Date: Thursday, April 10, 2014

From: Denyette DePierro, Senior Counsel, Office of Regulatory Policy

Re: Garnishment Final Rule: Response to Garnishment Order from State, State Agency, or State Municipality, or State Court.

Q.2. How should a financial institution respond to a garnishment order to freeze the assets in an account? How should a financial institution respond in the event law enforcement serves an order on a financial institution to demanding an immediate freeze the on all or some assets in an account, such as a temporary restraining order, a temporary protective order, or a preliminary injunction (and the order is not accompanied by a Notice of Right to Garnish Federal Benefits)?

A.

The Agencies under the final rule have expanded the definition of the term “garnishment order” to include a writ, order, notice, summons, judgment, levy or similar written instruction issued by (i) a court; or (ii) by a state or state agency or a municipality or a municipal agency; or (iii) by a state child support enforcement agency, to freeze the assets in an account. This expansion of garnishment orders covered by the final rule will result in the following actions by a financial institution:

- The financial institution has up to two business days to conduct an account review to identify protected benefit payments.
- During this account review, the account holder enjoys unimpeded access to the funds in the account.
- If the financial institution identifies a protected amount, that protected amount will not be delivered by the financial institution under the garnishment order.
In the event state law grants a greater protection to certain federal benefit payments covered under the final rule, such as social security payments, state law governs.

Further, in the event the financial institution garnishes funds in an account in response to the garnishment order to freeze the assets in an account, the institution must not continually garnish amounts deposited or credited to the account following the date of the account review. The financial institution must not take any action to freeze any funds subsequently deposited or credited, unless the institution is served with new or different garnishment order consistent with the requirements of the final rule.

The Fiscal Management Service (FMS) of the U.S. Treasury has created a summary of the rule for banks to distribute to State law enforcement in the event a garnishment order or levy is served on the bank branch and demand is made for immediate payment. The FMS summary for State Law Enforcement can be downloaded from the FMS webpage at:


or the ABA Garnishment page at