

CFPB Remittance Rule

Tuesday, October 16, 2012

For additional information, visit our remittance rule webpage at:

<http://www.consumerfinance.gov/regulations/final-remittance-rule-amendment-regulation-e/>



Consumer Financial
Protection Bureau

THIS PRESENTATION DOES NOT REPRESENT LEGAL
INTERPRETATION OR ADVICE

OCTOBER 16, 2012

Remittance Rule Overview

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Consumer Financial Protection Bureau



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Introduction

Dodd-Frank Act: Section 1073

2010: the Dodd-Frank Act expanded the scope of the Electronic Fund Transfer Act to impose requirements regarding certain international fund transfers.

CFPB Remittance Rules

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77 FR 6194 (Feb. 7, 2012): general rule

77 FR 40459 (July 10, 2012): technical correction

77 FR 50243 (Aug. 20, 2012): normal course of business safe harbor and transfers scheduled in advance

Key Questions

1. Do you offer consumers a way to send money abroad?
2. Are the transfers you provide remittance transfers?
3. Are you a remittance transfer provider?

If the answers to 1-3 are “yes”—then:

4. What are your disclosure obligations?
5. What cancellation rights do senders have?
6. What are your error resolution obligations?

What Transactions are Covered?

“Remittance transfer”

- Electronic transfer of funds requested by a sender to a designated recipient that is sent by a remittance transfer provider
- Generally applies whether or not sender holds an account and whether or not transfer is an electronic fund transfer

“Sender”

- Consumer in a State who primarily for personal, family, or household purposes requests a remittance transfer provider to send a remittance transfer to a designated recipient
- “State” means any state, territory, or possession of the U.S.; D.C.; Puerto Rico; or any political subdivision thereof

“Designated recipient”

- Any person specified by a sender to receive a remittance transfer at a location in a foreign country

What Transactions are Covered?

Covered

- Consumer-to-consumer transfers
- Consumer-to-business transfers

Not covered

- Business-to-consumer transfers
- Business-to-business transfers

What Transactions are Covered?

Closed-network transfers

- E.g., Consumer transfers sent through a money transmitter, including transfers funded by cash

Open-network transfers

- E.g., Consumer-initiated international wire transfers
- Consumer-initiated international ACH transactions

What Transactions are Covered?

Not covered

- Consumer providing a debit, credit or prepaid card directly to a foreign merchant as payment for goods or services
- Consumers providing checking account number directly to foreign merchant; merchant initiates ACH payment request to consumer's bank.
- Transfers of \$15 or less
- Certain transfers in connection with purchase/sale of securities

What Transactions are Covered?

Example	Yes	No
Consumer sends cash at a money transmitter located in Colorado to a business recipient in France	✓	
Business sends cash at a money transmitter located in Colorado to a consumer recipient in France		✓ - business is not a "sender"
Consumer wires money from a bank account in California to a consumer bank account in Brazil	✓	
Consumer sends an ACH from a bank account in California to make a mortgage payment in Brazil	✓	
Consumer sends cash at a money transmitter in California to a consumer recipient in Colorado		✓ - recipient is not located in a foreign country
Consumer buys a prepaid card in the U.S., and provider gives or mails the prepaid card to that consumer in the U.S.		✓ - provider does not know whether consumer will send the card abroad
Consumer buys a prepaid card in the U.S., and the provider mails the prepaid card directly to a recipient abroad	✓	
Consumer has a U.S.-based bank account, and her bank mails an ATM card associated with that account to a recipient abroad		✓ -- ATM card associated with sender's account that is located in the U.S.

Who is a Remittance Transfer Provider?

Remittance transfer providers include any person that provides remittance transfers in the “normal course of business”:

- “Normal course of business” depends on facts and circumstances, including total number and frequency of transfers
- Safe harbor re: “normal course of business”

“Normal Course of Business”: Safe Harbor

- If provider provides:
 - 100 or fewer remittance transfers in prior calendar year, and
 - 100 or fewer remittance transfers in current calendar year,
- ➔ Provider is not providing remittance transfers in the normal course of business
- Total includes all remittance transfers (not per type)
- Transition period if exceeds safe harbor

Normal Course of Business – Example

2012	2013	2014
65 transfers	73 transfers	124 transfers
N/A	Not a remittance transfer provider	Transfers 1-100 = not a remittance transfer provider Transfers 101 – 124 = facts and circumstances test applies (If considered a provider, allowed up to six month transition period)

Divisions that May be Involved

- Various retail, high-net worth, or commercial divisions
 - ✓ Wire
 - USD-USD
 - Foreign exchange
 - ✓ ACH
 - ✓ Closed network

- Prepaid or payroll cards

- Brokerage
 - ✓ Wire
 - USD-USD
 - Foreign exchange

- Other

Requirements for a Remittance Transfer Provider?

Obligations include:

- Disclosure
- Cancellation
- Error resolution

Disclosure Requirements

Prior to Payment

- Pre-payment disclosure
 - Amount to be transferred
 - Front-end fees and taxes
 - Exchange rate
 - Back-end fees and taxes
 - Total amount to be received by designated recipient

Payment Made

- Receipt
 - All information required in pre-payment disclosure
 - Date of availability
 - Name of designated recipient
 - Error resolution/cancellation rights
 - Remittance transfer provider contact information
 - State regulator and CFPB contact information
 - Transfer date (for transfers scheduled 3+ business days before date of transfer and first in series of preauthorized RTs)

Disclosure Requirements (Alternative)



Prior to
Payment

- Combined disclosure
 - Contains same information as receipt



Payment
Made

- Proof of payment

Foreign Language Disclosure Requirements

Written/electronic

- English; and
- Each foreign language principally used to advertise, solicit, or market at an office; or language primarily used by sender with provider (if principally used to advertise, solicit or market)

Oral, mobile app, text

- Language primarily used by sender with provider (even if not principally used to advertise, solicit, or market)

Model Disclosure Forms

Forms A-
30 through
A-37

- English

Forms A-
38 through
A-40

- Spanish

Estimates

Two types of exceptions to providing exact amounts

Temporary
Exception

Applies to insured depository institutions and credit unions
Available until July 21, 2015, with CFPB option to extend for up to another 5 years

Permanent
Exception

Laws of recipient country
Method by which transactions made in recipient country
Transfers scheduled 5+ business days before the date of transfer

Countries list

Currently on list:

- Aruba
- Brazil
- China
- Ethiopia
- Libya


Estimates

Two methods for estimating

Use bases listed in 1005.32(c) for:
Exchange rate; Transfer amount;
Other fees; Other taxes; and
Amount received

Use non-listed method for
estimating as long as designated
recipient receives, the same, or
greater amount of funds than
disclosed in estimate

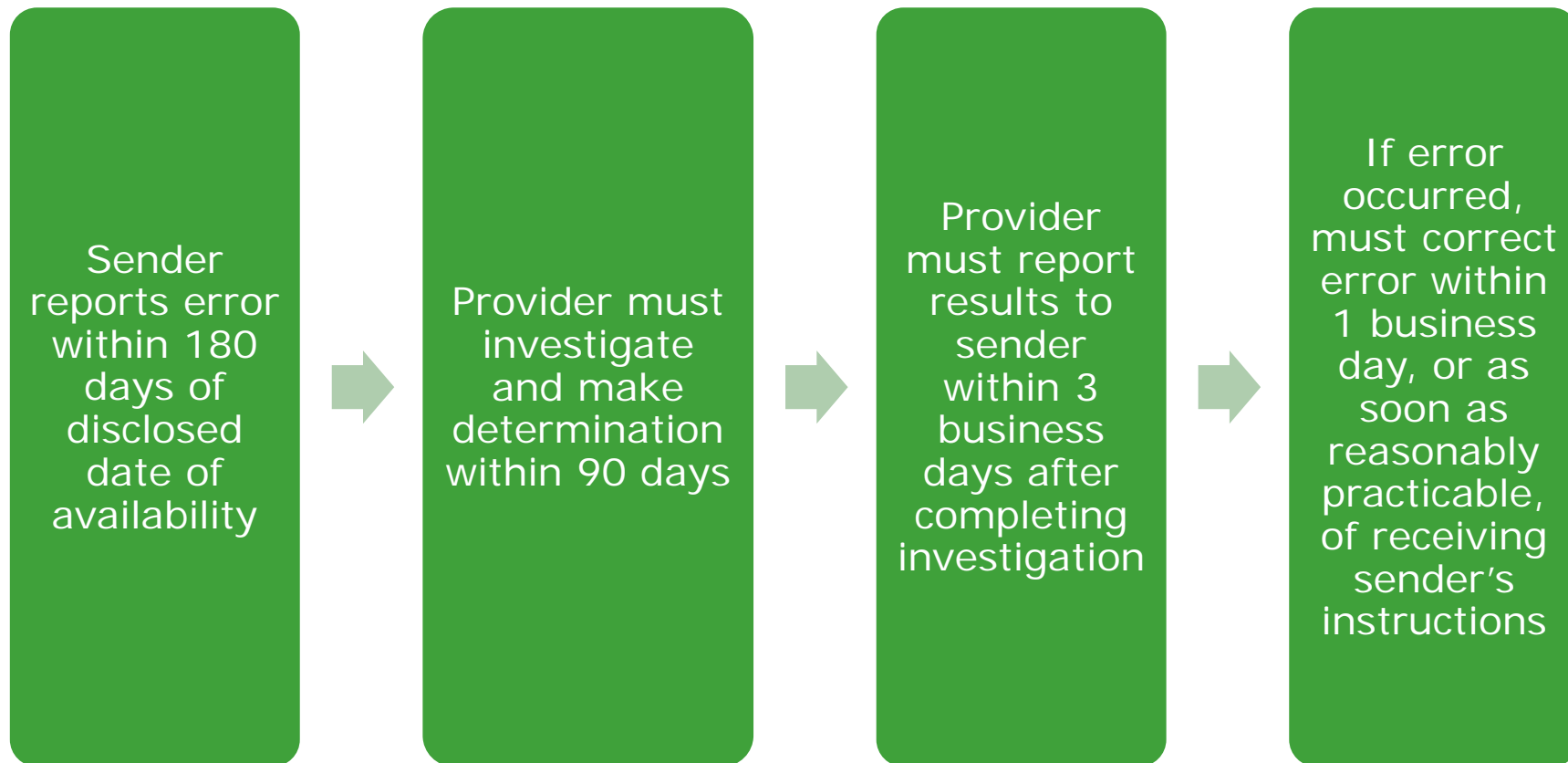
Cancellation and Refund



Sender cancels
within 30 minutes
of payment

Provider refunds
within 3 business
days of request

Error Resolution Process



Types of Errors

Errors generally include:

- Incorrect amount of currency paid by sender
- Incorrect amount of currency received
- Late or non-delivery of remittance transfer

Errors do not include:

- Status inquiries
- Recipient-requested changes
- Changes in amount or type of currency if provider relied on information provided by the sender

Error Resolution Remedies

Refund

o r

Resend

and

Refund Fees and Taxes
(if for failure to make funds available to designated recipient, including late delivery and non-delivery)

Provider Liability

Provider strictly liable for violation by an agent, when such agent acts for the provider

Remittance Transfers Scheduled in Advance

Estimates

- For one-time transfer or first in a series of preauthorized remittance transfers scheduled 5+ business days before the date of transfer:
 - Estimates permitted in pre-payment disclosure/receipt provided when transfer scheduled
 - Accurate receipt required (unless statutory exception applies)
- For subsequent preauthorized transfers:
 - Pre-payment disclosures generally not required
 - Accurate receipt required (unless statutory exception applies)

Remittance Transfers Scheduled in Advance

Transfer date/future transfer date(s)

- For one-time RTs scheduled 3+ business days in advance and first in series of preauthorized RTs, transfer date must be disclosed on initial receipt and subsequent receipts.
- For subsequent preauthorized RTs: also disclose future date or dates of subsequent transfers; cancellation rights statement; RTP contact info
 - General flexibility in how disclosed (5 bus. days – 12 months)
 - Subsequent preauthorized RTs scheduled 4 or fewer business days out: must be on initial receipt for first transfer.

Cancellation/refund

- For any remittance transfer scheduled at least three business days in advance, sender must cancel at least three business days before the scheduled date of transfer.

Effective Date

February 7, 2013

Conclusion

CFPB Remittance Rules

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Have additional legal guidance questions?

Office of Regulations – 202-435-7700

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Provide us with feedback

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