



January 2, 2013

Bank Secrecy Act Definitions: “Funds Transfers” and “Transmittal of Funds”

EXECUTIVE SUMMARY

- The Financial Crimes Enforcement Network (FinCEN) and the Federal Reserve Board have proposed amendments to the definitions of “funds transfer”¹ and “transmittal of funds”² under the Bank Secrecy Act (BSA) regulations, which apply to the recordkeeping and travel rules. The proposed amendments are intended to maintain the current scope of these two BSA definitions to address changes made to the Electronic Fund Transfer Act (EFTA) regarding “remittance transfers,” as added by Section 1073 of the Dodd-Frank Act.
- Specifically, the proposed amendments would narrow the current exclusion on transactions “governed by the EFTA” from the BSA definitions of “funds transfer” and “transmittal of funds,” so that these two BSA definitions do not exclude transfers that meet the definition of a “remittance transfer” under the EFTA and the Consumer Financial Protection Bureau (CFPB)’s final rule on “remittance transfers.” (The CFPB has [announced](#) a delayed effective date and a new proposal on three elements of the final rule.)
- Currently, these two BSA definitions exclude transactions that are used mostly for domestic retail transactions; the exclusions reference transactions “governed by the EFTA,” as well as certain other specific payment systems, such as ATM, point-of-sale, and automated clearinghouse (ACH).
- The CFPB’s final rule on “remittance transfers” is very broad and applies to some transactions that are not currently governed by the EFTA, such as international wire transfers sent by consumers. Without the proposed amendments, these “remittance transfers” would be governed by the EFTA and would be excluded from these two BSA definitions.
- Comments on the proposed rule are due to the agencies by January 25, 2013; **please submit your comments to CUNA by January 14, 2013.** Please e-mail your comments to Regulatory Counsel [Dennis Tsang](#) and SVP/Deputy General Counsel [Mary Dunn](#).

¹ 31 CFR 1010.100(w).

² 31 CFR 1010.100(ddd).

- Prior to the Dodd-Frank Act, the EFTA governed “electronic funds transfers” as defined in section 903(a)(7) of the EFTA. Section 1073 of the Dodd-Frank Act added a new Section 919 to the EFTA on “remittance transfers.” The proposed amendments would continue to exclude transactions as defined in section 903(a)(7) of the EFTA from these two BSA definitions.
 - For further information, please refer to the Federal Register [notice](#).
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QUESTIONS TO CONSIDER REGARDING THE PROPOSED RULE

1. Do you support FinCEN’s proposal to amend the Bank Secrecy Act (BSA) definitions of “funds transfer” and “transmittal of funds? The proposed amendments are intended to maintain the current scope of these two BSA definitions to address changes made to the Electronic Fund Transfer Act (EFTA) regarding “remittance transfers,” as added by Section 1073 of the Dodd-Frank Act.

2. Also, do you have any concerns regarding any aspect of the proposed rule? If so, how should FinCEN clarify these concerns?

3. Do you have any other comments or concerns?

Thank you for your time and feedback.