
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**THE SOCIAL SECURITY ADMINISTRATION'S
RISK OF MAKING PAYMENTS TO PERSONS
WHO COMMIT, THREATEN TO COMMIT,
OR SUPPORT TERRORISM**

September 2010

A-08-10-20131

AUDIT REPORT



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SOCIAL SECURITY

MEMORANDUM

Date: September 27, 2010 **Refer To:**

To: The Commissioner

From: Inspector General

Subject: The Social Security Administration's Risk of Making Payments to Persons Who Commit, Threaten to Commit, or Support Terrorism (A-08-10-20131)

OBJECTIVE

Our objective was to assess the Social Security Administration's (SSA) risk of making payments to individuals who commit, threaten to commit, or support terrorism.

BACKGROUND

In September 2001, President Bush signed Executive Order (EO) 13224, *Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*, giving the Government a means of disrupting the financial support network for terrorists and terrorist organizations. On December 18, 2002, the Department of the Treasury (Treasury) issued *Financial Manual*, Bulletin No. 2003-04, notifying Federal agencies of the implementation of EO 13224. The Bulletin states Federal agencies must not make payments or draw checks or warrants payable to an individual or organization listed on the Office of Foreign Assets Control's (OFAC) Website of persons who commit, threaten to commit, or support terrorism.¹

¹ OFAC, within Treasury, administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy, or economy of the United States.

In 2005, we reviewed the actions SSA had taken to ensure it was not making payments to individuals or organizations on OFAC's Website.² We determined that SSA had not taken all of the necessary steps to ensure it was not making such payments.

Specifically, SSA had not matched payment records for its Title II and XVI programs³ or its Third Party Payment System (TPPS)⁴ with OFAC's file. We concluded that, if SSA did not take steps to comply with EO 13224, the Agency would remain at risk of making payments to terrorists or terrorist organizations. We recommended that SSA coordinate with OFAC to ensure compliance with EO 13224. In its response, SSA stated it believed the Agency was fully complying with EO 13224 because it was taking all appropriate measures in its authority to carry out the provisions of this EO by precluding benefit payments to terrorists in certain situations authorized under the *Social Security Act*. SSA stated that neither EO 13224 nor the *Social Security Act* gives the Agency authority to withhold or stop the payment of Title II or XVI benefits simply because a person is identified on the OFAC list as a terrorist. While we acknowledged the steps SSA had taken to preclude payment to individuals who had violated criminal and immigration law, we stated the Agency had no assurance that these steps detect terrorists or terrorist organizations in OFAC's file.

To accomplish our objective, we interviewed SSA and Treasury officials. We also obtained OFAC's list of Specially Designated Nationals (SDN) as of March 2010.⁵ From this list, we performed limited testing to determine whether SSA had made payments to any individuals on OFAC's list of persons who commit, threaten to commit, or support terrorism. See Appendix B for additional information on our audit scope and methodology.

² *The Social Security Administration's Compliance with Presidential Executive Order 13224 Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism* (A-08-05-15093), September 2005.

³ SSA makes monthly payments to about 53 million individuals under the Old-Age, Survivors and Disability Insurance program (Title II) and 8 million individuals under the Supplemental Security Income program (Title XVI).

⁴ SSA uses TPPS to pay vendors for goods and services, reimburse employees, and provide emergency funds to beneficiaries.

⁵ OFAC publishes a list of individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country-specific. Collectively, such individuals and companies are called SDNs. Their assets are blocked, and U.S. persons are generally prohibited from dealing with them.

RESULTS OF REVIEW

Based on interviews with SSA and Treasury officials, we believe SSA remains at risk of making payments to individuals who commit, threaten to commit, or support terrorism. To comply with new rules initiated by OFAC to safeguard international direct deposits from terrorists, SSA worked with Treasury to facilitate screening of SSA recipients who live outside the United States and receive payment at a foreign financial institution. However, SSA does not screen other payments because it believes that neither EO 13224 nor the *Social Security Act* gives the Agency authority to withhold or stop benefit payments when a person is identified on the OFAC list as a terrorist. Additionally, the Agency believes it is taking all appropriate measures in its authority to carry out the provisions of EO 13224.

Notwithstanding SSA's position that an Executive Order does not take precedent over the *Social Security Act*, we believe all Federal agencies should take a risk-based approach to prevent issuing payments that could be used to fund terrorist activities. Therefore, we believe SSA should work with the Department of Justice (DoJ), Treasury, the Office of Management and Budget (OMB), and, if necessary, others to resolve any issues the Agency believes prevent it from screening payments to individuals identified on OFAC's list. Once resolved, SSA should develop a risk-based process to identify individuals on OFAC's list who apply for, or are receiving, SSA benefits and work with Treasury to determine whether payments should be blocked. For example, SSA could periodically review OFAC's file and flag individuals with valid Social Security numbers.

Although Treasury Screens Some SSA Payments, Most Are Unchecked

In September 2009, SSA began providing Treasury with identifying information to enable OFAC screening of SSA recipients who reside outside the United States⁶ and receive payment by direct deposit at a foreign financial institution.⁷ An official from SSA's Office of Financial Policy and Operations told us the Agency began providing Treasury with such information because of new rules governing international direct deposits.⁸ These rules were written to ensure that international transactions undergo the screening required by OFAC to fight terrorist financing and money laundering. According to this official, SSA is also working with Treasury to develop a similar process

⁶ SSA defines "living outside the United States" as not living in the 50 States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Mariana Islands or American Samoa (SSA Publication No. 05-10137 dated June 2009).

⁷ Treasury processes direct deposits to Canada, Mexico, and Panama—considered domestic Automated Clearing House (ACH) transactions—through its International Treasury Services (ITS). ITS forwards direct deposit information to the Federal Reserve Bank (FRB) of New York, which screens deposits against OFAC's terrorist list. Treasury sends all other direct deposits to Citibank, which screens deposits against OFAC's file. If the FRB or Citibank confirm a match, they are required to block the payment and notify OFAC and SSA.

⁸ The National Automated Clearing House Association (NACHA) -The Electronic Payments Association establishes uniform operating rules for the exchange of ACH payments.

to screen recipients who reside outside the United States and receive payment by direct deposit at a domestic financial institution. However, this official told us that Treasury had not decided whether it will screen these payments or request that SSA do so.

While Treasury's screening of international direct deposits reduces the Agency's risk of making payments to terrorists, most SSA payments remain unchecked. As shown in Table 1, SSA does not screen direct deposits to recipients living in the United States, those receiving payment by check, or payments made through its TPPS. These payments account for about 99 percent of the Agency's payments.

Table 1: SSA Payments Screened Against OFAC's File

Payments	OFAC Screening	No OFAC Screening
Title II		
Direct deposits to foreign addresses	X	
Direct deposits to U.S. addresses		X
Checks to foreign addresses		X
Checks to U.S. addresses		X
Title XVI		
Direct deposits to foreign addresses	X	
Direct deposits to U.S. addresses		X
Checks to foreign addresses		X
Checks to U.S. addresses		X
Third Party Payment System		X

Source: SSA and Treasury officials

SSA's Screening Policies and Procedures

An official from SSA's Office of the General Counsel told us the Agency had not screened payments other than international direct deposits because it believes it is in full compliance with EO 13224. That is, SSA believes it is taking all appropriate measures in its authority to carry out the provisions of this EO by precluding benefit payments to terrorists in certain situations authorized under the *Social Security Act*. Specifically, the *Social Security Act* generally precludes payment to prisoners, fugitive felons, and noncitizens living outside the United States or residing here illegally. In addition, SSA generally verifies the immigration status of all noncitizen applicants for benefits with the Department of Homeland Security. Furthermore, this official told us that neither EO 13224 nor the *Social Security Act* gives the Agency authority to withhold or stop the payment of Title II or XVI benefits simply because a person is identified on the OFAC list as a terrorist.

While we acknowledge the steps SSA has taken to verify the immigration status of noncitizens and preclude payments to those who have violated criminal and immigration law, SSA has minimal assurance that these steps prevent payments to terrorists and terrorist organizations. For example, we identified one individual in OFAC's file who was entitled to Title II spousal benefits but was not receiving payments because he had

not established lawful presence in the United States.⁹ However, this individual had two residences—one in the United States and one outside the country. If he did meet U.S. presence requirements, only direct deposit payments made to a foreign financial institution would be screened by Treasury. Payments made by check or direct deposit to a domestic financial institution would not be screened and could reach this individual. Given such risk and the potential expansion of OFAC screening (recipients who reside outside the United States and receive payment by direct deposit at a domestic financial institution), we believe it is important for SSA to work with DoJ, Treasury, OMB, and, if necessary, others to resolve any issues the Agency believes prevent it from screening payments to individuals identified on OFAC's list.

The Agency has taken steps to remedy similar situations. For example, under a September 2009 class action settlement agreement, SSA was required to pay some beneficiaries who previously had benefits suspended as fugitive felons.¹⁰ Because the settlement class definition did not exclude beneficiaries who were imprisoned, SSA did not have the authority to withhold retroactive payments due under the settlement. However, in December 2009, SSA's Commissioner sent Congress a legislative proposal to prohibit retroactive Title II and XVI benefit payments from being sent to prisoners. Subsequently, the President signed into law the *No Social Security Benefits for Prisoners Act of 2009* (Public Law 111-115), which prohibits retroactive payments to individuals during periods for which such individuals are prisoners, fugitive felons, or probation/parole violators.

We believe the Agency should, at a minimum, develop a risk-based process to identify individuals on OFAC's list who apply for, or are receiving, SSA benefits and work with Treasury to determine whether payments should be blocked. For example, SSA could flag Agency records to alert field office personnel that individuals in OFAC's file may not be eligible to receive Social Security benefits. SSA could periodically review OFAC's file and flag individuals with valid Social Security numbers. Based on our review of OFAC's file, we readily identified 16 individuals with valid Social Security numbers. We believe this information would be especially useful during the benefit application process to prevent payments to known terrorists.

⁹ We also note that this individual's spouse was receiving monthly SSA benefit payments. Although she is not in OFAC's file, we believe SSA should consider contacting OFAC to determine whether this constitutes "supporting" terrorist activity.

¹⁰ *Martinez, et al. v Astrue*, Case No. 08-CV-4735 CW (N.D. Cal. 2009).

CONCLUSION AND RECOMMENDATION

While SSA had worked with Treasury to screen some payment records, most remain unchecked. As a result, the Agency remained at risk of making payments to persons who commit, threaten to commit, or support terrorism.

Accordingly, we recommend that SSA work with DoJ, Treasury, OMB, and, if necessary, others to resolve any issues the Agency believes prevent it from screening payments to individuals identified on OFAC's list. Once resolved, SSA should develop a risk-based process to identify individuals on OFAC's list who apply for or are receiving SSA benefits and work with Treasury to determine whether payments should be blocked.

AGENCY COMMENTS

SSA agreed in principle with our recommendation. The full text of SSA's comments is included in Appendix C.



Patrick P. O'Carroll, Jr.

Appendices

[**APPENDIX A**](#) – Acronyms

[**APPENDIX B**](#) – Scope and Methodology

[**APPENDIX C**](#) – Agency Comments

[**APPENDIX D**](#) – OIG Contacts and Staff Acknowledgments

Appendix A

Acronyms

ACH	Automated Clearing House
DoJ	Department of Justice
EO	Executive Order
FRB	Federal Reserve Bank
ITS	International Treasury Services
NACHA	National Automated Clearing House Association
OFAC	Office of Foreign Assets Control
OMB	Office of Management and Budget
SSA	Social Security Administration
SDN	Specially Designated Nationals
TPPS	Third Party Payment System
Treasury	Department of the Treasury

Scope and Methodology

To achieve our audit objective, we:

- Interviewed representatives from the Social Security Administration's (SSA) Offices of the General Counsel, Deputy Commissioner for Systems, and Deputy Commissioner for Retirement and Disability Policy.
- Reviewed applicable laws, regulations, and SSA policies and procedures.
- Interviewed officials from the Department of the Treasury's Office of Foreign Assets Control (OFAC), International Treasury Services, and Financial Management Services.
- Obtained the OFAC files of Specially Designated Nations (SDN) and addresses from the OFAC Website as of March 2010. We searched the SDN file for individuals with Social Security numbers and determined whether SSA had made any Title II or XVI benefits to them.

The SSA entity reviewed was the Office of the Deputy Commissioner for Retirement and Disability Policy. We conducted our work at the Office of Audit in Birmingham, Alabama. We primarily relied on SSA's master program files to complete our review and determined the data used in the report were sufficiently reliable given the audit objective and use of the data. We conducted our work from March through May 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Appendix C

Agency Comments



SOCIAL SECURITY

MEMORANDUM

Date: September 16, 2010 **Refer To:** S1J-3

To: Patrick P. O'Carroll, Jr.
Inspector General

From: James A. Winn /s/
Executive Counselor to the Commissioner

Subject: Office of the Inspector General (OIG) Draft Report, "The Social Security Administration's Risk of Making Payments to Persons Who Commit, Threaten to Commit, or Support Terrorism"
(A-08-10-20131)—INFORMATION

Thank you for the opportunity to review the subject report. Please see our attached comments.

Please let me know if we can be of further assistance. Please direct staff inquiries to
Rebecca Tohero, Acting Director, Audit Management and Liaison Staff, at extension 66975.

Attachment:
SSA Response

COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT, "THE SOCIAL SECURITY ADMINISTRATION'S RISK OF MAKING PAYMENTS TO PERSONS WHO COMMIT, THREATEN TO COMMIT, OR SUPPORT TERRORISM" (A-08-10-20131)

Thank you for the opportunity to comment on the subject report. We offer the following.

General Comments

You conducted an audit in 2005 on this same issue, and your recommendations then were similar to those today. Likewise, we have not changed some of our responses. We reiterate and expand upon some of our original comments below.

We are committed to homeland security and fully support Executive Order (EO) 13224 to block property and prohibit transactions to persons who commit, threaten to commit, or support terrorism. Nevertheless, we must comply with all laws that govern administration of our programs. Neither the EO nor the Social Security Act (Act) gives us per se authority to withhold Title II or Title XVI benefits simply because a person is on the Office of Foreign Assets Control (OFAC) list. Nevertheless, we comply with other legal provisions that generally preclude benefit payments to those who have violated criminal and immigration law.

For example, we do not pay benefits to persons incarcerated for criminal offenses, including terrorists, who are confined to penal institutions. The same is true for those who are fleeing law enforcement because of outstanding felony warrants. Our authority to suspend benefits in these cases, including for parole violators, rests in section 202(x) of the Act. Similarly, section 202(n) requires us to suspend benefits to non-citizens deported by the Department of Homeland Security (DHS). In addition, section 202(t) of the Act generally restricts us from paying benefits to non-citizens who remain outside the United States for more than six months. Finally, section 202(y) of the Act precludes payments to any otherwise eligible non-citizen who is not lawfully present in the United States.

We fully comply with these provisions of the Act and with the EO. EO 13224 “direct[s agencies] to take all appropriate measures within their authority to carry out the provisions of this order” (emphasis added). We take those measures. In fact, as you acknowledge on page 3, we are taking even further actions in this area. As you state:

“To comply with new rules initiated by OFAC to safeguard international direct deposits from terrorists, SSA worked with Treasury to facilitate screening of SSA recipients who live outside the United States and receive payment at a foreign financial institution.”

You also state:

These rules were written to ensure that international transactions undergo the screening required by OFAC to fight terrorist financing and money laundering. According to this official, SSA is also working with Treasury to develop a similar

process to screen recipients who reside outside the United States and receive payment by direct deposit at a domestic financial institution.

Clearly as it relates to programmatic payments, we take “all appropriate measures within our authority to carry out the provisions of” EO 13224. We also act appropriately on payments to organizations. You acknowledged in your 2005 report that “to its credit, SSA uses the Excluded Parties Listing System (EPLS), a database that incorporates OFAC information, to screen potential contractors and grantees.” We continue this practice today and it effectively prevents us from paying organizations that support terrorism.

In 2005, you drew a representative sample of persons and companies on the OFAC list. You then matched those cases against our Title II, Title XVI, and administrative payment records and stated that you “did not identify any instances in which SSA made payments to these individuals or organizations.” These results did not support your 2005 finding that we were at risk. Five years later, we still see no evidence currently to bolster your opinion that “SSA remains at risk of making payments to individuals who commit, threaten to commit, or support terrorism.” We disagree with your assessment of risk, and if risk does exist, it is minimal.

Recommendation

Work with Department of Justice (DoJ), Treasury, the Office of Management and Budget, and, if necessary, others to resolve any issues the agency believes prevent it from screening payments to individuals identified on OFAC’s list. Once resolved, SSA should develop a risk-based process to identify individuals on OFAC’s list who apply for or are receiving SSA benefits and work with Treasury to determine whether payments should be blocked.

Response

We currently take all appropriate measures within our authority to comply with the provisions of EO 13224. Nonetheless, we will continue to work with Treasury’s Office of Foreign Assets Control to clarify our responsibility in this area. In addition, we will look into the possibility, and appropriateness, of amending the Act to preclude payments to terrorists and terrorist organizations.

Appendix D

OIG Contacts and Staff Acknowledgments

OIG Contacts

Kimberly A. Byrd, Director, Atlanta Audit Division

Jeff Pounds, Audit Manager, Birmingham Office of Audit

Acknowledgments

In addition to those named above:

Charles Lober, Senior Auditor

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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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