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January 10, 2019

The Honorable Steven Mnuchin  
Secretary  
Department of Treasury  
1500 Pennsylvania Ave., NW  
Washington, DC 20220

Kim McCoy  
Commissioner  
Bureau of the Fiscal Service  
Department of Treasury  
1500 Pennsylvania Ave., NW  
Washington, DC 20220

Dear Secretary Mnuchin and Commissioner McCoy,

I write to share with you the results of my investigation of fraud affecting Social Security and VA beneficiaries using the Comerica-administered Direct Express program to receive their federal benefits. The Department of Treasury (“The Department”) recently announced the Bureau of the Fiscal Service will be seeking applications to re-bid the agreement Comerica Bank currently holds as a financial agent of the Direct Express program.<sup>1</sup> As you prepare the new agreement, I ask that you address the problems revealed by my investigation and make sure the benefits received by elderly and disabled Americans and those who served our country are not vulnerable to fraud.

Since 2008, Comerica Bank has contracted with the Department of Treasury to administer the Direct Express program, which provides prepaid debit cards and electronic payments of federal benefits such as social security, disability, and veteran benefits.<sup>2</sup> 4.5 million Americans utilize Comerica’s Direct Express program, and Direct Express dispersed around \$3 billion in Social Security and SSI payments to 4.3 million Americans in September 2018.<sup>3</sup> As of October 2018, Direct Express distributed nearly \$90 million in benefits to nearly 84,000 veterans or their families.<sup>4</sup>

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<sup>1</sup> U.S. Department of Treasury, Bureau of the Fiscal Service, “Treasury’s Bureau of the Fiscal Service Seeks Direct Express® Prepaid Debit Card Services,” November 27, 2018, <https://www.fiscal.treasury.gov/news/direct-express-prepaid-debit-card.html>.

<sup>2</sup> American Banker, “Comerica scrambles to address fraud in prepaid benefits program,” Kate Berry, August 26, 2018, <https://www.americanbanker.com/news/comerica-scrambles-to-address-fraud-in-prepaid-benefits-program>.

<sup>3</sup> Letter from SSA Acting Commissioner Nancy Berryhill to Senator Elizabeth Warren, November 15, 2018, at 2.

<sup>4</sup> Letter from VA Secretary Robert Wilkie to Senator Elizabeth Warren, December 4, 2018, at 1.

I opened this investigation as a result of numerous complaints from my constituents and detailed reports in *American Banker* that revealed allegations of fraud in a feature of the Direct Express program known as the Cardless Benefit Access Service. As part of the investigation, I wrote to Comerica, the Social Security Administration (SSA), and the Department of Veterans Affairs (VA), receiving written responses from all three.<sup>5</sup> In addition, my staff received briefings from Comerica and the Department of the Treasury's Office of Inspector General (OIG).

The Cardless Benefit Access feature, which Comerica originally called "Emergency Cash," was designed to allow Direct Express cardholders who lost or did not have their physical debit card to request and transfer money to a MoneyGram location, often out of state.<sup>6</sup> The feature was introduced to all Direct Express cardholders in August 2017 and proved to be valuable in the aftermath of Hurricanes Harvey and Maria. Direct Express cardholders in affected areas were able to obtain emergency funds from MoneyGram locations operating on generators as a result of the hurricanes, even if ATMs in the area were out of service or if cardholders had left their cards behind to escape the hurricanes and flooding.<sup>7</sup>

Because of concerns about targeted fraud, the feature was suspended in August 2018, and in October 2018, Comerica stated that the Cardless Benefit Access feature "has been suspended temporarily ... [but] has not been discontinued as it has been a lifeline for many [Direct Express] cardholders."<sup>8</sup>

My investigation revealed the following new information about the explanation for, scope of, and response to the fraud:

- **Hundreds of individuals were affected by fraud in the Direct Express program.** According to information provided by Comerica, in the one year after the feature was introduced to all Direct Express cardholders in August 2017, there were 480 cases of fraud.<sup>9</sup> The total amount of confirmed fraud is \$459,998.75, an average of nearly \$1,000 per affected individual.<sup>10</sup>

The Cardless Benefit Access Service began operating on a full scale in August 2017; there were six cases of fraud in all of 2017, and then the pace of fraud began to increase. There were 11 cases in January 2018, 7 in February, 24 in March, 34 in April, 65 in May, 10 in June, and 73 in July. At this point, Comerica was aware of a total of 230 fraud cases in a year; however, it is unclear exactly when Comerica began

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<sup>5</sup> Letter from Senator Elizabeth Warren to Chairman and CEO of Comerica Bank Ralph W. Babb, Jr., October 16, 2018, <https://www.warren.senate.gov/imo/media/doc/2018.10.16%20Letter%20to%20Comerica%20Bank%20re%20Direct%20Express.pdf>.

<sup>6</sup> Letter from Chairman and CEO of Comerica Bank Ralph W. Babb, Jr. to Senator Elizabeth Warren, October 30, 2018, at 8.

<sup>7</sup> Letter from Chairman and CEO of Comerica Bank Ralph W. Babb, Jr. to Senator Elizabeth Warren, October 30, 2018, at 8.

<sup>8</sup> Letter from Chairman and CEO of Comerica Bank Ralph W. Babb, Jr. to Senator Elizabeth Warren, October 30, 2018, at 8.

<sup>9</sup> Letter from Chairman and CEO of Comerica Bank Ralph W. Babb, Jr. to Senator Elizabeth Warren, October 30, 2018, at 8, 16.

<sup>10</sup> Letter from Chairman and CEO of Comerica Bank Ralph W. Babb, Jr. to Senator Elizabeth Warren, October 30, 2018, at 16.

to take corrective action and whether those actions were enough.<sup>11</sup> Comerica states “targeted fraud was identified in mid-2018,” and in response Comerica trained its customer service representatives to ask for additional verifiers when cardholders used the Cardless Benefit Access feature.<sup>12</sup> But even with targeted fraud on their radar and additional safeguards, fraud cases in the program more than doubled in August 2018—with 244 fraud cases in that month and 6 more in September 2018. It was only then that program was temporarily suspended by Comerica.<sup>13</sup>

Comerica asserts that the company notified customers when there was suspected fraudulent activity, and that all customers impacted by the fraud schemes have been reimbursed using “a process consistent with industry standards to assist cardholders reporting fraud.”<sup>14</sup> This process includes “a team of individuals mak[ing] outbound calls to cardholders during the hours that they may legally place a call” upon discovery of suspected fraudulent activity.<sup>15</sup> If contact is unsuccessful, Comerica may temporarily suspend the Direct Express card and will send a letter to the cardholder directing them to call the number on their Direct Express card, where the cardholder is immediately transferred to the fraud team. When Comerica reaches out to customers when fraudulent activity is flagged, or when customers report fraud directly, cardholders are requested to submit paperwork regarding the questionable transactions either by fax or by mail.<sup>16</sup>

On average, fraud claims in 2017 (between August 2017 and the end of December 2017) took 40 days to reimburse. Reimbursement was progressively faster in 2018, taking 31 days in January 2018, 38 days in February, 32 days in March, 34 days in April, 30 days in May, 15 days in June, 12 days in July, 11 days in August, and 5 days in September.

Comerica maintains that all 480 cardholders affected by the fraud schemes have received full reimbursement, but claims from my constituents and victims continue to raise questions. Victims maintain that Direct Express never contacted them about the fraud,<sup>17</sup> there are hundreds of complaints on the Consumer Financial Protection Bureau’s Complaint Database and the Better Business Bureau’s website alleging

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<sup>11</sup> Letter from Chairman and CEO of Comerica Bank Ralph W. Babb, Jr. to Senator Elizabeth Warren, October 30, 2018, at 17.

<sup>12</sup> Letter from Chairman and CEO of Comerica Bank Ralph W. Babb, Jr. to Senator Elizabeth Warren, October 30, 2018, at 8.

<sup>13</sup> Comerica’s response detailed that even though the Cardless Benefit Access Service was temporarily suspended in August 2018, “[t]here were six claims filed in September 2018 that related to fraud that took place in August 2018.” Letter from Chairman and CEO of Comerica Bank Ralph W. Babb, Jr. to Senator Elizabeth Warren, October 30, 2018, at 17.

<sup>14</sup> Letter from Chairman and CEO of Comerica Bank Ralph W. Babb, Jr. to Senator Elizabeth Warren, October 30, 2018, at 19.

<sup>15</sup> Letter from Chairman and CEO of Comerica Bank Ralph W. Babb, Jr. to Senator Elizabeth Warren, October 30, 2018, at 19.

<sup>16</sup> Letter from Chairman and CEO of Comerica Bank Ralph W. Babb, Jr. to Senator Elizabeth Warren, October 30, 2018, at 19.

<sup>17</sup> American Banker, “Comerica scrambles to address fraud in prepaid benefits program,” Kate Berry, August 26, 2018, <https://www.americanbanker.com/news/comerica-scrambles-to-address-fraud-in-prepaid-benefits-program>.

unprofessional customer service and difficulties in the fraud reporting and reimbursement process.<sup>18</sup>

It is encouraging that Comerica's reimbursement of fraud victims happened more quickly as the months went by and as the fraud schemes continued, but Direct Express customers rely on their federal benefits often as their sole source of income and do not have other bank accounts. Any disruption in these payments can have devastating effects on these Americans' lives. The fraud detection and reimbursement process in the Direct Express program need to be examined with close scrutiny.

- **SSA and VA officials and the public were not adequately informed of fraud affecting their program beneficiaries.** In the response to my information request, the VA's response noted that "Until the receipt of [Senator Warren's] inquiry, VA was unaware of any security breaches in the Direct Express card program at Comerica. The U.S Department of Treasury (Treasury) did not inform VA," and it appears that Comerica did not either. Similarly, in the SSA's response, SSA confirms it is "aware of fraudulent activity related to the [Cardless Benefit Access] program. We became aware of this issue in August 2018, when Comerica suspended the program." Comerica also indicated that "there was no reason to release a warning to the public or to publish a notice on our website about the fraud."<sup>19</sup> It is unclear whether Comerica notified SSA of the fraudulent activity, whether Treasury alerted either agency of the fraud schemes so the agency could advise their beneficiaries on appropriate actions, or whether there were any notice requirements under the terms of the contract, and if so, if these requirements were followed.
- **The fraud was not caused by a Comerica data breach, but card members were vulnerable because their private identifiable information (PII) was stolen from other non-related entities.** Our investigation obtained important and previously non-public information about how the fraud occurred. According to Comerica, "we have found no evidence of a data breach at Comerica, its service providers, or in any data management system used to administer the Direct Express program,"<sup>20</sup> and that "Cardholder data was not compromised as a result of a breach at Comerica, Conduent or any of [Comerica's third party] service providers."<sup>21</sup> Comerica continued, explaining how the fraud occurred and who the company believes was responsible:

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<sup>18</sup> A search was performed on December 19, 2018 on the Consumer Financial Protection Bureau Consumer Complaint Database search for "Direct Express" filtered by Company Name "Comerica," [https://www.consumerfinance.gov/data-research/consumer-complaints/search/?company=Comerica&from=0&has\\_narrative=true&searchField=all&searchText=Direct%20Express&size=25&sort=created\\_date\\_desc](https://www.consumerfinance.gov/data-research/consumer-complaints/search/?company=Comerica&from=0&has_narrative=true&searchField=all&searchText=Direct%20Express&size=25&sort=created_date_desc); Better Business Bureau, "U.S. Direct Express," <https://www.bbb.org/us/tx/san-antonio/profile/payment-processing-services/u-s-direct-express-0825-90068910>.

<sup>19</sup> Letter from Chairman and CEO of Comerica Bank Ralph W. Babb, Jr. to Senator Elizabeth Warren, October 30, 2018, at 21.

<sup>20</sup> Letter from Chairman and CEO of Comerica Bank Ralph W. Babb, Jr. to Senator Elizabeth Warren, October 30, 2018, at 1.

<sup>21</sup> Letter from Chairman and CEO of Comerica Bank Ralph W. Babb, Jr. to Senator Elizabeth Warren, October 30, 2018, at 17.

The fraudulent activity that took place in the Cardless Benefit Access feature was card fraud, likely the result of one of the many merchant data breaches that have occurred in recent years. ... The criminals who used our cardholders' Personally Identifiable Information ("PII") obtained that information from a source other than Direct Express. ... [N]umerous industry data breaches have unfortunately provided criminals specific personal information that is used to perpetrate fraud. ... The criminals involved with the Cardless Benefit Access fraud are unknown third parties and the investigation process for financial crimes is underway.<sup>22</sup>

This important finding reveals that Comerica was not the victim of a cybersecurity breach; however, it also reveals that the systems set up to prevent fraud under the Cardless Benefit Access program were not robust enough to prevent fraud when criminals obtained PII from other sources. While no program is entirely fraud-proof, it is possible that a better designed program could, and would in the future, reduce the risks of this type of fraud.

- **There are multiple ongoing investigations of the Direct Express fraud schemes and of other aspects of the Direct Express program.** I have previously questioned the Direct Express bidding process when Comerica was re-awarded their contract in 2014, due to allegations of fraudulently stolen benefits and the general lack of transparency in the Direct Express program.<sup>23</sup> And there are several ongoing government and internal investigations into the fraud schemes by Comerica itself, FinCEN, and the Treasury's Office of Inspector General (OIG) regarding the cause and perpetrators of the fraud schemes, in addition to the implementation of the Direct Express program and contract.<sup>24</sup> The recent fraud schemes and security concerns yet again raise questions regarding the management of the Direct Express program and the sufficiency of the terms of the contract with Bureau of the Fiscal Service.

While Direct Express's ability to provide cardholders an immediate emergency transfer of funds is beneficial, it is clear that there continues to be problems with implementation of this program that require close scrutiny. I ask that, as you move forward with the re-bidding of the Direct Express fiscal agreement for 2020, you take into consideration the findings of my investigation and act to address its findings. To the extent there are additional ongoing investigations by the Treasury OIG, FinCEN or others, you should take the findings of these investigations into account when writing the new agreement and selecting a fiscal agent to run the program.

Key issues identified by my investigation that must be addressed include:

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<sup>22</sup> Letter from Chairman and CEO of Comerica Bank Ralph W. Babb, Jr. to Senator Elizabeth Warren, October 30, 2018, at 1, 9, 10, 21.

<sup>23</sup> Letter from Senator Elizabeth Warren, Senator Bill Nelson, and Senator Susan Collins to Secretary of the Treasury Jacob J. Lew, December 9, 2014, <https://www.documentcloud.org/documents/1937042-nelson-to-lew-120914.html>; Letter from Senator Orrin Hatch to Secretary of the Treasury Jacob J. Lew, January 22, 2015, <https://www.documentcloud.org/documents/1937051-hatch-to-lew-012215.html>.


<sup>24</sup> Letter from Chairman and CEO of Comerica Bank Ralph W. Babb, Jr. to Senator Elizabeth Warren, October 30, 2018, at 13, 18, 20.

- (1) Ensuring that the agreement contains appropriate protections to prevent fraud, regardless of its cause;
- (2) Guaranteeing that instances of fraud that affect Direct Express program participants are resolved quickly with no cost or loss of benefits for program beneficiaries; and
- (3) Requiring prompt notification and proper warnings for SSA, VA, and other benefit program administrators and for beneficiaries in the event of any fraud affecting the program.

If functioning properly, there is unquestionable value in the Direct Express program – it gives financial freedom and agency to millions of elderly and disabled Americans. But these Direct Express customers are particularly vulnerable. The Direct Express program was designed for individuals who don't have bank accounts, and for many of these Americans their federal benefits are their sole source of income that keep a roof over their head, pay for life-saving medications, and put food on the table. The importance of the security and proper implementation of your agency's government-contracted program cannot be understated.

I urge you to take the facts and information gathered through my investigation into consideration during the Direct Express financial agency contract bidding process and to modify the new contract language to ensure improvements in the financial agent's ability to prevent and respond to fraud schemes or security vulnerabilities.

Sincerely,



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Elizabeth Warren  
United States Senator