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IRS REFUND RETURN OPT-IN PROGRAM AGREEMENT AND OPERATING RULES

December 19, 2013

This IRS Refund Return Opt-In Program Agreement (“Agreement”) is entered into as of _____ (the “Effective Date”), by and between NACHA - The Electronic Payments Association (“NACHA”) and _____ (the “Program Participant”).

BACKGROUND

The Internal Revenue Service of the U.S. Department of the Treasury (“IRS”) would like to make it easier for Participating DFIs to return tax refund credits in cases of suspected error or fraud. Accordingly, the IRS and NACHA have developed the IRS Refund Return Opt-In Program (the “Program”) whereby Program Participants can submit Return Entries to the IRS under operating rules adopted specifically for the Program (“Program Rules”).

The Program Rules permit an RDFI to return a tax refund credit that is questionable using the R17 Return Reason Code for 60 days from the Settlement Date of the original Entry. The Program Rules allow such a return (i) in the case of a name mismatch between the credit Entry and the name associated with the account, (ii) for situations where the taxpayer’s identity has been stolen, or (iii) for a refund where there are indications that the credit Entry is questionable, invalid, erroneous, or obtained through fraudulent filings. An RDFI is not required to perform name matching or to screen tax refund credits for name matches before posting. Because the Program Rules permit these R17 returns, RDFIs would not be required to either notify or obtain permission from the IRS regarding each such return.

The Opt-In Program will complement the IRS’ existing “External Leads Program” which partners with banks, credit unions and other financial institutions to recover funds related to questionable federal tax refunds. Through the External Leads Program, the IRS receives external communications via a group mailbox (efleads@irs.gov) about the questionable tax refunds. These refunds are identified by financial institutions, state and local agencies, tax product groups, brokerage firms, government and law enforcement agencies, and various other sources. These leads may involve Treasury checks, direct deposits/ACH, refund anticipation loans or checks, and pre-paid debit cards.

NACHA and the Program Participant therefore agree as follows:

AGREEMENT

- 1. Definitions.** Capitalized terms not otherwise defined in this Agreement shall have the meanings given to such terms in the NACHA Operating Rules, as amended from time to time and adopted by 31 C.F.R. Part 210 (the “NACHA Rules”).
- 2. Incorporation by Reference.** This Agreement, together with the NACHA Rules and the Program Rules (Exhibit A) which are hereby incorporated by reference into this Agreement, constitutes the entire understanding of the parties, and supersedes any prior understandings, with respect to the subject matter of this Agreement. In the event of a conflict among this Agreement, the Program Rules and the NACHA Rules, the following order of precedence shall apply: first, this Agreement, then the Program Rules, then the NACHA Rules. Silence shall not constitute a conflict.
- 3. Agreement to Participate under the Program Rules.** Program Participant hereby agrees to be bound by and comply with the Program Rules, as amended by NACHA from time to time in its sole discretion upon prior written notice to Program Participant, provided that Program Participant shall determine in its sole discretion whether to submit Return Entries to the IRS under the Program. Program Participant agrees that NACHA and the U.S. Department of the Treasury may share information regarding the performance of the Program, including transaction volumes.
- 4. Term.** This Agreement shall commence as of the Effective Date and shall continue in effect until terminated by one party providing at least thirty (30) days prior written notice to the other party or by the IRS providing prior written notice of its termination of the Program.
- 5. Counterparts.** This Agreement may be executed in multiple counterparts, which taken together shall constitute one instrument and each of which shall be considered an original for all purposes.

* * *

IN WITNESS OF THE FOREGOING, the Program Participant has caused this Agreement to be executed and delivered by its duly authorized officer on the date first set forth above.

Name of Program Participant: _____

By (contact person's name): _____

Signature: _____ Title: _____

Street Address, City, State, Zip

Telephone number: _____ Fax: _____

Email address: _____

Date: _____

This agreement has been accepted by NACHA

By: Amy Morris, AAP, Senior Director Network Rules, NACHA

Signature: _____

Telephone number: (703)561-3936 Fax: 703-561-1056

Email address: amorris@nacha.org

Date: _____

EXHIBIT A
IRS REFUND RETURN OPT-IN PROGRAM OPERATING RULES

Revised December 19, 2013

The following Operating Rules of the IRS Refund Return Opt-In Program shall supersede conflicting provisions of the NACHA Rules.

- A. Program Participants may return credit PPD Entries received from the IRS using the R17 Return code and a specific “subcode” in the Addenda Information field to specify the nature of the return. The subcodes and reasons are as follows:
- 1. Subcode 17: *Name Mismatch*** between the Program Participant’s record of the name associated with account number contained in the Entry and the Receiver’s name contained in the Entry, or for other conditions acceptable to the IRS, including a Social Security Number mismatch;
 - 2. Subcode 18: *ID Theft***, where the RDFI has been notified or believes as a result of internal fraud investigation that a PPD credit Entry is related to a case where a taxpayer’s identity has been stolen; or
 - 3. Subcode 19: *Questionable Refund***, whereby account characteristics, account history, investigation and/or other key markers identified through filters or other means implemented by the RDFI indicate that a forward PPD credit Entry deposited to an account(s) is questionable, invalid, erroneous, or obtained through fraudulent filings.

Program Participants with questions or difficulties using the R17 Return code with a subcode in the Addenda Information field must inform the IRS at Kristen.A.Landreth@irs.gov.

Each such Return Entry is referred to below as a “Program Return.”

- B. A Program Return may be Transmitted by a Program Participant for up to 60 days following the Settlement Date of the original Entry. If a Program Participant wishes to Transmit a Program Return after 60 days from the Settlement Date of the original Entry, the Program Participant must contact the Internal Revenue Service External Leads Program at efleads@irs.gov to obtain permission for a late Program Return.
- C. Program Participants make no representation or warranty (i) that they will Transmit any Program Returns or (ii) that any Program Return is the result of error, fraud or other unlawful activity. Program Participants shall have no liability for the Transmission of any Program Return in accordance with the NACHA Rules, as modified by these Program Rules.