



February 9, 2012

Remittance Transfers

(Safe harbor; scheduled and preauthorized transfers)

EXECUTIVE SUMMARY

- The Consumer Financial Protection Bureau (CFPB) has issued a proposal to further define certain aspects of the “remittance transfers” final rule¹ under Regulation E, as required by the Dodd-Frank Act. The final rule’s requirements will apply to most credit unions and financial institutions that provide consumers with international electronic funds transfer services because it broadly defines the term “remittance transfers” to include virtually all cross-border electronic funds transfers initiated by consumers in the U.S. including ACH and wire transfers, and products such as WOCCU’s IRnet. The final rule does not apply to most transfers involving credit, debit, and prepaid cards.
- Specifically, this proposal seeks comment in two areas:
 1. whether to provide a safe harbor to exempt certain financial institutions and other “remittance transfer providers” from the final rule if they transmit a low number of transfers (e.g., 25 transfers per year); and
 2. for transfers scheduled in advance, including preauthorized transfers, whether to provide additional flexibility on the required disclosures, including: additional use of estimates for a scheduled one time or first transfer in a series of preauthorized transfers; a longer timeframe for or the elimination of the pre-payment disclosure for subsequent transfers; and other potential changes to the cancellation requirements.
- The CFPB expects to complete any further rulemaking on these issues prior to the effective date of the final rule on February 7, 2013.
- Comments on the proposal are due to CFPB by April 9, 2012; **please submit your comments to CUNA by March 16, 2012.** Our comment call questions are also available on an [online survey](#).
- Please e-mail your comments to SVP/Deputy General Counsel [Mary Dunn](#), Assistant General Counsel [Luke Martone](#), and Regulatory Counsel [Dennis Tsang](#).
- For further details, please visit the Federal Register notices for the [proposal](#) and [final rule](#).

¹ 77 Fed. Reg. 6194 (Feb. 7, 2012).

BACKGROUND

The final rule on “remittance transfers” generally requires a remittance transfer provider (provider), such as a credit union, to provide a consumer sender: 1) a written disclosure provided prior to the initiating a transaction (“pre-payment disclosure”) that includes the actual exchange rate, fees and taxes, and the amount of currency to be received by the recipient; and 2) a written receipt when payment is authorized or made for the transfer that includes the pre-payment disclosure, information about error resolution, provider and regulator contact information, and the availability of the funds upon receipt. There are limited exceptions for the actual amount of currency to be received that allow an estimated exchange rate. For more information on the final rule, please see CUNA’s [final rule analysis](#) (forthcoming) on the final rule.

A “remittance transfer provider” is defined as an entity that provides “remittance transfers” for a consumer “in the normal course of its business,” regardless of whether the consumer holds an account, under the final rule.

For transfers scheduled in advance, including preauthorized transfers, the final rule has different timing and disclosure requirements.

- Transfer Scheduled in Advance or First Transfer in Series of Preauthorized Transfers - The final rule treats these two types of transfers the same as all other remittances transfers.
- Subsequent Transfers in Series of Preauthorized Transfers - The final rule requires a pre-payment disclosure and receipt with accurate information for each subsequent transfer when the transfer is made, and there are limited exceptions.
 - Pre-payment disclosure - Must be provided (mailed or delivered) within a “reasonable time” prior to the scheduled transfer date for each subsequent transfer.
 - Receipt - Generally must be provided (mailed or delivered) no later than 1 business day after the date of the actual transfer. However, if the transfer involves the transfer of funds from the sender’s “account” under Reg E, the receipt may be provided on or with the next regularly scheduled periodic statement or within 30 days after payment if a periodic statement is not required.
- Cancellation and Refund - The final rule requires, for any transfer scheduled at least 3 business days before the transfer date, including preauthorized remittance transfers, the sender must notify the provider at least 3 business days before the scheduled date of the transfer to cancel the transfer.

QUESTIONS TO CONSIDER REGARDING THE PROPOSAL

General Questions

- **Estimated Impact from “Remittance Transfers” Final Rule**
 - Does your credit union have an estimated number of “remittance transfers” that would be subject to the final rule (e.g., 200 transfers a month)?

 - Does your credit union have estimated financial and other impacts to comply with the final rule by the effective date of February 7, 2013?
 - Disclosure requirements (pre-payment and receipt)

 - Error resolution, cancellation, and refund requirements

- **Minimizing Compliance Burdens on Final Rule**
 - Do you have any general comments on how to provide additional flexibility on the final rule to minimize compliance burdens for credit unions and other “remittance transfer providers,” and also provide helpful remittance information and services to consumers?

 - Any other general comments or suggestions?

Specific Questions from the CFPB on Proposed Rule

- **Safe Harbor from Final Rule** - The proposal would permit a safe harbor to exempt financial institutions and other “remittance transfer providers” that transfer a low number of “remittance transfers” from the final rule. Under the proposal, an institution is not a “remittance transfer provider” in the “normal course of its business” if it makes no more than 25 remittance transfers in the previous calendar year and the current year. If the provider makes a 26th transfer in the current year, the provider would be evaluated under the “facts and circumstances test” to determine whether it will be required to comply with the final rule for that year. Do you agree with 25 as the number of transfers or a higher number?

- **One Time or First Transfer in Series of Preauthorized Transfers**
 - **Data** - Do you have any data regarding how frequently consumers request transfers many days in advance?

 - **Pre-payment Disclosure and Receipt - Additional Use of Estimates**

1. Should estimates (e.g., exchange rate, fees, taxes) be allowed when a consumer schedules a one-time transfer or the first in a series of preauthorized transfers to occur more than 10 days after the transfer is authorized (Also, 10 days is the proposed safe harbor timeframe on pre-payment disclosures for subsequent transfers that are required prior to the transfer (see below))? Do you agree with these proposed changes?
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2. Also, should estimates be allowed when a consumer enters into an agreement for preauthorized remittance transfers where the amount of the transfers can vary (e.g., exchange rate, fees, taxes) and the provider does not know the exact amount of the first transfer at the time the disclosures for that transfer are given)?
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- **Formula** - Instead of estimates, should the provider be allowed to disclose a formula to calculate the exchange rate on a transfer?
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- **Second Receipt** - If additional estimates are permitted for disclosures at the time the transfer is requested and authorized, should there be a second receipt with accurate information closer to when the transfer is scheduled to occur? For example, under the proposal, a provider would be able to provide estimates on the pre-payment and the receipt at the time the transfer is requested and authorized. Would providing multiple disclosures (a pre-payment disclosure and a first and second receipt) be information overload for consumers?
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- **Subsequent Transfers in Series of Preauthorized Transfers**

- **Pre-payment Disclosure (Two Alternatives)**

- First Alternative - Should the pre-payment disclosure with accurate information be required for each subsequent transfer, and should there be a safe harbor interpreting the “within a reasonable time” standard prior to the transfer to provide this disclosure (e.g., 10 days or longer)?
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- Second Alternative - Alternatively, should the CFPB eliminate the pre-payment disclosure completely for each subsequent transfer?
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- **Cancellation Requirements**

- **Deadline** - Should the deadline to cancel remittance transfers that are scheduled in advance, including preauthorized transfers, be 3 business days

or longer?

- **Notice of Deadline to Cancel** - The final rule requires the receipt specify the deadline to cancel applicable to the transfer and not the specific date.
 - Should the 3 business-day deadline to cancel transfers scheduled in advance be disclosed in a different manner to consumers? For example, should the receipt provide the business days applicable to the provider, the specific date of the deadline, reference the number of calendar days instead of business days, or redefine the definition of a “business day” to exclude holidays?

 - Should the receipt include both the 3 business-day cancellation deadline for transfers scheduled in advance and the 30 minute deadline for other transfers, and either describe or use a checkbox or other method to indicate the applicable deadline for the transfer?
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- Should the deadline to cancel be required in the pre-payment disclosure for subsequent transfers (assuming it is retained), instead of the receipt?
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