



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

OFFICE OF  
INSPECTOR GENERAL

July 29, 2019

OIG-19-041

MEMORANDUM FOR TIMOTHY E. GRIBBEN  
COMMISSIONER, BUREAU OF THE FISCAL SERVICE

FROM: Katherine E. Johnson /s/  
Audit Director

SUBJECT: Interim Audit Update - Matters for Consideration Prior to  
Fiscal Service's Selection of the Direct Express® Debit Card  
Program Financial Agent

On June 18, 2018, we initiated an audit to review corrective actions taken by the Bureau of the Fiscal Service (Fiscal Service) related to recommendations made in previous Department of the Treasury (Treasury) Office of Inspector General (OIG) reports issued in 2014 and 2017 related to the financial agency agreement (FAA) with Comerica Bank (Comerica) to operate the Direct Express® Debit Card program (Direct Express). Based on our audit work to date and due to the importance of Direct Express and the needs of its customers, we are sharing our initial findings and recommendations prior to completion of all audit work. We believe this interim reporting is important for your consideration prior to the selection of the next financial agent expected to be announced later this summer.

As part of our reporting process, we provided a draft of this memorandum to Fiscal Service to obtain management's views and comments. In a written response, provided in its entirety as an attachment to this memorandum, management concurred with our recommendations and outlined planned corrective actions.

### **Background**

In 2008, Fiscal Service, formerly known as Financial Management Service, entered into a FAA with Comerica to operate Direct Express, which allows beneficiaries to receive Federal benefit payments electronically, using a prepaid debit card. Currently, more than 4.5 million individuals receive their social security, veterans, and other benefit payments through this program. In 2014, Fiscal Service rebid the Direct Express FAA and selected Comerica as the financial agent for an additional

5 years, effective January 3, 2015. Since 2009, KRC Research (KRC),<sup>1</sup> a Comerica subcontractor, has conducted an annual Direct Express cardholder usage survey. Direct Express has maintained an overall customer satisfaction rating of 94 percent or above since 2009.

### **Financial Agent Selection Process**

On November 27, 2018, Fiscal Service initiated the process to select the next Direct Express financial agent. Fiscal Service announced the bidding cycle and that applications for the Direct Express FAA were due no later than February 15, 2019; however, due to the government shutdown the date was extended to March 8, 2019. Fiscal Service notified the financial agent finalists of their status on April 2, 2019. According to the *Direct Express® Debit Card Program Financial Agent Selection Process Questions and Answers (Updated 5/22/19)*, the Fiscal Service review period was from April 1 – May 10, 2019.<sup>2</sup> Fiscal Service provided the sample FAA to the finalists, who were invited to make oral presentations.

The sample FAA did not include Exhibit A, *Services, Attachment 1, Service Level Requirements, Attachment 2, Initial Surcharge-Free Network*, Exhibit C, *Compensation and Cardholders Fees*, or Exhibit E, *Memorandum of Understanding Between the Selected Financial Agent and the Social Security Administration*. The *Requirements for Applications to Provide Prepaid Debit Card Services (updated 11/29/18)* (Requirements Document) provided general information related to service requirements and compensation.<sup>3</sup> For example, the Requirements Document listed 19 Service Level Activities (SLA) as minimum requirements compared to 38 Service Level Requirements (SLR) in the Direct Express FAA in use currently (current FAA). Additionally, the 19 SLAs listed as minimum requirements are not weighted or prioritized to emphasize the importance of customer service or any other specific requirement over another. The specific requirements, tolerance ranges, and weightings for each SLA will be negotiated with the selected financial agent prior to signing the FAA. Fiscal Service plans to (1) select the financial agent, and (2) sign the FAA with the selected financial agent later this summer.

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<sup>1</sup> KRC is a global strategic research firm that offers quantitative and qualitative market research solutions to a number of industries from its offices in Washington, DC, New York, and Cologne, Germany. KRC helps its clients optimize strategies and measure success.

<sup>2</sup> <https://fiscal.treasury.gov/files/directexpress/DirectExpressFASPQandAs.pdf>

<sup>3</sup> <https://fiscal.treasury.gov/files/directexpress/FASP2020Requirementsfinal.pdf>

### **Previous and Current Audit Work**

OIG issued two audit reports, the first in 2014 and the second in 2017, regarding our reviews of Direct Express and the financial agent selection process. In our March 26, 2014 audit report, *Fiscal Service Needs to Improve Program Management of Direct Express* (OIG-14-031), we found that Fiscal Service's decisions to establish Direct Express and select Comerica as the program's financial agent were reasonable; however, its analyses and documentation of those decisions should have been more complete. In addition, Fiscal Service needed to improve its oversight of Direct Express and administration of the FAA. Accordingly, we made 13 recommendations to Fiscal Service. In the Treasury OIG-17-034 report discussed below, we verified 4 of the corrective actions taken by Fiscal Service related to the 13 recommendations made in the Treasury OIG-14-031 report.

In our January 24, 2017 audit report, *Direct Express Bid Evaluation Documentation Requires Improvement* (OIG-17-034), we found that Fiscal Service's documentation of the FAA bid evaluation had improved compared to the previous bid cycle but further improvement was needed. Accordingly, we made one recommendation to Fiscal Service.

To follow-up on the audit reports discussed above, on June 18, 2018, we initiated a corrective action verification (CAV) engagement related to the 10 corrective actions not previously verified as of our last report. Our objective was to determine whether Fiscal Service's corrective actions were responsive to the remaining 10 recommendations as noted in our previous audit reports.

### **Fraudulent Activity Experienced by Some Direct Express Cardholders**

After beginning the CAV, we received information of fraudulent activity involving the Direct Express Cardless Benefit Access Service.<sup>4</sup> Specifically, criminals used cardholder data and personally identifiable information to impersonate Direct Express cardholders. With this information, criminals exploited the Cardless Benefit Access Service to empty accounts belonging to some beneficiaries, including those who receive Social Security benefits and veterans who rely on disability payments

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<sup>4</sup> In August 2017, Comerica introduced the Cardless Benefit Access Service feature to all Direct Express cardholders. This feature, formerly known as Direct Express<sup>®</sup> Emergency Cash, allowed a cardholder, who did not have his/her physical card, to request a money transfer to a MoneyGram location to be picked up by the cardholder. For example, during Hurricanes Harvey and Maria in September 2017, many automatic teller machines were out of service. MoneyGram locations provided cash access to Direct Express cardholders with or without their cards.

to make ends meet. As a result, in August 2018, Comerica temporarily suspended the Cardless Benefit Access Service. According to Comerica, there was no evidence of a data breach at Comerica, its service providers, or in any data management system used to administer Direct Express.

As required by Government Audit Standards, Section 6.32, we added procedures to our ongoing work to address the fraud risk. For example, we are reviewing Fiscal Service's monitoring procedures to ensure that Comerica is (1) in compliance with the FAA, (2) investigating and resolving fraud notifications from Direct Express customers within the required regulatory timeframes, (3) providing appropriate credits to customers within the required timeframes, and (4) providing monthly performance measurement scorecards and annual customer satisfaction surveys. We are also reviewing Fiscal Service's monitoring of Comerica's compliance with customer service requirements outlined in the FAA.

Based on our work to date and due to the importance of Direct Express and the needs of its cardholders, we are sharing our initial findings and recommendations prior to completion of all audit work. We believe this interim reporting is important for your consideration prior to the selection of the financial agent expected to be announced later this summer.

### **Treasury OIG Findings and Recommendations**

As noted above, Fiscal Service provided the sample FAA to finalists in the selection process. The sample FAA did not include the specific details of several exhibits, such as Exhibit A, *Services, Attachment 1, Service Level Requirements*. According to its financial agent selection process guidance, Fiscal Service negotiates policies and procedures (e.g., documentation to be maintained by the financial agent, meetings with the financial agent, SLRs and other metrics, security, risk management, and expense management) for overseeing a financial agent *after* the financial agent has been selected and prior to signing the FAA. Given the importance of customer service and based on our review of the (1) sample FAA compared to the current FAA and (2) finalists' proposals, we suggest consideration of modifications to the following FAA provisions, which will be negotiated between Fiscal Service and the selected financial agent prior to signing the FAA expected later this summer.

#### **1. *Compensation and Performance***

The current and sample FAA, provision 4E, *Reduction in Compensation*, states the following:

*Depending on the Financial Agent's compliance with the service level requirements set forth in Attachment 1 to Exhibit A hereto, a reduction in compensation may apply...*

The current FAA, Exhibit A, Attachment 1, *Service Level Requirements*, states the following:

*The table below sets forth the service level requirements (each, an "SLR") for various activities associated with the debit card program. On a monthly basis, the Financial Agent will report on its performance...*

*SLRs are a means of setting a high standard for performance that translates to high quality services for federal benefit recipients.*

We believe that under this financial agent selection process, the SLR and target performance for the various activities need to be reviewed and revised with an emphasis on providing better customer service related to the call center and compliance with regulations related to chargeback and dispute processing. We reviewed Comerica's Direct Express SLR Monthly Scorecards from February 2015 through December 2018 and noted that Comerica's compensation was never reduced despite poor ratings in some categories. Conduent Incorporated (Conduent), a Comerica subcontractor, manages the Direct Express call center and processes claim disputes.<sup>5</sup> Although Direct Express has maintained an overall customer satisfaction rating of 94 percent or above since 2009, the call center has received poor ratings in some categories such as customer service representative response times and regulatory compliance related to chargeback and dispute processing.

The current SLRs consist of 38 separate activities, including but not limited to, account set-up, card issuance/reissuance/replacement, payments, customer service representative response times and call quality, reporting, chargeback and dispute processing, and customer satisfaction survey. To calculate the monthly performance score, the actual performance for each SLR is compared to the Target Performance<sup>6</sup> and Tolerance Range<sup>7</sup> for an assigned rating of 2, 1, or 0 (the Initial Rating) using the following formula:

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<sup>5</sup> Conduent, a New Jersey digital interactions company, creates digital platforms and services for businesses and governments. Conduent provides such services as digital payments, claims processing, and customer care.

<sup>6</sup> Comerica's primary performance goal for meeting the SLR.

<sup>7</sup> Comerica's performance is in the acceptable range, but not at the Target Performance goal.

- Performance at or above Target Performance for each SLR will be assigned an Initial Rating of 2.
- Performance lower than the Target Performance but within the Tolerance Range for each SLR will be assigned an Initial Rating of 1.
- Performance below the Tolerance Range of the Target Performance for each SLR will be assigned an Initial Rating of 0.
- Each Initial Rating will be multiplied by the Weighting<sup>8</sup> to calculate the final rating for each SLR (the Final Rating).
- The Final Ratings for each SLR are added together to calculate the performance score for the applicable month (the Performance Score), ranging from a minimum score of 38 to a maximum score of 80.

A Performance Score at or below 37 for 2 consecutive months will result in a reduction of \$0.01 per active account in the 3<sup>rd</sup> month, and each month thereafter until the Performance Score equals or exceeds 37. Comerica never received a Performance Score less than 62 because all the SLRs are added together allowing higher scores in some activities to offset the lower scores in other activities. For the 47 Direct Express SLR Monthly Scorecards reviewed, we noted that for the SLRs related to account set-up, card issuance and replacement, payments, and the customer satisfaction survey, Comerica/Conduent consistently received the highest possible Final Ratings. We believe the commingling of all SLR scores does not provide an incentive or disincentive to achieve a high standard in all areas, including chargeback and dispute processing and customer service representative response times.

In our review of the 47 Direct Express SLR Monthly Scorecards, we noted 4 SLRs related to customer service representative response times, representing a total of 188 Final Ratings. Comerica/Conduent received the lowest possible Final Rating in 79 out of 188 instances, or 42 percent of the ratings.

In addition, there were 3 SLRs related to chargeback and dispute processing which align with the Regulation E<sup>9</sup> time limits and investigation requirements.<sup>10</sup> We believe these 3 SLRs are critically important as Regulation E and these SLRs are designed to protect the Direct Express cardholders. These 3 SLRs represented a total of 141 Final Ratings. For these SLRs, the FAA stipulates that the Target Performance is 100 percent, which we believe is appropriate as a measure for a

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<sup>8</sup> The percentage applied to the SLR.

<sup>9</sup> Regulation E was issued by the Board of Governors of the Federal Reserve System as an implementation of the Electronic Funds Transfer Act, a law passed by the U.S. Congress in 1978 as a means of protecting consumers engaged in these sorts of financial transactions.

<sup>10</sup> 12 CFR 1005.11, *Procedures for resolving errors*, February 13, 2018

regulatory requirement. If 100 percent compliance is achieved in that month, the highest Final Rating (2) is assigned. The FAA allows for a Tolerance Range of 5 percent below the Target Performance (rating of 95-99 percent) non-compliance. If 95-99 percent compliance is achieved in that month, a middle Final Rating (1) is assigned. If compliance for a given month is below 95 percent, a lowest Final Rating (0) is assigned. Of the 141 Final Ratings, Comerica/Conduent was assigned the following:

- Highest (rating of 100 percent) – 14 instances, or 10 percent of the ratings;
- Middle (rating of 95-99 percent) – 124 instances, or 88 percent of the ratings; and
- Lowest (rating below 95 percent) – 3 instances, or 2 percent of the ratings.

Compliance with Regulation E is a critical component of Direct Express and a regulatory requirement. Knowing the needs of beneficiaries and their dependence on these payments, we believe the Tolerance Range of 5 percent is too high given the regulatory nature of these 3 SLRs. For the period we reviewed, for chargeback and dispute processing, Comerica/Conduent did not comply with the Target Performance of 100 percent related to the Regulation E time limits and investigation requirements in 90 percent of the 47 Direct Express SLR Monthly Scorecards from February 2015 through December 2018.

As Treasury's financial agent, Comerica is acting as a fiduciary of the Government and as such should be encouraged to further the administration's agenda related to customer service, including compliance with Regulation E. The current SLR calculation does not specifically reflect the importance of improving the customer service experience of Direct Express cardholders and protecting consumers in compliance with Regulation E. The President's Management Agenda identifies Cross-Agency Priority (CAP) Goal 4, *Improving Customer Experience with Federal Services*.<sup>11</sup> According to CAP Goal 4, Federal agencies will provide a modern, streamlined, and responsive customer experience across Government, comparable to leading private-sector organizations.

Specifically, this CAP Goal 4 will:

- Transform the customer experience by improving the usability and reliability of the Federal Government's most critical digital services;

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<sup>11</sup> Office of Management and Budget, *President's Management Agenda*, March 20, 2018

- Create measurable improvements in customer satisfaction by using the principles and practices proven by leading private sector organizations;
- Increase trust in the Federal Government by improving the experience citizens and businesses have with Federal services whether online, in-person, or via phone; and
- Leverage technology to break down barriers and increase communication between Federal agencies and the citizens they serve.

### *Recommendation*

We recommend that the Commissioner of the Fiscal Service revise the SLR calculations related to incentives or disincentives, which will be negotiated between Fiscal Service and the selected financial agent prior to signing the FAA expected later this summer. The minimum target performance and/or weighting of the SLRs should ensure that the financial agent and its subcontractors are incentivized to provide excellent service in all areas, including chargeback and dispute processing and customer service representative response times. Improving the customer experience and compliance with Regulation E will increase the public trust in Direct Express and Fiscal Service.

### Management Response

Management concurs with our recommendation. Fiscal Service stated that in its new FAA it will use SLRs that incentivize its financial agent to provide excellent service in all areas, including chargeback and dispute processing and customer service representative response times.

In addition, in addressing the SLRs related to chargeback and dispute processing, management noted that:

*While it is true that our agent did not achieve the target of 100% compliance with SLRs between February 2015 and December 2018, the agent met the Target Performance nearly 100% of the time. The agent's Target Performance Final Rating for the period of time in question is, on average, 99.42%.*



OIG Comment

Management's response meets the intent of our recommendation. However, to clarify our position on management's statement about the chargeback and dispute processing, we note that the financial agent did not meet the Target Performance nearly 100 percent of the time. Instead, the financial agent achieved results within the Tolerance Range of 5 percent (versus the Target Performance) 98 percent of the time. As stated in our memorandum, we believe a Tolerance Range of 5 percent is not appropriate for a regulatory requirement.

**2. *Reviews and Audit***

The current FAA, provision 10, *Reviews and Audit*, states the following:

*Fiscal Service and entities authorized by Fiscal Service shall have the right to conduct announced and unannounced onsite and offsite physical, personnel and information technology testing, security reviews, and audits of the Financial Agent, and to examine all books and records related to the services provided and compensation received under the FAA, except as otherwise prohibited by Federal law...*

Although Comerica is supervised by various banking regulatory entities, the results of that supervision are not shared with or readily available to Fiscal Service for use in its oversight of the Direct Express financial agent, nor did Fiscal Service attempt to obtain this supervisory information. Specifically, Comerica is supervised and examined by the Federal Reserve Bank of Dallas, the Federal Deposit Insurance Corporation, and the Texas Banking Department. The Consumer Financial Protection Bureau and MasterCard provide additional oversight, specifically on Comerica's compliance with consumer protection requirements.

Federal law restricts Comerica's ability to disclose the results of any regulatory audits or reviews considered "confidential supervisory information" under the Board of Governors of the Federal Reserve System's (Board) Rules Regarding Availability of Information (12 CFR 261.2(c)(1)(i) and (iii)). All confidential supervisory information is the property of the Board, not the bank. No supervised financial institution, person, or any officer or employee thereof, may disclose such information. However, the Board has determined that under 12 CFR 261.1(a)(3):

*...it is authorized by law to disclose information to a law enforcement or other federal or state government agency that has the authority to request*

*and receive such information in carrying out its own statutory responsibilities, or in response to a valid order of a court of competent jurisdiction or of a duly constituted administrative tribunal.*

Therefore, under the procedures described in 12 CFR 261.21(c), Fiscal Service could submit a written request to the Board for supervisory information for use in its official duty of monitoring Comerica's compliance with the FAA and improving Direct Express. The Board has the discretion to approve or deny the request, and to impose conditions on its use and disclosure.

During interviews regarding Comerica's customer service and Regulation E compliance, Fiscal Service officials and staff told us they rely on Comerica's regulators to review the bank's compliance with Regulation E. Fiscal Service also noted that the criteria for disclosing bank supervisory reports may vary with the regulator. We believe that compliance with the regulatory requirement of Regulation E is a critical component of Direct Express and Fiscal Service should periodically seek access to the regulators' reports related to Direct Express, when allowed by law.

### *Recommendation*

We recommend that the Commissioner of the Fiscal Service periodically request access to the Regulation E compliance reviews related to Direct Express conducted by the banking regulators under the provisions outlined in 12 CFR 261 or other relevant provisions related to the regulator. This information should be used by Fiscal Service to monitor the financial agent's compliance with the FAA and SLRs or to improve Direct Express.

### Management Response

Management concurs with our recommendation. In the future, Fiscal Service will request access from the financial agent's prudential regulators to Regulation E compliance reviews related to Direct Express when they learn that such a review has been performed. Fiscal Service will use information that the regulator is willing to provide to improve the financial agent's performance under the FAA.

### OIG Comment

Management's response generally meets the intent of our recommendation. Financial regulator reports may have disclosure restrictions and therefore, Fiscal Service may not be aware of reviews conducted. For this reason, we want to

emphasize that Fiscal Service periodically request access to the Regulations E compliance reviews related to Direct Express conducted by banking regulators whether or not they are aware that a review has been performed.

### **3. Annual Certification: Notice of Violations**

The current FAA, provision 20, *Annual Certification: Notice of Violations*, states the following:

*...the Financial Agent will notify Treasury's Office of Inspector General if it becomes aware of any instance of a possible violation of federal criminal laws regarding fraud, conflict of interest, bribery, or illegal gratuities affecting or related to the Direct Express® program. Such notification will be on a timely basis, which shall not normally exceed one week.*

Fiscal Service officials and staff told us that this FAA provision only applies to insider crimes, such as fraud, bribery or embezzlement by Comerica employees or its subcontractors. However, we believe that this interpretation does not agree with the intent of the FAA which stated "...any instance of possible violations of federal criminal law..." and does not distinguish between internal and external violations.

Due to the Right to Financial Privacy Act (RFPA),<sup>12</sup> Comerica cannot provide information to OIG or Fiscal Service on individual fraud cases impacting Direct Express without a subpoena or a signed authorization to release information from the account holder. Consequently, Fiscal Service receives only aggregated fraud data on Direct Express on a monthly basis. The Treasury OIG Office of Investigations received this aggregate data on one occasion related to the fraudulent activity in the Cardless Benefit Access Service discussed above. This aggregate data did not provide OIG with the underlying fraud data necessary to conduct an audit or investigation.

As part of our audit, we plan to review Comerica's compliance with the Regulation E cardholder protections including the reimbursement of Direct Express cardholders' stolen benefits, including related fees. We worked with Comerica and Fiscal Service to develop a mechanism to receive cardholder information while maintaining compliance with RFPA.

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<sup>12</sup> 12 U.S.C. Chapter 35, *Right to Financial Privacy*

We coordinated with Comerica to create an *Authorization to Release Information* for Direct Express account holders. This authorization, when signed by the cardholder, will allow Comerica and OIG to disclose and exchange information with each other for the purpose of determining the status of the specific Direct Express Debit MasterCard account and card, the proper routing and delivery of all benefits associated with the specific account and card, and other account information showing uses of, access to, and inputs associated with, that account and card, for the purposes of identifying and tracking unauthorized and/or fraudulent uses. These authorizations will be valid for 3 months from the date of signature and can be revoked by the account holder at any time.

### *Recommendations*

We recommend that the Commissioner of the Fiscal Service:

1. Coordinate with the financial agent to develop periodic reports that comply with RFPA and provide useful information on potential violations of federal criminal laws, including internal and external fraud relating to Direct Express. These reports should be used to identify, analyze, and monitor fraud and dispute claims, and other significant trends. By reviewing and analyzing this information, Fiscal Service can improve its oversight of Direct Express and the financial agent and proactively respond to fraudulent activity.

### Management Response

Management concurs with our recommendation. Fiscal Service will coordinate with the financial agent to develop periodic reporting of anonymized aggregate statistical data on fraud and dispute claims in a manner that complies with RFPA.

### OIG Comment

Management's response meets the intent of our recommendation.

2. Revise FAA provision 10, *Reviews and Audit*, to state:

...the Federal Government will not be entitled to obtain or examine any records related to individual debit cards, except as allowed by law.

Management Response

Management concurs with our recommendation. Fiscal Service will clarify that RFPA does not bar Treasury from obtaining records related to an individual debit card where the cardholder consents, by adding the phrase "except as allowed by law" to provision 10 of the FAA.

OIG Comment

Management's response meets the intent of our recommendation.

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We conducted this performance audit 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We appreciate the courtesies and assistance provided by your staff. Should you have any questions regarding this memorandum, please contact me at (202) 927-8783.

cc: Derrick Watson, Audit Liaison

Attachment: Management Response

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DEPARTMENT OF THE TREASURY  
BUREAU OF THE FISCAL SERVICE  
WASHINGTON, DC 20227

July 16, 2019

Ms. Katherine E. Johnson  
Audit Director  
Office of Inspector General  
Department of the Treasury  
Washington, D.C. 20220

Dear Ms. Johnson:

Thank you for the opportunity to respond to the Office of the Inspector General's (OIG's) Interim Audit Update - Matters for Consideration Prior to Bureau of the Fiscal Service's Selection of the Direct Express® Debit Card Program Financial Agent (OIG Memorandum). We appreciate the OIG's interest in Direct Express as we select a financial agent to operate the program after January 2020, when the current financial agent agreement (FAA) ends.

Since the inception of Direct Express in 2008, customer service and fraud protection have been a top priority. We work closely with the Direct Express financial agent and federal agencies to quickly address customer service challenges for cardholders who rely on the program to receive critical benefit payments. As a result, 94 to 96 percent of Direct Express cardholders responding to our annual surveys have rated the program satisfactory or higher since 2009.

Direct Express offers an account to cardholders at little or no cost, with consumer-friendly features not generally offered to other bank account holders. These features include:

- Deposits are available at midnight on pay day;
- No credit check or minimum balance requirements;
- All funds are protected from garnishment by third party creditors;
- Cardholders have 90 days to dispute a transaction, rather than the required 60 days; and,
- A process for three-way discussions among the bank, Social Security Administration, and the cardholder to quickly resolve payment questions.

In addition, like other accounts, Direct Express accounts are FDIC-insured and protected from loss due to fraud by Regulation E and MasterCard zero liability. All cards use the Europay, MasterCard and Visa (EMV) standard (chip and PIN), recognized globally as a fraud protection protocol. Cardholders can monitor account deposits, balances and transactions on the Direct Express website and mobile app or by calling customer service 24/7. Cardholders can also locate fee-free and other ATMs and set up low balance and deposit alerts, either online or through the mobile app. Through the mobile app, cardholders can register to receive free financial education. Because the account relationship is between the cardholder and the bank, individual cardholder account information is protected by all bank privacy regulations, including the Right to Financial Privacy Act, which prohibits the information from being shared with the Government, except in limited circumstances.

In setting service level requirements (SLRs) for our financial agent, Fiscal Service balances the important priority of excellent customer service with other program priorities, including the ability of cardholders to quickly access their funds at little or no cost, with the same or better protections offered to other banking consumers. With that in mind, we respond to the recommendations in OIG's Memorandum.

*Recommendation 1. We recommend that the Commissioner of the Fiscal Service revise the SLR calculations related to incentives or disincentives, which will be negotiated between Fiscal Service and the selected financial agent prior to signing the FAA expected later this summer. The minimum target performance and/or weighting of the SLRs should ensure that the financial agent and its subcontractors are incentivized to provide excellent service in all areas, including chargeback and dispute processing and customer service representative response times. Improving the customer experience and compliance with Regulation E will increase the public trust in Direct Express and Fiscal Service.*

Fiscal Service continuously seeks to improve customer service, including for cardholders disputing transactions. While Direct Express has maintained excellent customer satisfaction ratings overall – 94 percent and above since 2009 – we always strive for improvement. Fiscal Service concurs with this recommendation, and in our new FAA, will use SLRs that incentivize our financial agent to provide excellent service in all areas, including chargeback and dispute processing and customer service representative response times.

The OIG Memorandum focuses in part on three SLRs in our current FAA relating to Regulation E time limits and investigations. The SLRs are designed to give the financial agent the highest rating when it complies with certain Regulation E related time frames in every case in which a dispute is filed within a given month. A middle rating is given when the financial agent complies with the Regulation E related timeframes in 95-99% of the cases in which a dispute is filed with a given month, and the lowest rating is given when the financial agent complies with Regulation E related timeframes in less than 95% of the cases in which a dispute is filed within a given month.

While it is true that our agent did not achieve the target of 100% compliance with SLRs between February 2015 and December 2018, the agent met the Target Performance nearly 100% of the time. The agent's Target Performance Final Rating for the period of time in question is, on average, 99.42%.

*Recommendation 2. We recommend that the Commissioner of the Fiscal Service periodically request access to the Regulation E compliance reviews related to Direct Express conducted by the banking regulators under the provisions outlined in 12 CFR 261 or other relevant provisions related to the regulator. This information should be used by Fiscal Service to monitor the financial agent's compliance with the FAA and SLRs or to improve Direct Express.*

Fiscal Service concurs with this recommendation. In the future, Fiscal Service will request access from the financial agent's prudential regulators to Regulation E compliance reviews related to Direct Express when we learn that such a review has been

performed. As noted in the OIG Memorandum, regulators have the discretion to approve or deny such requests, and to impose restrictions on the use and disclosure of any information that they provide. Subject to any conditions imposed by the regulator, Fiscal Service will use information that the regulator is willing to provide to improve the financial agent's performance under the FAA.

*Recommendation 3. We recommend that the Commissioner of the Fiscal Service:*

- *Coordinate with the financial agent to develop periodic reports that comply with RFPA [Right to Financial Privacy Act] and provide useful information on potential violations of federal criminal laws, including internal and external fraud relating to Direct Express. These reports should be used to identify, analyze, and monitor fraud and dispute claims, and other significant trends. By reviewing and analyzing this information, Fiscal Service can improve its oversight of Direct Express and the financial agent and proactively respond to fraudulent activity.*

Fiscal Service agrees that periodic reports on fraud that comply with RFPA could be useful in identifying, analyzing and monitoring fraud and dispute trends occurring in the Direct Express program. Fiscal Service concurs with this recommendation and will coordinate with the financial agent to develop periodic reporting of anonymized aggregate statistical data on fraud and dispute claims in a manner that complies with RFPA.

- *Revise FAA provision 10, Reviews and Audit, to state:*

*. . . the Federal Government will not be entitled to obtain or examine any records individual debit cards, except as allowed by law.*

As the Memorandum recognizes, records related to individual debit cards are protected from disclosure to the Federal Government under RFPA. Fiscal Service concurs with this recommendation and will clarify that RFPA does not bar Treasury from obtaining records related to an individual debit card where the cardholder consents, by adding the phrase "except as allowed by law" to provision 10 of the FAA.

We appreciate your recommendations and the opportunity to respond.

Sincerely,



Timothy E. Gribben  
Commissioner