Are there ways to provide consumers with reasonable access to their funds during the garnishment process? 	<ol style="list-style-type: none"> 1. If consumers are informed by source of the federal benefits that the benefits are exempt and should be held in a separate account, consumers could declare this to their financial institution when the account is opened or when they begin receiving the benefits. 2. Under Maryland law, writs of garnishment are served on the garnishee and direct them to hold the property of the judgment debtor. The garnishee must respond within 30 days. In order to provide debtors with continued access to their funds, courts could order the garnishee to transfer exempt funds into a separate accessible holding account.
<ol style="list-style-type: none"> 1. Are customers adequately informed of their rights when a creditor attempts to garnish their funds? 	<ol style="list-style-type: none"> 1. The Maryland rules require creditors to obtain issuance of a writ of garnishment, which is mailed to the last known address of the Debtor and served on the garnishee. The writ contains notice of the right to contest the garnishment and states that federal and state exemptions may be available.

<p>2. What could be done to provide consumers with better information?</p>	<p>2. Federal Benefit providers are in the best position to educate consumers. Writs of garnishment could also contain more detail regarding exemptions and creditors should be required to obtain personal service upon debtors instead of mailing the writ to their last known address.</p>
<p>1. Institutions often charge customers a fee for freezing an account. How do these fees compare to those charged separately when an account hold insufficient funds to cover a check presented for payment?</p> <p>2. Are there operational justifications for both types of fees to be assessed?</p>	<p>1. The one time attachment/garnishment fee charged to the consumer covers the research, procedures and response the bank is required to perform. Insufficient fund charges apply per item.</p> <p>2. The operational process needed to complete the overcharge or garnishment justifies both fees.</p>