

Final Rule Summary

*Prepared by the NASCUS State Regulatory Affairs Department
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Consumer Financial
Protection Bureau

12 CFR Part 1005
Remittance Transfer Rule
(Regulation E)

The Consumer Financial Protection Bureau (CFPB) has issued a final rule designed to protect consumers who send money to foreign countries via Electronic Funds Transfers, or “remittance transfers.” These changes are amendments to 12 CFR Parts 1005.30 through 1005.36, and are applicable to all credit unions that provide electronic fund transfer services to members in the regular course of business.

The Rule takes effect on October 28, 2013.

Rule at-a-Glance:

- Applies to any person that provides remittance transfers for a consumer in the normal course of its business. Provides a safe harbor for institutions that provided 100 or fewer remittance transfers in the previous calendar year, and will provide 100 or fewer in the current calendar year.
- Requires that the institution making the transfer provide the consumer with a disclosure and receipt for the transaction that lists the exchange rate, fees and taxes charged by the provider, and the amount of money that will actually be delivered abroad.
- Provides a temporary exception for insured depository institutions (including credit unions), in providing estimates for disclosures instead of exact amounts if the exact amount cannot be determined and the transfer is sent from the consumer’s account with the insured institution. This exception expires on July 21, 2015.
- Makes it optional, in certain circumstances, to disclose fees and taxes imposed by the designated recipient’s institution when that information is unavailable to the originating institution. In that case, the originating institution must include disclaimers indicating that the recipient may receive less than the disclosed total due to fees and taxes.
- Allows a remittance transfer provider to deduct from the total amount that the sender paid to the provider the fees actually imposed and taxes actually collected as part of the first unsuccessful remittance transfer attempt, when the mistake was due to incorrect or insufficient information provided by the sender.

The final rule may be read [here](#), and compliance resources and supplemental information can be found at: <http://www.consumerfinance.gov/remittances-transfer-rule-amendment-to-regulation-e/>

Background

The Consumer Financial Protection Bureau (CFPB) issued a series of amendments to Regulation E that modified several disclosure requirements and error resolution procedures. Section 1073 of the Dodd-Frank Act added a new Section 919 to the Electronic Fund Transfer Act, which was incorporated into subpart B of Regulation E. The original rule as promulgated by the CFPB was published in the Federal Register on February 7, 2012, and has been amended several times, most recently on August 14, 2013. The final rule is effective October 28, 2013, and will apply to any credit union that generated over 100 remittance transfers in each of the current and previous calendar years.

Summary of Part 1005.30; Remittance Transfer Definitions

The first section of the regulation defines the important terms related to sending and receiving remittance transfers. This section defines a remittance transfer as an “electronic transfer of funds requested by a sender to a designated recipient that is sent by a remittance transfer provider.” The term applies regardless of whether the sender holds an account with the remittance transfer provider, but excludes transfers of securities, commodities, and small value transfers of \$15 or less.

A remittance transfer provider is defined as “any person that provides remittance transfers for a consumer in the normal course of its business,” with “normal course of business” meaning the person provided more than 100 remittance transfers in the previous calendar year, and will provide more than 100 in the current calendar year. For the purposes of the rule, the “sender” of a remittance transfer refers only to consumers in the United States who primarily for personal, family, or household purposes request a remittance transfer be sent to a designated recipient. Consequently, remittance transfers sent by businesses (instead of individuals) are not covered by this rule.

Finally, this section defines “covered third-party fees” as any fees imposed on the remittance transfer by a person other than the remittance transfer provider and distinguishes “non-covered third-party fees” as any fee imposed by the designated recipient’s institution for receiving a remittance transfer into an account, except if the institution acts as an agent of the remittance transfer provider.

Summary of Part 1005.31; Disclosures

The disclosure section of the rule is broken into 7 subparts, with the main meat of the section in subparts (a) through (c). Subpart (a) outlines the general forms that the required disclosures can take, including written, oral, electronic and via text message. All disclosures must be clear and conspicuous, provided to the sender in writing, and retained by the provider. If the transfer is

conducted orally and entirely by telephone, the provider may give the disclosures orally, as long as it complies with the timing and foreign language requirements of the rule. If the transfer is conducted entirely via text message or mobile application, the provider may make the required disclosures orally or via mobile application or text message.

Subpart (b) delineates the information that must be disclosed to the sender. All pre-payment disclosures must include: (i) the amount of the transfer in the currency in which the transfer is funded; (ii) the fees and taxes collected by the provider in the currency in which the transfer is funded; (iii) the total cost of the transfer, which is the sum of (i) and (ii); and (iv) the exchange rate used in the transaction. If there are covered third-party fees associated with the transaction the disclosure must also include (i) the amount of the third-party fees; (ii) the amount sent to the designated recipient stated in the currency in which the funds will be received; (iii) the amount actually received by the recipient in the currency in which the funds will be received; and (iv) a statement indicating that non-covered third-party fees and taxes may apply.

The remittance transfer provider must also provide a receipt to the sender that includes: (i) the prepayment disclosures described above; (ii) the date that the funds will be available to the recipient in the foreign country; (iii) the name and contact information of the recipient; (iv) a statement about the rights of the sender regarding errors and cancellation of the transfer; (v) the name and contact information of the remittance transfer provider; (vi) the name and contact information for the CFPB and state agency that charters the remittance transfer provider, along with a statement that the sender can contact the agency with any complaints; and (vii) the date the remittance transfer provider will make the transfer for any remittance transfer scheduled at least three business days in advance. The remittance transfer provider may provide the pre-payment disclosures and receipt in a single document, but must include clear and conspicuous proof of payment for the transfer, in writing or electronically. If the transfer is scheduled before the transfer date, the remittance transfer provider may provide confirmation that the transfer has been scheduled instead of the proof of payment.

Subpart (c) contains specific requirements regarding the grouping, proximity, prominence and size of the disclosures outlined in subpart (b). Subpart (e) discusses when each of these disclosures must be made relative to funding the transfer, and subpart (g) requires that disclosures be made in English and the foreign language used primarily in any advertising by the remittance transfer provider.

Summary of Part 1005.32; Estimates

The estimates section of this rule is broken into 4 subparts, which address the temporary exception for insured institutions, permanent exceptions built into the rule, the bases for making estimates generally, and how estimates apply to transfers scheduled before the date transfer. Subpart (a) provides a temporary exception for insured depository institutions (including credit unions), in providing estimates for disclosures instead of exact amounts if the exact amount cannot be determined and the transfer is sent from the consumer's account with the insured institution. This exception will expire on July 21, 2015.

Subpart (b) outlines permanent exceptions that allow a remittance transfer provider to estimate required disclosure amounts in circumstances where exact amounts are unavailable. For example, a remittance transfer provider will not have to provide exact amounts where the laws or methods used in a recipient country do not permit such a determination. The CFPB will publish a list of countries that fall into this category, and the rule provides a safe harbor for transactions with those countries. Estimates may also be used if the transfer is scheduled five or more business days in advance, and for applicable non-covered third-party fees and taxes.

Subpart (c) details the approach that should be used by a remittance transfer provider in determining an appropriate estimate for the required disclosure amounts. If a remittance transfer provider uses a different approach in generating an estimate than that outlined in the rule, the provider will still be deemed in compliance so long as the designated recipient receives the same or a greater amount of funds than the estimate provided.

Summary of Part 1005.33; Procedures for Resolving Errors

This section of the rule defines the term “error” and delineates what will constitute a notice of error from a sender, and how the remittance transfer provider must respond to that notice. Generally, the sender has 180 days after the disclosed date of availability of the transfer to report an error with the transfer, and the remittance transfer provider has 90 days to investigate and respond. The rule also details the appropriate remedies that a remittance transfer provider must offer in the event of an error, and requires the provider to develop a compliance program to ensure that the error resolution requirements are met.

Subpart (h) of this section clarifies that a failure to make funds available to the designated recipient will not constitute an error if the sender provided an incorrect account number or recipient institution identifier in connection with the transfer. In order for this exception to apply, the remittance transfer provider must use reasonably available means to verify that the identifiers provided correspond with the names provided by the sender, and must make prompt and reasonable efforts to recover the transfer.

Summary of Part 1005.34; Procedures for Cancellation and Refund

This section allows the sender to cancel a remittance transfer by providing an oral or written request to the remittance transfer provider within 30 minutes after the sender makes payment if the funds have not yet been deposited or picked up by the recipient, and the cancellation request includes all necessary information to effectuate the cancellation. The remittance transfer provider must refund the sender’s full payment, including taxes and fees, within 3 business days of receiving the cancellation.

Summary of Part 1005.35; Acts of Agents

This section provides that a remittance transfer provider is liable for any violation of this subpart by an agent when such agent acts for the provider.

Summary of Part 1005.36; Transfers Scheduled Before the Date of Transfer

This section relates to requirements for remittance transfers scheduled before the date of transfer. For transfers scheduled 5 or more business days in advance, the remittance transfer provider must provide updated disclosure notifications to the sender within 1 day of the transfer, if estimates were used in the initial disclosures. Updates must also be provided for pre-authorized transfers if the original estimates have changed. In addition, if the transfer is scheduled 3 business days or more in advance, the cancellation and refund requirements of this rule do not apply unless the cancellation request is received by the remittance transfer provider at least 3 days before the scheduled transfer.

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