United States Government Accountability Office
Report to Congressional Requesters

January 2017

REVENUE COLLECTIONS AND PAYMENTS

Treasury Has Used Financial Agents in Evolving Ways but Could Improve Transparency

Accessible Version

GAO-17-176

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GAO Highlights

Highlights of GAO-17-176, a report to congressional requesters

Why GAO Did This Study

Under the National Bank Act and other statutes, Treasury is authorized to designate certain financial institutions as depositaries of public money and financial agents of the federal government. Treasury uses financial agency agreements to designate financial agents. In 2004, Congress provided Treasury with a permanent, indefinite appropriation to reimburse financial agents for their services, which replaced its use of non-appropriated funds.

GAO was asked to review Treasury's use of financial agents. This report examines (1) how Treasury's use and compensation of financial agents has changed as it has modernized its payment and collection systems and (2) Fiscal Service's process and related internal controls for selecting and designating financial agents. GAO examined documents on Treasury's programs using financial agents; budget and other data on financial agent compensation; and laws and regulations governing the use of financial agents. GAO also reviewed Fiscal Service's FASP guidance and internal records supporting its selection and designation of five financial agents between 2010 and 2015. GAO interviewed Fiscal Service officials about its FASP and its use of financial agents.

What GAO Recommends

GAO recommends that Treasury publicly disclose in a central location information about its financial agents, including their compensation and services provided. Treasury agreed with GAO's recommendation and provided technical comments, which were incorporated as appropriate.

View GAO-17-176. For more information, contact Michael Clements at (202) 512-8678 or clementsm@gao.gov.

What GAO Found

The Department of the Treasury's (Treasury) use of financial agents has evolved as it has moved from paper to electronic transactions in response to changes in technology and new laws. Treasury has a long history of using financial agents to support its core functions of disbursing payments and collecting revenue. Since the 1980s, Treasury has used agents to move from paper to electronic transactions as it has modernized its systems. For example, Treasury began using financial agents to collect tax revenue electronically in response to a 1984 law and to make payments electronically in response to a 1996 law. Such changes have continued since Congress enacted a permanent, indefinite appropriation in 2004 for Treasury to reimburse financial agents, after which Treasury began including in its annual budget the total amount paid to financial agents. Compensation to financial agents has grown from $378 million in fiscal year 2005 to $636 million in fiscal year 2015, partly due to increases in the number of debit and credit card payments made to federal agencies that are processed by financial agents. While Treasury discloses in its annual budget the total amount paid to financial agents, it has not fully disclosed in a central location information about individual agents, including their compensation and services provided. Treasury officials said they are not required and have not determined a need to publicly disclose compensation under each financial agency agreement. According to an Office of Management and Budget directive on open government, transparency promotes accountability by providing the public with information about government activities. Greater disclosure and transparency could enhance the accountability of Treasury's use of financial agents by informing the public and Congress about how much and for what purposes it is spending federal funds to obtain services from financial agents.

The Bureau of the Fiscal Service (Fiscal Service)—the largest user of financial agents within Treasury—developed its financial agent selection process (FASP) guidance to document the steps and internal controls that its program offices generally are expected to follow in selecting and designating financial agents. The guidance provides assurances that a FASP is effective and efficient, documents key information, and complies with applicable laws and regulations. The guidance directs program offices to maintain an administrative record of key documents generated during a FASP. GAO selected five financial agents designated between 2010 and 2015 to review their administrative records but could review only four because the record for one was not created. None contained all the documents listed in the guidance, but three contained the majority. For example, the record for *my*RA®, a new retirement savings program using a financial agent to provide custodial services, contained 6 of 11 key documents—missing, for example, certain planning and approval documents. As a result, the records varied in the extent to which they complied with Fiscal Service's guidance, including controls. In November 2015, Fiscal Service revised its guidance to require not only program offices to deliver an electronic copy of their administrative records to the Bank Policy and Oversight (BPO) Division but also BPO to use a checklist to ensure that the records are complete. The 2015 guidance was not in effect for the records GAO reviewed. However, BPO's implementation of the new procedure should provide assurances that future designations are in compliance with the FASP guidance, including controls.

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Abbreviations

BPO	Bank Policy and Oversight Division
EESA	Emergency Economic Stabilization Act of 2008
FASP	financial agent selection process
Fiscal Service	Bureau of the Fiscal Service
HERA	Housing and Economic Recovery Act of 2008
SBJA	Small Business Jobs Act of 2010
Treasury	Department of the Treasury

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January 25, 2017

The Honorable Orrin Hatch
Chairman
Committee on Finance
United States Senate

The Honorable Elizabeth Warren
United States Senate

The National Bank Act and other statutes provide the Department of the Treasury (Treasury) with the authority to designate certain financial institutions as depositaries of public money and financial agents of the federal government.[1] Financial agents commonly accept and process deposits of public money on behalf of the federal government and provide services essential to the collection and disbursement of and accounting for public monies. Treasury uses financial agency agreements to designate financial institutions as financial agents. Once designated by Treasury, a financial agent is subject to the agreement's terms and certain other requirements. Additionally, the agreements generally state that the financial agent owes a fiduciary duty of loyalty and fair dealing to the United States. Before 2004, Treasury used compensating balances to reimburse financial agents for their services.[2] However, as we previously reported, a combination of circumstances, including declining interest rates and the need to stay under the debt limit, made compensating balances inefficient and disruptive for Treasury.[3] In 2004, Congress

[1]See, e.g., 12 U.S.C. §§ 90, 265. The Secretary of the Treasury is authorized to designate financial agents to "perform all such reasonable duties, as depositaries of public money and financial agents of the Government, as may be required of them."

[2]Compensating balances were nonappropriated funds that Treasury, before 2004, deposited with banks and other financial institutions. The financial institutions obtained compensation for the services they performed from the earning value generated by the deposited funds. The amount of the compensating balance was determined by matching the earning value of the compensating balance with the cost of the services that were performed by the depositary.

[3]For more information, see, for example, GAO, *Debt Management: Backup Funding Options Would Enhance Treasury's Resilience to a Financial Market Disruption*, GAO-06-1007 (Washington, D.C.: Sept. 26, 2006).

provided Treasury with a permanent, indefinite appropriation with which to reimburse financial agents for their services.[4]

Within Treasury, the Bureau of the Fiscal Service (Fiscal Service) is responsible for the department's basic functions of collecting and holding federal taxes and other revenues and making federal payments. Fiscal Service (and its predecessors) has a long history of using financial agents to help support these functions, and Fiscal Service currently has financial agency agreements with nine financial institutions. According to Fiscal Service officials, by using financial agents, the department is able to leverage the existing banking infrastructure and avoid the expense of creating a separate government banking system to provide these basic services. Treasury compensates Fiscal Service's financial agents using the permanent, indefinite appropriation, and in fiscal year 2015 Treasury paid Fiscal Service's financial agents $636 million.

In light of the combination of Treasury's authority to use financial agents and its permanent, indefinite appropriation to reimburse financial agents, you asked us to examine Treasury's use of financial agents, including its process for selecting and designating financial agents.[5] In particular, this report examines

1. how Treasury's use and compensation of financial agents has changed as it has modernized its payment and collection systems, and
2. Fiscal Service's process and related internal controls for selecting and designating financial institutions as financial agents.

To address our objectives, we reviewed federal statutes, regulations, and directives that have guided or authorized Treasury's use of financial

[4]Transportation, Treasury, and Independent Agencies Appropriations Act, 2004, Pub. L. No. 108-199, Div. F, § 218, 118 Stat. 279, 321 (2004). Permanent authority is budget authority that is available as the result of previously enacted legislation and is available without further legislative action. Indefinite authority is budget authority that, at time of enactment, is for an unspecified amount. Indefinite budget authority may be appropriated as all or part of the amount of proceeds from the sale of financial assets, the amount necessary to cover obligations associated with payments, the receipts from specified sources—the exact amount of which is determinable only at some future date—or it may be appropriated as "such sums as may be necessary" for a given purpose.

[5]Although four units within Treasury use financial agents, this report addresses Treasury's use of financial agents through Fiscal Service because these agents are compensated using the permanent, indefinite appropriation.

agents and Treasury documentation, including annual budget documents and materials describing its payment, collection, and other programs. We also reviewed relevant audit or similar reports issued by GAO, Treasury's Office of the Inspector General, and others. We used budget data for fiscal years 2004 through 2015, the most recent data available at the time of our review, to analyze the total amount paid to financial agents since enactment of the permanent, indefinite appropriation. We also obtained data from Fiscal Service on the amount of fees paid to each of its financial agents in fiscal years 2014 and 2015 to conduct a more in-depth analysis of the total amount of fees paid to them for payment, collection, and other services. We assessed the reliability of the data by interviewing knowledgeable officials, conducting manual testing on relevant data fields for obvious errors, and reviewing a recent audit. Based on these steps, we found the data to be sufficiently reliable for the purposes of our analyses. We reviewed Fiscal Service's policies and procedures for selecting and designating financial institutions as financial agents. We used the standards for internal control in the federal government to assess Fiscal Service's process and related controls for selecting and designating financial agents.[6] We also reviewed internal records that Fiscal Service generated to document key decisions made in its selection and designation of five financial agents between January 2010 and December 2015 to assess compliance with Fiscal Service's policies and procedures. We compared these records to the types of documentation listed in Fiscal Service's policies and procedures. Finally, we interviewed officials in various units within Treasury that are involved in the selection and designation of financial agents, including Fiscal Service and the Office of the Fiscal Assistant Secretary. Appendix I contains more detail on our scope and methodology.

We conducted this performance audit from January 2016 to January 2017 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.

[6]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: September 2014). This publication superseded *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999) and went into effect on October 1, 2015. We used the updated standards to review Fiscal Service's policies and procedures that were revised in November 2015.

Background

Treasury Is Authorized to Use Financial Agents

Treasury is authorized to use financial agents under several statutes, including the National Bank Acts of 1863 and 1864.[7] Treasury is authorized to employ financial institutions as financial agents of the government to perform all reasonable duties as may be required of them. Treasury may designate various types of financial institutions as financial agents. Treasury also has issued regulations governing its designation of financial agents.[8] Treasury designates financial institutions as financial agents through financial agency agreements. Financial agency agreements entered into by Treasury do not constitute procurement contracts under the purview of Federal Acquisition Regulations.[9] According to Treasury officials, the department uses financial agents to provide only financial services, and it uses a separate procurement process to acquire commercially available goods and equipment. In 2004, Congress provided Treasury with a permanent, indefinite appropriation to reimburse financial agents, and Treasury uses that appropriation to pay financial agents supporting Fiscal Service's revenue collections, payments, and other programs.

Treasury received additional authority to use financial agents under the Emergency Economic Stabilization Act of 2008 and the Small Business Jobs Act of 2010, which were passed in response to the financial crisis.[10] The Emergency Economic Stabilization Act established the Office of Financial Stability within Treasury and provided Treasury with the authority to purchase and guarantee certain types of troubled assets under the Troubled Asset Relief Program to stabilize the economy and financial system. The Small Business Jobs Act established the Small

[7] *See* 12 U.S.C. §§ 90, 265. Treasury also is authorized to use Federal Reserve Banks as fiscal agents. Treasury may deposit the moneys held in the general fund of the Treasury in the Federal Reserve Banks, which act as fiscal agents of the United States when directed by Treasury. See 12 U.S.C. § 391.

[8] *See* 31 C.F.R. pt. 202.

[9] *See* 12 U.S.C. § 90, which provides that the Secretary may select national banking associations as financial agents in accordance with any process the Secretary deems appropriate.

[10] Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343, § 101(c)(3), 122 Stat. 3765, 3768 (2008) (codified at 12 U.S.C. § 5211(c)(3)); Small Business Jobs Act of 2010, Pub. L. No. 111-240, § 4104(3), 124 Stat. 2504, 2591 (2010) (codified at 12 U.S.C. § 4741 note).

Business Lending Fund and State Small Business Credit Initiative programs within Treasury to stimulate job growth, among other things.[11] Both acts provide Treasury with the authority to designate financial institutions as financial agents to perform all such reasonable duties related to the acts. These acts also provide Treasury with the authority to designate more types of institutions as financial agents than other general statutes, including, for example, security brokers or dealers. The financial agents designated to support these programs are paid from appropriations provided pursuant to those acts.

Four Units within Treasury Currently Use Financial Agents

As shown in figure 1, four units within Treasury's Office of Domestic Finance use financial agents.[12]

- Fiscal Service, among other things, provides central payment services to federal program agencies; operates the federal government's collections and deposit systems; issues, services, and accounts for all Treasury securities; and manages the collection of delinquent debt.[13] According to agency officials, Fiscal Service uses financial agents more extensively than the other Treasury units and has designated a number of banks as financial agents to provide a variety of specialized financial services for its revenue collections, payments, and other programs.
- The Office of Fiscal Assistant Secretary, according to Treasury officials, manages the programs created under the Housing and Economic Recovery Act of 2008, such as the Agency Mortgage Backed Securities Purchase Program.[14] Treasury has designated

[11]The Small Business Lending Fund aims to stimulate job growth by encouraging community banks and community development loan funds with assets of $10 billion or less to increase their small business lending. The State Small Business Credit Initiative provides direct funding to participants for programs that expand access to capital to small businesses.

[12]As mentioned previously, this report focuses on Treasury's use of financial agents through Fiscal Service, but we provide information on Treasury's use of financial agents under other programs established in response to the financial crisis in appendix II.

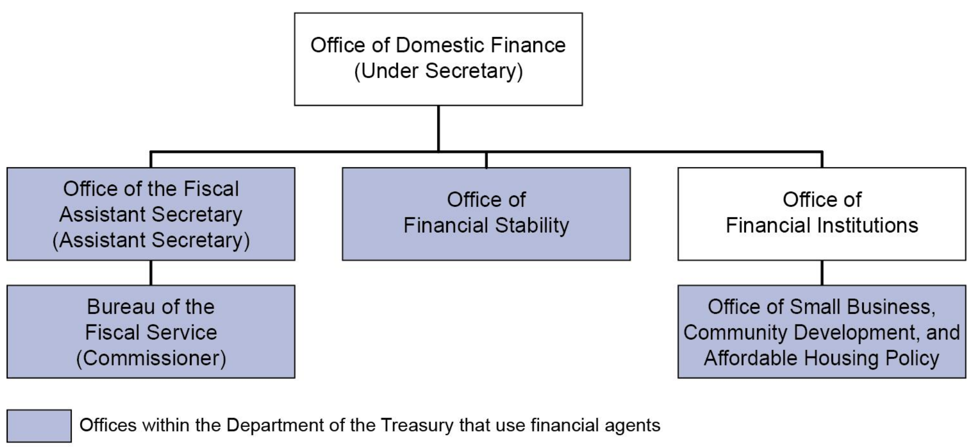
[13]Fiscal Service was established on October 7, 2012, with the consolidation of two Treasury Department bureaus: the Bureau of the Public Debt and the Financial Management Service.

[14]Housing and Economic Recovery Act of 2008, Pub. L. No. 110-289, 122 Stat. 2654 (2008).

financial institutions to provide custodial and asset management services.[15]

- The Office of Financial Stability manages the Troubled Asset Relief Program created under the Emergency Economic Stabilization Act of 2008. Treasury has designated banks, security brokers or dealers, and other entities as financial agents to support the act's implementation.
- The Office of Small Business, Community Development, and Affordable Housing Policy coordinates policy on, among other issues, small business finance and development, housing policy, and community and economic development. The office also oversees the Small Business Lending Fund, created by the Small Business Jobs Act of 2010, for which Treasury has used financial agents for custodial and asset management services.

Figure 1: Units within the Department of the Treasury's Office of Domestic Finance That Use Financial Agents



Source: Department of the Treasury. | GAO-17-176

[15]See, for example, Department of the Treasury, Office of Inspector General, *Treasury's Financial Agent Selection Process for the Agency Mortgage Backed Securities Purchase Program Was Not Fully Documented*, OIG-12-061 (Washington, D.C.: July 31, 2012).

Fiscal Service Uses Financial Agents in Four Program Areas

Within Treasury, Fiscal Service (and its predecessors) is responsible for conducting Treasury's basic functions of collecting and holding federal taxes and other revenue and making federal payments. As shown in table 1, Fiscal Service currently manages 20 programs that use financial agents under 26 financial agency agreements to provide services in four areas: (1) revenue collections, (2) payments, (3) debt collection, and (4) Treasury securities.[16] Its financial agents include some of the largest financial institutions in the country, and some of them serve as financial agents for multiple collections and payments programs.[17]

Table 1: Department of the Treasury's Bureau of the Fiscal Service Program Areas Currently Using Financial Agents, as of October 2016

Program area	Number of active programs using financial agents	Number of active financial agency agreements
Revenue Collections	10	16
Payments	8	8
Debt Collection	1	1
Treasury Securities	1	1
Total	20	26[a]

Source: GAO analysis of the Department of the Treasury documents and interviews with Treasury officials. | GAO-17-176

[a]Some programs use more than one financial agent to provide services. Appendix III provides a complete list of the Fiscal Service programs that currently use financial agents.

Of the four types of Fiscal Service program areas that use financial agents, revenue collections programs use the largest number of agents. Revenue collections programs use financial agents to collect federal revenue from individuals and businesses, including for taxes, student loan repayments, and customs duties. Payments programs use financial agents to help Fiscal Service disburse payments to individuals and

[16]As noted previously, Treasury is authorized to designate certain financial institutions as depositaries of public money and financial agents. Fiscal Service distinguishes between depositaries and financial agents. In general, Fiscal Service uses the term "depositary" to mean those financial institutions that provide standard depositary services pursuant to a depositary agreement. The most common type of depositary is a Treasury General Account depositary bank. Fiscal Service currently uses approximately 100 banks for that purpose. Fiscal Service generally uses the term "financial agent" to mean those financial institutions that provide a specialized service under a financial agency agreement, which may include depositary and nondepositary services.

[17]Appendix III provides a complete list of the Fiscal Service programs that currently use financial agents.

businesses on behalf of federal agencies, such as benefit payments made by the Social Security Administration and the Department of Veterans Affairs and payments to businesses for goods and services provided to the federal government. The debt collection program uses a financial agent to operate a centralized service to assist federal agencies with the management of their accounts receivable. Fiscal Service's Treasury securities program area manages the issuance and sales of Treasury's marketable and nonmarketable securities. One Fiscal Service securities program uses a financial agent to provide custodial and related services for the *my*RA program, which offers retirement savings accounts for individuals without access to an employer-provided retirement savings program and which invests in a U.S. retirement savings security.[18]

Congress Has Used Reporting Requirements and Other Mechanisms to Oversee Treasury's Use of Financial Agents

Congress has used reporting requirements and other mechanisms to oversee Treasury's use of financial agents. Although the National Bank Act and other statutes authorize Treasury to use financial agents, they do not require Treasury to report to Congress on its use of such agents. However, the Check Clearing for the 21st Century Act of 2003 required Treasury to submit (1) a report annually to Congress on its use of compensating balances and appropriations and (2) a final report following the transition from the use of compensating balances to the use of appropriations to pay financial institutions for their services as depositaries and financial agents.[19] For the final report, Treasury was directed to analyze the transition cost, direct costs of the services being paid from the authorized appropriations, and the benefits realized from the use of direct payment for such services rather than the use of compensating balances. Treasury sent the final report to Congress in 2004 and thereafter has reported annually the amount of permanent,

[18]See appendix IV for more detailed information about Fiscal Service's selection and designation of the financial agent for the *my*RA program.

[19]Check Clearing for the 21st Century Act (Check 21), Pub. L. No. 108-100, § 19(c)(4), 117 Stat. 1177, 1193 (2003) (codified at 12 U.S.C. § 5018(c)(4)). Check 21 authorized the permanent, indefinite appropriation, and as noted previously, the appropriation was enacted in 2004. *See* Transportation, Treasury, and Independent Agencies Appropriations Act, 2004, Pub. L. No. 108-199, Div. F, § 218, 118 Stat. 279, 321 (2004).

indefinite appropriations used to pay financial agents each fiscal year in its President's budget submission.[20]

Unlike Treasury's other authorities, under the Emergency Economic Stabilization Act and Small Business Jobs Act, Congress imposed reporting requirements on Treasury for, among other things, compensation paid for its use of financial agents in the programs created under those acts, and it imposed audit or related mandates on GAO and others.

- Under the Emergency Economic Stabilization Act, Treasury is required to report to Congress every 30 days on, among other things, a detailed financial statement on the exercise of its authority under the act, including all agreements made or renewed and its operating expenses, including compensation paid to financial agents.[21] The act also includes a provision for GAO to conduct oversight and report on its oversight of the Troubled Asset Relief Program's activities and performance, including agents and representatives, every 60 days.[22] On one of the reports in response to that mandate, we assessed Treasury's approaches to acquiring financial agent and other services in support of the program.[23] In addition, the act established the Congressional Oversight Panel to review the state of the financial markets and regulatory system and submit various reports to Congress. The Congressional Oversight Panel investigated and

[20] In its June 2004 final report to Congress, Treasury estimated that approximately $249 million would be paid through authorized appropriations to depositaries and financial agents for fiscal year 2004 (March through September). It also estimated that approximately $72 million would be saved as a result of paying financial agents directly for services rendered rather than through the use of compensating balances.

[21] Treasury was required to submit its first report to Congress before the expiration of the 60-day period beginning on the date of its first exercise of its authority to purchase or insure troubled assets, and every 30-day period thereafter. 12 U.S.C. § 5215(a).

[22] The GAO Mandates Revision Act of 2016 amended GAO's reporting requirement on its oversight of the Troubled Asset Relief Program to require annual reports rather than reports every 60 days. Pub. L. No. 114-301, § 3(a) (2016).

[23] GAO, *Troubled Asset Relief Program: Additional Actions Needed to Better Ensure Integrity, Accountability, and Transparency*, GAO-09-161 (Washington, D.C.: Dec. 2, 2008). We found, among other things, that Treasury lacked a comprehensive and complete system to monitor conflicts of interest faced by its private sector financial agents and recommended that Treasury issue final regulations on conflicts of interest involving Treasury's financial agents used under the Troubled Asset Relief Program. In response to our recommendation, Treasury issued its final rule on October 3, 2011. 76 Fed. Reg. 61,046 (Oct. 3, 2011) (codified at 31 C.F.R. pt. 31).

reported on Treasury's use of contractors and financial agents in the Troubled Asset Relief Program.[24]

- Under the Small Business Jobs Act, Treasury is required to report to Congress semiannually on, among other things, all operating expenses, including compensation for financial agents, and all transactions made by the Small Business Lending Fund. That act also included a provision for GAO and the Treasury Inspector General to audit the Small Business Lending Fund program at least annually and semiannually, respectively.[25]

Treasury's Use of Financial Agents Has Evolved in Response to Changes in Technology and New Laws, but Treasury Does Not Disclose in a Central Location How It Uses or How Much It Pays Each Agent

Since the 1980s and continuing today, Treasury has been using financial agents to modernize its systems and keep pace with technological changes in providing financial services to the public. For example, Treasury has used financial agents to reduce the number of paper-based collection and payment transactions by moving them to electronic systems. Since 2008, Treasury also has undertaken several modernization efforts that have affected its use of financial agents. The total amount (outlays) that Treasury has paid Fiscal Service's financial agents has increased from $378 million in 2005 to $636 million in 2015, partly in response to increased transactions and services. Although Treasury discloses in its annual budget the total amount paid to financial agents, it has not publicly disclosed in a central location information about Fiscal Service's individual financial agents, including their compensation and services provided.[26]

[24]Congressional Oversight Panel, *October Oversight Report*, Examining Treasury Use of Financial Crisis Contracting Authority (Washington, D.C: Oct. 14, 2010). The Congressional Oversight Panel ceased operation early in 2011.

[25]Pub. L. No. 111-240, § 4107, 124 Stat. 2504, 2593 (2010) (codified at 12 U.S.C. § 4741 note). See, for example, GAO, *Small Business Credit Programs: Treasury Continues to Enhance Performance Measurement and Evaluation but Could Better Communicate and Update Results*, GAO-15-105 (Washington, D.C.: Dec. 11, 2014). In 2014, Congress eliminated GAO's annual reporting requirement. Government Reports Elimination Act of 2014, Pub. L. No. 113-188, § 901(e), 128 Stat. 2016, 2020 (2014).

[26]As discussed later in this report, Treasury's Office of Financial Stability has made copies of its 27 financial agency agreements and the amount obligated to compensate each publicly available on its website.

Treasury's Traditional Use of Financial Agents Has Evolved to Promote Electronic Collections and Payments

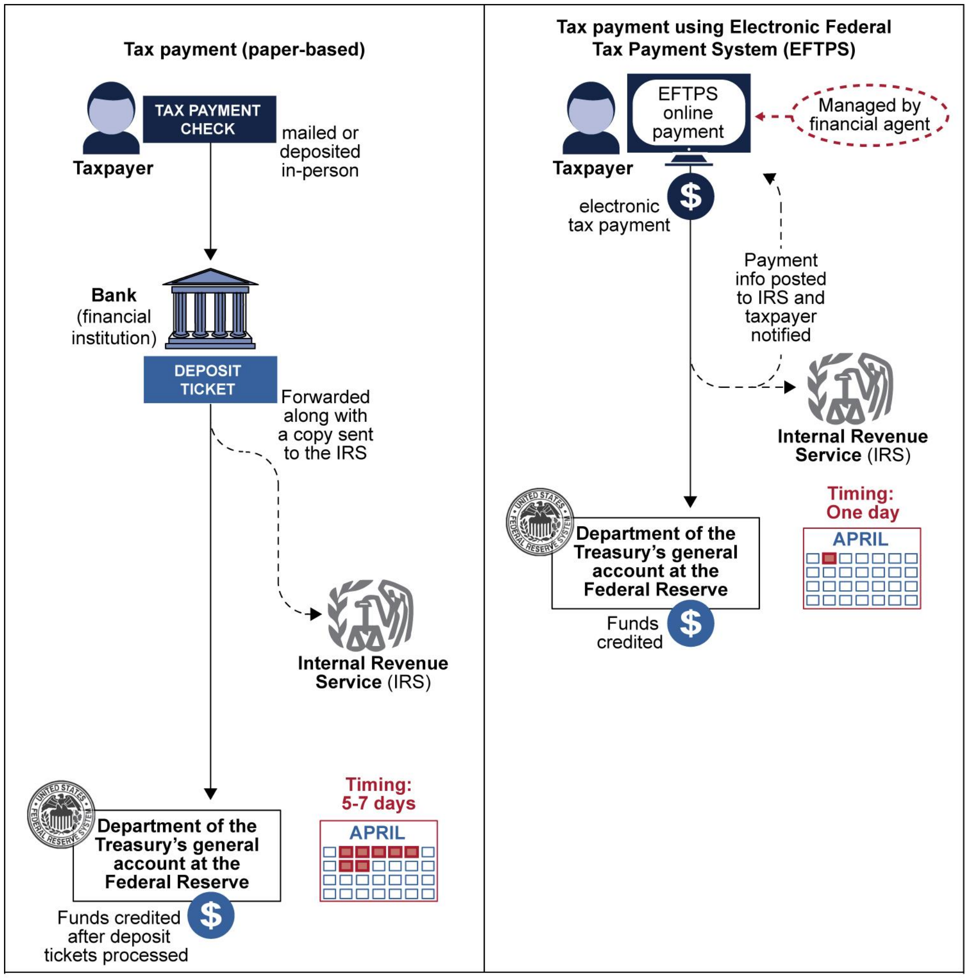
While Treasury historically has used financial agents to physically hold and disburse public money, its use of financial agents began to evolve in the mid-1980s as it sought to reduce the number of paper-based collection and payment transactions by moving them to electronic systems in response to technological advancements, new laws, and other factors. Subsequently, Treasury, through Fiscal Service, has continued to promote electronic transactions for its revenue collections and payments programs, including information systems for tracking those transactions, through various efforts to increase efficiency, reduce fraud, and promote transparency.

Revenue Collections

In 1984, Congress directed Treasury to provide more electronic services for collecting payments.[27] As more states took advantage of technological advances to implement electronic tax collection systems, Treasury began piloting programs modeled on individual states' programs that used financial agents to collect tax receipts electronically. For example, TAX-LINK was an early pilot program that used three financial agents to explore different concepts for implementing a nationwide electronic tax payment system. TAX-LINK evolved into the Electronic Federal Tax Payment System, which is Treasury's current program for collecting tax payments from the public electronically. Treasury, through Fiscal Service, uses a financial agent to operate the Electronic Federal Tax Payment System and to provide customer support for taxpayers using the system. As shown in figure 2, the Electronic Federal Tax Payment System expedites the collection process by collecting tax payments electronically rather than by paper check.

[27] *See* Deficit Reduction Act of 1984, Pub. L. No. 98-369, § 2652, 98 Stat. 494, 1152 (1984) (codified at 31 U.S.C. § 3720).

Figure 2: Paper-Based and Electronic Tax Payments Using a Financial Agent



Source: GAO analysis of Department of the Treasury documents. | GAO-17-176

Note: The timing reflected in figure 2 is a best case scenario. According to Treasury officials, it typically would take around 5 to 20 days to process paper tax payments, depending on the volume of received tax payments, and 1 to 3 days to process electronic tax payments, depending on whether the taxpayer makes the payment using Automated Clearing House or wire transfer.

The Check Clearing for the 21st Century Act of 2003 also allowed the conversion of paper checks into electronic images, called substitute checks, which are the legal equivalent of a paper check.[28] As a result,

[28]Check Clearing for the 21st Century Act, Pub. L. No. 108-100, § 4, 117 Stat. 1177, 1180 (2003) (codified at 12 U.S.C. § 5003).

Treasury developed the Electronic Check Processing program, which uses a financial agent to operate a web-based platform to convert paper check payments into electronic transactions, thereby reducing the amount of time and costs associated with processing paper-based collections. According to Treasury's Fiscal Year 2015 Agency Financial Report, Fiscal Service collected 98 percent of the total dollar amount of U.S. government receipts electronically in fiscal year 2015.

Payments

The Debt Collection Improvement Act of 1996 required that all federal payments made after January 1, 1999, be made electronically, subject to exceptions.[29] In response, Treasury developed programs that use financial agents to help disburse payments electronically, particularly for programs related to benefits payments. For example, Treasury developed Electronic Transfer Accounts, which use financial agents to establish low-cost electronic accounts for recipients of federal benefits payments. In an effort to increase electronic payments in areas where Electronic Transfer Accounts were not available, in 2008, Fiscal Service developed the Direct Express program, which uses a financial agent to provide pre-paid debit card access to electronic benefits payments. In 2010, Treasury launched an "all-electronic" initiative, in part to further move federal benefit payments away from paper checks to electronic options. Under the initiative, Treasury required individuals receiving certain federal benefits to receive payments electronically, such as through Direct Express cards. According to Treasury officials, more than 98 percent of federal benefits payments are currently made electronically as a result of Treasury's expansion of its electronic payments programs, thus improving efficiency and reducing costs and fraud.

Fiscal Service is exploring new ways to use modern payment technologies to further reduce the amount of paper-based payments made by the federal government. For example, Fiscal Service is piloting a program that uses a financial agent to provide the settlement mechanism for payment services using mobile banking technologies, such as web-based payment systems. According to Treasury's Fiscal Year 2015

[29] Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321-358 (1996). The Debt Collection Improvement Act made exceptions to the requirement for, among other things, payments to individuals or classes of individuals for whom compliance imposes a hardship.

Agency Financial Report, nearly 95 percent of all Treasury payments were made electronically in fiscal year 2015.

Information Systems for Tracking Electronic Transactions

As a result of increased electronic transactions, Fiscal Service has developed programs that use financial agents primarily to collect and report information and data about electronic collections and payments transactions. For example, it implemented the Over the Counter Channel Application and the Collections Information Repository, which use financial agents to gather and store information about revenue collection transactions. The Over the Counter Channel Application and the Collections Information Repository do not hold or disburse public money; rather, they use financial agents to process and account for information on the collection of public money.[30] For example, the Over the Counter Channel Application primarily collects data from the electronic processing of checks and provides a web-based application for federal agencies to access information on these transactions. The Collections Information Repository provides a web-based means of tracking, reconciling, and storing revenue collections transactions. In response to a Presidential memorandum in 2009 on data transparency, Fiscal Service made data about revenue collections more accessible to federal agencies through the Collections Information Repository.

Treasury Has Undertaken Efforts to Simplify and Modernize Programs That Use Financial Agents

Treasury has undertaken various efforts to modernize or streamline its collections, payments, and other programs to help increase efficiency and transparency and reduce costs. Although Treasury's modernization efforts primarily focused on how it delivered services through its programs and not necessarily on its use of financial agents, two of the modernization efforts involved revenue and debt collection programs that used financial agents.

- In 2008, Treasury initiated its Collections and Cash Management Modernization effort that was aimed at simplifying and modernizing its collections and cash management programs and reducing redundancy. Within Treasury, Fiscal Service used 8 financial agents to help support its collection programs in 2010 and reduced the number to 7 financial agents by year-end 2015. According to

[30]Treasury officials told us that they consider the accounting systems provided by the financial agents for these programs to be essential banking services.

Treasury, the effort was designed to reduce the duplication of data, applications, and interfaces, promoting a more efficient use of resources.

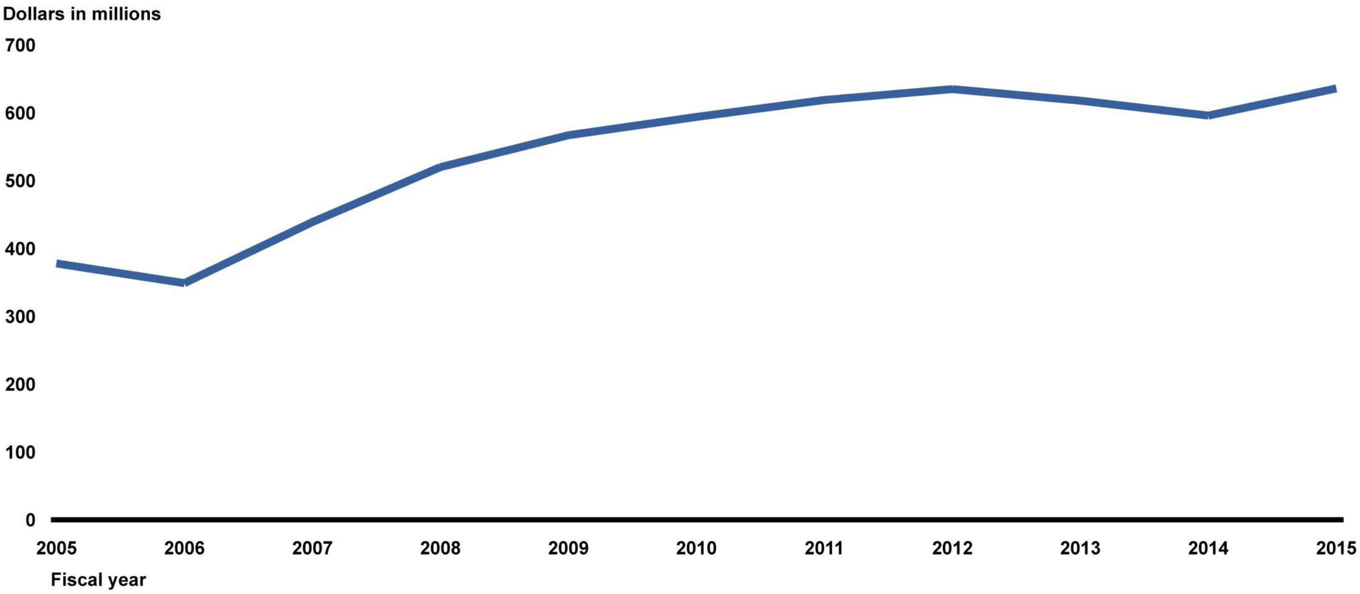
- In 2012, Treasury developed the Centralized Receivables Service to centralize and improve the efficiency of federal agencies' collections of account receivables. To develop the service, Fiscal Service worked jointly with the Office of Financial Innovation and Transformation, which was created in 2010 to identify and implement innovative solutions to help government agencies become more efficient and transparent in federal financial management. Before the development of the service, many agencies operated their own account receivables programs, which Treasury noted were fragmented and inefficient. The Centralized Receivables Service uses a financial agent to centralize receivables collections services across agencies. According to Treasury, the service has increased the collection of receivables and reduced agency costs.

Increased Transactions and Services Provided Have Partly Driven Growth in Financial Agent Compensation since Fiscal Year 2004

Since Treasury received the permanent, indefinite appropriation to reimburse financial agents, the total amount (outlays) that Treasury has paid Fiscal Service's financial agents has increased steadily from approximately $378 million in fiscal year 2005 to approximately $636 million in fiscal year 2015 (see fig. 3).[31] As discussed previously, Treasury paid its financial agents through compensating balances—non-interest-bearing cash balances—before it received a permanent, indefinite appropriation. Prior to receiving the appropriation, Treasury did not report the amount of such compensation in its annual budget submissions. Treasury officials told us that they did not have data on the compensation paid to financial agents before April 2004 and could not determine the amount that the financial agents were paid through those compensating balances. Treasury did not create any new programs in fiscal year 2004 that used financial agents, and according to Treasury officials, the compensation to financial agents would have been similar for fiscal years 2003 and 2004.

[31]For fiscal year 2004, Treasury paid financial agents $205 million through its permanent, indefinite appropriation according to budget outlays, but that compensation covered only the services provided from March through September; compensation to Treasury's financial agents that support programs established in response to the financial crisis is discussed in appendix II.

Figure 3: Compensation (Outlays) to Financial Agents from the Department of the Treasury's Permanent, Indefinite Appropriation, Fiscal Years 2005–2015



Source: GAO analysis of information from the Department of the Treasury documents. | GAO-17-176

Note: For fiscal year 2004, Treasury paid financial agents $205 million through its permanent, indefinite appropriation, but that compensation covered only the financial services provided from March through September.

The increase in the amount of total compensation to financial agents between fiscal years 2004 and 2015 was driven partly by increases in transaction volumes and an expansion in the scope of certain financial agent services. For example, the Card Acquiring Service, the largest revenue collections program in terms of cost, uses a financial agent to process debit and credit card payment transactions at federal agencies. The financial agent's compensation is based largely on the number of transactions it processes, and the increase in card transactions by the public has led to an increase in its compensation. According to Fiscal Service officials, the financial agent processed over 65 million transactions in fiscal year 2007 and over 133 million transactions in fiscal year 2015. Treasury compensated the financial agent $101 million in fiscal year 2007 and $172 million in fiscal year 2015.[32]

[32]The dollar value of the compensation for fiscal year 2007 is the then current value and has not been adjusted for inflation.

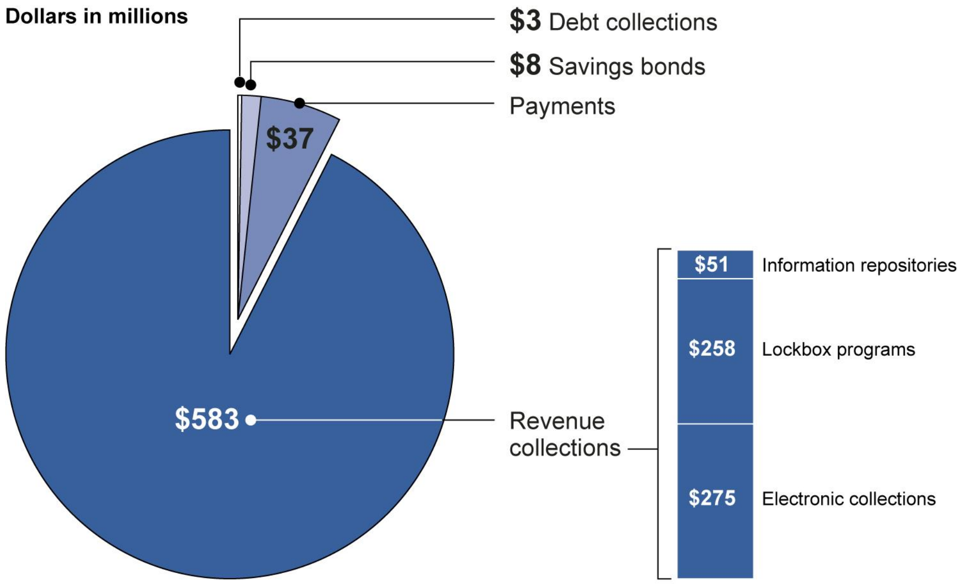
As another example, a financial agent operates a specialty lockbox program to process passport applications and fees.[33] According to Treasury, the costs for the passport lockbox program increased steadily after the passage of the Intelligence Reform and Terrorism Prevention Act of 2004, which required passports or other accepted documents for travel into and out of the United States from Canada, Mexico, and the Caribbean.[34] Treasury reported that its financial agent has hired hundreds of new employees and invested in infrastructure to handle the increased application volume, which grew from 10.8 million applications in fiscal year 2006 to 12.4 million applications in fiscal year 2015. In fiscal year 2015, the compensation to the financial agent for the passport lockbox program was $62 million, 10 percent of all compensation paid to financial agents.

As shown in figure 4, revenue collections programs, which include the Electronic Federal Tax Payment System, the Card Acquiring Service, and various lockbox programs, among others, accounted for $583 million (92 percent) of all financial agent compensation in fiscal year 2015. Compensation for payments programs, $37 million, accounted for 6 percent of total financial agent compensation in fiscal year 2015.

[33]Lockboxes are specified post office boxes used for collecting an agency's mail. Lockbox services provided by financial agents generally include opening, scanning, and electronically processing paper checks and other remittance documents that are received through the mail.

[34]Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, 118 Stat. 3638 (2004).

Figure 4: Compensation to Financial Agents Using the Department of the Treasury's Permanent, Indefinite Appropriation by Type of Service, Fiscal Year 2015



Source: GAO analysis of the Department of the Treasury's documents and interviews with Treasury officials. | GAO-17-176

Note: Compensation amounts do not include payments for depositary services. In fiscal year 2015, compensation for those services was about $5.8 million.

Treasury Does Not Fully Disclose in a Central Location Information on Fiscal Service's Financial Agents

Although Treasury publicly discloses the total amount of compensation paid to Fiscal Service's financial agents in its annual budget submissions, it does not provide more detailed information about these financial agents in a central location, such as on its website. For example, Treasury does not fully disclose in a central location the number of Fiscal Service's active financial agency agreements, the types of services provided to Fiscal Service under the agreements, and the amount of compensation paid to each financial agent for its services. Treasury officials told us that it is not required to and has not determined the need to publicly disclose Fiscal Service's financial agency agreements on its website. In contrast, Treasury's Office of Financial Stability has provided on its public website copies of the 27 financial agency agreements that it entered into to manage the Troubled Asset Relief Program and the amount obligated to compensate each agent. According to Treasury officials, the Office of Financial Stability made its financial agency agreements available to the public based on a policy decision to promote the Troubled Asset Relief Program's transparency.

According to the Office of Management and Budget's directive on open government, transparency promotes accountability by providing the public with information about government activities.[35] Because Treasury does not fully disclose in a central location information about Fiscal Service's use of financial agents, including the types of services provided and compensation paid under each agreement, the public and Congress may not know how much Treasury is spending to obtain services from financial agents or what those services are and, thus, may be less able to hold Treasury accountable for such spending. In addition, by improving how it publicly discloses information about its use of financial agents, Treasury would allow the public and Congress to better understand, assess, and appreciate the scope and value of federal investments.

Fiscal Service Has a Process for Selecting and Designating Financial Agents and Recently Revised Its Guidance to Improve Documentation

Fiscal Service has established a process, which includes internal controls, for selecting and designating its financial agents. While Fiscal Service did not fully document compliance with its process, including controls, for financial agents designated between 2010 and 2015, it adopted new procedures in November 2015 to provide greater assurance that its documentation will be complete.

Fiscal Service Has Established a Process and Related Internal Controls for Selecting and Designating Financial Agents

According to Fiscal Service officials, the decision of whether to perform a program in-house or through financial agents does not often arise because Fiscal Service does not frequently create new programs that use financial agents. Many factors influence the agency's decision on whether to use a financial agent, including statutory authority, costs, the availability and expertise of Treasury staff versus other providers, and the nature and complexity of the services. The decision to use a financial agent for a new program or to renew or amend an existing financial agency agreement is made formally by the assistant commissioner

[35] Office of Management and Budget, Open Government Directive, OMB Memorandum M-10-06 (Washington, D.C.: 2009). The directive also recognizes that the presumption of openness does not preclude the need to protect confidential information. Additionally, a presidential memorandum on transparency and open government, dated January 21, 2009, states that government should be transparent and provide the public with information about what their government is doing in an effort to promote transparency and accountability.

responsible for the particular program, with approval by the Fiscal Service commissioner.[36] Moreover, Fiscal Service's Office of Chief Counsel typically is involved in all phases of the process, including in advising on whether a financial agent may be used for a particular project.

Fiscal Service has developed a financial agent selection process (FASP) that it uses internally to guide its selection and designation of financial agents. It has documented the process in its FASP guidance, a 2010 version of which was updated in November 2015 but, according to Fiscal Service officials, has existed in written form since 2005.[37] The guidance divides the process into four phases: (1) initiation of the FASP, (2) publication of a financial agent solicitation, (3) selection of the best proposal submitted by a financial institution, and (4) designation of the financial institution as a financial agent. In addition to documenting the steps in the process, the 2015 FASP guidance incorporates internal controls that generally are applicable to Fiscal Service's program offices or selection teams in selecting and designating financial agents. The FASP process and related controls help provide reasonable assurance that the selection and designation process is effective and efficient, documents important information, and complies with applicable laws and regulations.

[36]Although the National Banking Acts authorize the Secretary of the Treasury to designate financial institutions as financial agents, the authority has been delegated to the Fiscal Assistant Secretary. With respect to programs and initiatives administered through the Bureau of the Fiscal Service, the Fiscal Assistant Secretary has further delegated this authority to the Commissioner of the Bureau of the Fiscal Service, who has, in turn, delegated the authority to Assistant Commissioners of Fiscal Service's program offices. According to Treasury officials, the Fiscal Assistant Secretary retains authority to designate and terminate any financial agents engaged to support Treasury programs and initiatives. The Fiscal Assistant Secretary may also, from time to time, delegate authority to perform other actions related to financial agency agreements, such as executing amendments thereto, to the Deputy Assistant Secretary for Fiscal Operations & Policy.

[37]In addition to its FASP guidance, Fiscal Service has developed policies and procedures for the management of financial agents—that is, for overseeing financial agents after the financial agency agreements have been signed. These policies and procedures address issues such as documentation, meetings with financial agents, key performance indicators and other metrics, security, risk management, and expense management. We did not review these policies and procedures because they are outside the scope of our review, which covers Treasury's process for selecting and designating financial agents. The Treasury Inspector General has conducted a number of audits to examine Treasury's administration of financial agency agreements—see, for example, Department of the Treasury, Office of Inspector General, *Former Federal Inmate Debit Card Fees Were Comparable with Other Card Programs, but Documentation Supporting Financial Agreements Was Lacking*, OIG 15-048 (Sept. 17, 2005) and *Fiscal Service Needs to Improve Program Management of Direct Express*, OIG 14-031 (Mar. 26, 2014).

Initiation Phase

The initiation phase includes all of the steps that Fiscal Service's program offices must complete before drafting and publicizing a financial agent solicitation. The first steps include obtaining approvals to use a financial agent. Such steps and related internal controls include Fiscal Service's program offices taking the following actions:

- consulting with the Office of Chief Counsel as to whether designating an agent is acceptable for the particular project,
- obtaining approval from the appropriate assistant commissioner to designate a financial institution to provide the services, and
- creating appropriate governance documentation, including a business case or alternatives analysis, to justify the need for a particular service, which is reviewed by the Investment Review Board for a new program, or the assistant commissioner for an existing program selecting a new financial agent.[38]

In addition, the FASP guidance highlights the need for program offices to consider as early as possible the portability of the financial agent services—that is, the ability to transfer services from one agent to another with minimum difficulty. According to the guidance, portability helps to ensure that a program can continue without interruption if services need to be transferred to another agent and promotes competitive pricing and high-quality service.

[38]The Investment Review Board was chartered in 2013 to evaluate Fiscal Service initiatives for strategic alignment and make preliminary and final initiative budget and priority decisions as part of the governance process. The Fiscal Service's governance process applies to decisions on Fiscal Service initiatives, which include acquired or developed capabilities, services, solutions, or products.

The next steps and related controls focus on planning and include Fiscal Service's program offices taking the following actions:

- developing and documenting a FASP high-level strategy that outlines the services needed and process for obtaining them, such as a solicitation open to all or a limited number of financial institutions;[39]
- forming a selection team that consists of representatives, as needed, from various areas;
- working with the Office of Chief Counsel to draft a financial agency agreement using the model agreement as a starting point;
- drafting and updating, as needed, a FASP project plan, which is a schedule of activities, action items, and expected time frames for completion; and
- specifying the criteria that will be used to evaluate and select financial agents.

The FASP guidance also discusses two other internal controls in this phase. First, employees involved in selecting or designating the financial agent should complete ethics training before their involvement in the FASP. Second, program offices are to prepare, assemble, and maintain throughout the process an administrative record comprised of documents that describe and support the decisions made in each phase.

Solicitation Phase

The solicitation phase generally involves the selection team, in collaboration with the Office of Chief Counsel, writing the financial agent solicitation; publishing the solicitation to notify eligible financial institutions about the FASP; and holding information sessions with eligible financial institutions, if needed. Internal controls discussed in the guidance include that (1) the selection team should have the solicitation's content approved by an assistant commissioner before it is distributed and (2) the solicitation should, among other things, state that interested financial institutions must submit a proposal to be considered and, by submitting a

[39]According to the guidance, program offices may directly designate a financial agent, without competing among other financial institutions. Such designations must be approved in writing by a deputy commissioner. This approval is not required for designating financial institutions to perform standard depositary services where multiple banks are designated, provided that the banks meet qualification requirements and agree to non-negotiable pricing terms.

proposal, are agreeing to the FASP approach under which the selection will be conducted.

The FASP guidance notes that a financial institution should describe in its proposal its ability to perform the work, which may include its

- experience in providing the same or similar services,
- ability to meet security requirements,
- personnel and infrastructure capabilities, and
- private sector and government references.

Selection Phase

The selection phase spans the receipt of proposals from financial institutions to the selection (but not designation) of the financial institution as a financial agent. According to the 2015 FASP guidance, employees involved in selecting or designating the financial agent should sign a conflict-of-interest statement before evaluating proposals. Other key steps and related controls during this phase include the selection team taking the following actions:

- having its members independently rate proposals of financial institutions;
- holding individual information sessions with financial institutions determined to be the best able to meet the needs identified in the solicitation and requiring them to sign an acknowledgment form indicating that they, if selected, will accept the terms of the financial agency agreement, subject to negotiation of services and other terms;
- using the selection criteria and scoring methodology previously created to determine which financial institutions are least qualified to perform the required services;
- notifying financial institutions that were least qualified to perform the required services that they were not selected;
- asking the remaining financial institutions to produce a “best and final” offer and evaluating them against the selection criteria; and
- negotiating with the financial institution that submitted the best overall offer to obtain the best possible level of service, price, or quality that is required.

Following its selection of the financial institution, the selection team must prepare a recommendation memorandum explaining the reasons for recommending the financial agent and a selection decision memorandum, which the assistant commissioner signs to indicate his or her approval of the final selection. According to the 2015 FASP guidance, except in an exigency, no designation of a financial agent should be made without being preceded or accompanied by a recommendation memorandum and selection decision memorandum. Fiscal Service officials said that before approving the selection, the assistant commissioner should obtain the approval of the deputy commissioner, and the approval of the commissioner on a case-by-case basis.

Designation Phase

The designation phase involves designating the selected financial institution as a financial agent and closing out the process. The financial agency agreement is used to designate a financial institution as a financial agent, and the agreement is signed by authorized representatives of the financial institution and Fiscal Service.

The 2015 FASP guidance directs the program office responsible for designating the financial agent to provide Fiscal Service's Bank Policy and Oversight (BPO) Division with an electronic copy of its administrative record. In turn, the guidance directs BPO to use a checklist to provide assurance that the necessary documents for the administrative record have been created and delivered.

Compensation

Unlike the 2010 FASP guidance, the 2015 FASP guidance includes a two-part addendum that provides guidance on financial agent compensation.[40] Part one seeks to establish consistent compensation policies across Fiscal Service's financial-agent-related business lines. It discusses different pricing methodologies that can be used to compensate financial agents and instructs that the selected methodology should be based on (1) the financial agent's ability to minimize the government's costs under normal and changing conditions but provide the highest possible quality of service and (2) the degree to which the prices of the financial agent services can be compared to the prices of

[40]As noted above, the FASP guidance preceding the 2015 version was last revised in 2010, according to Treasury officials.

similar or identical financial industry services as a way of gauging cost containment. Part two seeks to reduce the need for specialized compensation policy negotiations by delineating Fiscal Service's compensation policies. In brief, it generally specifies the conditions under which Fiscal Service will compensate a financial agent for severance pay, retention pay, overhead, leased real property, owned real property, and equipment.

Disclosure and Other Requirements Help Address Conflicts of Interest

All Treasury employees, including Fiscal Service employees, are subject to the same conflict-of-interest requirements that apply to all executive branch employees. For example, employees meeting certain criteria must file financial disclosures, which are reviewed internally by attorneys, and take annual ethics training. In addition, Fiscal Service has an employee conduct policy, which addresses outside activities, gifts, and other topics relevant to conflicts of interest. As discussed previously, the 2015 FASP guidance requires employees involved in selecting or designating a financial agent to complete ethics training before their involvement in a FASP and sign a conflict-of-interest statement before evaluating financial agent proposals.

According to Fiscal Service officials, Fiscal Service has no specific conflict-of-interest rules that apply to financial agents that provide services for Fiscal Service programs. However, financial agency agreements generally state that financial agents owe a fiduciary duty of loyalty and fair dealing to the United States, and require them to certify annually that they are not delinquent on any federal tax obligation or other debt owed to the United States. Fiscal Service officials also told us Fiscal Service takes steps to identify and mitigate potential conflicts of interest in drafting the financial agency agreement. For example, Fiscal Service did not want the *my*RA program's financial agent using *my*RA data to sell or cross-market its own financial products to *my*RA account holders. To that end, the agreement specifies that the agent may use any confidential information received in connection with the agreement for the purposes of fulfilling its duties under the agreement and not for its own commercial purposes or those of a third party.[41]

[41]Fiscal Service's model financial agency agreement incorporates language stating that the financial agent has a fiduciary duty to use any confidential information or assets of the United States received or developed in connection with the agreement solely for the purposes of fulfilling its duties to Fiscal Service and not for its own commercial purposes or for those of a third party.

In contrast, as required by the Emergency Economic Stabilization Act of 2008, Treasury issued regulations to address and manage actual and potential conflicts of interest that could arise under the act, including from financial agency agreements.[42] The regulations require, among other things, prospective financial agents to provide Treasury with sufficient information to evaluate any organizational conflicts of interest and plans to mitigate them.[43] For example, an existing or potential financial agent under the Troubled Asset Relief Program that provides advice or asset management services to clients that own certain assets under the program would be required to disclose that fact. Fiscal Service generally does not face such conflicts of interest because it uses agents primarily to provide payment and collection services rather than services related to the acquisition, valuation, disposition, or management of assets.

Financial agency agreements generally state that the agent, once designated as a financial agent, owes Treasury a fiduciary duty of loyalty and fair dealing when acting as a financial agent of the United States and agrees to act at all times in the best interests of the United States when carrying out its responsibilities under the agreement. Fiscal Service officials said that if a financial agent faced a conflict of interest under its agreement, the agent would have a duty to disclose and address that conflict.[44] Based on a recommendation recently made by the Treasury Inspector General, Fiscal Service amended its model financial agency agreement to include a provision requiring the financial agent to notify the Inspector General if it becomes aware of any possible violation of federal criminal law regarding fraud, conflict of interest, bribery, or illegal gratuities affecting services performed under the financial agency agreement.[45]

[42]Pub. L. No. 110-343, § 108, 122 Stat. 3765, 3774 (2008) (codified at 12 U.S.C. § 5218); 31 C.F.R. pt. 31.

[43]31 C.F.R. § 31.211(b). The regulations also require retained entities to obtain information from their managers and key employees and evaluate the potential for conflicts, and to implement monitoring and reporting requirements designed to detect conflicts that might arise during the arrangement.

[44]Fiscal Service relies, in part, on the terms and conditions of the financial agency agreements to govern its financial agents. As discussed above, Fiscal Service also has developed policies and procedures for the management of financial agents under their financial agency agreements.

[45]Department of the Treasury, Office of Inspector General, *Fiscal Service Needs to Improve Program Management of Direct Express*, OIG 14-031 (Mar. 26, 2014).

Administrative Records for Financial Agents Designated between 2010 and 2015 Were Not Complete, but Recently Adopted Internal Controls Are Designed to Address the Deficiency

Between 2010 and 2015, Fiscal Service created three new programs (Centralized Receivables Service, *my*RA, and the Non-Traditional Alternative Payments Service) and selected a financial agent for each, according to Treasury officials. For the Centralized Receivables Service, a pilot program that federal agencies use to manage accounts receivable, officials told us that they evaluated providing the service in-house but instead used a financial agent to take advantage of the expertise of commercial banks in receivables processing and collection and to start the program as quickly as possible. Similarly, Treasury officials said they decided to use a financial agent for *my*RA, a retirement savings program, because Fiscal Service (1) had not been qualified to act as a Roth IRA custodian under IRS rules, (2) had not yet established the necessary infrastructure to operate a Roth IRA program, and (3) could implement the program more quickly by using a financial agent. For the Non-Traditional Alternative Payment Services, which offers recipients alternative ways to receive federal payments, Fiscal Service officials said that they needed a financial agent to maintain a settlement account and process payments.

Fiscal Service also selected financial agents to provide traditional banking services for several existing programs, including the Stored Value Card Funds Pool and the Navy Cash Open-Loop Program. For the Stored Value Card Funds Pool and the Navy Cash Open-Loop Program, which provide electronic payment alternatives to cash, Fiscal Service officials said that they needed financial agents to maintain settlement accounts and, in the case of Navy Cash, issue prepaid cards and process transactions for existing transactions.

As previously discussed, the FASP guidance requires, as an internal control, Fiscal Service's program offices to prepare and maintain an administrative record—a compilation of documents generated during a FASP that describes and supports the decision making. According to Fiscal Service officials, the administrative record's purpose is to provide Treasury with a basis of defense in the event of litigation, to memorialize the decisions made during the FASP, and to document Fiscal Service's compliance with the FASP guidance, including key controls.

We requested copies of the administrative records for the five financial agents selected between 2010 and 2015, and Fiscal Service provided us with copies of four of the records. Fiscal Service officials said that an administrative record may have existed for the agent designated in 2010 for the Stored Valued Card Funds Pool, but they could not locate it.[46] For the four records we received, we reviewed each administrative record to assess the extent to which it (1) contained the documents listed in the 2010 FASP guidance and, in turn, (2) documented compliance with Fiscal Service's internal controls set forth in the 2010 FASP guidance. We used the 2010 FASP guidance as our criteria because that was the guidance in effect at the time. The most recent FASP guidance was not issued until November 2015 and, thus, was not in effect at that time. The 2010 FASP guidance lists 11 types of documents normally included in every administrative record.[47]

Based on our review of the four administrative records and in light of the missing administrative record, we found that the completeness of the records varied. None contained all of the documents listed in the 2010 FASP guidance, but three contained the majority. For example, the record for *my*RA, a new retirement savings program using a financial agent to provide custodial services, contained 6 of 11 key documents—missing, for example, certain planning and approval documents. As a result, the documents comprising the administrative records varied in the extent to which they complied with Fiscal Service's internal controls set forth in the 2010 FASP guidance. More specifically, we found the following in our review of the administrative records (excluding the missing administrative record).

- *Initiation Phase.* Two of the four administrative records included a FASP plan that outlined the services needed and process for obtaining those services, but the other two did not. One of the four administrative records included documentation of the assistant

[46]The officials said that the financial agency agreement memorialized an ongoing relationship with the financial agent, so that Fiscal Service's predecessor did not solicit bidders or conduct a formal selection process.

[47]In comparison to the 2010 guidance, the 2015 guidance lists 19 types of documents as examples of those that are often included in the administrative record. Both sets of guidance generally list the same types of documents, but the 2015 guidance introduced two new types of documents (i.e., business case or alternative analysis and a recommendation memorandum).

commissioner’s approval to designate a financial institution as a financial agent, but the other three did not.[48]

- *Solicitation Phase:* Three of the four administrative records included the solicitation announcing the FASP, but one did not. However, the one missing the solicitation covered a financial institution that was directly designated as a financial agent. According to the FASP guidance, a solicitation is not required under a direct designation. The three administrative records with solicitations also included documentation of the proposals submitted by the financial institutions and other correspondence between Fiscal Service and the financial institutions. Finally, the three records included the criteria that Fiscal Service planned to use to evaluate and select the financial institutions as financial agents.
- *Selection Phase:* None of the four administrative records included acknowledgment forms signed by the financial institutions indicating that they would, if selected, accept the terms of the financial agency agreement. Three of the four records contained (1) Fiscal Service’s analyses of the financial institutions’ proposals based on the selection criteria and (2) the selection decision memorandums that were signed by an assistant commissioner. The other record did not contain such documentation.[49] Finally, two of the four records included documentation of meetings between Fiscal Service and the financial institutions, but the other two did not.
- *Designation Phase:* All four of the administrative records included the financial agency agreements signed by Fiscal Service and the financial institutions. However, one included an amended agreement and not the original agreement.

The missing administrative record and incompleteness of the other records highlight the lack of compliance with internal controls, which provide reasonable assurance that the agency achieves its objectives, and could undermine Treasury’s ability to defend itself against litigation.

[48]Following our discussion with Fiscal Service officials about the documents missing from the administrative records, Fiscal Service subsequently provided us with copies of several of the missing documents. For example, Fiscal Service provided documentation of the assistant commissioner’s approval to designate a financial agent for two of the three FASPs whose administrative records were missing the documents.

[49]In response to a follow-up request, Fiscal Service provided us with a copy of a memorandum for the record, which contained the information included in a selection decision memorandum but was not sent to or signed by an assistant commissioner in accordance with the FASP guidance.

According to Fiscal Service officials, any legal protest likely would arise soon after a financial agent decision was made, so they could collect any needed documents from the program office. Importantly, no assurances exist that program offices will be able to produce any missing documents. For example, consistent with our findings, a report issued by the Treasury Inspector General in 2015 disclosed instances where Fiscal Service was unable to produce requested documents concerning its use of financial agents.[50] In response to the finding, the Inspector General recommended that Fiscal Service ensure that the selection process for financial agents is documented and that the documentation is maintained through the life of the financial agency agreement. Fiscal Service agreed with the recommendation and noted that it was revising its FASP guidance and expected to complete the revisions by year-end 2015.[51] As discussed earlier, Fiscal Service issued its revised FASP guidance in November 2015.

Although none of the administrative records that we reviewed were complete and one was missing, Fiscal Service's revised 2015 FASP guidance includes new procedures designed to address the deficiency. Unlike the 2010 guidance, the 2015 guidance instructs not only Fiscal Service's program offices to provide BPO with an electronic copy of their administrative records at the end of a FASP, but it also instructs BPO to use a checklist to ensure that the necessary documents have been created and electronically delivered to BPO.[52] BPO developed a checklist of 18 of the 19 types of documents listed in the 2015 FASP guidance as examples of documents to be maintained in the administrative record and incorporated fields to check to verify whether each document was provided.[53] In addition, the checklist includes fields to document the reviewer's name, date of the administrative record's review, and comments on the administrative record. According to Fiscal Service officials, BPO trained Fiscal Service's program offices on the revised 2015 FASP guidance. Moreover, BPO's training slide presentation

[50]See OIG 15-048.

[51]The Treasury Inspector General noted that Fiscal Service's commitment met the intent of its recommendation.

[52]The 2010 FASP guidance noted that the contents of the administrative record may be stored in one binder for reference as needed.

[53]The checklist omits one type of document listed in the guidance (i.e., amendments to a financial agency agreement) because such documents would not be created until after the initial FASP is completed.

included a copy of the checklist and examples of the documents to be maintained in the administrative record. As noted, the 2015 FASP guidance was not in effect for the administrative records that we reviewed. However, by conducting its checklist review in future FASPs, BPO should be able to better ensure that the administrative records are complete. Such actions should provide reasonable assurance that Fiscal Service is complying with its FASP guidance, including key controls to provide reasonable assurance that it achieves its objectives.

Conclusions

Treasury has expanded its use of financial agents through its Bureau of the Fiscal Service to modernize its systems and keep pace with technological changes in providing financial services to the public. However, Treasury has not publicly disclosed in a central location information about Fiscal Service's individual financial agency agreements, such as a description of services provided under each agreement and the amount paid to each agent for its services. Without such information, the public and Congress are less able to hold Treasury accountable for such spending. In addition, by publicly disclosing more information about its use of financial agents, Treasury would allow the public and Congress to better understand, assess, and appreciate the scope and value of federal investments.

Recommendation for Executive Action

To promote transparency and accountability of federal spending, the Commissioner of the Fiscal Service should make basic information about Fiscal Service's use of financial agents publicly available in a central location, including compensation paid to each financial agent under its financial agency agreement and a description of the services provided.

Agency Comments

We provided a draft of this report to Treasury for review and comment. In its written comments (reproduced in app. V), Treasury concurred with our findings and recommendation regarding transparency and accountability. It said that Fiscal Service will make basic information about its financial agents publicly available, including information about compensation and services rendered. In addition, Treasury provided technical comments on the draft report, which we incorporated as appropriate.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the Secretary of the Treasury and appropriate congressional committees. In addition, the report will be available at no charge on the GAO website at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-8678 or ClementsM@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix VI.

Michael Clements

Michael E. Clements
Acting Director, Financial Markets and Community Investment

Appendix I: Objectives, Scope, and Methodology

Our objectives were to examine (1) how the Department of the Treasury's (Treasury) use and compensation of financial agents has changed as it has modernized its payment and collection systems and (2) the Bureau of the Fiscal Service's (Fiscal Service) process and related internal controls for selecting and designating financial institutions as financial agents.

To examine how Treasury's use and compensation of financial agents has changed as it has modernized its payment and collection systems, we reviewed federal statutes, regulations, and directives that have guided Treasury's use of financial agents; Treasury's annual budget documents; documentation on current and former Treasury programs using financial agents, including compensation data and descriptions of services provided by financial agents; financial agency agreements and amendments to those agreements; audit or similar reports issued by GAO, Treasury's Office of the Inspector General, or others; and congressional testimony from a Treasury official. We used Treasury's budget data for fiscal years 2004 through 2015, the most recent data available at the time of our review, to analyze the total amount paid to financial agents since enactment of the permanent, indefinite appropriation. We also obtained compensation data from Fiscal Service on the amount it compensated each of its financial agents in fiscal years 2014 and 2015 to conduct a more in-depth analysis of the total amount of compensation for collection, payment, and related services. We assessed the reliability of the data by interviewing knowledgeable officials, conducting manual testing on relevant data fields for obvious errors, and reviewing a recent audit. Based on these steps, we found the data to be sufficiently reliable for the purposes of our analyses. Finally, we interviewed officials in various units within Treasury involved in the selection and designation of financial agents, including Fiscal Service and the Office of Financial Stability.

To examine Fiscal Service's process and related internal controls for selecting and designating financial institutions as financial agents, we reviewed federal statutes and regulations authorizing or governing Treasury's use of financial agents; Fiscal Service's policies and procedures and related documentation for selecting and designating financial agents, including financial agency agreements, financial agent solicitations, and selection decision memoranda; and audit or similar reports issued by GAO, Treasury's Office of the Inspector General, or others. We assessed Fiscal Service's 2010 and 2015 financial agent selection process (FASP) guidance, which documents its process and related internal controls for selecting and designating financial agents against the standards for internal control in the federal government.[1] In addition, we reviewed internal records that Fiscal Service officials generated to document key decisions made in their selection and designation of five financial agents between January 2010 and December 2015 to assess compliance with Fiscal Service's policies and procedures. We compared those records to the types of documentation listed in Fiscal Service's 2010 FASP guidance, which was in effect for the five FASPs we reviewed, to assess Fiscal Service's compliance with its FASP guidance, including key controls. We interviewed officials in various units within Treasury involved in the selection and designation of financial agents, including Fiscal Service and the Office of the Fiscal Assistant Secretary.

We conducted this performance audit from January 2016 to January 2017 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.

[1]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: September 2014). This publication superseded *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999) and went into effect on October 1, 2015. We used the updated standards to review Fiscal Service's policies and procedures that were revised in November 2015.

Appendix II: Programs Established in Response to the Financial Crisis That Are Administered by the Department of the Treasury and Use Financial Agents

Between 2008 and 2010, Congress passed several laws that established or led to the establishment of a number of programs designed to promote U.S. financial stability and address other effects of the financial crisis. The Department of the Treasury (Treasury) has designated financial institutions as financial agents to provide services under the programs.

- The Housing and Economic Recovery Act of 2008 (HERA) provided Treasury with authority to purchase obligations and securities issued by Fannie Mae and Freddie Mac, the housing government-sponsored enterprises (GSE).[1] Under its authority, Treasury created the GSE Mortgage-Backed Securities Purchase Program to help support the availability of mortgage credit by temporarily providing additional capital to the mortgage market.[2] By purchasing those securities, Treasury sought to broaden access to mortgage funding for current and prospective homeowners and to promote market stability. Treasury used its existing authorities to designate three financial institutions as financial agents to provide asset management, custodian, and other services for the program, and Treasury has one active financial agency agreement as of October 2016.
- The Emergency Economic Stabilization Act of 2008 (EESA) established the Office of Financial Stability within Treasury and authorized the Troubled Asset Relief Program, in part to restore liquidity and stability to the U.S. financial system.[3] Among other things, EESA authorized Treasury to buy up to $700 billion (later reduced to $475 billion) in “troubled assets” as defined under the act and to designate financial institutions as financial agents to perform all such reasonable duties related to the act. Treasury entered into 27 financial agency agreements with 23 financial institutions, including banks, security brokers or dealers, and insurance companies, as financial agents to support the act’s implementation, and Treasury has four active financial agency agreements as of October 2016. The Troubled Asset Relief Program, in conjunction with other federal actions, was designed to help restore stability to the financial system,

[1]Housing and Economic Recovery Act of 2008, Pub. L. No. 110-289, § 1117, 122 Stat. 2654, 2683 (2008) (codified as amended at 12 U.S.C. §§ 1455(*l*), 1719(g)).

[2]In addition to the GSE Mortgage-Backed Securities Purchase Program, Treasury established the Housing Finance Agency Initiative and entered into Senior Preferred Stock Purchase Agreements with Fannie Mae and Freddie Mac.

[3]Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343, 122 Stat. 3765 (2008).

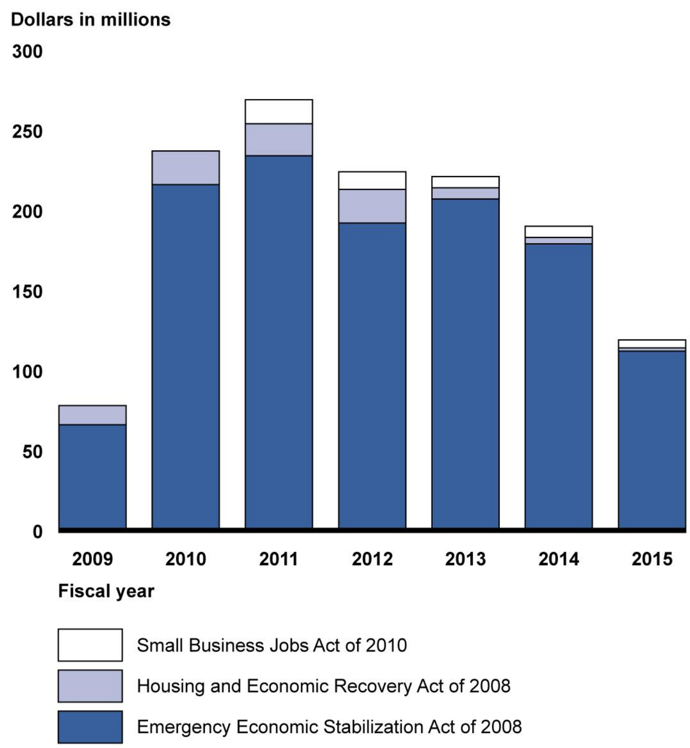
including by providing capital to financial institutions and helping homeowners prevent avoidable foreclosures.

- The Small Business Jobs Act of 2010 (SBJA), among other things, established the Small Business Lending Fund to provide capital to eligible institutions in order to increase the availability of credit for small businesses.[4] The Small Business Lending Fund's purpose is to address the ongoing effects of the financial crisis on small businesses by providing temporary authority to Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses. As authorized by SBJA, as of October 2016 Treasury has active financial agency agreements with two financial institutions that it designated as financial agents to provide asset management and custodian services.

From fiscal year 2009 through fiscal year 2015, Treasury paid financial agents for their services under the HERA, EESA, and SBJA programs a total of $1.3 billion. As shown in figure 5, financial agents under the EESA programs account for the large majority of the total compensation paid to these financial agents. Financial agents under the HERA programs are paid with Treasury's permanent, indefinite appropriation, but financial agents under the EESA and SBJA programs are paid from appropriations provided pursuant to those acts.

[4]Small Business Jobs Act of 2010, Pub. L. No. 111-240, § 4103,124 Stat. 2504, 2585 (2010) (codified at 12 U.S.C. § 4741 note).

Figure 5: Compensation Paid to Financial Agents under the Housing and Economic Recovery Act, Emergency Economic Stabilization Act, and Small Business Jobs Act Programs, Fiscal Years 2009–2015



Source: GAO analysis of Department of the Treasury data. | GAO-17-176

Appendix III: The Department of the Treasury's Bureau of the Fiscal Service Programs Using Financial Agents

The Department of the Treasury's Bureau of the Fiscal Service has four program offices that use financial agents: (1) Revenue Collections Management, (2) Payment Management, (3) Debt Management Services, and (4) Treasury Securities Services. Tables 2 through 5 below show the active programs managed by these program offices that use financial agents, a description of the program, the financial agent, and the effective date of the current financial agency agreement.

Table 2: Revenue Collections Management Programs Using Financial Agents

Program	Program description	Financial agent	Effective date of financial agency agreement
Electronic Data Interchange	Electronic Data Interchange provides information about benefits received from paper checks and other nontax remittances in an electronic format.	PNC Bank, National Association	July 31, 2003
General Lockbox Network	The General Lockbox Network is a collection and processing service provided by certain financial agents to help federal agencies process paper checks and other nontax remittance documents that are received through the mail. The General Lockbox Network facilitates federal agencies' check deposit and remittance. Passport and immigration lockbox processing is included in the General Lockbox Network.	Bank of America, National Association	January 12, 2004
		BNY Mellon, National Association	January 12, 2004
		Citibank, National Association	January 12, 2004
		JPMorgan Chase Bank, National Association	January 12, 2004
		U.S. Bank National Association	January 12, 2004
Card Acquiring Service	The Card Acquiring Service facilitates the electronic acceptance and collection of credit, debit, and other payment card transactions that originate (1) at the point of sale through agency standalone terminals or integrated point of sale systems (e.g., electronic cash registers), and (2) remotely through Pay.gov via the telephone, through the Internet, or through a lockbox.	Fifth Third Bank	August 28, 2006
Over the Counter Channel Application	The Over the Counter Channel Application is a web-based application that automates the over-the-counter deposit process, captures detailed accounting information, and facilitates the classification of the Department of the Treasury's (Treasury) collections. It also provides check-capture functionality and bank deposit reporting.	Citibank, National Association	August 28, 2008
Electronic Check Processing	Electronic Check Processing is a systematic method used to convert paper checks into electronic transactions via a lockbox network. The Electronic Check Processing System is a web-based client facing application used by government agencies and their financial agents to view and research transactions.	Citibank, National Association	September 30, 2008

Program	Program description	Financial agent	Effective date of financial agency agreement
Collections Information Repository	The Collections Information Repository is a reporting system that consolidates detailed and summary-level information on collections transactions and reports this information to federal agencies and other Treasury systems, including the Bureau of the Fiscal Service.	PNC Bank, National Association	December 23, 2008
Credit Gateway	The Credit Gateway is a program used for the receipt of electronic transactions.	U.S. Bank National Association	April 2, 2009
Electronic Federal Tax Payment System	The Electronic Federal Tax Payment System provides the government electronic channels for tax collection.	Bank of America, National Association	May 1, 2010
IRS Lockbox Network	The Internal Revenue Service (IRS) Lockbox Network handles business and individual tax transactions. The financial agents process the tax receipts and transmit information to IRS service centers. The financial agents also send IRS the original tax forms that accompanied the transactions.	Bank of America, National Association	January 1, 2013
		JPMorgan Chase Bank, National Association	January 1, 2013
		U.S. Bank National Association	January 1, 2013
Seized Currency Collections Network	The Seized Currency Collections Network is a nationwide program that allows for the collection and deposit of currency seized by federal law enforcement agents with deposit locations in over 70 cities.	Bank of America, National Association	February 25, 2016

Source: GAO analysis of information from Department of the Treasury documents. | GAO-17-176

Table 3: Payments Management Programs Using Financial Agents

Program	Program description	Financial agent	Effective date of financial agency agreement
Trust Fund Accounting and Commissary System	The Trust Fund Accounting and Commissary System allows the Bureau of Prisons Central Office and federal prison sites to electronically manage inmate trust fund monies from the time inmates enter the federal prison system until their release. The Trust Fund Accounting and Commissary System also manages all operations of the trust fund for the benefit of the inmates.	Bank of America, National Association	May 3, 2000
Stored Value Card - Navy Cash	The Navy Cash card is a reloadable prepaid debit card that contains both a closed-loop function used on Navy ships and a MasterCard branded open loop function that can be used ashore.	JPMorgan Chase Bank, National Association	August 14, 2003
U.S. Debit Card	The U.S. Debit Card provides a prepaid option for federal agencies to disburse federal payments through electronic funds transfer. The U.S. Debit Card provides various options for executing payments; producing agency reporting requirements; providing branded or nonbranded cards; creating spending limitations and allowances as required; and supporting end users with customer service.	JPMorgan Chase Bank, National Association	October 1, 2008
Stored Value Card - EagleCash & EZPay (Funds Pools)	The Stored Value Card Funds Pools Program establishes and maintains funds pools that back Stored Value EagleCash and EZPay Cards.	Bank of America, National Association	January 1, 2010
Non Traditional Alternative Payments	The Non Traditional Alternative Payments Settlement Account is an account in which transactions to alternative payment providers, such as mobile banking technologies and web-based payment systems are processed.	Wells Fargo Bank, National Association	October 16, 2014
Direct Express	The Direct Express card is a prepaid debit card available for federal benefit recipients who lack an account at a financial institution and who are required to receive their benefits electronically.	Comerica Bank	January 3, 2015
Stored Value Card - Navy Cash Open Loop	The Navy Cash Open Loop function is being transitioned from JPMorgan Chase to PNC Bank.	PNC Bank, National Association	July 20, 2015
Military Meal Checks	Military Meal Checks allows the Department of Defense to issue third-party drafts to new military enlistees and trainees for the purpose of purchasing meals while in travel status away from a military installation.	PNC Bank, National Association	July 27, 2015

Source: GAO analysis of information from Department of the Treasury documents. | GAO-17-176

Table 4: Debt Management Services' Programs Using Financial Agents

Program	Program description	Financial agent	Effective date of financial agency agreement
Centralized Receivables Service	The Centralized Receivables Service is a service provided to federal agency programs to assist in the management of current, nontax receivables.	U.S. Bank National Association	June 15, 2012

Source: GAO analysis of information from Department of the Treasury documents. | GAO-17-176

Table 5: Treasury Security Services' Programs Using Financial Agents

Program	Program description	Financial agent	Effective date of financial agency agreement
*my*RA®	*my*RA offers a Roth Individual Retirement Account (IRA) savings account to the public.	Comerica Bank	May 11, 2015

Source: GAO analysis of information from Department of the Treasury documents and interviews. | GAO-17-176

Appendix IV: Department of the Treasury's Use of a Financial Agent for the *my*RA Program

*my*RA® (my retirement account) is a Roth Individual Retirement Account (IRA) that invests in a new U.S. Treasury retirement savings bond. It is designed to facilitate retirement savings for individuals without access to an employer-provided retirement savings program. In January 2014, the President issued a memorandum directing the Secretary of the Department of the Treasury (Treasury) to develop a new retirement savings security focused on reaching new and small-dollar savers. In response, Treasury developed *my*RA and launched the program nationally in November 2015.

Treasury Used Its Existing Authority to Designate a Financial Agent for the *my*RA Program

Treasury's Bureau of the Fiscal Service (Fiscal Service) developed the *my*RA program and used its authority to designate a financial agent to administer customer investments in and serve as the custodian for *my*RAs. Treasury officials said that they decided to use a financial agent for *my*RA because Fiscal Service (1) had not been qualified to act as a Roth IRA custodian under IRS rules, (2) had not yet established the necessary infrastructure to operate a Roth IRA program, and (3) could implement the program more quickly by using a financial agent. Although Fiscal Service uses Federal Reserve banks as fiscal agents to serve as custodians for its other savings bond programs, Treasury officials said that such banks cannot serve as custodians for Roth IRAs.[1]

According to Treasury officials, Fiscal Service attorneys analyzed the statutory authority for issuing savings bonds under the *my*RA program and historical precedent for using a financial agent to help carry out the *my*RA program. Treasury officials stated that Fiscal Service found examples of programs similar to *my*RA in Treasury's annual reports. Treasury officials told us this is not the first time that Treasury has used a fiscal or financial agent to hold securities or maintain accounts for others. For example, Fiscal Service uses banks as financial agents in payment programs to allow individuals to receive payments electronically in the form of prepaid debit cards. It also uses Federal Reserve banks, as fiscal agents, to maintain book entry accounts for savings bonds and marketable securities and hold collateral pledged in lieu of surety bonds.

[1]For example, Treasury uses a Federal Reserve bank as a fiscal agent to maintain book-entry accounts for savings bonds and marketable securities purchased by retail investors.

The financial agent for *my*RA holds a Treasury retirement savings bond on behalf of each individual accountholder.[2]

Fiscal Service Generally Followed Its Financial Agent Selection Process for the *my*RA Financial Agent but Did Not Fully Document Its Process

Fiscal Service generally followed its 2010 financial agent selection process (FASP) guidance in selecting and designating Comerica Bank as financial agent for the *my*RA program. The guidance documents the FASP steps, including related internal controls, in initiating the process, soliciting proposals and evaluating submissions, and selecting and designating a financial agent. The following is a summary of Fiscal Service's selection and designation process for the *my*RA program based on the administrative record provided by Treasury.

- Fiscal Service formed a selection team to review the applications and recommend which applicant to designate as the financial agent. The team consisted of six employees chosen to bring a breadth of expertise to the selection process.
- Fiscal Service developed a cost estimate for the services to be provided by a financial agent under the *my*RA program.
- In February 2014, Fiscal Service notified approximately 10,000 financial institutions about its financial agent solicitation through announcements distributed through the Federal Reserve's bank communication system and American Banker, a news periodical on banking and finance.
- By the close of the initial application period in March 2014, Fiscal Service had received two applications, both from entities that were not eligible to serve as a financial agent because they were not financial institutions as defined by the laws governing Treasury's use of financial agents. It extended the application period and received an application from Comerica Bank and a resubmitted application from an entity previously determined not to be eligible.
- Fiscal Service initially reviewed Comerica's application against the criteria provided in the solicitation and held a conference call with Comerica in May 2014 to further discuss Comerica's application. Fiscal Service held a follow-up meeting with Comerica, which

[2]Direct Express allows federal benefit recipients to receive their payments electronically in a prepaid debit card account administered by the program's financial agent.

subsequently provided Fiscal Service with proposed pricing information.

- Each member of the selection team individually rated Comerica's application using the program requirements set forth in the solicitation. Fiscal Service requested and reviewed references for a firm that was partnering with Comerica.
- Fiscal Service compared its cost estimate to Comerica's cost estimate and found the two to be comparable.
- The selection team prepared a recommendation memorandum, which a Fiscal Service assistant commissioner signed in June 2014.
- Fiscal Service and Comerica executed the financial agency agreement in July 2014.

As discussed in the report, we reviewed Fiscal Service's administrative records for four FASPs conducted between 2010 and 2015, including the FASP for the *my*RA program. Under the 2010 FASP guidance, Fiscal Service's program offices were required to maintain an administrative record comprised of documents generated during a FASP that describes and supports the decision-making process. We found that the *my*RA administrative record contained 6 of the 11 types of documents listed in the guidance, such as the solicitation, memorandums of meeting with the financial institutions, the selection decision memorandum, and the financial agency agreement. While some documents were missing from the administrative record, changes to the 2015 FASP guidance should help Fiscal Service provide assurance that documentation is complete, as previously discussed.

Treasury Has Controls in Place to Address Potential Conflicts of Interest under the *my*RA Program

All Treasury employees, including Fiscal Service employees, are subject to the same conflict of interest requirements that apply to all executive branch employees, as discussed previously in this report. For example, employees meeting certain criteria must file financial disclosures, which are reviewed internally by attorneys, and take annual ethics training. In addition, Fiscal Service has an employee conduct policy, which addresses outside activities, gifts, and other topics relevant to conflicts of interest. The 2015 FASP guidance states that employees involved in selecting or designating a financial agent should complete ethics training before their involvement in a FASP and sign a conflict-of-interest statement before evaluating financial agent proposals.

Under the terms of its financial agency agreement, the financial agent for *my*RA owes a fiduciary duty of loyalty and fair dealing to the United

States when acting as a financial agent of the United States and agrees to act at all times in the best interests of the United States when carrying out its responsibilities under the agreement. Treasury officials said that if a financial agent faced a conflict of interest under its agreement, the agent would have a duty to disclose and address that conflict. Based on a recommendation recently made by the Treasury Inspector General, Fiscal Service amended its model financial agency agreement to include a provision requiring the financial agent to notify the Inspector General if it becomes aware of any possible violation of federal criminal law regarding fraud, conflict of interest, bribery, or illegal gratuities affecting services performed under the financial agency agreement.[3] The financial agency agreement for *my*RA includes this provision.

Once *my*RA accountholders reach a limit of $15,000 in their account or the account reaches a maturity of 30 years, they are required to roll over their account into another retirement savings account. Fiscal Service officials told us that to address concerns that the financial agent would try to promote its own products to *my*RA accountholders, the financial agency agreement includes additional controls that place limits on the financial agent's ability to cross-market its own products to accountholders so that, for instance, the financial agent would not be able to steer accountholders to its own products when they are required to roll over their account.

[3]Department of the Treasury, Office of Inspector General, *Fiscal Service Needs to Improve Program Management of Direct Express*, OIG 14-031 (Mar. 26, 2014).

Appendix V: Comments from the Department of the Treasury's Bureau of the Fiscal Service

COMMISSIONER

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

December 23, 2016

Mr. Michael E. Clements
Acting Director, Financial Markets and Community Investment
441 G Street NW
Washington, DC 20548

Dear Mr. Clements:

I write in response to your draft report entitled *Revenue Collections and Payments: Treasury Has Used Financial Agents in Evolving Ways but Could Improve Transparency* (Draft Report). The Draft Report primarily focuses on the use of financial agents by the Department of the Treasury's (Treasury) Bureau of the Fiscal Service (Fiscal Service), Treasury's largest user of financial agents. Fiscal Service appreciates GAO's efforts, and this letter provides our official comments to the Draft Report.

The Draft Report provides a valuable overview of Fiscal Service's use of financial agents. As noted in the Draft Report, we use financial agents to carry out many essential services relating the payment and collection of federal funds, as well as other matters. We are committed to using financial agents wisely, and we currently provide a great deal of information to the public about our use of agents on our website and in other public communications.

The Draft Report makes the following recommendation to the Fiscal Service:

> To promote transparency and accountability of federal spending, the Commissioner of the Fiscal Service should make basic information about Fiscal Service's use of financial agents publicly available, including compensation paid to each financial agent under its financial agency agreement and a description of the services provided.

Fiscal Service concurs with GAO's recommendation. Fiscal Service will make basic information about its financial agents publicly available, including information about compensation and services rendered.

Thank you for your review of Fiscal Service's use of financial agents. If you have any questions or wish to discuss these comments in more detail, please contact me on (202) 874-7000.

Sincerely,

FOR

Sheryl R. Morrow
Commissioner

Appendix VI: GAO Contact and Staff Acknowledgments

GAO Contact

Michael Clements, (202) 512-8678, or clementsm@gao.gov

Staff Acknowledgments

In addition to the contact named above, Richard Tsuhara (Assistant Director), Heather Chartier (Analyst-in-Charge), William R. Chatlos, Jeffrey Harner, Colleen Moffatt Kimer, Marc Molino, Patricia Moye, and Jennifer Schwartz made key contributions to this report.

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Appendix VII: Accessible Data

Data Table for Figure 3: Payments Management Programs Using Financial Agents

Nominal Values	Fiscal Year
$378,000,000	2005
$349,000,000	2006
$439,000,000	2007
$520,000,000	2008
$567,000,000	2009
$594,000,000	2010
$619,000,000	2011
$635,000,000	2012
$618,000,000	2013
$596,000,000	2014
$636,000,000	2015

Data Table for Figure 5: Treasury Security Services' Programs Using Financial Agents

Fiscal Year	Fiscal Service	SBJA	EESA	HERA
2009	$558	$0	$66	$12
2010	$594	$0	$216	$21
2011	$618	$15	$234	$20
2012	$632	$11	$192	$21
2013	$609	$7	$207	$7
2014	$602	$7	$179	$4
2015	$637	$5	$112	$2
Total	$4,250	$46	$1,205	$87