



December 31, 2012

Remittance Transfers

(Delayed Effective Date; New Proposal on Three Elements of Final Rule)

New Date to Provide Comments to CUNA

EXECUTIVE SUMMARY

- The Consumer Financial Protection Bureau (CFPB) has issued a new proposed rule regarding certain aspects of the international “remittance transfers” final rule.
- Specifically, the proposal would refine and provide additional flexibility regarding three elements of the final rule:
 1. Errors resulting from incorrect account numbers provided by consumer senders of remittance transfers - The agency proposes that where the provider can demonstrate that the consumer provided an incorrect account number, the provider would be required to attempt to recover the funds but would not be liable for the funds if those efforts are unsuccessful;
 2. Disclosure of foreign taxes and recipient institution fees - The agency proposes additional flexibility regarding these requirements, including by permitting providers to base fee disclosures on published bank fee schedules and by providing further guidance on foreign tax disclosures where certain variables may affect tax rates;
 3. Disclosure of foreign regional and local taxes - The agency proposes that the obligation for providers to disclose foreign taxes imposed on remittance transfers is limited to taxes imposed at the national level by the central government, and does not include taxes that may be imposed by regional, state, provincial, or local level jurisdictions.
- Also, the CFPB proposes to extend the effective date of the final rule until 90 days after the agency finalizes the new proposal; the new effective date is expected sometime during or after the spring of 2013.
- The new proposal does not revisit the safe harbor threshold level, which remains at 100 remittance transfers per year. CUNA continues to advocate for a higher safe harbor threshold level and additional regulatory relief for credit unions.
- CUNA is also conducting a [new survey](#) on this proposed rule on remittances; **please submit comments to CUNA on the effective date by January 11, 2013 and please submit the survey and comments to CUNA on the rest of the proposal by January 22, 2013.** The CFPB is accepting comments regarding the delayed effective date by

January 15, 2013 and the rest of the proposal by January 30, 2013; please e-mail your comments to SVP/Deputy General Counsel [Mary Dunn](#) and Regulatory Counsel [Dennis Tsang](#).

- For more information, please review the CFPB's [proposed rule](#) in the [Federal Register](#).
- The proposal also includes conforming and technical revisions.

SUMMARY OF NEW PROPOSAL

Errors resulting from incorrect account numbers provided by consumer senders of remittance transfers

Under the proposal, where the provider can demonstrate that the consumer sender provided an incorrect account number and the sender had notice that the sender could lose the transfer amount (if the sender provides an incorrect account number), the provider would be required to act promptly to make “reasonable efforts” to recover the funds but would not be liable for the funds if those efforts were unsuccessful. (§ 1005.33 Procedures for Resolving Errors, § 1005.36 Transfers Scheduled Before the Date of Transfer)

The proposal is only limited to errors that involve an incorrect account number (e.g., an incorrect routing number is not considered an incorrect account number under the proposal). In addition, the proposal provides examples of “reasonable efforts” to recover such funds, which depend on the method to send the transfer, destination of the transfer, provider’s relationship with the receiving institution, and when and by whom the error was discovered.

Proposed remedy procedures - Under proposed 1005.33(c)(3), the agency would revise the existing remedy procedures in situations where a sender provides incorrect or insufficient information other than an incorrect account number to allow providers additional flexibility when resending funds at a new exchange rate (on the date of the resend). The proposal would permit providers to provide oral or written streamlined disclosures for the resend, and the resend does not need to be treated as a new remittance transfer. Alternatively, the agency also seeks comment if providers would prefer to resend in a manner that would be the same as all other situations (and use the exchange rate, taxes, and fees from the original transfer).

Disclosure of foreign taxes and recipient institution fees

Under the proposal, a remittance transfer provider would have additional flexibility and guidance on how foreign taxes and recipient institution fees may be disclosed. Please note that the proposed additional flexibility applies to fees imposed by recipient institutions, and not by intermediary institutions. (§ 1005.31 Disclosures, § 1005.32 Estimates, § 1005.36 Transfers Scheduled Before the Date of Transfer)

- **Foreign taxes** - If a remittance transfer provider does not have specific knowledge regarding variables that affect the amount of foreign taxes imposed on the

transfer, the proposal would continue to permit a provider to rely on a sender's representations regarding these variables. Separately, a provider may estimate foreign taxes, by disclosing the highest possible foreign tax that could be imposed with respect to any unknown variable.

- **Recipient institution fees** - If a provider does not have specific knowledge regarding variables that affect the fees imposed by a recipient's institution for receiving a remittance transfer in an account, a provider may rely on a sender's representations regarding these variables.

Separately, a provider may estimate fees by disclosing the highest possible recipient institution fees that could be imposed on the transfer on any unknown variable, as determined by either 1) fee schedules made available by the recipient institution, or 2) information ascertained from prior transfers to the same recipient institution. If the provider cannot obtain such information under 1) or 2), then a provider may rely on other "reasonable sources of information." The proposal outlines these "reasonable sources of information," which include fee schedules published by competitor institutions; surveys of financial institution fees; or information provided by the recipient institution's regulator or central bank.

Regarding the types of fees that can vary, in the proposed comments under 31(b)(1), a fee that specifically relates to a remittance transfer may be structured on a flat per-transaction basis, or may be conditioned on other factors (e.g., a fee imposed by on account status or the number of transfers received).

Disclosure of foreign regional, state, provincial, or local taxes

Under the proposal, a remittance transfer provider's disclosure obligation would be limited to foreign taxes imposed on the remittance transfer by a country's central government. The proposal would eliminate the requirement to disclose foreign taxes at the regional, state, provincial, or local level. The proposal would also require the term "estimated" on the disclosure in situations where the provider does not disclose regional, state, provincial, or local taxes. (Section 1005.31 Disclosures, § 1005.36 Transfers Scheduled Before the Date of Transfer)

Delayed Effective Date

The CFPB proposes to temporarily delay the effective date of the final rule until 90 days after this proposed rule is finalized.

QUESTIONS TO CONSIDER REGARDING THIS PROPOSED RULE

1. Do you support the CFPB's proposed changes to refine and provide additional flexibility regarding three elements of the final rule? Should the agency clarify any aspects of these proposed changes? _____

- Errors resulting from incorrect account numbers provided by consumer senders of remittance transfers _____
 - Should the proposal also be extended to incorrect routing numbers or other incorrect information provided by the sender? _____
 - Also, do you support the proposed remedy procedures in situations where a sender provides incorrect or insufficient information other than an incorrect account number? _____

- Disclosure of foreign taxes and recipient institution fees _____
 - Should there be a “time-limit” on the sources used to estimate foreign taxes and recipient institution fees (e.g., a year)? _____
 - Should the agency extend the additional flexibility that would apply to recipient institutions to intermediary institutions as well? _____

- Disclosure of foreign regional and local taxes _____
 - Do you agree that the disclosures should be required to state that this information is “estimated” in situations where the provider does not disclose regional, state, provincial, or local taxes? Or should the disclosures require a statement such as “Additional taxes by regional or local governments may apply”? _____
 - Should there be a grace period to provide a remittance provider with sufficient time to update their disclosures based on changes in foreign tax laws? If so, how long should the grace period be?

2. In addition to the three areas above, should the agency provide further regulatory flexibility and relief regarding other aspects of the remittance transfers final rule? For example, should the CFPB take steps to compile foreign tax and third-party fee information in a database that can be used by all remittance transfer providers?

3. Does the proposed, delayed effective date, which is 90 days after this proposed rule is finalized, provide sufficient time for compliance? If not, how much time is necessary for your credit union to be in compliance with the remittances final rule?

4. How will your credit union be impacted by the remittance transfers final rule? _____

5. Do you have any other comments or concerns? _____

Thank you for your time and feedback.