SOCIAL SECURITY

MEMORANDUM

Date: May 6, 2010 Refer To:

To: The Commissioner

From: Inspector General

Subject: Old-Age, Survivors and Disability Insurance Benefit Payments Sent to Non-Bank Financial Service Providers (A-06-09-29090)

The attached final report presents the results of our review. Our objectives were to (1) determine the extent to which non-bank financial service providers (FSP) obtained direct access to Old-Age, Survivors and Disability Insurance benefit payments; (2) identify demographic information of the affected individuals; and (3) determine what steps the Social Security Administration had taken to prevent the transfer or assignment of these payments to non-bank FSPs.

If you wish to discuss the final report, please call me or have your staff contact Steven L. Schaeffer, Assistant Inspector General for Audit, at (410) 965-9700.

Patrick P. O'Carroll, Jr.

Attachment

QUICK RESPONSE EVALUATION

Old-Age, Survivors and Disability Insurance Benefit Payments Sent to Non-Bank Financial Service Providers

A-06-09-29090

May 2010

Mission

By conducting independent and objective audits, evaluations and investigations, we inspire public confidence in the integrity and security of SSA's programs and operations and protect them against fraud, waste and abuse. We provide timely, useful and reliable information and advice to Administration officials, Congress and the public.

Authority

The Inspector General Act created independent audit and investigative units, called the Office of Inspector General (OIG). The mission of the OIG, as spelled out in the Act, is to:

- Conduct and supervise independent and objective audits and investigations relating to agency programs and operations.
- Promote economy, effectiveness, and efficiency within the agency.
- Prevent and detect fraud, waste, and abuse in agency programs and operations.
- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.
- Keep the agency head and the Congress fully and currently informed of problems in agency programs and operations.

To ensure objectivity, the IG Act empowers the IG with:

- Independence to determine what reviews to perform.
- Access to all information necessary for the reviews.
- Authority to publish findings and recommendations based on the reviews.

Vision

We strive for continual improvement in SSA's programs, operations and management by proactively seeking new ways to prevent and deter fraud, waste and abuse. We commit to integrity and excellence by supporting an environment that provides a valuable public service while encouraging employee development and retention and fostering diversity and innovation.

Background

OBJECTIVE

Our objectives were to (1) determine the extent to which non-bank financial service providers (FSP) obtained direct access to Old-Age, Survivors and Disability Insurance (OASDI) benefit payments; (2) identify demographic information of the affected individuals; and (3) determine what steps the Social Security Administration (SSA) had taken to prevent the transfer or assignment of these payments to non-bank FSPs.

BACKGROUND

In Fiscal Year 2008, in response to congressional concerns about media reports highlighting instances where SSA payments were sent to payday lenders, we performed a limited review of Supplemental Security Income (SSI) payments. We found that the SSI payments of at least 63,065 individuals were deposited into accounts established and controlled by non-bank FSPs at 5 banks known to have business relationships with non-bank FSPs. We summarized the results of our review in a June 2008 *Congressional Response Report: Social Security Administration Payments Sent to Payday Loan Companies* (A-06-08-28112). We initiated our current review to identify the number of OASDI beneficiaries who received their payments in accounts controlled by non-bank FSPs and to provide an update on steps taken to prevent the transfer or assignment of SSA payments to non-bank FSPs.

NON-BANK FINANCIAL SERVICE PROVIDERS

Non-bank FSPs include check-cashing businesses, currency exchanges, and loan companies. For a fee, these businesses provide customers various financial services including check printing, check cashing, cash advance/payday loans, money orders, bill paying, wire transfers, and/or foreign currency exchange. Through business relationships with traditional financial institutions, non-bank FSPs can offer direct deposit services to SSA beneficiaries. Non-bank FSPs can establish accounts at traditional financial institutions and use those accounts to receive SSA benefit payments. Unlike traditional bank accounts, the beneficiary does not have direct access to deposited funds. Instead, the financial institution makes the funds—less a transaction fee—available to the non-bank FSP for disbursement. The non-bank FSP then deducts additional fees for its services and makes the remaining balance available to the SSA beneficiary.

DIRECT DEPOSIT OF BENEFIT PAYMENTS

The *Debt Collection Improvement Act of 1996*[1] requires that most Federal payments be made by electronic funds transfer (EFT). Individuals can work with financial institutions to have their SSA payment electronically deposited into an account established at the financial institution. Automated Enrollment is a process where financial institutions send enrollment information through the Automated Clearing House directly to SSA. Once SSA is notified of the EFT request, payments are sent to the requested bank account.

ASSIGNMENT OF BENEFITS

Section 207 of the *Social Security Act* (42 U.S.C § 407) protects a beneficiary's right to receive benefit payments by prohibiting the transfer or assignment of benefits. SSA policy states that "Any arrangement in which the claimant shares control of the funds from his or her benefit with a person or entity that has an interest in charging or collecting money from the claimant is an assignment-like situation that violates SSA's policy."[2] Any request for direct deposit that assigns or transfers the right to future payments to someone other than the beneficiary constitutes an assignment of benefits.[3] When a request for direct deposit is made that raises a question about possible assignment of benefits, SSA policy requires that SSA obtain a written direct deposit sign-up form, verify there is no assignment, and verify the bank account is properly titled.[4] SSA acknowledged that electronic banking has increased the complexity of benefit delivery and presented challenges to ensuring beneficiaries retain control of benefit payments.

FDIC ACTIONS AT TWO BANKS

In February 2009, the Federal Deposit Insurance Corporation (FDIC) issued cease and desist orders[5] for two of the five banks included in our June 2008 review. Both orders cite unsafe or unsound banking practices related to either the bank's third-party relationships involving Social Security and other benefit payment programs, or businesses that provide short-term anticipation loans. Consistent with the findings in our June 2008 report, one order detailed the bank's relationship with a corporation that maintained contractual relationships with non-bank FSPs that solicited Social Security beneficiaries to direct deposit their benefits in accounts the corporation established through the bank.[6] The corporation commingled Social Security benefits in a master

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[1] Pub. L. No. 104-134 § 31001, 110 Stat. 1321-376 to 377.

[2] SSA, Program Operations Manual System (POMS), GN 02410.001.D.2, *Assignment of Benefits.*

[3] SSA, POMS, GN 02402.045.B, *Direct Deposit and Assignment of Benefits.*

[4] SSA, POMS, GN 02402.045.C.

[5] Order to Cease and Desist FDIC-08-308b and FDIC-08-408b.

[6] FDIC-08-408b.

account, charged beneficiaries fees, and provided beneficiaries with short-term loans. These short-term loans were recovered from their benefit payments and, sometimes, left beneficiaries without money, forcing them to secure additional loans. The FDIC found the bank provided inadequate oversight of the direct deposit program, failed to oversee the corporation's practices, and failed to ensure the corporation established proper safeguards related to the activities of the non-bank FSPs. The orders required that both banks cease and desist from further unsound banking practices and ordered the banks to take numerous corrective actions. However, the orders did not prohibit the non-bank FSPs' continued use of the banks' accounts to receive Social Security benefit payments via direct deposit.

Results of Review

Through the use of payment address changes or direct deposit, non-bank FSPs gained direct access to thousands of individuals' OASDI benefit payments.[7] We performed a limited review of OASDI payments electronically deposited into accounts at nine banks whose accounts were known to be used by non-bank FSPs to receive SSA payments.[8] As of October 2009, the OASDI payments of at least 35,705 individuals were deposited into accounts established and controlled by non-bank FSPs at 5 of these 9 banks.[9] Monthly SSA payments deposited into these accounts totaled approximately $25 million.

Bank Location	Number of OASDI Beneficiaries	Recipient Primary Locations
Louisville, KY	16,859	Nationwide
Chicago, IL	11,435	Upper Midwest
Elizabethtown, KY	3,544	South
Rosemont, IL	3,236	California
Stockton, CA	631	South/East

Analysis of demographic information for the 35,705 beneficiaries whose OASDI payments were sent to non-bank FSPs revealed the beneficiaries were predominantly minority and disabled—many suffering from various mental conditions. Approximately 57 percent of these beneficiaries had been diagnosed with a disability, compared with 14 percent of the general OASDI population. (We provide detailed demographic information on these beneficiaries on pages 5 and 6 of this report.)

In a small number of cases, SSA payment records reflected the non-bank FSPs' name and address—indicating SSA was aware payments were going to the non-bank FSPs. However, in most cases, SSA payment records did not directly indicate non-bank FSP involvement in the payment transaction. In these instances, it appeared beneficiaries or their representative payees entered into agreements with non-bank FSPs who, in turn, opened bank accounts on their behalf at traditional financial institutions with Department of the Treasury (Treasury) assigned routing numbers. Review of SSA payment records

[7] We did not identify the specific non-bank FSPs linked to these direct deposit accounts.

[8] We identified these nine banks either because (1) their bank routing number appeared on payment records of OASDI beneficiaries whose address reflected the business name of a non-bank FSP or (2) SSA identified the bank as the result of complaints received from beneficiaries. In no way do we imply that these are the only banks used by non-bank FSPs to receive SSA benefit payments.

[9] We identified four bank routing numbers used to receive payments by beneficiaries whose payment address included the name of a non-bank financial service provider ("in care of" address). However, officials at these four banks stated the bank could not differentiate accounts established by non-bank FSPs from traditional checking or savings accounts. We identified 420,518 beneficiaries receiving SSA payments via electronic deposit in accounts at these four banks.

with a direct deposit source code indicated approximately 95 percent of the electronic deposits was established via automated enrollment. Under the automated enrollment process, banks open an account and notify SSA that the beneficiary requested direct deposit to the account. Upon receipt of the notification, bank account information is added to the beneficiary's payment record, and subsequent payments are deposited into the requested bank account. However, unlike a traditional checking or savings account, beneficiaries do not have direct access to funds deposited into these accounts. Once the banks receive the deposits from Treasury, the funds—less a $2 or $3 transaction fee per individual—are consolidated into clearing accounts available for disbursement only by the non-bank FSPs. Once deposited, the funds are under the effective control of the non-bank FSP. Before disbursing funds to the beneficiaries, the non-bank FSPs deduct additional check printing fees, check cashing fees, loan principal/interest fees, and/or fees for any additional services provided to the recipient.

Consumers who use non-bank FSPs typically pay higher costs in the form of transaction fees for financial services than individuals with traditional banking relationships. Treasury research indicates Social Security beneficiaries pay an average of between $9 and $16 in fees just to cash their Government check at a non-bank FSP,[10] indicating the non-bank FSPs and their financial institution partners charge the 35,705 beneficiaries between $321,345 and $571,280 in monthly check cashing fees. These amounts are in addition to fees charged for other services (loan fees, money orders, etc.).

In most cases, it appeared SSA was not aware that OASDI payments were deposited into bank accounts controlled by non-bank FSPs. However, SSA did not make us aware of any action taken to prevent the transfer of payments to non-bank FSPs. SSA's policies continue to outline the steps necessary to send payments directly to non-bank FSPs.[11] On April 21, 2008, SSA published a notice in the Federal Register requesting public input regarding an anticipated change to an Agency payment procedure that permits benefit payments to be deposited into third-party "master" accounts when the third party maintains separate "sub" accounts for individual beneficiaries.[12] SSA anticipated a change to its procedures in light of concerns about how high-interest lenders used the master/sub-account procedure. However, as of the date of this report, SSA had not implemented any policy changes.

[10] Treasury Office of Public Affairs, Testimony from the Assistant Secretary for Financial Institutions, Treasury, before the Subcommittee on Financial Institutions and Consumer Credit of the Committee on Financial Services, U.S. House of Representatives, Press Release JS-503, page 2, June 26, 2003.

[11] SSA, POMS, GN 02402.030.B.4, *Acceptable Types of Financial Institutions and Accounts*.

[12] Federal Register Vol. 73, No. 77, Monday, April 21, 2008, page 21403.

DEMOGRAPHIC INFORMATION ON 35,705 BENEFICIARIES WHOSE PAYMENTS WERE SENT TO NON-BANK FSPS

Through analysis of SSA's records,[13] we identified demographic information on the 35,705 beneficiaries whose OASDI payments were electronically deposited into bank accounts controlled by non-bank FSPs. Our analysis indicated the beneficiaries who received their OASDI payments through non-bank FSPs were composed primarily of individuals self-identified as minorities.[14] More than half the beneficiaries were diagnosed with some form of disability—many suffered from mental disabilities.

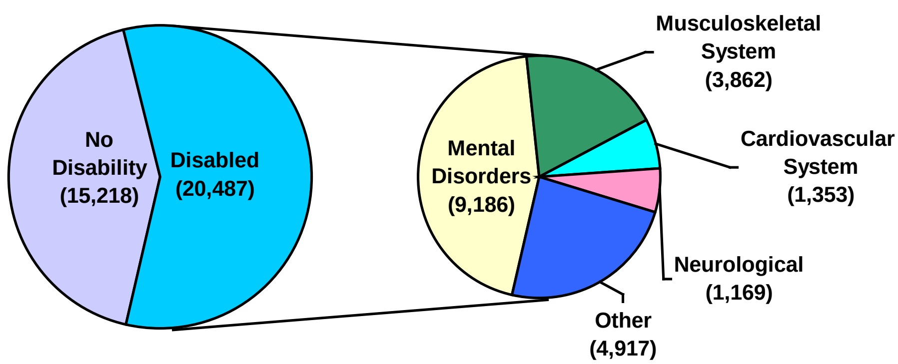
Composition by Race

Approximately 63 percent of the 35,705 OASDI beneficiaries whose benefit payments were deposited into accounts controlled by non-bank FSPs identified themselves as minorities—primarily black or Hispanic.

Physical/Mental Capacity

Approximately 57 percent of the OASDI beneficiaries had been diagnosed with a disability. Approximately 45 percent of the disabled beneficiaries suffered from some form of mental disorder.

Disabilities Diagnosed for Beneficiaries Whose Payments are Deposited into Accounts Controlled by Non-Bank FSPs



[13] We obtained race, gender, and date of birth information from SSA's Numident file—a database that contains personal information related to each Social Security number (SSN) issued by SSA. We obtained disability diagnosis information and state of residence from SSA's Master Beneficiary Record—a database that contains information used to administer the OASDI program.

[14] SSA accepts race and gender information provided by SSN applicants and records the information on the Numident file. We compiled the race and gender information that appeared in SSA's records for these 35,705 beneficiaries, but did not perform any tests to verify its accuracy.

State of Residence

A majority of the OASDI beneficiaries (68 percent) lived in one of five States.

State	Number of Individuals	Percent
Illinois	12,327	34.5
California	4,201	11.8
Georgia	3,197	9.0
New York	2,694	7.5
Pennsylvania	1,883	5.3
Other	11,403	31.9
Total	35,705	100.0

Age/Benefit Eligibility

The average age of the beneficiaries was 50. As of December 2009, the youngest beneficiary was 9 months old, while seven beneficiaries were at least 100 years old. Approximately 69 percent of the individuals received benefits based on their own earnings history (primary beneficiary). The other individuals were either auxiliary beneficiaries (children, spouses, widows, etc. who received benefits based on another wage earner's earnings history) or were dually entitled and received both primary and auxiliary benefits.

Age	Number of Beneficiaries
Under 18	4,998
18-61	17,211
Over 61	13,490
Unknown	6
Total	35,705

Eligibility	Number of Beneficiaries	Percent
Primary	24,611	68.9
Auxiliary	10,787	30.2
Dual	307	0.9
Total	35,705	100.0

REPRESENTATIVE PAYMENT

Some individuals cannot manage or direct the management of their finances because of their youth or mental/physical impairment. For such individuals, Congress provided for payment to be made through a representative payee who receives and manages the benefit payments for the beneficiary.[15] The decision to issue SSA payments through a representative payee is a serious one since it deprives the beneficiary of direct control over his/her finances and may affect the beneficiary's manner of living. Representative payees are expected to act in the claimant's best interest and ensure benefit payments are used first to meet the claimant's current needs. In recognition of the potential for

[15] The *Social Security Act* §§ 205(j)(1)(A) and 1631(a)(2)(A)(ii), 42 U.S.C. §§ 405(j)(1)(A) and 1383(a)(2)(A)(ii).

payee mishandling of benefits, Congress requires SSA to exercise care in selecting representative payees and monitoring their performance.[16]

However, we found that 7,768 (22 percent) of the beneficiaries whose OASDI payments were sent to non-bank FSPs had representative payees. Representative payees who direct or allow beneficiaries' OASDI payments to be directed to a check cashing business or payday lender raise doubts as to whether they serve the beneficiary's best interest and ensure SSA payments are used first to meet the beneficiary's needs. SSA staff noted that representative payees are often family members who, like the beneficiaries, may not have access to traditional banking institutions. As such, SSA does not prohibit representative payees from having beneficiary payments sent to non-bank FSPs.

STEPS TAKEN TO PREVENT TRANSFER OF PAYMENTS

Our June 2008 report highlighted inconsistencies in SSA's policies that prohibited direct issuance of benefit payments to non-bank FSPs but also provided specific instructions for directing benefit payment deposits to loan companies and check cashing facilities. We found, in most cases, SSA was not aware OASDI payments were deposited into accounts controlled by non-bank FSPs. However, we did not identify any action completed by SSA since our prior report to prevent the transfer of payments to non-bank FSPs. SSA officials stated they were taking steps to revise the policy that allows payments to be sent to non-bank FSPs. To this end, SSA stated it has:

- Drafted rules to prohibit direct deposit of beneficiary payments into non-bank FSP accounts and worked with Treasury to assist them in drafting a Notice of Proposed Rulemaking (NPRM) to revise the master/sub-account policy. The NPRM is in final clearance and is expected to be published soon. SSA expects this joint effort to end this questionable banking process.

- Drafted revisions to POMS sections affecting master/sub-account policy. The revisions will be released for review along with the publication of Treasury's NPRM.

- Worked with the FDIC to establish procedures for transitioning beneficiaries who have payments going to master/sub-accounts with check cashers to other payment arrangements. SSA also worked with one of the five banks included in the review to reduce and subsequently close all the non-bank FSP accounts.

SSA stated its involvement with the FDIC acting to close the non-bank FSP accounts validates its strategy of working with the regulatory agencies to address the issue. SSA also believes that coordinating its change in policy with Treasury and FDIC will further provide the regulatory authority to identify and prohibit payments to non-bank FSP accounts using a controlled approach that ensures no interruption of beneficiaries' payments.

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[16] SSA, POMS, GN 00501.005.C, *Overview of Representative Payment*.

Matters for Consideration

Non-bank FSPs obtained direct access to approximately $25 million in monthly OASDI payments to more than 35,000 beneficiaries through direct deposit into accounts established at five traditional banks. Most of the affected beneficiaries are disabled and from minority populations. We found that banks could not always distinguish between traditional consumer checking and savings accounts, and similar accounts opened by non-bank FSPs on behalf of Social Security beneficiaries. As a result, we could not determine the full magnitude of beneficiaries who received payments in accounts controlled by non-bank FSPs.

Approximately 22 percent of the cases where benefits were sent to accounts controlled by non-bank FSPs involved representative payees. We believe it would be reasonable for SSA to question the suitability of a representative payee who directs beneficiary payments to a non-bank FSP.[17]

While SSA's policies sanctioning issuance of benefit payments into accounts established and controlled by non-bank FSPs had not been changed since our June 2008 report, SSA officials stated the Agency is revising its policies. Allowing non-bank FSPs direct access to Social Security payments subjects a vulnerable population of individuals to high transaction fees and, potentially, to predatory payday loans.

[17] SSA officials stated they did not believe sending beneficiary payments to a non-bank FSP, in and of itself, warrants questioning the suitability of the representative payee. SSA stated that representative payees are often family members who, like the beneficiaries, may not have access to traditional banking institutions. Regardless, SSA believes that when Treasury publishes its new regulations, banks will be prevented from engaging in third party relationships with non-bank FSPs, effectively ending the questionable banking practices at issue.

Appendices

Acronyms

EFT	Electronic Funds Transfer
FDIC	Federal Deposit Insurance Corporation
FSP	Financial Service Provider
NPRM	Notice of Proposed Rulemaking
OASDI	Old-Age, Survivors and Disability Insurance
POMS	Program Operations Manual System
SSA	Social Security Administration
SSI	Supplemental Security Income
SSN	Social Security Number
Treasury	Department of the Treasury
U.S.C.	United States Code

Scope and Methodology

To accomplish our objectives, we:

- Reviewed applicable laws, regulations, and the Social Security Administration's (SSA) policies and procedures governing use of non-bank Financial Service Providers (FSP).
- Interviewed SSA and bank staff.
- Reviewed prior Office of the Inspector General reports.
- Reviewed Government Accountability Office reports and found none related directly to our objectives.
- We identified five bank routing numbers used by non-bank FSPs to receive OASDI payments. In October 2009, we identified 35,075 OASDI beneficiaries who received electronic deposits to accounts linked to the five routing numbers. We contacted representatives from the five banks and confirmed the accounts were not individual checking or savings accounts. The accounts were opened as a result of business arrangements between the bank and non-bank FSPs.
- Using SSA's Master Beneficiary and Numerical Identification Records, we identified pertinent demographic information (date of birth, gender, race, current address, disability diagnosis code, representative payee information, and direct deposit information) related to each of the 35,075 OASDI beneficiaries.

We performed our review between October 2009 and January 2010. We determined that the data used in this report were sufficiently reliable given the review objective and their intended use. The entities reviewed were the Offices of the Deputy Commissioners for Operations and Retirement and Disability Policy. We conducted our review in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspections*.

OIG Contacts and Staff Acknowledgments

OIG Contacts

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Acknowledgments

In addition to those named above:

Clara Soto, Senior Auditor

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Office of Audit

OA conducts financial and performance audits of the Social Security Administration's (SSA) programs and operations and makes recommendations to ensure program objectives are achieved effectively and efficiently. Financial audits assess whether SSA's financial statements fairly present SSA's financial position, results of operations, and cash flow. Performance audits review the economy, efficiency, and effectiveness of SSA's programs and operations. OA also conducts short-term management reviews and program evaluations on issues of concern to SSA, Congress, and the general public.

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OI conducts investigations related to fraud, waste, abuse, and mismanagement in SSA programs and operations. This includes wrongdoing by applicants, beneficiaries, contractors, third parties, or SSA employees performing their official duties. This office serves as liaison to the Department of Justice on all matters relating to the investigation of SSA programs and personnel. OI also conducts joint investigations with other Federal, State, and local law enforcement agencies.

Office of the Counsel to the Inspector General

OCIG provides independent legal advice and counsel to the IG on various matters, including statutes, regulations, legislation, and policy directives. OCIG also advises the IG on investigative procedures and techniques, as well as on legal implications and conclusions to be drawn from audit and investigative material. Also, OCIG administers the Civil Monetary Penalty program.

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OER manages OIG's external and public affairs programs, and serves as the principal advisor on news releases and in providing information to the various news reporting services. OER develops OIG's media and public information policies, directs OIG's external and public affairs programs, and serves as the primary contact for those seeking information about OIG. OER prepares OIG publications, speeches, and presentations to internal and external organizations, and responds to Congressional correspondence.

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