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Submitted Electronically

March 24, 2014

Mr. John Hounsell
Program Manager, National Technical Information Service
U.S. Department of Commerce
5301 Shawnee Road
Alexandria, Virginia 22312

Re: **Limited Access Death Master File Subscriber Certification Form**

Dear Mr. Hounsell:

The undersigned organizations appreciate this opportunity to comment on the “Limited Access Death Master File Subscriber Certification Form” that was initially released by the National Technical Information Service of the U.S. Department of Commerce (“NTIS”) on March 19, 2014, and revised on March 22, 2014 (the “Form”). Additionally, on March 22nd the NTIS issued an Interim Final Rule (the “IFR”) to establish a temporary certification program. The NTIS indicated that it will begin accepting completed Forms on March 24, 2014, and that it will restrict access to the “Limited Access DMF” (as such term is defined in the IFR) after March 26, 2014.

Collectively, our organizations represent the interests of the vast majority of retirement plan service providers, including record keepers, banks, mutual fund companies, insurance companies, and third party administrators. Our member companies include the largest plan services and insurance products providers in the retirement plan industry. Such companies (“Plan Service Providers”) are existing users of the Limited Access DMF and are dependent upon uninterrupted access to it in order to be able to provide services to their customers. The undersigned organizations have also written to the NTIS about the significance of such access on January 28, 2014 and March 18, 2014.¹

We appreciate the NTIS’ recognition of the importance of this issue and commend it for its efforts to facilitate the necessary continued access, including developing the Form. Further, we recognize that time is of the essence for all parties involved. However, our member companies have identified certain issues and concerns that could limit their ability to continue to provide services to their plan customers. The Form requires a subscriber to certify that it has a legitimate fraud prevention interest or a legitimate business purpose pursuant to a law, governmental rule, regulation or fiduciary duty.

¹ Copies of the letters above are available at <http://www.sparkinstitute.org/comments-and-materials.php>.

Plan Service Providers use the Limited Access DMF in furnishing important services to employer/plan sponsor fiduciaries and their retirement plans. These services may include, but are not limited to, helping such parties to:

1. avoid paying benefits to a wrong party,
2. avoid overpaying a beneficiary (e.g., making direct bank deposits after a beneficiary's death),
3. ensure the timely payment of benefits to the correct party, and
4. locate missing plan participants to ensure such individuals have access to their benefits.

The employers/plan sponsors of retirement plans are plan fiduciaries under the Employee Retirement Income Security Act of 1974 ("ERISA"). These fiduciaries rely on Plan Service Providers, who are generally not plan fiduciaries, to furnish these services pursuant to contractual arrangements. Additionally, some Plan Service Providers utilize third party services to access the Limited Access DMF in order to fulfill their contractual obligations.

Thousands of plans, and significant numbers of Plan Service Providers, could be adversely affected by an interruption in access to the Limited Access DMF. Consequently, we urge that the activities described above be considered legitimate fraud prevention or business purposes for subscriber certification under any interim or final regulation. We also urge that requirements for the legitimate fraud prevention interest and business purpose requirements be interpreted broadly and flexibly in connection with retirement plan sponsors and their service providers, including non-fiduciary service providers that access the Limited Access DMF for legitimate business purposes resulting from contractual arrangements relating to such employers/plan sponsors or retirement plans. As was noted in the letter to the NTIS that we submitted along with 14 other trade associations on March 18, 2014, the applicable legislative history regarding this matter indicates a very clear Congressional intent that access to the Limited Access DMF not be interrupted due to the adverse consequences such interruption could cause. It is essential that any interim or final regulation reflect Congress' clear intent to permit continued access to the Limited Access DMF for legitimate users, such as retirement plan sponsors and their service providers

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Thank you for considering our views regarding this very important issue. We are available to provide additional information and clarification regarding this matter.

Respectfully,

American Council of Life Insurers
American Society of Pension Professionals & Actuaries
Investment Company Institute
The SPARK Institute, Inc.

cc: Mr. Howard Shelanski, Office of Information and Regulatory Affairs, Office of Management and Budget