

SUPPORTING STATEMENT
Notice to Account Owner and Record Retention
OMB Control No.

A. JUSTIFICATION

1. Circumstances and Need

The Agencies are publishing a regulation to implement statutory restrictions on the garnishment of Federal benefit payments. Social Security benefits, Supplemental Security Income benefits, VA benefits, Federal Railroad retirement benefits, Civil Service Retirement System and Federal Employee Retirement System benefits are exempt under Federal Law from garnishment orders. The Agencies are proposing this new regulation to give force and effect to the Federal anti-garnishment statutes. The rule is designed to address the hardships that recipients of federal benefit payments are encountering when a financial institution places a freeze on an account containing exempt Federal benefit funds, and the difficulties that financial institutions have in determining whether funds deposited into an account are exempt from garnishment. As discussed above, the primary goals of the proposed rule are (1) to ensure that benefit recipients have automatic and unqualified access to exempt funds while garnishment orders are complied with, adjudicated or otherwise resolved; (2) to protect financial institutions from liability when, having received a garnishment order for an account receiving Federal benefit payments, they allow the account holder access to exempt funds in the account; and (3) to establish straightforward, uniform, cost effective procedures addressing the extent to which financial institutions may, pursuant to garnishment orders, freeze or seize funds in accounts that contain Federal benefits.

The rule requires a financial institution to review the account, to determine if any exempt benefit payments have been directly deposited within the 60 calendar days prior to the receipt of the garnishment order, and, if so, requires the financial institution to ensure that the account holder has access to an amount equal to the sum of such exempt payments (the “protected amount”). Once the account review is completed, the financial institution must notify the accountholder of the receipt of the garnishment order and provide certain additional information. In addition, a financial institution must maintain certain records of account activity and actions taken in response to garnishment orders sufficient to demonstrate compliance with the rule.

2. Use of Information Collected

Financial institutions are required to issue a notice to the account holder disclosing facts and information about the garnishment order. The information in the notice ensures that the accountholder is aware of the garnishment order, provides information on the amount of lifeline funds available and ensures that the benefit recipient is aware of any rights to challenge the garnishment order. In addition, contact information for the court, the creditor, and the financial institution is made available so that the account holder can easily and quickly obtain additional information.

Financial institutions must maintain records of account activity and actions taken in handling the garnishment orders sufficient to demonstrate compliance with the rule, which will be enforced by Federal banking regulators.

3. Use of Technology to Reduce Burden

There are two information collections: 1) a notice from a financial institution to its accountholder and, 2) internal financial institution records of account activity and actions taken in response to the receipt of the garnishment order. In order to reduce any burden, a model notice is provided in an appendix to the rule. Financial institutions are not required to use the model notice, but those that do so would be deemed in compliance with the notice content of the rule. Institutions are not prohibited from using any technology that permits review of the account, identification of exempt federal benefit payments, or record keeping.

4. Efforts to Identify Duplication

These information collections are not duplicative within the meaning of the PRA and OMB regulations. Each collection is unique and pertains only to the recipient of an exempt federal benefit payment directly deposited to an account on which a specific garnishment order is served.

5. Minimizing the Burden on Small Banks

In order to 1) ensure that all benefit recipients have automatic and unqualified access to a certain amount of lifeline funds while garnishment orders are complied with, adjudicated or otherwise resolved, and 2) establish simple procedures that apply nationwide, the proposed regulation would affect all financial institutions regardless of size. We have provided in the proposed rule a model notice to minimize any burden on a financial institution that might arise because of the account holder notification requirement. Using the model notice is not required by the rule, but those institutions that use the model notice would be deemed in compliance with the notice content of the rule. In addition, the model notice is formatted so that the detail information for each specific garnishment order and account holder can be quickly and easily inserted into the text of the notice, thereby requiring only minimal effort and time.

The record keeping requirement of actions taken as a result of the receipt of a garnishment can be accomplished electronically by using a simple naming convention of the financial institution's choice and should not be a function beyond customary business practices already in place.

The Agencies believe that there will be no undue burden placed on small institutions as a result of the notification requirement or because of the record retention requirement. The Agencies believe that financial institutions will benefit from the clarity and uniformity the proposed rule will bring to the handling of garnishment orders, and from the safe harbor

protections against liability. In addition, the rule should result in fewer customer service issues arising from account freezes and garnishment orders generally.

6. Consequences of Less Frequent Collections

The notice to the account holder is sent within two business days of the receipt of the garnishment order by the financial institution to provide the account holder with notification of important financial information, rights and protections, and contact information. The notice requirement is a one-time requirement.

The record keeping requirement must be sufficient to demonstrate compliance with the proposed rule. A copy of the notice can be saved electronically at the completion of the notice production and should be easily retrievable.

7. Special Circumstances

The notice requirement is a disclosure and not a collection of information. Therefore, no special circumstances are being requested.

8. Consultation with Persons Outside the Agency

Treasury, on behalf of the Agencies, has worked over the past two years with major trade associations and various federal regulators to devise a rule that will minimize the hardship encountered by Federal benefits funds recipients whose bank accounts are frozen by a financial institution pursuant to a state garnishment order while at the same time protects financial institutions that follow the specified procedures.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality

Not applicable.

11. Questions of a Sensitive Nature

No questions of a sensitive nature are involved.

12. Estimates of Annualized Hour Burden and Associated Cost

The burden estimate for the notice and record keeping requirements are: 125,000 total burden hours. This estimate is based on 10 million garnishments and assumes that 5% of the recipients have accounts into which exempt benefit payments have been directly deposited. Further, we are assuming that the time needed to review the garnishment, complete the account

review to determine the amount of exempt funds that have been directly deposited, produce a notice to the account holder, and save the notice electronically for retrieval in the future if necessary is 15 minutes.

10,000,000 Garnishments x 0.05 = 500,000 Respondents

500,000 x 15 Minutes / 60 = **125,000 Hours**

The agencies do not have complete data at this time and therefore, as part of the rulemaking process, have requested comments on any costs, compliance requirements, or changes to operating procedures arising from the rulemaking.

13. Capital/Start-up and Operation/Maintenance Costs

All financial institutions should be able to use readily available equipment to comply with the notice and record keeping requirements. The model notice can be produced using existing word processing software and equipment. Any cost would be a part of usual and customary business practices.

Because the agencies do not have specific cost information on capital/start-up and operation/maintenance costs, the agencies are specifically requesting estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information as part of the rule making process.

14. Annualized cost to the Federal Government

Not applicable.

15. Reason for Change in Burden

Not applicable.

16. Publication

The notice requirement is a disclosure from financial institutions to account holders. The agencies are not collecting data; therefore, there is no information to publish and no plans to publish any data for statistical or other purposes.

17. Display of Expiration Dates

Not applicable.

18. Exceptions to Certification

Not applicable.

B. STATISTICAL METHODS

Not applicable.