



Credit Union National Association

cuna.org

DANIEL A. MICA
PRESIDENT & CEO

601 Pennsylvania Ave., NW | South Building, Suite 600 | Washington, DC 20004-2601 | **PHONE:** 202-638-5777 | **FAX:** 202-638-7734

March 24, 2010

The Honorable Christopher Dodd
Chairman
Committee on Banking, Housing and Urban Affairs
United States Senate
Washington, DC 20510

Dear Chairman Dodd,

On behalf of the Credit Union National Association (CUNA) and the World Council of Credit Unions (WOCCU), we are writing regarding the remittance provisions (Section 1076) in the manager's amendment to the Committee Print of Restoring American Financial Stability Act, which was approved by the Banking Committee on March 22, 2010. CUNA represents approximately 90 percent of America's 8,000 credit unions and their 92 million members. WOCCU is the global trade association and development agency for credit unions. Worldwide, 54,000 credit unions in 97 countries serve 186 million people.

Credit Unions Offer Remittance Services and Other International Fund Transfers

Over the last decade, the cost of international money transfers has dropped significantly due to an increased number of lower-cost market entrants, improved pricing disclosure at the point of sale, and the global dispersal of improved telecommunication technologies, among other causes. The resulting efficiencies have had a tremendous impact internationally. Lower costs not only put more money in the hands of consumers, many of whom rank among the world's poor, they also positively contribute to real economic growth in many of the world's emerging economies. As these markets mature and grow, they represent new opportunities for U.S. business and provide support for stable political regimes.

However, U.S. credit unions also offer a range of international electronic funds transfer services to their members – such as via the Fedwire, ACH, SWIFT, etc. – which would not generally be considered “remittances.” Further, we believe that these systems, which involve the use of correspondent institutions both in the U.S. and abroad, are not capable of complying with the requirements of Section 1076 without putting many U.S. financial institutions, including credit unions, at a severe competitive disadvantage.



PO Box 431 | Madison, WI 53701-0431 | 5710 Mineral Point Road | Madison, WI 53705-4454 | **PHONE:** 608-231-4000

The Honorable Christopher Dodd
March 24, 2010
Page Two

In 2001, WOCCU launched its IRnet service to facilitate the sending and receiving of remittances through credit unions. We work with seven remittance firms to facilitate transactions through approximately 300 credit union locations throughout the United States and 1,000 rural and urban credit union locations in Mexico, El Salvador, Guatemala, Bolivia, Ecuador, Nicaragua, Peru, and Kenya as distributors of remittances. We believe that these activities and the \$2.9 billion that has been transmitted through the IRnet program since its inception makes it one of, if not the largest, remittance program of any microfinance network.

Credit Union Concerns with the New Remittance Language

The Definition of Remittance is Overly Broad

Section 1076 would essentially make it impossible for credit unions to continue to offer any form of international electronic fund transfer services to their members because of the overly broad definition of "remittance." The language will affect any form of international electronic fund transfer services credit unions offer their members, whether or not those transactions are truly "remittances" sent by an immigrant home to his or her family.

U.S. credit unions offer a range of international wire transfer services which are not generally considered "remittances" by international development professional groups or most consumer groups. Common examples include members who use the Fedwire, ACH, SWIFT (Switzerland) or similar systems to transfer funds for their children's tuition at universities in, for example, England, Scotland, and Canada, and members who make wire transfers to their own bank or credit union accounts abroad or to creditors abroad (such as if a member owns property in another country). Based on our reading of Section 1076, these types of transactions, which are not generally considered "remittances," will nonetheless be subject to these "remittances" provisions in a way that will lead most, if not all, U.S. credit unions to cease providing any form of international electronic funds transfer service to its members.

Section 1076 Conflicts with the Uniform Commercial Code

Some of the provisions of Section 1076 conflict with Article 4A of the Uniform Commercial Code, the law adopted by all states concerning electronic funds transfers performed by banks and credit unions, such as the rights and liabilities of the parties, the circumstances under which the transaction may be cancelled, and the timing of the electronic funds transfers.

The legal ownership and obligations pertaining to each wire transfer instruction changes as the wire moves from financial institution to financial institution for clearing and settlement. It is extremely prejudicial against the U.S.-based financial institution that originates any consumer remittance to have legislation in place that

The Honorable Christopher Dodd
March 24, 2010
Page Three

holds only the U.S.-based financial institution receiving the request for the consumer remittance responsible for processes (execution of the initial transaction plus any exception handling/dispute/investigation) that involves potentially several financial institutions inside and outside of the jurisdiction of this legislation.

The remittance providers who maintain control over fees and/or rates and can disclose them before a transaction is handled are organizations whose core business is consumer remittances; however, financial institutions which conduct other types of international money transfers cannot maintain this level of transparency due to factors beyond their control. Even the largest global banks have clearing and settlement relationships with other financial institutions in specific markets, which may result in additional fees per wire. The requirements for transparency, as proposed by Section 1076, will only be able to be met by the largest remittance firms whose core business is consumer remittances and who have created their own settlement and clearing network. These remittance providers may have to provide transparency to consumers, but removing other financial institutions as viable alternatives for consumer transactions removes the type of competition that will help control rates and fees.

Section 1076 Will Increase Costs and Liability, and Slow the Remittance Process

We understand the well intentioned goal of Section 1076 is to provide additional consumer protections, such as requiring additional disclosures at storefronts and on receipts. However, we have concerns that some of these provisions could increase costs for remittances, increase liability for remittance transfer providers and slow down the remittance process. Under Section 1076, the remittance transfer provider would be liable for "actions of agents," including delays and other problems created by correspondent institutions over which the credit union has no control, and for discrepancies in translation between the English version and any other version of the receipt. Making remittance transfer providers liable for actions of agents will almost certainly remove a significant number of non-bank pay-out locations on both the send and receive side of a transaction and would encourage providers to only work with the most well-established agents, many of whom operate under exclusive contractual terms with the most dominate remittance firms: Western Union and MoneyGram. Remittance research shows that regulation needs to encourage and allow more non-bank entities to pay remittances, not less, as the increased competition significantly lowers transfer costs.

Section 1076 May Eliminate Consumer Access to Fedwire and Similar Systems

We are further concerned that many of the manager's amendments requirements are not compatible with the Federal Reserve Banks' Fedwire as it is currently designed, and will therefore eliminate consumer access (but not business access) to the Fedwire for most, if not all, international transactions. We think that this will also likely be true for systems similar to the Fedwire, such as the Fed's Global

The Honorable Christopher Dodd
March 24, 2010
Page Four

ACH, NACHA ACH, the SWIFT system and similar systems in some regions of the globe. Unless the Fedwire, ACH, SWIFT and similar systems are exempted from the "Remittance Transfer" requirement, it is very likely that large banks and money transfer companies like Western Union and MoneyGram will be the only enterprises capable of providing international electronic funds transfer services to consumers.

Federal Credit Unions Are at a Disadvantage to Other Depository Institutions

Finally, we have concerns regarding the amendment to the Federal Credit Union Act because it appears to be redundant with current Federal credit union authority, and may actually limit the ability of Federal credit unions to offer other types of international money transfers as well as the ability of the National Credit Union Administration to regulate international money transfers. Since credit union members are generally "consumers," we believe that this amendment will essentially make all federal credit union international funds transfers "remittances" subject to the onerous requirements of Section 1076. We are further concerned that this language appears to apply only to Federal credit unions, and not state chartered credit unions or for-profit banks.

Conclusion

While these provisions may be intended to protect consumers, they may have the effect of driving credit unions and small banks out of the international electronic funds transfer business, handing an oligopoly to the big banks, MoneyGram, Western Union, and other money transfer businesses. We encourage you to consider either exempting credit unions from these provisions or exempting transactions that are routed through programs administered by the major central banks, including Fedwire, Fed Global ACH, NACHA ACH, and the SWIFT system. We would be happy to work with you on these issues as the legislation moves toward full Senate consideration.

On behalf of America's credit unions as well as credit unions around the world, thank you very much for your consideration.

Sincerely,

The image shows two handwritten signatures in black ink. The signature on the left is "Daniel A. Mica" and the signature on the right is "Pete Crear". Both are written in a cursive, flowing style.

Daniel A. Mica
President & Chief Executive Officer
Credit Union National Association

Pete Crear
President & Chief Executive Officer
World Council of Credit Unions