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Via Electronic Transmission

Mr. John Hounsell
Program Manager
National Technical Information Service
United States Department of Commerce
5301 Shawnee Road
Alexandria, VA 22312

RE: Preservation of Access to Death Master File During Consideration of Request for Information Regarding Certification Program for Access to the Death Master File

Dear Mr. Hounsell:

The American Bankers Association (ABA) represents banks of all sizes and charters and is the voice for the nation's \$14 trillion banking industry and its two million employees. Banks and financial institutions rely upon the Death Master File (DMF) that is maintained by the Social Security Administration (SSA) and made available by the National Technical Information Service (NTIS) for a variety of uses including fraud prevention, the need to verify account information for credit, estate management, account resolution, insurance matters, and compliance with federal, state, and local laws and regulations.

Section 203 of the Bipartisan Budget Act of 2013 (Pub. L. No. 113-67) (section 203) requires the Secretary of Commerce, within 90 days, to prohibit access to the DMF unless a person is certified to be in compliance with certain standards. Unfortunately, it appears no rule has yet been finalized creating the certification program for access to the DMF despite the fast-approaching March 26, 2014 congressionally mandated deadline restricting access to the DMF. Accordingly, the ABA on behalf of its member banks writes today seeking a clarification that access to the DMF by banks and financial institutions will continue uninterrupted during the establishment of the new certification program for access to the DMF.

Section 203 prohibits the Secretary of Commerce from disclosing information in the DMF to anyone for a 3-calendar year period unless that person is certified under a new certification program established by the Secretary. Section 203 further requires that access to the DMF and certification be limited to persons that have: a legitimate fraud prevention purpose; a legitimate business purpose pursuant to a law, governmental rule, regulation, or fiduciary duty; and, "systems, facilities, and procedures in place to safeguard such information, and experience in maintaining the confidentiality, security, and appropriate use of such information." Section 203 also authorizes fines for non-compliance.

The President signed the Bipartisan Budget Act of 2013 on December 26, 2013, and the NTIS published a Request for Information and Advance Notice of Public Meeting in the Federal Register regarding implementation of Section 203 on March 3, 2014.¹ NTIS held the public meeting on March 4, 2014,² and sought information related to 18 specific questions regarding the proposed certification program for access to the DMF to be provided by March 18, 2014. NTIS has also indicated that it “is actively working with the Social Security Administration to draft proposed rules for the establishment of a certification program. The proposed rules will be published in the Federal Register for public comment.”³

However, section 203 requires that the certification program for access to the DMF take effect 90 days after the date of enactment of the Bipartisan Budget Act—which occurs on March 26, 2014. Given that NTIS has not yet to be published proposed rule to create the certification program, it appears access to the DMF will be cut off on March 26, 2014.

ABA and its member banks are concerned that access to the DMF could be lost during consideration of the request for information and the development of the proposed regulations. The DMF is necessary for banks to ensure compliance with federal and state laws and regulations such as the Red Flag Rules for identify theft prevention, the USA PATRIOT Act, and various consumer protection laws such as dealing with debts of the deceased. Any disruption or uncertainty with access to the DMF will create significant problems for banks and financial institutions complying with federal and state laws and could complicate resolution of estates and other financial matters directly harming consumers.

Accordingly, ABA requests (1) the NTIS take immediate action to clarify and confirm whether access to the DMF will continue following March 26, 2014, (2) NTIS consider implementing an interim final rule prior to March 26, 2014, in an effort to ensure continued access to the DMF, and (3) in the absence of a final interim rule, NTIS clarify that access to the DMF will not be limited to those lacking the required certification given NTIS cannot grant certification absent the proposed regulations implementing and creating the certification program as required by section 203.

ABA and its member banks support efforts to protect the security of information within the DMF and to ensure that access to the DMF is restricted to those who have a legitimate fraud prevention or business purpose as required by law or regulation. However, the prospect of losing access to a resource as valuable as the DMF is a serious concern to ABA and its member banks and we look forward to NTIS clarifying and confirming that access to the DMF will not be lost following March 26, 2014.

Sincerely,



Kenneth J. Clayton

¹ See Certification Program for Access to the Death Master File, 79 Fed. Reg. 11735 (March 3, 2014).

² *Id.* at 11737.

³ <http://www.ntis.gov/products/ssa-dmf.aspx> (last visited March 13, 2014).