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Via Facsimile (202) 874-6965 & U.S. Mail

December 16, 1997

Cynthia L. Johnson
Director, Cash Management Policy and Planning Division
Financial Management Service
U.S. Department of the Treasury
Room 420, 401 14th Street, SW
Washington, D.C. 20227

Dear Ms. Johnson:

We write to urge the U.S. Department of Treasury (Treasury) to further address several components of its proposed rule on EFT 99 (31 CFR Part 208).

The California Reinvestment Committee (CRC) is a statewide nonprofit membership organization of more than one hundred and eighty nonprofit organizations and public agencies. CRC began in 1986 and has ongoing relationships with and Community Reinvestment Act (CRA) commitments from eight major California financial institutions. CRC strengthens community economic revitalization by promoting increased access to credit for affordable housing and community economic development, and financial services for low income communities and communities of color.

We are particularly concerned with the impact of EFT 99 on federal payment recipients who do not have bank accounts. Treasury's own study reveals that 52% of these people object to legislation that would require direct deposit. As our mission is to increase access to financial institutions, we agree with Treasury that EFT 99 presents a unique opportunity to bring federal payment recipients without bank accounts into the financial mainstream. However, in order to accomplish this without imposing any undue financial burden on these recipients, Treasury must modify its proposed rule.

Treasury's Regulatory Role.

Voluntary Accounts. The law directs Treasury to provide access to an account at a financial institution at a reasonable cost and with the same consumer protections available to other account holders to all federal payment recipients. Treasury should regulate all accounts established by recipients to receive funds electronically to ensure that recipients: 1) are able to access their federal payments through a federally insured and regulated financial institution, 2) that fees charged are reasonable and that their long-term affordability is guaranteed, and, 3) that consumer protections apply to all account transactions.

Fringe Bankers. Treasury must not allow partnerships between banks and check

EFT #138

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cashers. No bank should be allowed to be a transfer agent for EFT and reap fee income if they systematically pass the recipient on to check cashers. A system
where funds are electronically transferred to federally insured and regulated financial institutions, but recipients access their funds through check cashers is NOT acceptable and is contrary to the provisions of the law. Recipients who use check cashers will likely have to pay for an account where the funds can be transferred electronically, to receive the check (a disbursement fee), to cash the check (a transaction fee) and for any money orders or other services they need. These accounts are not available at a reasonable cost, are not federally insured and do not come with consumer protections.

Electronic Transfer Accounts (ETAs). ETAs should be free of monthly service charges and offer the same features and protections as current mainstream checking accounts. In California, eight of the top ten banks offer free checking accounts with or without direct deposit. Most of these accounts also feature unlimited check writing and all of them come with unlimited ATM transactions. Notably there are no minimum balance requirements to maintain these accounts and all have relatively low minimum opening deposits ranging from $1.00 to $100. In light of this, CRC does not believe it is unreasonable to expect financial institutions to offer electronic transfer accounts which have similar features to checking account products which are already considered mainstream in the industry.

CRC's proposed electronic transfer account would have the following characteristics:

- No monthly service charge.
- Recipients should have the option to write checks or use money orders.
- The account should come with an ATM or debit card. Recipients should have the option to choose between these two types of cards. Debit cards must be covered by the $50 liability limit for unauthorized use already applied to credit cards under the Truth in Lending Act.
- Unlimited ATM transactions.
- No cost to use a debit card at point-of-sale terminals.
- The account must accept other deposits, both electronic and non-electronic.
- Recipients must have access to in-branch teller service.
- The account should have an option for a savings account.
- Available to all recipients of federal benefits.
- Account holders must have access to customer support to obtain account balance information, resolve disputes, etc.
- As mandated by law, the ETA must carry the same consumer protections available to other financial institution account holders.
- Treasury must provide recipients with easy to understand information in several languages on account fees, features and limitations. Given that many ETA holders may be unfamiliar with basic banking services and the costs of transactions, this information is critical.

Treasury must consider the CRA ratings and CRA performance evaluations of those financial institutions which bid on the Electronic Transfer Accounts. An institution's CRA rating and performance evaluation are good indicators of how well it is meeting the access and credit needs of the communities in its geographic assessment area. Additionally, institutions which offer the ETAs should be eligible for CRA credit.

Because of the limited banking options in low income and small, rural communities and reservations, Treasury must be particularly concerned with ways to include recipients living in these communities in the EFT process. Bank mergers and acquisitions in remote rural areas have left many communities without nearby bank branches or without ATM access. Additionally, access to the ETA is critical for recipients in these communities. Because of the scarcity of financial institutions, Treasury cannot assume that accounts opened prior to the availability of the ETA were selected in a competitive banking marketplace.

Waivers. We are pleased with Treasury's proposal to allow recipients to self-certify their eligibility for waivers. However, the waiver provisions must be broadened. Treasury should also allow waivers for hardships posed by mental disabilities, literacy concerns, or language barriers.

People with mental disabilities who are not using a representative payee and have learned to manage their funds by cashing their paper checks, should be allowed to stay in the more tangible, paper-based check system. There are many challenges posed by direct deposit to people who can not read English or who do not speak English or one of the few other languages available on ATM and point-of-sale screens or provided by financial institutions in their brochures. A person who either can not read or speak English can get her money by simply signing her name on the back of her check and cashing it. Recipients with literacy or language barriers should be able to continue receiving paper checks.

The financial hardship waiver should be available to recipients regardless of whether or not they now have a bank account. While we agree with Treasury that financial hardship waivers are necessary for people without bank accounts, we believe that the financial hardship waiver should be available to anyone who finds it too expensive to maintain a bank account. This is especially critical for all of those recipients who open voluntary accounts to comply with the new law only to learn that they can not afford to keep their accounts open.

The proposed rule implies that recipients will have only one opportunity to waive out of EFT. Recipients must be able to get waivers at any point. Because there are any number of reasons why recipients who are able to participate in EFT now may not be able to in the future, a one time only policy is not rational. For instance, the consolidation of the banking industry is leaving many communities, particularly low and moderate income neighborhoods, without retail branches. If a recipient establishes an account at a local branch which later closes, leaving no other branch nearby, this person must then have the ability to waive out of EFT due to a

geographic barrier. We can also anticipate that unregulated individual bank accounts may not be affordable over the long term and may pose a financial hardship on recipients living on small fixed incomes. In addition, a recipient who begins receiving funds electronically, but later suffers a physical injury should then be eligible for a waiver based on physical disability. Additionally, all of the EFT waiver categories should be available to all federal payment recipients, regardless of when they began receiving payments. This means that recipients who became eligible for federal payments after July 26, 1996 must have the ability to waive out of the EFT requirement.

Lastly, the usefulness of these waivers is only as good as the Treasury's ability to publicize their availability. People must know that there are waivers and that they can self-certify their eligibility. This means the information on waivers which Treasury distributes must be easy to read, available in several languages and sent along with the first official notice to recipients about the EFT 99 program.

Public Education Campaign. We understand that the Treasury Department will launch a public education campaign to inform recipients of EFT 99 and to encourage them to receive their benefits electronically. Treasury must allot more than $10 million to this effort. A willingness to spend $1 per unbanked recipient nationally is not sufficient. Treasury should allot at least $10 million annually to its public education campaign in 1998, 1999 and 2000.

Why is more funding needed? CRC views the public education component as absolutely essential to the program's success. Clearly if benefit recipients are not aware of EFT 99 and what it will mean for them, they will not be able to make informed decisions. Some of the increased funds for the public education campaign should be disbursed in the form of grants to community based nonprofits and consumer groups which can conduct the hands-on, face-to-face contact with benefit recipients. Given that Treasury has held Community Outreach Initiative meetings on EFT 99, it is clear that Treasury understands the impact that consumer and community groups can have in helping Treasury meet its outreach and education goals.

Additionally, we believe that the federal government has a responsibility to fill the gap that will exist in basic banking instruction, ATM demonstrations, and the like, for those unbanked recipients who either open voluntary accounts or who have the electronic transfer accounts. This legislation requires benefit recipients to establish bank accounts where they can receive benefits electronically. Therefore, the government must provide recipients with the tools and education necessary to comply with the law. Educational workshops and demonstrations could be conducted by financial institutions and community organizations and be subsidized by the federal government during the start up years of the program (1998-2000).

It is critical that this campaign informs people of ALL of their options, including waivers, obtaining an ETA account through Treasury, and the temporary waiver for those recipients

without bank accounts to continue receiving paper checks until the ETA account is available. Treasury's materials must also inform recipients of the time frame in which they can make a decision about EFT 99. Recipients, especially low income recipients without bank accounts, who are persuaded into opening accounts before the ETA is available, may fall prey to some of the abusive practices of fringe bankers or open bank accounts that are too costly.

As Treasury is no doubt aware, check cashers have already begun advertising misinformation about the discontinuance of social security and SSI checks scheduled for 1999. Clearly, there is a real and present danger that recipients who depend on their federal checks for their survival, will be lured in by these false advertisements to ensure that they'll keep receiving payments. This means recipients without complete information who opt to set up an account with a check casher will pay not only for the account, but for the disbursement of the check and then to cash the check! For example, a check cashing operation known as the Money Exchange is offering a direct deposit account at a cost of $12 per year plus $2.95 to give out a paper check and 2% of the check's value to cash it. For a person who receives $600 per month in federal benefits, it would cost them nearly $200 a year ($16 a month) just to receive their payments by electronic transfer! The other problem with the establishment of a voluntary account with a check casher is that according to the proposed rule, once the account is set up, recipients are no longer eligible for an ETA or for a financial hardship waiver.

The information on EFT 99 must be clear, easy to understand and available in several dozen appropriate languages. Education materials must be in formats that can be easily understood by people who are financially unsophisticated, semi-literate or developmentally disabled. The Treasury Department should establish a staffed toll free number where recipients can ask questions about EFT and get clarifications on its requirements.

Protections from Attachment and Set-off. Despite the clear protections in federal law against attachment and garnishment of Social Security, Supplemental Security Income (SSI) and Veterans' Assistance benefits, numerous consumers do not use banks because they are afraid their limited funds will be taken by judgment creditors. Providing crystal clear prohibitions against attachment of funds in EFT accounts containing federal benefits would bring many consumers back into the financial mainstream. Treasury's proposed regulations do not address this issue. I understand that one of Treasury's concerns is how to demonstrate the benefits of direct deposit to those recipients who already have bank accounts yet continue to receive paper checks. Letting recipients know that their federal payments are protected even if they are electronically deposited will help Treasury accomplish its goals while at the same time reassuring recipients that their money will be safe from creditors.

Many low income elderly and disabled people are particularly vulnerable because of their inability to pay all of their doctor or hospital bills. Some of these people avoid keeping their money in bank accounts to ensure that the bank does not allow their funds to be attached by

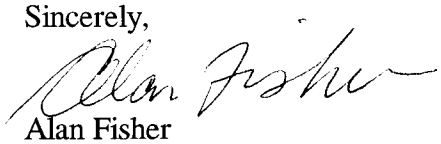
creditors. Although many federal payments are protected by law from attachment and the claims of judgment creditors, banks routinely fail to abide by these restrictions. However, the only remedy available for a recipient whose funds have been wrongly attached is to file a lawsuit against the financial institution. That does little good for the recipient who is living month to month and in dire need of the funds that were wrongly attached. As a result, cautious recipients simply do not allow their federal benefit funds to be kept in a bank account.

Treasury's regulations should flatly prohibit the attachment or garnishment of any funds in an account into which the covered federal benefit funds have been deposited.

Proposed Section 208.10 Must be Modified. Without offering any explanation as to the need for or intent of this provision, Treasury simply proposes adding a regulation that would enable the Secretary, at his or her sole discretion, to waive any provision of these rules whenever the Secretary deems it necessary or appropriate, without having to go through a formal rulemaking process or apparently any other formal review process. The inclusion of such a provision renders the protections otherwise afforded under these regulations meaningless since they could be withdrawn at any time for any reason simply at the Secretary's discretion. Such broad authority can not be allowed. This provision must be modified to more clearly state Treasury's intent. If this provision is intended to give the Secretary the right to change provisions of the rule only in the face of some unexpected failure in the system which requires immediate attention, then the rule must clearly state this intention. Clarification of this section would help close this loophole and limit the Secretary's ability to change the rule as he or she sees fit.

CRC members appreciated the opportunity to provide testimony at the public hearing in Los Angeles. We urge you to take action on these critical issues and hope that we can continue this dialog and work together on EFT 99. Thank you for your attention to this important matter.

Sincerely,



Alan Fisher
Executive Director

Enclosure

California Reinvestment Committee Fact Sheet

Low Cost Checking Accounts

Bank Name Account Title(s)*	Bank of America 1. Limited Checking 2. Versatel Checking	California Federal Bank 1. Totally Free Checking‡ 2. VIP Interest 3. Economy Interest	Citibank Basic Checking	Great Western Bank/ American Savings Bank Free Checking
Cost Per Month	1. $4.50; $2.50 with direct deposit 2. $5.50; no charge with direct deposit	1. None 2. None with direct deposit or automatic loan payment 3. $0.20 per debit (check and/or ATM)	$6.50	None
Limitations/ Charges Per Month	1. 10 checks; 2 deposits can be made in-branch. If any of the limitations are exceeded, one $4.50 service charge per month is applicable: More than 10 checks are written; More than 2 deposits are made with a teller; or A withdrawal is made with a teller. 2. Unlimited check writing; $2.00 for each deposit or withdrawal made with a teller.	1. Unlimited check writing. 2. Unlimited check writing. Unlimited customer service access and free check imaging. 3. Per Item Pricing - $0.20 per debit Accounts #1 and #3: After 6 free calls a month to Customer Service, the following charges apply: Automated Service: $0.50 ea. Agent: $1.50 ea. Check imaging: $1.00. For all accounts, canceled check return is $2.00.	6 checks, after 6 there is a $2.00 charge per check	Unlimited check writing. No charge for phone calls to customer service or to receive canceled checks.
Minimum Opening Deposit **Note: None of these accounts have a minimum monthly balance requirement.**	1. $25 2. $100	1. $50 2. $100 3. $50	None	$1.00
Identification Required	2 forms of ID: U.S. Driver's License, or one of the following ID cards: CA, Foreign, Alien resident, border crossing, government-issued. Secondary ID can be current utility bill, personal reference or reference from approved social service agencies.	1 form of ID: U.S. Driver's License, Passport or other official picture I.D.	2 forms of ID: one picture ID with signature and description and a second confirming name.	2 forms of ID: 1 primary (CA Driver's License, some out of state), photo ID Cards, Passport; 1 Secondary: credit card, picture insurance card, picture ID card (e.g. student ID card)
Non-Customer Government Check Cashing	No	No	No	No
Bank Customer's Use of Non-Bank ATMs	$2.00 - withdrawal, transfer $1.00 - inquiry	$1.50 - withdrawal $0.50 - inquiry	2 free per month, $1.50 each after 2	$1.25
Non-Bank Customer's Use of This Bank's ATMs	$2.00 surcharge	$1.50 surcharge	No surcharge	$1.25 surcharge

* Numbers throughout matrix refer to account titles in top row of each column. For example, for Bank of America, the #1 refers to Limited Checking throughout column.
‡ Beginning September 15, 1997, no new accounts will be opened under this program; existing accounts will be maintained.
Notes: The eight banks represented on this matrix were selected because they currently have relationships with CRC.

For more information regarding any of these accounts, please contact Constance Botelho at (415) 864-3980.

California Reinvestment Committee Fact Sheet

Low Cost Checking Accounts

Bank Name Account Title*	Home Savings of America 1. ATM Value Checking 2. Convenience Checking	Union Bank of California 1. California First Account 2. Direct Check Banking	U.S. Bank of California Ubank Checking	Wells Fargo Bank 1. Limited Income Checking 2. ATM Checking
Cost Per Month	1. $3.00 with direct deposit; $5.00 without direct deposit. 2. None with direct deposit	1. None 2. None with direct deposit	$5.00, fee is waived with $300 daily balance.	1. Free with recurring direct deposit of $100 or more. 2. $5.50, or $3.50 with recurring direct deposit of $100 per month
Limitations/ Charges Per Month	1. 30 checks per month, $0.50 per check after 30; $1.00 for in-branch transactions which can be performed at ATM (transfer, withdrawal, deposit) 2. Unlimited check writing.	1. 5 checks ($0.75 each after 5) 2. Unlimited check writing.	Unlimited check writing.	1. Unlimited check writing. Canceled check return: $1.50. Unlimited access to touch-tone 24-hour Telephone Banking calls. After 3 free agent-assisted calls, $1.50 per call. 2. Unlimited check writing. Canceled check return: $1.50. After 3 calls per month to 24-hour Telephone Banking (either using touch-tone or agent assistance), $1.50 per call.
Minimum Opening Deposit **Note: None of these accounts have a minimum monthly balance requirement.**	1. $100 2. $100	1. $1.00 2. $100	$50	1. None 2. None
Identification Required	2 valid forms of ID: one Primary (State Driver's License, U.S. Passport, Military ID Card, or a State ID Card) and one Secondary (utility bills, credit card)	1 piece of primary photo I.D. (State Driver's License, US Passport, etc.)	2 valid forms of ID: one Primary (State Driver's License, U.S. Passport, Military ID Card, or a State ID Card) and one Secondary (utility bills, credit card)	2 valid forms of ID: one Primary (State Driver's License, U.S. Passport, Military ID Card, or a State ID Card) or a Primary ID may be based on personal knowledge of the customer; one Secondary ID must contain a signature matching that on the Primary ID and a verifiable ID or account number.
Non-Customer Government Check Cashing	No	Yes, $5.00 fee (refundable if account is opened)	Yes, $5.00 fee	No
Bank Customer's Use of Non-Bank ATMs	$1.50 - withdrawal $1.00 - account inquiry	Depends on zone: Western - CA, OR, WA, NV, AZ; Domestic & International. In the West: Transfers- $1.00; Withdrawals - $1.25; Balance Inquiry - $0.50	$1.50	$2.00
Non-Bank Customer's Use of This Bank's ATMs	$1.50 surcharge	No surcharge	$1.50 surcharge	$1.50 surcharge

* Numbers throughout matrix refer to account titles in top row of each column. For example, for Home Savings, the #1 refers to ATM Value Checking throughout column.
Notes: The eight banks represented on this matrix were selected because they currently have relationships with CRC.

For more information regarding any of these accounts, please contact Constance Botelho at (415) 864-3980.