



235 North Second Street
Harrisburg, PA 17101

Via electronic delivery

November 27, 2007

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552

Attention: ID OTS-2007-0018

Re: Proposed Guidance on Garnishment of Exempt Federal Benefit Funds

Ladies and Gentlemen:

Thank you for giving us this opportunity to comment on your proposed guidance. We will begin by answering the four specific questions asked in your proposal. Then we will provide specific comment on the difficulties encountered by "mixed funds" accounts and maintaining dual accounts for exempt funds and non-exempt funds. Following these specific comments are our recommendations to improve the complicated compliance required to determine exempt funds in the garnishment process.

- 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?*

Answer: Frozen funds could be removed from the account and credited to a GL account. The customer's account would then remain available for use. There is no way to avoid freezing funds altogether, as these exemptions need to be applied for in some cases. The laws vary from state to state also, and in some cases forms have to be filled out and submitted before an exemption is even considered.

- 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?*

Answer: As stated in #1, frozen funds could be removed from the garnished account and credited to a GL account. The remainder of the funds in the customer's account, if any, would then remain available for use. We do not know of any way to better serve the interests of the consumer. We are currently facing challenges determining how to handle "mixed funds" situations in Pennsylvania due to a new state statute. The overlap of states and federal exemption guidelines is making it increasingly difficult to make sure that the interests of the Bank are also protected.

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?*

Answer: Customers are notified of their rights in the Garnishment Order itself. Most Garnishment Orders do contain information about what exemptions are available, and some Garnishment Orders even contain an exemption claim form that needs to be submitted to the Court for approval. We have considered mailing a separate notification to the customer, giving them more information on the federal and state exemption policies. However, because of the complexity of every state's exemption policy and resulting legal obligations, we decided not to provide additional notice. We believe that it is important to recognize that the Bank, as garnishee, is merely a stakeholder, indifferent between the plaintiff and defendant in the underlying legal action, and must not take on, intentionally or unintentionally, the position of advisor.

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?*

Answer: We charge a flat fee for any garnishment that we process. It is approximately 2-½ times the fee for insufficient funds. Processing garnishments is much more labor intensive than processing over-drafts. In garnishment processing, our employee interacts with third parties, is responsible to respond to all garnishments, has to make a dollar determination with regard to exempt funds and has to manually process the garnishment amount. Processing over-drafts is a much more automated process.

The proposal to offer segregated accounts for federal benefit funds will not be in the best interests of most customers since comparatively few customers ever have funds garnished. Customers would need to look after two accounts and pay account fees on both. The biggest problem that the proposed guidelines do not address is how to determine the attachable amounts on commingled funds. The largest impact on our processing department will be on the amount of time it will take to notify, assess "attachability" and process all garnishments under the new guidelines.

We recommend the development of a single set of federal guidelines on this matter rather than the current situation of federal and state guidelines which are not consistent from state to state. A flat dollar amount exemption or an account exemption or a federal definition of exempt funds could be the type of measurements that can be used in all states. We recommend that any definition of “exempt funds” include a time limit. For example, “Exempt funds deposited in the past 60 days are not subject to garnishment.”

If you would like to discuss any of these issues and recommendations further, please contact us.

Very truly yours,

Ron Guss
Vice President and Compliance Officer
Legal/Compliance Department

Susan Davison
Department Manager
Court Ordered Processing