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September 27, 2007

Re: Comments – **Proposed Guidance on Garnishment of Exempt Federal Benefits**
72 Fed. Reg. 55273 (Sept. 28, 2007)

Office of the Comptroller of the Currency
Docket ID OCC-2007-0015

Federal Reserve System
Docket No. OP-1294

Federal Deposit Insurance Corporation

Department of the Treasury

Office of Thrift Supervision
ID-OTS-2007-0018

National Credit Union Administration

The National Senior Citizens Law Center (NSCLC) is dedicated to securing economic and health security for older Americans. Since the organization's founding in 1972, the Social Security and Supplemental Security Income (SSI) programs have been a major focus of our work. This includes advocacy for policies to ensure adequate access to these programs as well as advocacy for effective policies to prevent creditors and others from taking Social Security and SSI benefits away from the vulnerable beneficiaries of these programs.

We support the decision to address the important issue of garnishment of exempt federal benefit funds.[1] However, we believe there is an urgent need to go beyond this narrow focus and to include the increasing efforts of financial institutions to seize exempt funds including Social Security and SSI benefits by way of setoff or otherwise. We also believe that what is required are mandatory directives and not just suggested best practices.

This broader issue is one which has taken on greater importance in light of 1) the aging of our nation's population, 2) the likelihood of increased reliance on Social

[1] The National Senior Citizens Law Center has signed on to the comments submitted on this date by the National Consumer Law Center (NCLC) on behalf of NSCLC and a number of other organizations. These comments are intended simply to supplement the comments submitted by NCLC.

Security and SSI benefits by older Americans in light of the demise of defined benefit pensions together with inadequate savings on the part of the baby boom generation, and 3) the growing attraction of financial institutions to easy profits with little risk by seizing funds from the accounts of Social Security and SSI beneficiaries.

It is important to remember that today over 80% of Social Security beneficiaries receive their monthly benefits by direct deposit into their bank accounts. This of course means that the bank or other financial institution knows the source of these funds[2] and can readily determine whether they are exempt from garnishment. It also means the bank knows when and how much money is coming into the account on a regular basis. As a result, we see, with increasing frequency, situations where the bank provides a debit card and encourages the account holder to overdraw the account, then assesses high overdraft fees and then pays itself the fees and the amount of the overdraft from the next month's Social Security or SSI benefit. Those most often affected by this practice tend to be the most vulnerable of Social Security beneficiaries who generally have nothing to fall back on. This results in a significant distortion of critical benefit programs and converts them into government guaranteed loan programs at the expense of the vulnerable individuals Congress intended to help. All of this is accomplished at very low cost to the bank since all transactions are generally electronic and at virtually no risk since the bank is secure in the knowledge that the next month's benefit deposit will arrive on schedule.

We urge the regulators to seriously consider the extension of this Proposed Guidance to cover this abuse and to include mandatory directives to protect exempt funds from creditors and from the financial institutions that are the custodians of those funds.

Yours truly,

Gerald A. McIntyre

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[2] Periodic bank statements often indicate the specific source of these directly deposited funds, even distinguishing between Social Security and SSI.