

March 18, 2014

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U.S. Department of Commerce  
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Alexandria, VA 22312

The undersigned organizations represent directly or indirectly the vast majority of the employers sponsoring retirement plans in this country. Those employers and their plans' service providers are existing users of the Death Master File (DMF) and have significant interests in ensuring uninterrupted access to it. On behalf of those plan sponsors, plan administrators and recordkeepers, and the millions of participants who rely on those plans for retirement security, we are responding to the Request for Information (RFI) issued by the National Technical Information Service (NTIS) and published in the Federal Register on March 3, 2014. The RFI was issued in response to the requirement under Section 203 of the Bipartisan Budget Act of 2013 that the Department of Commerce not disclose information on the Death Master File (DMF) to any person unless that person has been certified under a program to be established by the Department.

We have one core request. It is critical that access to the DMF remain uninterrupted both during the development of the certification process and while certification applications are pending. Most of the undersigned organizations sent a letter to Secretary Penny Pritzker on January 28 (see attached copy) indicating how important it is that retirement plans and their service providers maintain such uninterrupted access to DMF information. In this regard, we would first like to thank NTIS for clarifying that access to DMF information will continue during the development of the certification program and urge the NTIS to also clarify that access will continue during the application process as well.

However, we understand that NTIS' announced position has been questioned and may change. In our view, a review of the applicable legislative history demonstrates a very clear Congressional intent that access to the DMF not be interrupted, due to the severely adverse consequences of such an interruption. It is essential that any guidance reflect Congress' clear desire to permit continued access for legitimate users of the DMF, including retirement plans and service providers acting on their behalf during the development of the certification program as well as during the application process. In the case of retirement plans, such access is necessary in order to avoid plans paying benefits to the wrong party, and to ensure the timely payment of benefits to the correct party.

Simple and inexpensive access to the DMF information is critical to the efficient functioning of all types of retirement plans, including pension plans and defined contribution plans (such as 401(k) plans). When plan benefits are paid in the form of life or joint life annuities, incorrect payments can be made to the deceased participant (sometimes through direct deposit) rather than

the beneficiary without access to information from the DMF. Other plans need DMF information for other purposes, such as determining when a plan beneficiary becomes eligible for benefits (and takes over investment direction in a participant-directed plan). The RFI recognized this need by pointing out access is necessary for “others responsible for verifying deceased person(s) in support of fulfillment of benefits to their beneficiaries.” Retirement plan fiduciaries are subject to the fiduciary requirements found in the Employee Retirement Income Security Act of 1974, as amended (ERISA), which can be found in Title 29 of the U.S. Code. These fiduciary duties would include a duty to pay benefits to the appropriate party under the terms of the plan, and that party would change upon the death of the participant. Finally, because various service providers may work together on a single retirement plan, it is critical that plan sponsors and service providers be able to share DMF information with each other in order to execute their respective duties to the plan.

In light of the above issues, plans and their service providers need continued access to the DMF in order to safeguard the retirement assets of millions of Americans.

We look forward to working with you on this important matter to ensure that access to the DMF continues for retirement plans providing retirement security for Americans across the country.

American Benefits Council  
American Council of Life Insurers  
American Society of Pension Professionals & Actuaries  
The ERISA Industry Committee  
The ESOP Association  
Financial Services Institute  
Financial Services Roundtable  
Insured Retirement Institute  
Investment Company Institute  
National Association of Insurance and Financial Advisors  
NTCA–The Rural Broadband Association  
Plan Sponsor Council of America  
Securities Industry and Financial Markets Association  
Small Business Council of America  
The SPARK Institute, Inc.

cc: Sylvia Matthews Burwell  
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