

AUGUST 2013

# Remittance transfer rule overview

Office of Regulations, Consumer Financial Protection Bureau

# Introduction

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- **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**

- 2/7/12: [77 FR 6194](#), general rule
- 7/10/2012: [77 FR 40459](#), technical correction
- 8/20/2012: [77 FR 50243](#), normal course of business safe harbor and transfers scheduled in advance
- 5/22/2013: [78 FR 30661](#), (issued 4/30/2013) revision of other fees, other taxes and sender error provisions
- 8/2013 (to be published in the Federal Register) clarificatory amendment and technical correction

# Key Questions

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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?

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- **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 a 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?

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- **Covered**

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

- **Not covered**

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

# What transactions are covered?

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- **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?

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- **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 at 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?

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- Remittance transfer providers include any person that provides remittance 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

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- If provider provides:
  - 100 or fewer remittance transfers in prior calendar year, and
  - 100 or fewer remittance transfers in current calendar year,
- Then, 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

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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 = depends on the facts and circumstances (If considered a provider, allowed up to six month transition period)

# Divisions that may be involved

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- 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 remittances transfer provider

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- Obligations include:
  - Disclosure
  - Cancellation
  - Error resolution

# Disclosure requirements

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## ■ Pre-payment disclosure

- **Provided prior to payment**
- **Must contain:**
  - Amount to transferred
  - Front-end fees and taxes
  - Exchange rate
  - Covered third-party fees
  - Total amount to be received by designated recipient
  - Disclaimer concerning recipient institution fees and foreign taxes where appropriate

## ■ Receipt

- **Provided when payment is made**
- **Must contain:**
  - All information required in pre-payment disclosure
  - Date of availability
  - Name of designated recipient
  - Error resolution/cancellation
  - State regulator (where appropriate) and CFPB contact information
  - Transfer date (for transfers scheduled 3+ business days before date of transfer and first in series of preauthorized RTS)

# Third-party fees

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- **Covered third-party fees** (disclosure required)
  - a. Pick up agent fees
  - b. Intermediary fees
  - c. Lifting fees
  
- **Non-covered third-party fees** (disclosure optional)
  - a. Recipient bank fees (*e.g.*, incoming wire fees) unless an agent of the provider

# Disclosure requirements

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# Disclosure requirements (alternative)

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- **Prior to payment**

- Combined disclosure
- Contains same information as receipt

- **Payment made**

- Proof of payment

# Foreign language disclosure requirements

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- **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

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- Forms A-30(a) through A-37
  - English
- Forms A-38 through A-40
  - Spanish

# Estimates

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## Two types of exceptions to providing exact amounts

### 1. 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

### 2. Permanent exception

- Laws of recipient country
- Method by which transactions made in recipient country
- Transfers scheduled 5+ business days before the date of transfer
- Optional disclosure of non-covered third-party fees and foreign taxes

# Countries list

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Currently on list:

- Aruba
- Brazil
- China
- Ethiopia
- Libya

# Estimates

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## Two methods for estimating

1. Use bases listed in 1005.32(c) for: exchange rate; transfer amount; other fees; and amount received
2. 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

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1. Sender cancels within 30 minutes of payment
2. Provider refunds within 3 business days of request

# Error resolution process

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1. Sender reports error within 180 days of disclosed date of availability
2. Provider must investigate and make determination within 90 days
3. Provider must report results to sender within 3 business days after completing investigation
4. If error occurred, must correct error within 1 business day, or as soon as reasonably practicable, of receiving sender's instructions



# Types of errors

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- **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

# Exception to general error provisions

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## **Account numbers or institution identifier mistakes by a sender:**

Five required conditions for new exception to apply

1. The provider can demonstrate that the sender provided an incorrect recipient institution identifier
2. For institution identifier errors, the provider has used reasonably available means to verify the identifier
3. The provider gave appropriate notice to the sender
4. The funds were deposited into the wrong account
5. The provider used reasonable efforts to attempt to recover the funds

# Error resolution remedies

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## Refund **or** Resend **and** Refund fees and taxes paid by the sender

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

# Provider liability

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

# Remittance transfers scheduled in advance

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## 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

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## 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 business 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

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October 28, 2013

# Conclusion

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## **CFPB Remittance rules**

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

## **Have additional legal guidance questions?**

Office of Regulations—(202) 435-7700

[CFPB\\_RemittanceRule@cfpb.gov](mailto:CFPB_RemittanceRule@cfpb.gov)

## **Provide us with feedback**

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Small entity guide—[CFPB\\_RemittanceGuide@cfpb.gov](mailto:CFPB_RemittanceGuide@cfpb.gov)