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Remittance Rule

Unofficial Complete Regulation and Interpretation



Consumer Financial
Protection Bureau

Unofficial Complete Remittance Rule and Interpretation¹

Sec.

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Note: Neither the Model Forms nor the Appendix are included in this Unofficial Regulation and Interpretation. The forms, as well as links to the Rule as published in the Federal Register, are available at: <http://www.consumerfinance.gov/remittances-transfer-rule-amendment-to-regulation-e/>.

Subpart B – Requirements for Remittance Transfers

§ 1005.30 Remittance transfer definitions.

Except as otherwise provided, for purposes of this subpart, the following definitions apply:

(a) “Agent” means an agent, authorized delegate, or person affiliated with a remittance transfer provider, as defined under State or other applicable law, when such agent, authorized delegate, or affiliate acts for that remittance transfer provider.

¹ This unofficial rule and interpretation incorporates three rules published February 7, 2012 (77 FR 6194), July 10, 2012 (77 FR 40459), and August 20, 2012 (77 FR 50244) (which were delayed on January 29, 2013 (78 FR 6025)), as well as a fourth rule recently released on the Bureau’s website and which will be published shortly. All rules have an effective date of October 28, 2013. For more details, visit <http://www.consumerfinance.gov/remittances-transfer-rule-amendment-to-regulation-e/>.

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(b) “Business day” means any day on which the offices of a remittance transfer provider are open to the public for carrying on substantially all business functions.

(c) “Designated recipient” means any person specified by the sender as the authorized recipient of a remittance transfer to be received at a location in a foreign country.

(d) “Preauthorized remittance transfer” means a remittance transfer authorized in advance to recur at substantially regular intervals.

(e) *Remittance transfer. (1) General definition.* A “remittance transfer” means the electronic transfer of funds requested by a sender to a designated recipient that is sent by a remittance transfer provider. The term applies regardless of whether the sender holds an account with the remittance transfer provider, and regardless of whether the transaction is also an electronic fund transfer, as defined in § 1005.3(b).

(2) *Exclusions from coverage.* The term “remittance transfer” does not include:

(i) *Small value transactions.* Transfer amounts, as described in § 1005.31(b)(1)(i), of \$15 or less.

(ii) *Securities and commodities transfers.* Any transfer that is excluded from the definition of electronic fund transfer under § 1005.3(c)(4).

(f) *Remittance transfer provider -- (1) General definition.* “Remittance transfer provider” or “provider” means any person that provides remittance transfers for a consumer in the normal course of its business, regardless of whether the consumer holds an account with such person.

(2) *Normal course of business -- (i) Safe harbor.* For purposes of paragraph (f)(1) of this section, a person is deemed not to be providing remittance transfers for a consumer in the normal course of its business if the person:

(A) Provided 100 or fewer remittance transfers in the previous calendar year; and

(B) Provides 100 or fewer remittance transfers in the current calendar year.

(ii) *Transition period.* If a person that provided 100 or fewer remittance transfers in the previous calendar year provides more than 100 remittance transfers in the current calendar year, and if that person is then providing remittance transfers for a consumer in the normal course of its business pursuant to paragraph (f)(1) of this section, the person has a reasonable period of time, not to exceed six months, to begin complying with this subpart. Compliance with this subpart will not be required for any remittance transfers for which payment is made during that reasonable period of time.

(g) “Sender” means a 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.

(h) *Third-party fees.* (1) “Covered third-party fees.” The term “covered third-party fees” means any fees imposed on the remittance transfer by a person other than the remittance transfer provider except for fees described in paragraph (h)(2) of this section.

(2) “Non-covered third-party fees.” The term “non-covered third-party fees” means any fees imposed by the designated recipient’s institution for receiving a remittance transfer into an account except if the institution acts as an agent of the remittance transfer provider.

§ 1005.31 Disclosures.

(a) *General form of disclosures—(1) Clear and conspicuous.* Disclosures required by this subpart or permitted by paragraph (b)(1)(viii) of this section or § 1005.33(h)(3) must be clear and conspicuous. Disclosures required by this subpart or permitted by paragraph (b)(1)(viii) of this section or § 1005.33(h)(3) may contain commonly accepted or readily understandable abbreviations or symbols.

(2) *Written and electronic disclosures.* Disclosures required by this subpart generally must be provided to the sender in writing. Disclosures required by paragraph (b)(1) of this section may be provided electronically, if the sender electronically requests the remittance transfer provider to send the remittance transfer. Written and electronic disclosures required by this subpart generally must be made in a retainable form. Disclosures provided via mobile application or text message, to the extent permitted by paragraph (a)(5) of this section, need not be retainable.

(3) *Disclosures for oral telephone transactions.* The information required by paragraph (b)(1) of this section may be disclosed orally if:

- (i) The transaction is conducted orally and entirely by telephone;
- (ii) The remittance transfer provider complies with the requirements of paragraph (g)(2) of this section;
- (iii) The provider discloses orally a statement about the rights of the sender regarding cancellation required by paragraph (b)(2)(iv) of this section pursuant to the timing requirements in paragraph (e)(1) of this section; and
- (iv) The provider discloses orally, as each is applicable, the information required by paragraph (b)(2)(vii) of this section and the information required by § 1005.36(d)(1)(i)(A), with respect to transfers subject to § 1005.36(d)(2)(ii), pursuant to the timing requirements in paragraph (e)(1) of this section.

(4) *Oral disclosures for certain error resolution notices.* The information required by § 1005.33(c)(1) may be disclosed orally if:

- (i) The remittance transfer provider determines that an error occurred as described by the sender; and

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(ii) The remittance transfer provider complies with the requirements of paragraph (g)(2) of this section.

(5) *Disclosures for mobile application or text message transactions.* The information required by paragraph (b)(1) of this section may be disclosed orally or via mobile application or text message if:

(i) The transaction is conducted entirely by telephone via mobile application or text message;

(ii) The remittance transfer provider complies with the requirements of paragraph (g)(2) of this section;

(iii) The provider discloses orally or via mobile application or text message a statement about the rights of the sender regarding cancellation required by paragraph (b)(2)(iv) of this section pursuant to the timing requirements in paragraph (e)(1) of this section; and

(iv) The provider discloses orally or via mobile application or text message, as each is applicable, the information required by paragraph (b)(2)(vii) of this section and the information required by § 1005.36(d)(1)(i)(A), with respect to transfers subject to § 1005.36(d)(2)(ii), pursuant to the timing requirements in paragraph (e)(1) of this section.

(b) *Disclosure requirements.* (1) *Pre-payment disclosure.* A remittance transfer provider must disclose to a sender, as applicable:

(i) The amount that will be transferred to the designated recipient, in the currency in which the remittance transfer is funded, using the term “Transfer Amount” or a substantially similar term;

(ii) Any fees imposed and any taxes collected on the remittance transfer by the provider, in the currency in which the remittance transfer is funded, using the terms “Transfer Fees” for

fees and “Transfer Taxes” for taxes, or substantially similar terms;

(iii) The total amount of the transaction, which is the sum of paragraphs (b)(1)(i) and (ii) of this section, in the currency in which the remittance transfer is funded, using the term “Total” or a substantially similar term;

(iv) The exchange rate used by the provider for the remittance transfer, rounded consistently for each currency to no fewer than two decimal places and no more than four decimal places, using the term “Exchange Rate” or a substantially similar term;

(v) The amount in paragraph (b)(1)(i) of this section, in the currency in which the funds will be received by the designated recipient, but only if covered third-party fees are imposed under paragraph (b)(1)(vi) of this section, using the term “Transfer Amount” or a substantially similar term. The exchange rate used to calculate this amount is the exchange rate in paragraph (b)(1)(iv) of this section, including an estimated exchange rate to the extent permitted by § 1005.32, prior to any rounding of the exchange rate;

(vi) Any covered third-party fees, in the currency in which the funds will be received by the designated recipient, using the term “Other Fees,” or a substantially similar term. The exchange rate used to calculate any covered third-party fees is the exchange rate in paragraph (b)(1)(iv) of this section, including an estimated exchange rate to the extent permitted by § 1005.32, prior to any rounding of the exchange rate;

(vii) The amount that will be received by the designated recipient, in the currency in which the funds will be received, using the term “Total to Recipient” or a substantially similar term except that this amount shall not include non-covered third party fees or taxes collected on the remittance transfer by a person other than the provider regardless of whether such fees or taxes are disclosed pursuant to paragraph (b)(1)(viii) of this section. The exchange rate used to

calculate this amount is the exchange rate in paragraph (b)(1)(iv) of this section, including an estimated exchange rate to the extent permitted by § 1005.32, prior to any rounding of the exchange rate.

(viii) A statement indicating that non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider may apply to the remittance transfer and result in the designated recipient receiving less than the amount disclosed pursuant to paragraph (b)(1)(vii) of this section. A provider may only include this statement to the extent that such fees or taxes do or may apply to the transfer, using the language set forth in Model Forms A-30(a) through (c) of Appendix A to this part, as appropriate, or substantially similar language. In this statement, a provider also may, but is not required, to disclose any applicable non-covered third-party fees or taxes collected by a person other than the provider. Any such figure must be disclosed in the currency in which the funds will be received, using the language set forth in Model Forms A-30(b) through (d) of Appendix A to this part, as appropriate, or substantially similar language. The exchange rate used to calculate any disclosed non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider is the exchange rate in paragraph (b)(1)(iv) of this section, including an estimated exchange rate to the extent permitted by § 1005.32, prior to any rounding of the exchange rate;

(2) *Receipt.* A remittance transfer provider must disclose to a sender, as applicable:

- (i) The disclosures described in paragraphs (b)(1)(i) through (viii) of this section;
- (ii) The date in the foreign country on which funds will be available to the designated recipient, using the term “Date Available” or a substantially similar term. A provider may provide a statement that funds may be available to the designated recipient earlier than the date disclosed, using the term “may be available sooner” or a substantially similar term;

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(iii) The name and, if provided by the sender, the telephone number and/or address of the designated recipient, using the term “Recipient” or a substantially similar term;

(iv) A statement about the rights of the sender regarding the resolution of errors and cancellation, using language set forth in Model Form A-37 of Appendix A to this part or substantially similar language. For any remittance transfer scheduled by the sender at least three business days before the date of the transfer, the statement about the rights of the sender regarding cancellation must instead reflect the requirements of § 1005.36(c);

(v) The name, telephone number(s), and website of the remittance transfer provider;

(vi) A statement that the sender can contact the State agency that licenses or charters the remittance transfer provider with respect to the remittance transfer and the Consumer Financial Protection Bureau for questions or complaints about the remittance transfer provider, using language set forth in Model Form A-37 of Appendix A to this part or substantially similar language. The disclosure must provide the name, telephone number(s), and website of the State agency that licenses or charters the remittance transfer provider with respect to the remittance transfer and the name, toll-free telephone number(s), and website of the Consumer Financial Protection Bureau; and

(vii) For any remittance transfer scheduled by the sender at least three business days before the date of the transfer, or the first transfer in a series of preauthorized remittance transfers, the date the remittance transfer provider will make or made the remittance transfer, using the term “Transfer Date,” or a substantially similar term.

(3) *Combined disclosure* -- (i) *In general*. As an alternative to providing the disclosures described in paragraph (b)(1) and (2) of this section, a remittance transfer provider may provide the disclosures described in paragraph (b)(2) of this section, as applicable, in a single disclosure

pursuant to the timing requirements in paragraph (e)(1) of this section. Except as provided in paragraph (b)(3)(ii) of this section, if the remittance transfer provider provides the combined disclosure and the sender completes the transfer, the remittance transfer provider must provide the sender with proof of payment when payment is made for the remittance transfer. The proof of payment must be clear and conspicuous, provided in writing or electronically, and provided in a retainable form.

(ii) *Transfers scheduled before the date of transfer.* If the disclosure described in paragraph (b)(3)(i) of this section is provided in accordance with § 1005.36(a)(1)(i) and payment is not processed by the remittance transfer provider at the time the remittance transfer is scheduled, a remittance transfer provider may provide confirmation that the transaction has been scheduled in lieu of the proof of payment otherwise required by paragraph (b)(3)(i) of this section. The confirmation of scheduling must be clear and conspicuous, provided in writing or electronically, and provided in a retainable form.

(4) *Long form error resolution and cancellation notice.* Upon the sender's request, a remittance transfer provider must promptly provide to the sender a notice describing the sender's error resolution and cancellation rights, using language set forth in Model Form A-36 of Appendix A to this part or substantially similar language. For any remittance transfer scheduled by the sender at least three business days before the date of the transfer, the description of the rights of the sender regarding cancellation must instead reflect the requirements of § 1005.36(c).

(c) *Specific format requirements.* (1) *Grouping.* The information required by paragraphs (b)(1)(i), (ii), and (iii) of this section generally must be grouped together. The information required by paragraphs (b)(1)(v), (vi), (vii), and (viii) of this section generally must be grouped together. Disclosures provided via mobile application or text message, to the extent permitted by

paragraph (a)(5) of this section, generally need not comply with the grouping requirements of this paragraph, however information required or permitted by paragraph (b)(1)(viii) of this section must be grouped with information required by paragraph (b)(1)(vii) of this section.

(2) *Proximity.* The information required by paragraph (b)(1)(iv) of this section generally must be disclosed in close proximity to the other information required by paragraph (b)(1) of this section. The information required by paragraph (b)(2)(iv) of this section generally must be disclosed in close proximity to the other information required by paragraph (b)(2) of this section. The information required or permitted by paragraph (b)(1)(viii) must be in close proximity to the information required by paragraph (b)(1)(vii) of this section. Disclosures provided via mobile application or text message, to the extent permitted by paragraph (a)(5) of this section, generally need not comply with the proximity requirements of this paragraph, however information required or permitted by paragraph (b)(1)(viii) of this section must follow the information required by paragraph (b)(1)(vii) of this section.

(3) *Prominence and size.* Written disclosures required by this subpart or permitted by paragraph (b)(1)(viii) of this section must be provided on the front of the page on which the disclosure is printed. Disclosures required by this subpart or permitted by paragraph (b)(1)(viii) of this section that are provided in writing or electronically must be in a minimum eight-point font, except for disclosures provided via mobile application or text message, to the extent permitted by paragraph (a)(5) of this section. Disclosures required by paragraph (b) of this section or permitted by paragraph (b)(1)(viii) of this section that are provided in writing or electronically must be in equal prominence to each other.

(4) *Segregation.* Except for disclosures provided via mobile application or text message, to the extent permitted by paragraph (a)(5) of this section, disclosures required by this subpart

that are provided in writing or electronically must be segregated from everything else and must contain only information that is directly related to the disclosures required under this subpart.

(d) *Estimates.* Estimated disclosures may be provided to the extent permitted by § 1005.32. Estimated disclosures must be described using the term “Estimated” or a substantially similar term in close proximity to the estimated term or terms.

(e) *Timing.* (1) Except as provided in § 1005.36(a), a pre-payment disclosure required by paragraph (b)(1) of this section or a combined disclosure required by paragraph (b)(3) of this section must be provided to the sender when the sender requests the remittance transfer, but prior to payment for the transfer.

(2) Except as provided in § 1005.36(a), a receipt required by paragraph (b)(2) of this section generally must be provided to the sender when payment is made for the remittance transfer. If a transaction is conducted entirely by telephone, a receipt required by paragraph (b)(2) of this section may be mailed or delivered to the sender no later than one business day after the date on which payment is made for the remittance transfer. If a transaction is conducted entirely by telephone and involves the transfer of funds from the sender’s account held by the provider, the receipt required by paragraph (b)(2) of this section may be provided on or with the next regularly scheduled periodic statement for that account or within 30 days after payment is made for the remittance transfer if a periodic statement is not provided. The statement about the rights of the sender regarding cancellation required by paragraph (b)(2)(iv) of this section may, but need not, be disclosed pursuant to the timing requirements of this paragraph if a provider discloses this information pursuant to paragraphs (a)(3)(iii) or (a)(5)(iii) of this section.

(f) *Accurate when payment is made.* Except as provided in § 1005.36(b), disclosures required by this section or permitted by paragraph (b)(1)(viii) of this section must be accurate

when a sender makes payment for the remittance transfer, except to the extent estimates are permitted by § 1005.32.

(g) *Foreign language disclosures*—(1) *General*. Except as provided in paragraph (g)(2) of this section, disclosures required by this subpart or permitted by paragraph (b)(1)(viii) of this section or § 1005.33(h)(3) must be made in English and, if applicable, either in:

(i) Each of the foreign languages principally used by the remittance transfer provider to advertise, solicit, or market remittance transfer services, either orally, in writing, or electronically, at the office in which a sender conducts a transaction or asserts an error; or

(ii) The foreign language primarily used by the sender with the remittance transfer provider to conduct the transaction (or for written or electronic disclosures made pursuant to § 1005.33, in the foreign language primarily used by the sender with the remittance transfer provider to assert the error), provided that such foreign language is principally used by the remittance transfer provider to advertise, solicit, or market remittance transfer services, either orally, in writing, or electronically, at the office in which a sender conducts a transaction or asserts an error, respectively.

(2) *Oral, mobile application, or text message disclosures*. Disclosures provided orally for transactions conducted orally and entirely by telephone under paragraph (a)(3) of this section or orally or via mobile application or text message for transactions conducted via mobile application or text message under paragraph (a)(5) of this section shall be made in the language primarily used by the sender with the remittance transfer provider to conduct the transaction. Disclosures provided orally under paragraph (a)(4) of this section for error resolution purposes shall be made in the language primarily used by the sender with the remittance transfer provider to assert the error.

§ 1005.32 Estimates.

(a) *Temporary exception for insured institutions.* (1) *General.* For disclosures described in §§ 1005.31(b)(1) through (3) and 1005.36(a)(1) and (2), estimates may be provided in accordance with paragraph (c) of this section for the amounts required to be disclosed under § 1005.31(b)(1)(iv) through (vii), if:

(i) A remittance transfer provider cannot determine the exact amounts for reasons beyond its control;

(ii) A remittance transfer provider is an insured institution; and

(iii) The remittance transfer is sent from the sender's account with the institution.

(2) *Sunset date.* Paragraph (a)(1) of this section expires on July 21, 2015.

(3) *Insured institution.* For purposes of this section, the term “insured institution” means insured depository institutions (which includes uninsured U.S. branches and agencies of foreign depository institutions) as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), and insured credit unions as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(b) *Permanent exceptions—(1) Permanent exception for transfers to certain countries.*

(i) *General.* For disclosures described in §§ 1005.31(b)(1) through (b)(3) and 1005.36(a)(1) and (a)(2), estimates may be provided for transfers to certain countries in accordance with paragraph (c) of this section for the amounts required to be disclosed under § 1005.31(b)(1)(iv) through (b)(1)(vii), if a remittance transfer provider cannot determine the exact amounts when the disclosure is required because:

(A) The laws of the recipient country do not permit such a determination, or

(B) The method by which transactions are made in the recipient country does not permit such determination.

(ii) *Safe harbor.* A remittance transfer provider may rely on the list of countries published by the Bureau to determine whether estimates may be provided under paragraph (b)(1) of this section, unless the provider has information that a country's laws or the method by which transactions are conducted in that country permits a determination of the exact disclosure amount.

(2) *Permanent exception for transfers scheduled before the date of transfer.* (i) Except as provided in paragraph (b)(2)(ii) of this section, for disclosures described in §§ 1005.36(a)(1)(i) and (a)(2)(i), estimates may be provided in accordance with paragraph (d) of this section for the amounts to be disclosed under §§ 1005.31(b)(1)(iv) through (vii) if the remittance transfer is scheduled by a sender five or more business days before the date of the transfer. In addition, if, at the time the sender schedules such a transfer, the provider agrees to a sender's request to fix the amount to be transferred in the currency in which the remittance transfer will be received and not the currency in which it is funded, estimates may also be provided for the amounts to be disclosed under §§ 1005.31(b)(1)(i) through (iii), except as provided in paragraph (b)(2)(iii) of this section.

(ii) Covered third-party fees described in § 1005.31(b)(1)(vi) may be estimated under paragraph (b)(2)(i) of this section only if the exchange rate is also estimated under paragraph (b)(2)(i) of this section and the estimated exchange rate affects the amount of such fees.

(iii) Fees and taxes described in § 1005.31(b)(1)(ii) may be estimated under paragraph (b)(2)(i) of this section only if the amount that will be transferred in the currency in which it is

funded is also estimated under paragraph (b)(2)(i) of this section, and the estimated amount affects the amount of such fees and taxes.

(3) *Permanent exception for optional disclosure of non-covered third-party fees and taxes collected by a person other than the provider.* For disclosures described in §§ 1005.31(b)(1) through (3) and 1005.36(a)(1) and (2), estimates may be provided for applicable non-covered third-party fees and taxes collected on the remittance transfer by a person other than the provider, which are permitted to be disclosed under § 1005.31(b)(1)(viii), provided such estimates are based on reasonable sources of information.

(c) *Bases for estimates generally.* Estimates provided pursuant to the exceptions in paragraph (a) or (b)(1) of this section must be based on the below-listed approach or approaches, except as otherwise permitted by this paragraph. If a remittance transfer provider bases an estimate on an approach that is not listed in this paragraph, the provider is deemed to be in compliance with this paragraph so long as the designated recipient receives the same, or greater, amount of funds than the remittance transfer provider disclosed under § 1005.31(b)(1)(vii).

(1) *Exchange rate.* In disclosing the exchange rate as required under § 1005.31(b)(1)(iv), an estimate must be based on one of the following:

(i) For remittance transfers sent via international ACH that qualify for the exception in paragraph (b)(1)(ii) of this section, the most recent exchange rate set by the recipient country's central bank or other governmental authority and reported by a Federal Reserve Bank;

(ii) The most recent publicly available wholesale exchange rate and, if applicable, any spread that the remittance transfer provider or its correspondent typically applies to such a wholesale rate for remittance transfers for that currency; or

(iii) The most recent exchange rate offered or used by the person making funds available directly to the designated recipient or by the person setting the exchange rate.

(2) *Transfer amount in the currency in which the funds will be received by the designated recipient.* In disclosing the transfer amount in the currency in which the funds will be received by the designated recipient, as required under § 1005.31(b)(1)(v), an estimate must be based on the estimated exchange rate provided in accordance with paragraph (c)(1) of this section, prior to any rounding of the estimated exchange rate.

(3) *Covered third-party fees.* (i) *Imposed as percentage of amount transferred.* In disclosing covered third-party fees, as described under § 1005.31(b)(1)(vi), that are a percentage of the amount transferred to the designated recipient, an estimated exchange rate must be based on the estimated exchange rate provided in accordance with paragraph (c)(1) of this section, prior to any rounding of the estimated exchange rate.

(ii) *Imposed by the intermediary or final institution.* In disclosing covered third-party fees pursuant to § 1005.31(b)(1)(vi), an estimate must be based on one of the following:

(A) The remittance transfer provider's most recent remittance transfer to the designated recipient's institution, or

(B) A representative transmittal route identified by the remittance transfer provider.

(4) *Amount of currency that will be received by the designated recipient.* In disclosing the amount of currency that will be received by the designated recipient as required under § 1005.31(b)(1)(vii), an estimate must be based on the information provided in accordance with paragraphs (c)(1) through (3) of this section, as applicable.

(d) *Bases for estimates for transfers scheduled before the date of transfer.* Estimates provided pursuant to paragraph (b)(2) of this section must be based on the exchange rate or,

where applicable, the estimated exchange rate based on an estimation methodology permitted under paragraph (c) of this section that the provider would have used or did use that day in providing disclosures to a sender requesting such a remittance transfer to be made on the same day. If, in accordance with this paragraph, a remittance transfer provider uses a basis described in paragraph (c) of this section but not listed in paragraph (c)(1) of this section, the provider is deemed to be in compliance with this paragraph regardless of the amount received by the designated recipient, so long as the estimation methodology is the same that the provider would have used or did use in providing disclosures to a sender requesting such a remittance transfer to be made on the same day.

§ 1005.33 Procedures for resolving errors.

(a) *Definition of error.* (1) *Types of transfers or inquiries covered.* For purposes of this section, the term *error* means:

(i) An incorrect amount paid by a sender in connection with a remittance transfer unless the disclosure stated an estimate of the amount paid by a sender in accordance with § 1005.32(b)(2) and the difference results from application of the actual exchange rate, fees, and taxes, rather than any estimated amount;

(ii) A computational or bookkeeping error made by the remittance transfer provider relating to a remittance transfer;

(iii) The failure to make available to a designated recipient the amount of currency disclosed pursuant to § 1005.31(b)(1)(vii) and stated in the disclosure provided to the sender under § 1005.31(b)(2) or (3) for the remittance transfer, unless:

(A) The disclosure stated an estimate of the amount to be received in accordance with § 1005.32(a), (b)(1) or (b)(2) and the difference results from application of the actual exchange

rate, fees, and taxes, rather than any estimated amounts; or

(B) The failure resulted from extraordinary circumstances outside the remittance transfer provider's control that could not have been reasonably anticipated; or

(C) The difference results from the application of non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider and the provider provided the disclosure required by § 1005.31(b)(1)(viii).

(iv) The failure to make funds available to a designated recipient by the date of availability stated in the disclosure provided to the sender under § 1005.31(b)(2) or (3) for the remittance transfer, unless the failure to make the funds available resulted from:

(A) Extraordinary circumstances outside the remittance transfer provider's control that could not have been reasonably anticipated;

(B) Delays related to the remittance transfer provider's fraud screening procedures or in accordance with the Bank Secrecy Act, 31 U.S.C. 5311 *et seq.*, Office of Foreign Assets Control requirements, or similar laws or requirements;

(C) The remittance transfer being made with fraudulent intent by the sender or any person acting in concert with the sender; or

(D) The sender having provided the remittance transfer provider an incorrect account number or recipient institution identifier for the designated recipient's account or institution, provided that the remittance transfer provider meets the conditions set forth in paragraph (h) of this section;

(v) The sender's request for documentation required by § 1005.31 or for additional information or clarification concerning a remittance transfer, including a request a sender makes to determine whether an error exists under paragraphs (a)(1)(i) through (iv) of this section.

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(2) *Types of transfers or inquiries not covered.* The term *error* does not include:

(i) An inquiry about the status of a remittance transfer, except where the funds from the transfer were not made available to a designated recipient by the disclosed date of availability as described in paragraph (a)(1)(iv) of this section;

(ii) A request for information for tax or other recordkeeping purposes;

(iii) A change requested by the designated recipient; or

(iv) A change in the amount or type of currency received by the designated recipient from the amount or type of currency stated in the disclosure provided to the sender under § 1005.31(b)(2) or (3) if the remittance transfer provider relied on information provided by the sender as permitted under § 1005.31 in making such disclosure.

(b) *Notice of error from sender.* (1) *Timing; contents.* A remittance transfer provider shall comply with the requirements of this section with respect to any oral or written notice of error from a sender that:

(i) Is received by the remittance transfer provider no later than 180 days after the disclosed date of availability of the remittance transfer;

(ii) Enables the provider to identify:

(A) The sender's name and telephone number or address;

(B) The recipient's name, and if known, the telephone number or address of the recipient;

and

(C) The remittance transfer to which the notice of error applies; and

(iii) Indicates why the sender believes an error exists and includes to the extent possible the type, date, and amount of the error, except for requests for documentation, additional information, or clarification described in paragraph (a)(1)(v) of this section.

(2) *Request for documentation or clarification.* When a notice of error is based on documentation, additional information, or clarification that the sender previously requested under paragraph (a)(1)(v) of this section, the sender's notice of error is timely if received by the remittance transfer provider the later of 180 days after the disclosed date of availability of the remittance transfer or 60 days after the provider sent the documentation, information, or clarification that had been requested.

(c) *Time limits and extent of investigation.* (1) *Time limits for investigation and report to consumer of error.* A remittance transfer provider shall investigate promptly and determine whether an error occurred within 90 days of receiving a notice of error. The remittance transfer provider shall report the results to the sender, including notice of any remedies available for correcting any error that the provider determines has occurred, within three business days after completing its investigation.

(2) *Remedies.* Except as provided in paragraph (c)(2)(iii) of this section, if, following an assertion of an error by a sender, the remittance transfer provider determines an error occurred, the provider shall, within one business day of, or as soon as reasonably practicable after, receiving the sender's instructions regarding the appropriate remedy, correct the error as designated by the sender by:

(i) In the case of any error under paragraphs (a)(1)(i) through (iii) of this section, as applicable, either:

(A) Refunding to the sender the amount of funds provided by the sender in connection with a remittance transfer which was not properly transmitted, or the amount appropriate to resolve the error; or

(B) Making available to the designated recipient, without additional cost to the sender or to the designated recipient, the amount appropriate to resolve the error;

(ii) Except as provided in paragraph (c)(2)(iii) of this section, in the case of an error under paragraph (a)(1)(iv) of this section

(A) As applicable, either:

(I) Refunding to the sender the amount of funds provided by the sender in connection with a remittance transfer which was not properly transmitted, or the amount appropriate to resolve the error; or

(2) Making available to the designated recipient the amount appropriate to resolve the error. Such amount must be made available to the designated recipient without additional cost to the sender or to the designated recipient; and

(B) Refunding to the sender any fees imposed and, to the extent not prohibited by law, taxes collected on the remittance transfer;

(iii) In the case of an error under paragraph (a)(1)(iv) of this section that occurred because the sender provided incorrect or insufficient information in connection with the remittance transfer, the remittance transfer provider shall provide the remedies required by paragraphs (c)(2)(ii)(A)(I) and (B) within three business days of providing the report required by paragraph (c)(1) or (d)(1) of this section except that the provider may agree to the sender's request, upon receiving the results of the error investigation, that the funds be applied towards a new remittance transfer, rather than be refunded, if the provider has not yet processed a refund. The provider may deduct from the amount refunded or applied towards a new transfer any fees actually imposed on or, to the extent not prohibited by law, taxes actually collected on the remittance transfer as part of the first unsuccessful remittance transfer attempt.

(d) *Procedures if remittance transfer provider determines no error or different error occurred.* In addition to following the procedures specified in paragraph (c) of this section, the remittance transfer provider shall follow the procedures set forth in this paragraph (d) if it determines that no error occurred or that an error occurred in a manner or amount different from that described by the sender.

(1) *Explanation of results of investigation.* The remittance transfer provider's report of the results of the investigation shall include a written explanation of the provider's findings and shall note the sender's right to request the documents on which the provider relied in making its determination. The explanation shall also address the specific complaint of the sender.

(2) *Copies of documentation.* Upon the sender's request, the remittance transfer provider shall promptly provide copies of the documents on which the provider relied in making its error determination.

(e) *Reassertion of error.* A remittance transfer provider that has fully complied with the error resolution requirements of this section has no further responsibilities under this section should the sender later reassert the same error, except in the case of an error asserted by the sender following receipt of information provided under paragraph (a)(1)(v) of this section.

(f) *Relation to other laws.* (1) *Relation to Regulation E § 1005.11 for incorrect EFTs from a sender's account.* If an alleged error involves an incorrect electronic fund transfer from a sender's account in connection with a remittance transfer, and the sender provides a notice of error to the account-holding institution, the account-holding institution shall comply with the requirements of § 1005.11 governing error resolution rather than the requirements of this section, provided that the account-holding institution is not also the remittance transfer provider. If the remittance transfer provider is also the financial institution that holds the consumer's account,

then the error-resolution provisions of this section apply when the sender provides such notice of error.

(2) *Relation to Truth in Lending Act and Regulation Z.* If an alleged error involves an incorrect extension of credit in connection with a remittance transfer, an incorrect amount received by the designated recipient under paragraph (a)(1)(iii) of this section that is an extension of credit for property or services not delivered as agreed, or the failure to make funds available by the disclosed date of availability under paragraph (a)(1)(iv) of this section that is an extension of credit for property or services not delivered as agreed, and the sender provides a notice of error to the creditor extending the credit, the provisions of Regulation Z, 12 CFR 1026.13, governing error resolution apply to the creditor, rather than the requirements of this section, even if the creditor is the remittance transfer provider. However, if the creditor is the remittance transfer provider, paragraph (b) of this section will apply instead of 12 CFR 1026.13(b). If the sender instead provides a notice of error to the remittance transfer provider that is not also the creditor, then the error-resolution provisions of this section apply to the remittance transfer provider.

(3) *Unauthorized remittance transfers.* If an alleged error involves an unauthorized electronic fund transfer for payment in connection with a remittance transfer, §§ 1005.6 and 1005.11 apply with respect to the account-holding institution. If an alleged error involves an unauthorized use of a credit account for payment in connection with a remittance transfer, the provisions of Regulation Z, 12 CFR 1026.12(b), if applicable, and § 1026.13, apply with respect to the creditor.

(g) *Error resolution standards and recordkeeping requirements.* (1) *Compliance program.* A remittance transfer provider shall develop and maintain written policies and

procedures that are designed to ensure compliance with the error resolution requirements applicable to remittance transfers under this section.

(2) *Retention of error-related documentation.* The remittance transfer provider's policies and procedures required under paragraph (g)(1) of this section shall include policies and procedures regarding the retention of documentation related to error investigations. Such policies and procedures must ensure, at a minimum, the retention of any notices of error submitted by a sender, documentation provided by the sender to the provider with respect to the alleged error, and the findings of the remittance transfer provider regarding the investigation of the alleged error. Remittance transfer providers are subject to the record retention requirements under § 1005.13.

(h) *Incorrect account number or recipient institution identifier provided by the sender.*

The exception in paragraph (a)(1)(iv)(D) of this section applies if:

(1) The remittance transfer provider can demonstrate that the sender provided an incorrect account number or recipient institution identifier to the provider in connection with the remittance transfer;

(2) For any instance in which the sender provided the incorrect recipient institution identifier, prior to or when sending the transfer, the provider used reasonably available means to verify that the recipient institution identifier provided by the sender corresponded to the recipient institution name provided by the sender;

(3) The provider provided notice to the sender before the sender made payment for the remittance transfer that, in the event the sender provided an incorrect account number or recipient institution identifier, the sender could lose the transfer amount. For purposes of providing this disclosure, § 1005.31(a)(2) applies to this notice unless the notice is given at the

same time as other disclosures required by this subpart for which information is permitted to be disclosed orally or via mobile application or text message, in which case this disclosure may be given in the same medium as those other disclosures;

(4) The incorrect account number or recipient institution identifier resulted in the deposit of the remittance transfer into a customer's account that is not the designated recipient's account; and

(5) The provider promptly used reasonable efforts to recover the amount that was to be received by the designated recipient.

§ 1005.34 Procedures for cancellation and refund of remittance transfers.

(a) *Sender right of cancellation and refund.* Except as provided in § 1005.36(c), a remittance transfer provider shall comply with the requirements of this section with respect to any oral or written request to cancel a remittance transfer from the sender that is received by the provider no later than 30 minutes after the sender makes payment in connection with the remittance transfer if:

(1) The request to cancel enables the provider to identify the sender's name and address or telephone number and the particular transfer to be cancelled; and

(2) The transferred funds have not been picked up by the designated recipient or deposited into an account of the designated recipient.

(b) *Time limits and refund requirements.* A remittance transfer provider shall refund, at no additional cost to the sender, the total amount of funds provided by the sender in connection with a remittance transfer, including any fees and, to the extent not prohibited by law, taxes imposed in connection with the remittance transfer, within three business days of receiving a sender's request to cancel the remittance transfer.

§ 1005.35 Acts of agents.

A remittance transfer provider is liable for any violation of this subpart by an agent when such agent acts for the provider.

§ 1005.36 Transfers Scheduled Before the Date of Transfer.

(a) *Timing.* (1) For a one-time transfer scheduled five or more business days before the date of transfer or for the first in a series of preauthorized remittance transfers, the remittance transfer provider must:

(i) Provide either the pre-payment disclosure described in § 1005.31(b)(1) and the receipt described in § 1005.31(b)(2) or the combined disclosure described in § 1005.31(b)(3), in accordance with the timing requirements set forth in § 1005.31(e); and

(ii) If any of the disclosures provided pursuant to paragraph (a)(1)(i) of this section contain estimates as permitted by § 1005.32(b)(2), mail or deliver to the sender an additional receipt meeting the requirements described in § 1005.31(b)(2) no later than one business day after the date of the transfer. If the transfer involves the transfer of funds from the sender's account held by the provider, the receipt required by this paragraph may be provided on or with the next periodic statement for that account, or within 30 days after the date of the transfer if a periodic statement is not provided.

(2) For each subsequent preauthorized remittance transfer:

(i) If any of the information on the most recent receipt provided pursuant to paragraph (a)(1)(i) of this section, or by this paragraph (a)(2)(i), other than the temporal disclosures required by § 1005.31(b)(2)(ii) and (b)(2)(vii), is no longer accurate with respect to a subsequent preauthorized remittance transfer for reasons other than as permitted by § 1005.32, then the remittance transfer provider must provide an updated receipt meeting the requirements described

in § 1005.31(b)(2) to the sender. The provider must mail or deliver this receipt to the sender within a reasonable time prior to the scheduled date of the next subsequent preauthorized remittance transfer. Such receipt must clearly and conspicuously indicate that it contains updated disclosures.

(ii) Unless a receipt was provided in accordance with paragraph (a)(2)(i) of this section that contained no estimates pursuant to § 1005.32, the remittance transfer provider must mail or deliver to the sender a receipt meeting the requirements described in § 1005.31(b)(2) no later than one business day after the date of the transfer. If the remittance transfer involves the transfer of funds from the sender's account held by the provider, the receipt required by this paragraph may be provided on or with the next periodic statement for that account, or within 30 days after the date of the transfer if a periodic statement is not provided.

(iii) A remittance transfer provider must provide the disclosures required by paragraph (d) of this section in accordance with the timing requirements of that section.

(b) *Accuracy.* (1) For a one-time transfer scheduled five or more business days in advance or for the first in a series of preauthorized remittance transfers, disclosures provided pursuant to paragraph (a)(1)(i) of this section must comply with § 1005.31(f) by being accurate when a sender makes payment except to the extent estimates are permitted by § 1005.32.

(2) For each subsequent preauthorized remittance transfer, the most recent receipt provided pursuant to paragraph (a)(1)(i) or (a)(2)(i) of this section must be accurate as of when such transfer is made, except:

(i) The temporal elements required by § 1005.31(b)(2)(ii) and (b)(2)(vii) must be accurate only if the transfer is the first transfer to occur after the disclosure was provided; and

(ii) To the extent estimates are permitted by § 1005.32.

(3) Disclosures provided pursuant to paragraph (a)(1)(ii) or (a)(2)(ii) of this section must be accurate as of when the remittance transfer to which it pertains is made, except to the extent estimates are permitted by § 1005.32(a) or (b)(1).

(c) *Cancellation.* For any remittance transfer scheduled by the sender at least three business days before the date of the transfer, a remittance transfer provider shall comply with any oral or written request to cancel the remittance transfer from the sender if the request to cancel:

(1) Enables the provider to identify the sender's name and address or telephone number and the particular transfer to be cancelled; and

(2) Is received by the provider at least three business days before the scheduled date of the remittance transfer.

(d) *Additional requirements for subsequent preauthorized remittance transfers --*

(1) *Disclosure requirement.* (i) For any subsequent transfer in a series of preauthorized remittance transfers, the remittance transfer provider must disclose to the sender:

(A) The date the provider will make the subsequent transfer, using the term "Future Transfer Date," or a substantially similar term;

(B) A statement about the rights of the sender regarding cancellation as described in § 1005.31(b)(2)(iv); and

(C) The name, telephone number(s), and Web site of the remittance transfer provider.

(ii) If the future date or dates of transfer are described as occurring in regular periodic intervals, *e.g.*, the 15th of every month, rather than as a specific calendar date or dates, the remittance transfer provider must disclose any future date or dates of transfer that do not conform to the described interval.

(2) *Notice requirements.* (i) Except as described in paragraph (d)(2)(ii) of this section, the disclosures required by paragraph (d)(1) of this section must be received by the sender no more than 12 months, and no less than five business days prior to the date of any subsequent transfer to which it pertains. The disclosures required by paragraph (d)(1) of this section may be provided in a separate disclosure or may be provided on one or more disclosures required by this subpart related to the same series of preauthorized transfers, so long as the consumer receives the required information for each subsequent preauthorized remittance transfer in accordance with the timing requirements of this paragraph (d)(2)(i).

(ii) For any subsequent preauthorized remittance transfer for which the date of transfer is four or fewer business days after the date payment is made for that transfer, the information required by paragraph (d)(1) of this section must be provided on or with the receipt described in § 1005.31(b)(2), or disclosed as permitted by § 1005.31(a)(3) or (a)(5), for the initial transfer in that series in accordance with paragraph (a)(1)(i) of this section.

(3) *Specific format requirement.* The information required by paragraph (d)(1)(i)(A) of this section generally must be disclosed in close proximity to the other information required by paragraph (d)(1)(i)(B) of this section.

(4) *Accuracy.* Any disclosure required by paragraph (d)(1) of this section must be accurate as of the date the preauthorized remittance transfer to which it pertains is made.

Supplement I to part 1005 – Official Interpretations

Section 1005.30 – Remittance Transfer Definitions

1. *Applicability of definitions in subpart A.* Except as modified or limited by subpart B (which modifications or limitations apply only to subpart B), the definitions in § 1005.2 apply to all of Regulation E, including subpart B.

30(b) Business Day

1. *General.* A business day, as defined in § 1005.30(b), includes the entire 24-hour period ending at midnight, and a notice given pursuant to any section of subpart B is effective even if given outside of normal business hours. A remittance transfer provider is not required under subpart B to make telephone lines available on a 24-hour basis.

2. *Substantially all business functions.* “Substantially all business functions” include both the public and the back-office operations of the provider. For example, if the offices of a provider are open on Saturdays for customers to request remittance transfers, but not for performing internal functions (such as investigating errors), then Saturday is not a business day for that provider. In this case, Saturday does not count toward the business-day standard set by subpart B for resolving errors, processing refunds, etc.

3. *Short hours.* A provider may determine, at its election, whether an abbreviated day is a business day. For example, if a provider engages in substantially all business functions until noon on Saturdays instead of its usual 3 p.m. closing, it may consider Saturday a business day.

4. *Telephone line.* If a provider makes a telephone line available on Sundays for cancelling the transfer, but performs no other business functions, Sunday is not a business day under the “substantially all business functions” standard.

30(c) Designated Recipient

1. *Person.* A designated recipient can be either a natural person or an organization, such as a corporation. *See* § 1005.2(j) (definition of person). The designated recipient is identified by the name of the person provided by the sender to the remittance transfer provider and disclosed by the provider to the sender pursuant to § 1005.31(b)(1)(iii).

2. *Location in a foreign country.* i. A remittance transfer is received at a location in a foreign country if funds are to be received at a location physically outside of any State, as defined in § 1005.2(l). A specific pick-up location need not be designated for funds to be received at a location in a foreign country. If it is specified that the funds will be transferred to a foreign country to be picked up by the designated recipient, the transfer will be received at a location in a foreign country, even though a specific pick-up location within that country has not been designated.

ii. For transfers to a designated recipient's account, whether funds are to be received at a location physically outside of any State depends on where the recipient's account is located. If the account is located in a State, the funds will not be received at a location in a foreign country.

iii. Where the sender does not specify information about a designated recipient's account, but instead provides information about the recipient, a remittance transfer provider may make the determination of whether the funds will be received at a location in a foreign country on information that is provided by the sender, and other information the provider may have, at the time the transfer is requested. For example, if a consumer in a State gives a provider the recipient's email address, and the provider has no other information about whether the funds will be received by the recipient at a location in a foreign country, then the provider may determine that funds are not to be received at a location in a foreign country. However, if the provider at

the time the transfer is requested has additional information indicating that funds are to be received in a foreign country, such as if the recipient's email address is already registered with the provider and associated with a foreign account, then the provider has sufficient information to conclude that the remittance transfer will be received at a location in a foreign country.

Similarly, if a consumer in a State purchases a prepaid card, and the provider mails or delivers the card directly to the consumer, the provider may conclude that funds are not to be received in a foreign country, because the provider does not know whether the consumer will subsequently send the prepaid card to a recipient in a foreign country. In contrast, the provider has sufficient information to conclude that the funds are to be received in a foreign country if the remittance transfer provider sends a prepaid card to a specified recipient in a foreign country, even if a person located in a State, including the sender, retains the ability to access funds on the prepaid card.

3. *Sender as designated recipient.* A "sender," as defined in § 1005.30(g), may also be a designated recipient if the sender meets the definition of "designated recipient" in § 1005.30(c). For example, a sender may request that a provider send an electronic transfer of funds from the sender's checking account in a State to the sender's checking account located in a foreign country. In this case, the sender would also be a designated recipient.

30(d) Preauthorized Remittance Transfer

1. *Advance authorization.* A preauthorized remittance transfer is a remittance transfer authorized in advance of a transfer that will take place on a recurring basis, at substantially regular intervals, and will require no further action by the consumer to initiate the transfer. In a bill-payment system, for example, if the consumer authorizes a remittance transfer provider to make monthly payments to a payee by means of a remittance transfer, and the payments take

place without further action by the consumer, the payments are preauthorized remittance transfers. In contrast, if the consumer must take action each month to initiate a transfer (such as by entering instructions on a telephone or home computer), the payments are not preauthorized remittance transfers.

30(e) Remittance Transfer

1. *Electronic transfer of funds.* The definition of “remittance transfer” requires an electronic transfer of funds. The term electronic has the meaning given in section 106(2) of the Electronic Signatures in Global and National Commerce Act. There may be an electronic transfer of funds if a provider makes an electronic book entry between different settlement accounts to effectuate the transfer. However, where a sender mails funds directly to a recipient, or provides funds to a courier for delivery to a foreign country, there is not an electronic transfer of funds. Similarly, generally, where a provider issues a check, draft, or other paper instrument to be mailed to a person abroad, there is not an electronic transfer of funds. Nonetheless, an electronic transfer of funds occurs for a payment made by a provider under a bill-payment service available to a consumer via computer or other electronic means, unless the terms of the bill-payment service explicitly state that all payments, or all payments to a particular payee or payees, will be solely by check, draft, or similar paper instrument drawn on the consumer’s account to be mailed abroad, and the payee or payees that will be paid in this manner are identified to the consumer. With respect to such a bill-payment service, if a provider provides a check, draft or similar paper instrument drawn on a consumer’s account to be mailed abroad for a payee that is not identified to the consumer as described above, this payment by check, draft or similar payment instrument will be an electronic transfer of funds.

2. *Sent by a remittance transfer provider.* i. The definition of “remittance transfer” requires that a transfer be “sent by a remittance transfer provider.” This means that there must be an intermediary that is directly engaged with the sender to send an electronic transfer of funds on behalf of the sender to a designated recipient.

ii. A payment card network or other third party payment service that is functionally similar to a payment card network does not send a remittance transfer when a consumer provides a debit, credit or prepaid card directly to a foreign merchant as payment for goods or services. In such a case, the payment card network or third party payment service is not directly engaged with the sender to send a transfer of funds to a person in a foreign country; rather, the network or third party payment service is merely providing contemporaneous third-party payment processing and settlement services on behalf of the merchant or the card issuer, rather than on behalf of the sender. In such a case, the card issuer also is not directly engaged with the sender to send an electronic transfer of funds to the foreign merchant when the card issuer provides payment to the merchant. Similarly, where a consumer provides a checking or other account number, or a debit, credit or prepaid card, directly to a foreign merchant as payment for goods or services, the merchant is not acting as an intermediary that sends a transfer of funds on behalf of the sender when it submits the payment information for processing.

iii. However, a card issuer or a payment network may offer a service to a sender where the card issuer or a payment network is an intermediary that is directly engaged with the sender to obtain funds using the sender’s debit, prepaid or credit card and to send those funds to a recipient’s checking account located in a foreign country. In this case, the card issuer or the payment network is an intermediary that is directly engaged with the sender to send an electronic

transfer of funds on behalf of the sender, and this transfer of funds is a remittance transfer because it is made to a designated recipient. *See* comment 30(c)-2.ii.

3. Examples of remittance transfers.

i. Examples of remittance transfers include:

A. Transfers where the sender provides cash or another method of payment to a money transmitter or financial institution and requests that funds be sent to a specified location or account in a foreign country.

B. Consumer wire transfers, where a financial institution executes a payment order upon a sender's request to wire money from the sender's account to a designated recipient.

C. An addition of funds to a prepaid card by a participant in a prepaid card program, such as a prepaid card issuer or its agent, that is directly engaged with the sender to add these funds, where the prepaid card is sent or was previously sent by a participant in the prepaid card program to a person in a foreign country, even if a person located in a State (including a sender) retains the ability to withdraw such funds.

D. International ACH transactions sent by the sender's financial institution at the sender's request.

E. Online bill payments and other electronic transfers that a sender schedules in advance, including preauthorized remittance transfers, made by the sender's financial institution at the sender's request to a designated recipient.

ii. The term remittance transfer does not include, for example:

A. A consumer's provision of a debit, credit or prepaid card, directly to a foreign merchant as payment for goods or services because the issuer is not directly engaged with the

sender to send an electronic transfer of funds to the foreign merchant when the issuer provides payment to the merchant. *See* comment 30(e)-2.

B. A consumer's deposit of funds to a checking or savings account located in a State, because there has not been a transfer of funds to a designated recipient. *See* comment 30(c)-2.ii.

C. Online bill payments and other electronic transfers that senders can schedule in advance, including preauthorized transfers, made through the website of a merchant located in a foreign country and via direct provision of a checking account, credit card, debit card or prepaid card number to the merchant, because the financial institution is not directly engaged with the sender to send an electronic transfer of funds to the foreign merchant when the institution provides payment to the merchant. *See* comment 30(e)-2.

30(f) Remittance Transfer Provider

1. *Agents.* A person is not deemed to be acting as a remittance transfer provider when it performs activities as an agent on behalf of a remittance transfer provider.

2. *Normal course of business.* i. *General.* Whether a person provides remittance transfers in the normal course of business depends on the facts and circumstances, including the total number and frequency of remittance transfers sent by the provider. For example, if a financial institution generally does not make remittance transfers available to customers, but sends a couple of such transfers in a given year as an accommodation for a customer, the institution does not provide remittance transfers in the normal course of business. In contrast, if a financial institution makes remittance transfers generally available to customers (whether described in the institution's deposit account agreement, or in practice) and makes transfers many times per month, the institution provides remittance transfers in the normal course of business.

ii. *Safe harbor.* Under § 1005.30(f)(2)(i), a person that provided 100 or fewer remittance transfers in the previous calendar year and provides 100 or fewer remittance transfers in the current calendar year is deemed not to be providing remittance transfers in the normal course of its business. Accordingly, a person that qualifies for the safe harbor in § 1005.30(f)(2)(i) is not a “remittance transfer provider” and is not subject to the requirements of subpart B. For purposes of determining whether a person qualifies for the safe harbor under § 1005.30(f)(2)(i), the number of remittance transfers provided includes any transfers excluded from the definition of “remittance transfer” due simply to the safe harbor. In contrast, the number of remittance transfers provided does not include any transfers that are excluded from the definition of “remittance transfer” for reasons other than the safe harbor, such as small value transactions or securities and commodities transfers that are excluded from the definition of “remittance transfer” by § 1005.30(e)(2).

iii. *Transition period.* A person may cease to satisfy the requirements of the safe harbor described in § 1005.30(f)(2)(i) if the person provides in excess of 100 remittance transfers in a calendar year. For example, if a person that provided 100 or fewer remittance transfers in the previous calendar year provides more than 100 remittance transfers in the current calendar year, the safe harbor applies to the first 100 remittance transfers that the person provides in the current calendar year. For any additional remittance transfers provided in the current calendar year and for any remittance transfers provided in the subsequent calendar year, whether the person provides remittance transfers for a consumer in the normal course of its business, as defined in § 1005.30(f)(1), and is thus a remittance transfer provider for those additional transfers, depends on the facts and circumstances. Section 1005.30(f)(2)(ii) provides a reasonable period of time, not to exceed six months, for such a person to begin complying with subpart B, if that person is

then providing remittance transfers in the normal course of its business. At the end of that reasonable period of time, such person would be required to comply with subpart B unless, based on the facts and circumstances, the person is not a remittance transfer provider.

iv. Example of safe harbor and transition period. Assume that a person provided 90 remittance transfers in 2012 and 90 such transfers in 2013. The safe harbor will apply to the person's transfers in 2013, as well as the person's first 100 remittance transfers in 2014. However, if the person provides a 101st transfer on September 5, the facts and circumstances determine whether the person provides remittance transfers in the normal course of business and is thus a remittance transfer provider for the 101st and any subsequent remittance transfers that it provides in 2014. Furthermore, the person would not qualify for the safe harbor described in § 1005.30(f)(2)(i) in 2015 because the person did not provide 100 or fewer remittance transfers in 2014. However, for the 101st remittance transfer provided in 2014, as well as additional remittance transfers provided thereafter in 2014 and 2015, if that person is then providing remittance transfers for a consumer in the normal course of business, the person will have a reasonable period of time, not to exceed six months, to come into compliance with subpart B. Assume that in this case, a reasonable period of time is six months. Thus, compliance with subpart B is not required for remittance transfers made on or before March 5, 2015 (*i.e.*, six months after September 5, 2014). After March 5, 2015, the person is required to comply with subpart B if, based on the facts and circumstances, the person provides remittance transfers in the normal course of business and is thus a remittance transfer provider.

3. Multiple remittance transfer providers. If the remittance transfer involves more than one remittance transfer provider, only one set of disclosures must be given, and the remittance transfer providers must agree among themselves which provider must take the actions necessary

to comply with the requirements that subpart B imposes on any or all of them. Even though the providers must designate one provider to take the actions necessary to comply with the requirements that subpart B imposes on any or all of them, all remittance transfer providers involved in the remittance transfer remain responsible for compliance with the applicable provisions of the EFTA and Regulation E.

30(g) Sender

1. *Determining whether a consumer is located in a State.* Under § 1005.30(g), the definition of “sender” means a 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. For transfers from a consumer’s account, whether a consumer is located in a State depends on where the consumer’s account is located. If the account is located in a State, the consumer will be located in a State for purposes of the definition of “sender” in § 1005.30(g), notwithstanding comment 3(a)-3. Where a transfer is requested electronically or by telephone and the transfer is not from an account, the provider may make the determination of whether a consumer is located in a State based on information that is provided by the consumer and on any records associated with the consumer that the provider may have, such as an address provided by the consumer.

30(h) Third-Party Fees

1. *Fees imposed on the remittance transfer.* Fees imposed on the remittance transfer by a person other than the remittance transfer provider include only those fees that are charged to the designated recipient and are specifically related to the remittance transfer. For example, overdraft fees that are imposed by a recipient’s bank or funds that are garnished from the proceeds of a remittance transfer to satisfy an unrelated debt are not fees imposed on the

remittance transfer because these charges are not specifically related to the remittance transfer. Account fees are also not specifically related to a remittance transfer if such fees are merely assessed based on general account activity and not for receiving transfers. Where an incoming remittance transfer results in a balance increase that triggers a monthly maintenance fee, that fee is not specifically related to a remittance transfer. Similarly, fees that banks charge one another for handling a remittance transfer or other fees that do not affect the total amount of the transaction or the amount that will be received by the designated recipient are not fees imposed on the remittance transfer. For example, an interchange fee that is charged to a provider when a sender uses a credit or debit card to pay for a remittance transfer is not a fee imposed upon the remittance transfer. Fees that specifically relate to a remittance transfer may be structured on a flat per-transaction basis, or may be conditioned on other factors (such as account status or the quantity of remittance transfers received) in addition to the remittance transfer itself. For example, where an institution charges an incoming transfer fee on most customers' accounts, but not on preferred accounts, such a fee is nonetheless specifically related to a remittance transfer. Similarly, if the institution assesses a fee for every transfer beyond the fifth received each month, such a fee would be specifically related to the remittance transfer regardless of how many remittance transfers preceded it that month.

2. *Covered third-party fees.* i. Under § 1005.30(h)(1), a covered third-party fee means any fee that is imposed on the remittance transfer by a person other than the remittance transfer provider that is not a non-covered third-party fee.

ii. Examples of covered third-party fees include:

A. Fees imposed on a remittance transfer by intermediary institutions in connection with a wire transfer (sometimes referred to as “lifting fees”).

B. Fees imposed on a remittance transfer by an agent of the provider at pick-up for receiving the transfer.

3. *Non-covered third-party fees.* Under § 1005.30(h)(2), a non-covered third-party fee means any fee imposed by the designated recipient's institution for receiving a remittance transfer into an account except if such institution acts as the agent of the remittance transfer provider. For example, a fee imposed by the designated recipient's institution for receiving an incoming transfer into an account is a non-covered third-party fee, provided such institution is not acting as the agent of the remittance transfer provider. *See also* comment 31(b)(1)(viii)-1. Furthermore, designated recipient's account in § 1005.30(h)(2) refers to an asset account, regardless of whether it is a consumer asset account, established for any purpose and held by a bank, savings association, credit union, or equivalent institution. A designated recipient's account does not, however, include a credit card, prepaid card, or a virtual account held by an Internet-based or mobile telephone company that is not a bank, savings association, credit union or equivalent institution.

Section 1005.31 – Disclosures

31(a) General Form of Disclosures

31(a)(1) Clear and Conspicuous

1. *Clear and conspicuous standard.* Disclosures are clear and conspicuous for purposes of subpart B if they are readily understandable and, in the case of written and electronic disclosures, the location and type size are readily noticeable to senders. Oral disclosures as permitted by § 1005.31(a)(3), (4), and (5) are clear and conspicuous when they are given at a volume and speed sufficient for a sender to hear and comprehend them.

2. *Abbreviations and symbols.* Disclosures may contain commonly accepted or readily understandable abbreviations or symbols, such as “USD” to indicate currency in U.S. dollars or “MXN” to indicate currency in Mexican pesos.

31(a)(2) Written and Electronic Disclosures

1. *E-Sign Act requirements.* If a sender electronically requests the remittance transfer provider to send a remittance transfer, the disclosures required by § 1005.31(b)(1) may be provided to the sender in electronic form without regard to the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 *et seq.*). If a sender electronically requests the provider to send a remittance transfer, the disclosures required by § 1005.31(b)(2) may be provided to the sender in electronic form, subject to compliance with the consumer consent and other applicable provisions of the E-Sign Act. *See* § 1005.4(a)(1).

2. *Paper size.* Written disclosures may be provided on any size paper, as long as the disclosures are clear and conspicuous. For example, disclosures may be provided on a register receipt or on an 8.5 inch by 11 inch sheet of paper.

3. *Retainable electronic disclosures.* A remittance transfer provider may satisfy the requirement to provide electronic disclosures in a retainable form if it provides an online disclosure in a format that is capable of being printed. Electronic disclosures may not be provided through a hyperlink or in another manner by which the sender can bypass the disclosure. A provider is not required to confirm that the sender has read the electronic disclosures.

4. *Pre-payment disclosures to a mobile telephone.* Disclosures provided via mobile application or text message, to the extent permitted by § 1005.31(a)(5), need not be retainable.

However, disclosures provided electronically to a mobile telephone that are not provided via mobile application or text message must be retainable. For example, disclosures provided via email must be retainable, even if a sender accesses them by mobile telephone.

31(a)(3) Disclosures for Oral Telephone Transactions

1. *Transactions conducted partially by telephone.* For transactions conducted partially by telephone, providing the information required by § 1005.31(b)(1) to a sender orally does not fulfill the requirement to provide the disclosures required by § 1005.31(b)(1). For example, a sender may begin a remittance transfer at a remittance transfer provider's dedicated telephone in a retail store, and then provide payment in person to a store clerk to complete the transaction. In such cases, all disclosures must be provided in writing. A provider complies with this requirement, for example, by providing the written pre-payment disclosure in person prior to the sender's payment for the transaction, and the written receipt when the sender pays for the transaction.

2. *Oral Telephone Transactions.* Section 1005.31(a)(3) applies to transactions conducted orally and entirely by telephone, such as transactions conducted orally on a landline or mobile telephone.

31(a)(5) Disclosures for Mobile Application or Text Message Transactions

1. *Mobile application and text message transactions.* A remittance transfer provider may provide the required pre-payment disclosures orally or via mobile application or text message if the transaction is conducted entirely by telephone via mobile application or text message, the remittance transfer provider complies with the requirements of § 1005.31(g)(2), and the provider discloses orally or via mobile application or text message a statement about the rights of the sender regarding cancellation required by § 1005.31(b)(2)(iv) pursuant to the timing

requirements in § 1005.31(e)(1). For example, if a sender conducts a transaction via text message on a mobile telephone, the remittance transfer provider may call the sender and orally provide the required pre-payment disclosures. Alternatively, the provider may provide the required pre-payment disclosures via text message. Section 1005.31(a)(5) applies only to transactions conducted entirely by mobile telephone via mobile application or text message.

31(b) Disclosure Requirements

1. *Disclosures provided as applicable.* Disclosures required by § 1005.31(b) need only be provided to the extent applicable. A remittance transfer provider may choose to omit an item of information required by § 1005.31(b) if it is inapplicable to a particular transaction. Alternatively, for disclosures required by § 1005.31(b)(1)(i) through (vii), a provider may disclose a term and state that an amount or item is “not applicable,” “N/A,” or “None.” For example, if fees or taxes are not imposed in connection with a particular transaction, the provider need not provide the disclosures about fees and taxes generally required by § 1005.31(b)(1)(ii), the disclosures about covered third-party fees generally required by § 1005.31(b)(1)(vi), or the disclaimers about non-covered third-party fees and taxes collected by a person other than the provider generally required by § 1005.31(b)(1)(viii). Similarly, a web site need not be disclosed if the provider does not maintain a web site. A provider need not provide the exchange rate disclosure required by § 1005.31(b)(1)(iv) if a recipient receives funds in the currency in which the remittance transfer is funded, or if funds are delivered into an account denominated in the currency in which the remittance transfer is funded. For example, if a sender in the United States sends funds from an account denominated in Euros to an account in France denominated in Euros, no exchange rate would need to be provided. Similarly, if a sender funds a remittance transfer in U.S. dollars and requests that a remittance transfer be delivered to the recipient in U.S.

dollars, a provider need not disclose an exchange rate.

2. *Substantially similar terms, language, and notices.* Certain disclosures required by § 1005.31(b) must be described using the terms set forth in § 1005.31(b) or substantially similar terms. Terms may be more specific than those provided. For example, a remittance transfer provider sending funds may describe fees imposed by an agent at pick-up as “Pick-up Fees” in lieu of describing them as “Other Fees.” Foreign language disclosures required under § 1005.31(g) must contain accurate translations of the terms, language, and notices required by § 1005.31(b) or permitted by § 1005.31(b)(1)(viii) and § 1005.33(h)(3).

31(b)(1) Pre-Payment Disclosures

1. *Fees and taxes.* i. Taxes collected on the remittance transfer by the remittance transfer provider include taxes collected on the remittance transfer by a State or other governmental body. A provider need only disclose fees imposed or taxes collected on the remittance transfer by the provider in § 1005.31(b)(1)(ii), as applicable. For example, if no transfer taxes are imposed on a remittance transfer, a provider would only disclose applicable transfer fees. *See* comment 31(b)-1. If both fees and taxes are imposed, the fees and taxes must be disclosed as separate, itemized disclosures. For example, a provider would disclose all transfer fees using the term “Transfer Fees” or a substantially similar term and would separately disclose all transfer taxes using the term “Transfer Taxes” or a substantially similar term.

ii. The fees and taxes required to be disclosed by § 1005.31(b)(1)(ii) include all fees imposed and all taxes collected on the remittance transfer by the provider. For example, a provider must disclose any service fee, any fees imposed by an agent of the provider at the time of the transfer, and any State taxes collected on the remittance transfer at the time of the transfer. Fees imposed on the remittance transfer by the provider required to be disclosed under

§ 1005.31(b)(1)(ii) include only those fees that are charged to the sender and are specifically related to the remittance transfer. *See also* comment 30(h)-1. In contrast, the fees required to be disclosed by § 1005.31(b)(1)(vi) are any covered third-party fees as defined in § 1005.30(h)(1).

iii. The term used to describe the fees imposed on the remittance transfer by the provider in § 1005.31(b)(1)(ii) and the term used to describe covered third-party fees under § 1005.31(b)(1)(vi) must differentiate between such fees. For example the terms used to describe fees disclosed under § 1005.31(b)(1)(ii) and (vi) may not both be described solely as “Fees.”

2. *Transfer amount.* Sections 1005.31(b)(1)(i) and (v) require two transfer amount disclosures. First, under § 1005.31(b)(1)(i), a provider must disclose the transfer amount in the currency in which the remittance transfer is funded to show the calculation of the total amount of the transaction. Typically, the remittance transfer is funded in U.S. dollars, so the transfer amount would be expressed in U.S. dollars. However, if the remittance transfer is funded, for example, from a Euro-denominated account, the transfer amount would be expressed in Euros. Second, under § 1005.31(b)(1)(v), a provider must disclose the transfer amount in the currency in which the funds will be made available to the designated recipient. For example, if the funds will be picked up by the designated recipient in Japanese yen, the transfer amount would be expressed in Japanese yen. However, this second transfer amount need not be disclosed if covered third-party fees as described under § 1005.31(b)(1)(vi) are not imposed on the remittance transfer. The terms used to describe each transfer amount should be the same.

3. *Exchange rate for calculation.* The exchange rate used to calculate the transfer amount in § 1005.31(b)(1)(v), the covered third-party fees in § 1005.31(b)(1)(vi), the amount received in § 1005.31(b)(1)(vii), and the optional disclosures of non-covered third-party fees and other taxes

permitted by § 1005.31(b)(1)(viii) is the exchange rate in § 1005.31(b)(1)(iv), including an estimated exchange rate to the extent permitted by § 1005.32, prior to any rounding of the exchange rate. For example, if one U.S. dollar exchanges for 11.9483779 Mexican pesos, a provider must calculate these disclosures using this rate, even though the provider may disclose pursuant to § 1005.31(b)(1)(iv) that the U.S. dollar exchanges for 11.9484 Mexican pesos. Similarly, if a provider estimates pursuant to § 1005.32 that one U.S. dollar exchanges for 11.9483 Mexican pesos, a provider must calculate these disclosures using this rate, even though the provider may disclose pursuant to § 1005.31(b)(1)(iv) that the U.S. dollar exchanges for 11.95 Mexican pesos (Estimated). If an exchange rate need not be rounded, a provider must use that exchange rate to calculate these disclosures. For example, if one U.S. dollar exchanges for exactly 11.9 Mexican pesos, a provider must calculate these disclosures using this exchange rate.

31(b)(1)(iv) Exchange Rate

1. *Applicable exchange rate.* If the designated recipient will receive funds in a currency other than the currency in which the remittance transfer is funded, a remittance transfer provider must disclose the exchange rate to be used by the provider for the remittance transfer. An exchange rate that is estimated must be disclosed pursuant to the requirements of § 1005.32. A remittance transfer provider may not disclose, for example, that an exchange rate is “unknown,” “floating,” or “to be determined.” If a provider does not have specific knowledge regarding the currency in which the funds will be received, the provider may rely on a sender’s representation as to the currency in which funds will be received for purposes of determining whether an exchange rate is applied to the transfer. For example, if a sender requests that a remittance transfer be deposited into an account in U.S. dollars, the provider need not disclose an exchange rate, even if the account is actually denominated in Mexican pesos and the funds are converted

prior to deposit into the account. If a sender does not know the currency in which funds will be received, the provider may assume that the currency in which funds will be received is the currency in which the remittance transfer is funded.

2. *Rounding.* The exchange rate disclosed by the provider for the remittance transfer is required to be rounded. The provider may round to two, three, or four decimal places, at its option. For example, if one U.S. dollar exchanges for 11.9483779 Mexican pesos, a provider may disclose that the U.S. dollar exchanges for 11.9484 Mexican pesos. The provider may alternatively disclose, for example, that the U.S. dollar exchanges for 11.948 pesos or 11.95 pesos. On the other hand, if one U.S. dollar exchanges for exactly 11.9 Mexican pesos, the provider may disclose that “US\$1= 11.9 MXN” in lieu of, for example, “US\$1=11.90 MXN.” The exchange rate disclosed for the remittance transfer must be rounded consistently for each currency. For example, a provider may not round to two decimal places for some transactions exchanged into Euros and round to four decimal places for other transactions exchanged into Euros.

3. *Exchange rate used.* The exchange rate used by the provider for the remittance transfer need not be set by that provider. For example, an exchange rate set by an intermediary institution and applied to the remittance transfer would be the exchange rate used for the remittance transfer and must be disclosed by the provider.

31(b)(1)(vi) Disclosure of Covered Third-Party Fees

1. *Fees disclosed in the currency in which the funds will be received.* Section 1005.31(b)(1)(vi) requires the disclosure of covered third-party fees in the currency in which the funds will be received by the designated recipient. A covered third-party fee described in § 1005.31(b)(1)(vi) may be imposed in one currency, but the funds may be received by the

designated recipient in another currency. In such cases, the remittance transfer provider must calculate the fee to be disclosed under § 1005.31(b)(1)(vi) in the currency of receipt using the exchange rate in § 1005.31(b)(1)(iv), including an estimated exchange rate to the extent permitted by § 1005.32, prior to any rounding of the exchange rate. For example, an intermediary institution involved in sending an international wire transfer funded in U.S. dollars may impose a fee in U.S. dollars, but funds are ultimately deposited in the recipient's account in Euros. In this case, the provider would disclose the covered third-party fee to the sender expressed in Euros, calculated using the exchange rate disclosed under § 1005.31(b)(1)(iv), prior to any rounding of the exchange rate. For purposes of § 1005.31(b)(1)(v), (vi), and (vii), if a provider does not have specific knowledge regarding the currency in which the funds will be received, the provider may rely on a sender's representation as to the currency in which funds will be received. For example, if a sender requests that a remittance transfer be deposited into an account in U.S. dollars, the provider may provide the disclosures required in § 1005.31(b)(1)(v), (vi), and (vii) in U.S. dollars, even if the account is actually denominated in Mexican pesos and the funds are subsequently converted prior to deposit into the account. If a sender does not know the currency in which funds will be received, the provider may assume that the currency in which funds will be received is the currency in which the remittance transfer is funded.

31(b)(1)(vii) Amount Received

1. *Amount received.* The remittance transfer provider is required to disclose the amount that will be received by the designated recipient in the currency in which the funds will be received. The amount received must reflect the exchange rate, all fees imposed and all taxes collected on the remittance transfer by the remittance transfer provider, as well as any covered third-party fees required to be disclosed by § 1005.31(b)(1)(vi). The disclosed amount received

must be reduced by the amount of any fee or tax – except for a non-covered third-party fee or tax collected on the remittance transfer by a person other than the provider – that is imposed on the remittance transfer that affects the amount received even if that amount is imposed or itemized separately from the transaction amount.

31(b)(1)(viii) Statement When Additional Fees and Taxes May Apply

1. *Required disclaimer when non-covered third-party fees and taxes collected by a person other than the provider may apply.* If non-covered third-party fees or taxes collected by a person other than the provider apply to a particular remittance transfer or if a provider does not know if such fees or taxes may apply to a particular remittance transfer, § 1005.31(b)(1)(viii) requires the provider to include the disclaimer with respect to such fees and taxes. Required disclosures under § 1005.31(b)(1)(viii) may only be provided to the extent applicable. For example, if the designated recipient's institution is an agent of the provider and thus, non-covered third-party fees cannot apply to the transfer, the provider must disclose all fees imposed on the remittance transfer and may not provide the disclaimer regarding non-covered third-party fees. In this scenario, the provider may only provide the disclaimer regarding taxes collected on the remittance transfer by a person other than the provider, as applicable. *See Model Form A-30(c).*

2. *Optional disclosure of non-covered third-party fees and taxes collected by a person other than the provider.* When a remittance transfer provider knows the non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider that will apply to a particular transaction, § 1005.31(b)(1)(viii) permits the provider to disclose the amount of such fees and taxes. Section 1005.32(b)(3)-1 additionally permits a provider to disclose an estimate of such fees and taxes, provided any estimates are based on reasonable

source of information. *See* comment 32(b)(3). For example, a provider may know that the designated recipient’s institution imposes an incoming wire fee for receiving a transfer.

Alternatively, a provider may know that foreign taxes will be collected on the remittance transfer by a person other than the remittance transfer provider. In these examples, the provider may choose, at its option, to disclose the amounts of the relevant recipient institution fee and tax as part of the information disclosed pursuant to § 1005.31(b)(1)(viii). The provider must not include that fee or tax in the amount disclosed pursuant to § 1005.31(b)(1)(vi) or (b)(1)(vii).

Fees and taxes disclosed under § 1005.31(b)(1)(viii) must be disclosed in the currency in which the funds will be received. *See* comment 31(b)(1)(vi)-1. Estimates of any non-covered third-party fees and any taxes collected on the remittance transfer by a person other than the provider must be disclosed in accordance with § 1005.32(b)(3).

31(b)(2) Receipt

1. *Date funds will be available.* A remittance transfer provider does not comply with the requirements of § 1005.31(b)(2)(ii) if it provides a range of dates that the remittance transfer may be available or an estimate of the date on which funds will be available. If a provider does not know the exact date on which funds will be available, the provider may disclose the latest date on which the funds will be available. For example, if funds may be available on January 3, but are not certain to be available until January 10, then a provider complies with § 1005.31(b)(2)(ii) if it discloses January 10 as the date funds will be available. However, a remittance transfer provider may also disclose that funds “may be available sooner” or use a substantially similar term to inform senders that funds may be available to the designated recipient on a date earlier than the date disclosed. For example, a provider may disclose “January 10 (may be available sooner).”

2. *Agencies required to be disclosed.* A remittance transfer provider must only disclose information about a State agency that licenses or charters the remittance transfer provider with respect to the remittance transfer as applicable. For example, if a financial institution is solely regulated by a Federal agency, and not licensed or chartered by a State agency, then the institution need not disclose information about a State agency. A remittance transfer provider must disclose information about the Consumer Financial Protection Bureau, whether or not the Consumer Financial Protection Bureau is the provider's primary Federal regulator.

3. *State agency that licenses or charters a provider.* A remittance transfer provider must only disclose information about one State agency that licenses or charters the remittance transfer provider with respect to the remittance transfer, even if other State agencies also regulate the remittance transfer provider. For example, a provider may disclose information about the State agency which granted its license. If a provider is licensed in multiple States, and the State agency that licenses the provider with respect to the remittance transfer is determined by a sender's location, a provider may make the determination as to the State in which the sender is located based on information that is provided by the sender and on any records associated with the sender. For example, if the State agency that licenses the provider with respect to an online remittance transfer is determined by a sender's location, a provider could rely on the sender's statement regarding the State in which the sender is located and disclose the State agency that licenses the provider in that State. A State-chartered bank must disclose information about the State agency that granted its charter, regardless of the location of the sender.

4. *Date of transfer on receipt.* Where applicable, § 1005.31(b)(2)(vii) requires disclosure of the date of transfer for the remittance transfer that is the subject of a receipt required by § 1005.31(b)(2), including a receipt that is provided in accordance with the timing requirements

in § 1005.36(a). For any subsequent preauthorized remittance transfer subject to § 1005.36(d)(2)(ii), the future date of transfer must be provided on any receipt provided for the initial transfer in that series of preauthorized remittance transfers, or where permitted, or disclosed as permitted by § 1005.31(a)(3) and (a)(5), in accordance with § 1005.36(a)(1)(i).

5. Transfer date disclosures. The following example demonstrates how the information required by § 1005.31(b)(2)(vii) and § 1005.36(d)(1) should be disclosed on receipts: On July 1, a sender instructs the provider to send a preauthorized remittance transfer of US\$100 each week to a designated recipient. The sender requests that first transfer in the series be sent on July 15. On the receipt, the remittance transfer provider discloses an estimated exchange rate to the sender pursuant to § 1005.32(b)(2). In accordance with § 1005.31(b)(2)(vii), the provider should disclose the date of transfer for that particular transaction (*i.e.*, July 15) on the receipt provided when payment is made for the transfer pursuant to the timing requirements in § 1005.36(a)(1)(i). The second receipt, which § 1005.36(a)(1)(ii) requires to be provided within one business day after the date of the transfer or, for transfers from the sender's account held by the provider, on the next regularly scheduled periodic statement or within 30 days after payment is made if a periodic statement is not provided, is also required to include the date of transfer. If the provider discloses on either receipt the cancellation period applicable to and dates of subsequent preauthorized remittance transfers in accordance with § 1005.36(d)(2), the disclosure must be phrased and formatted in such a way that it is clear to the sender which cancellation period is applicable to any date of transfer on the receipt.

6. Cancellation disclosure. Remittance transfer providers that offer remittance transfers scheduled three or more business days before the date of the transfer, as well as remittance transfers scheduled fewer than three business days before the date of the transfer, may meet the

cancellation disclosure requirements in § 1005.31(b)(2)(iv) by describing the three-business-day and 30-minute cancellation periods on the same disclosure and using a checkbox or other method to clearly designate the applicable cancellation period. The provider may use a number of methods to indicate which cancellation period applies to the transaction including, but not limited to, a statement to that effect, use of a checkbox, highlighting, circling, and the like. For transfers scheduled three business days before the date of the transfer, the cancellation disclosures provided pursuant to § 1005.31(b)(2)(iv) should be phrased and formatted in such a way that it is clear to the sender which cancellation period is applicable to the date of transfer disclosed on the receipt.

31(b)(3) Combined Disclosure

1. *Proof of payment.* If a sender initiating a remittance transfer receives a combined disclosure provided under § 1005.31(b)(3) and then completes the transaction, the remittance transfer provider must provide the sender with proof of payment. The proof of payment must be clear and conspicuous, provided in writing or electronically, and provided in a retainable form. The combined disclosure must be provided to the sender when the sender requests the remittance transfer, but prior to payment for the transfer, pursuant to § 1005.31(e)(1), and the proof of payment must be provided when payment is made for the remittance transfer. The proof of payment for the transaction may be provided on the same piece of paper as the combined disclosure or on a separate piece of paper. For example, a provider may feed a combined disclosure through a computer printer when payment is made to add the date and time of the transaction, a confirmation code, and an indication that the transfer was paid in full. A provider may also provide this additional information to a sender on a separate piece of paper when payment is made. A remittance transfer provider does not comply with the requirements of

§ 1005.31(b)(3) by providing a combined disclosure with no further indication that payment has been received.

2. *Confirmation of scheduling.* As discussed in comment 31(e)-2, payment is considered to be made when payment is authorized for purposes of various timing requirements in subpart B, including with regard to the timing requirement for provision of the proof of payment described in § 1005.31(b)(3)(i). However, where a transfer (whether a one-time remittance transfer or the first in a series of preauthorized remittance transfers) is scheduled before the date of transfer and the provider does not intend to process payment until at or near the date of transfer, the provider may provide a confirmation of scheduling in lieu of the proof of payment required by § 1005.31(b)(3)(i). No further proof of payment is required when payment is later processed.

31(c) Specific Format Requirements

31(c)(1) Grouping

1. *Grouping.* Information is grouped together for purposes of subpart B if multiple disclosures are in close proximity to one another and a sender can reasonably calculate the total amount of the transaction and the amount that will be received by the designated recipient. Model Forms A-30(a)-(d) through A-35 in Appendix A illustrate how information may be grouped to comply with the rule, but a remittance transfer provider may group the information in another manner. For example, a provider could provide the grouped information as a horizontal, rather than a vertical, calculation. A provider could also send multiple text messages sequentially to provide the full disclosure.

31(c)(4) Segregation

1. *Segregation.* Disclosures may be segregated from other information in a variety of ways. For example, the disclosures may appear on a separate sheet of paper or may appear on the front of a page where other information appears on the back of that page. The disclosures may be set off from other information on a notice by outlining them in a box or series of boxes, with bold print dividing lines or a different color background, or by using other means.

2. *Directly related.* For purposes of § 1005.31(c)(4), the following is directly related information:

- i. The date and time of the transaction;
- ii. The sender's name and contact information;
- iii. The location at which the designated recipient may pick up the funds;
- iv. The confirmation or other identification code;
- v. A company name and logo;
- vi. An indication that a disclosure is or is not a receipt or other indicia of proof of payment;
- vii. A designated area for signatures or initials;
- viii. A statement that funds may be available sooner, as permitted by § 1005.31(b)(2)(ii);
- ix. Instructions regarding the retrieval of funds, such as the number of days the funds will be available to the recipient before they are returned to the sender; and
- x. A statement that the provider makes money from foreign currency exchange.
- xi. Disclosure of any non-covered third-party fees and any taxes collected by a person other than the provider pursuant to § 1005.31(b)(1)(viii).

31(d) Estimates

1. *Terms.* A remittance transfer provider may provide estimates of the amounts required by § 1005.31(b), to the extent permitted by § 1005.32. An estimate must be described using the term “Estimated” or a substantially similar term in close proximity to the term or terms described. For example, a remittance transfer provider could describe an estimated disclosure as “Estimated Transfer Amount,” “Other Estimated Fees and Taxes,” or “Total to Recipient (Est).”

31(e) Timing

1. *Request to send a remittance transfer.* Except as provided in § 1005.36(a), pre-payment and combined disclosures are required to be provided to the sender when the sender requests the remittance transfer, but prior to payment for the transfer. Whether a consumer has requested a remittance transfer depends on the facts and circumstances. A sender that asks a provider to send a remittance transfer, and provides transaction-specific information to the provider in order to send funds to a designated recipient, has requested a remittance transfer. For example, a sender who asks the provider to send money to a recipient in Mexico and provides the sender and recipient information to the provider has requested a remittance transfer. A consumer who solely inquires about that day’s rates and fees to send to Mexico, however, has not requested the provider to send a remittance transfer.

2. *When payment is made.* Except as provided in § 1005.36(a), a receipt required by § 1005.31(b)(2) must be provided to the sender when payment is made for the remittance transfer. For example, a remittance transfer provider could give the sender the disclosures after the sender pays for the remittance transfer, but before the sender leaves the counter. A provider could also give the sender the disclosures immediately before the sender pays for the transaction.

For purposes of subpart B, payment is made, for example, when a sender provides cash to the remittance transfer provider or when payment is authorized.

3. *Telephone transfer from an account.* A sender may transfer funds from his or her account, as defined by § 1005.2(b), that is held by the remittance transfer provider. For example, a financial institution may send an international wire transfer for a sender using funds from the sender's account with the institution. Except as provided in § 1005.36(a), if the sender conducts such a transfer entirely by telephone, the institution may provide a receipt required by § 1005.31(b)(2) on or with the sender's next regularly scheduled periodic statement for that account or within 30 days after payment is made for the remittance transfer if a periodic statement is not provided.

4. *Mobile application and text message transactions.* If a transaction is conducted entirely by telephone via mobile application or text message, a receipt required by § 1005.31(b)(2) may be mailed or delivered to the sender pursuant to the timing requirements in § 1005.31(e)(2). For example, if a sender conducts a transfer entirely by telephone via mobile application, a remittance transfer provider may mail or deliver the disclosures to a sender pursuant to the timing requirements in § 1005.31(e)(2).

5. *Statement about cancellation rights.* The statement about the rights of the sender regarding cancellation required by § 1005.31(b)(2)(iv) may, but need not, be disclosed pursuant to the timing requirements of § 1005.31(e)(2) if a provider discloses this information pursuant to § 1005.31(a)(3)(iii) or (a)(5)(iii). The statement about the rights of the sender regarding error resolution required by § 1005.31(b)(2)(iv), however, must be disclosed pursuant to the timing requirements of § 1005.31(e)(2).

31(f) Accurate When Payment is Made

1. *No guarantee of disclosures provided before payment.* Except as provided in § 1005.36(b), disclosures required by § 1005.31(b) or permitted by § 1005.31(b)(1)(viii) must be accurate when a sender makes payment for the remittance transfer. A remittance transfer provider is not required to guarantee the terms of the remittance transfer in the disclosures required or permitted by § 1005.31(b) for any specific period of time. However, if any of the disclosures required by § 1005.31(b) or permitted by § 1005.31(b)(1)(viii) are not accurate when a sender makes payment for the remittance transfer, a provider must give new disclosures before accepting payment.

31(g) Foreign Language Disclosures

1. *Number of foreign languages used in written disclosure.* Section 1005.31(g)(1) does not limit the number of languages that may be used on a single document, but such disclosures must be clear and conspicuous pursuant to § 1005.31(a)(1). Under § 1005.31(g)(1), a remittance transfer provider may, but need not, provide the sender with a written or electronic disclosure that is in English and, if applicable, in each foreign language that the remittance transfer provider principally uses to advertise, solicit, or market either orally, in writing, or electronically, at the office in which a sender conducts a transaction or asserts an error, respectively. Alternatively, the remittance transfer provider may provide the disclosure solely in English and, if applicable, the foreign language primarily used by the sender with the remittance transfer provider to conduct the transaction or assert an error, provided such language is principally used by the remittance transfer provider to advertise, solicit, or market either orally, in writing, or electronically, at the office in which the sender conducts the transaction or asserts the error, respectively. If the remittance transfer provider chooses the alternative method, it may provide

disclosures in a single document with both languages or in two separate documents with one document in English and the other document in the applicable foreign language. The following examples illustrate this concept.

i. A remittance transfer provider principally uses only Spanish and Vietnamese to advertise, solicit, or market remittance transfer services at a particular office. The remittance transfer provider may provide all senders with disclosures in English, Spanish, and Vietnamese, regardless of the language the sender uses with the remittance transfer provider to conduct the transaction or assert an error.

ii. Same facts as i. If a sender primarily uses Spanish with the remittance transfer provider to conduct a transaction or assert an error, the remittance transfer provider may provide a written or electronic disclosure in English and Spanish, whether in a single document or two separate documents. If the sender primarily uses English with the remittance transfer provider to conduct the transaction or assert an error, the remittance transfer provider may provide a written or electronic disclosure solely in English. If the sender primarily uses a foreign language with the remittance transfer provider to conduct the transaction or assert an error that the remittance transfer provider does not use to advertise, solicit, or market either orally, in writing, or electronically, at the office in which the sender conducts the transaction or asserts the error, respectively, the remittance transfer provider may provide a written or electronic disclosure solely in English.

2. *Primarily used.* The language primarily used by the sender with the remittance transfer provider to conduct the transaction is the primary language used by the sender with the remittance transfer provider to convey the information necessary to complete the transaction. Similarly, the language primarily used by the sender with the remittance transfer provider to

assert the error is the primary language used by the sender with the remittance transfer provider to provide the information required by § 1005.33(b) to assert an error. For example:

i. A sender initiates a conversation with a remittance transfer provider with a greeting in English and expresses interest in sending a remittance transfer to Mexico in English. If the remittance transfer provider thereafter communicates with the sender in Spanish and the sender conveys the other information needed to complete the transaction, including the designated recipient's information and the amount and funding source of the transfer, in Spanish, then Spanish is the language primarily used by the sender with the remittance transfer provider to conduct the transaction.

ii. A sender initiates a conversation with the remittance transfer provider with a greeting in English and states in English that there was a problem with a prior remittance transfer to Vietnam. If the remittance transfer provider thereafter communicates with the sender in Vietnamese and the sender uses Vietnamese to convey the information required by § 1005.33(b) to assert an error, then Vietnamese is the language primarily used by the sender with the remittance transfer provider to assert the error.

iii. A sender accesses the website of a remittance transfer provider that may be used by senders to conduct remittance transfers or assert errors. The website is offered in English and French. If the sender uses the French version of the website to conduct the remittance transfer, then French is the language primarily used by the sender with the remittance transfer provider to conduct the transaction.

31(g)(1) General

1. *Principally used.* i. All relevant facts and circumstances determine whether a foreign language is principally used by the remittance transfer provider to advertise, solicit, or market

under § 1005.31(g)(1). Generally, whether a foreign language is considered to be principally used by the remittance transfer provider to advertise, solicit, or market is based on:

A. The frequency with which the foreign language is used in advertising, soliciting, or marketing of remittance transfer services at that office;

B. The prominence of the advertising, soliciting, or marketing of remittance transfer services in that foreign language at that office; and

C. The specific foreign language terms used in the advertising soliciting, or marketing of remittance transfer service at that office.

ii. For example, if a remittance transfer provider posts several prominent advertisements in a foreign language for remittance transfer services, including rate and fee information, on a consistent basis in an office, the provider is creating an expectation that a consumer could receive information on remittance transfer services in the foreign language used in the advertisements. The foreign language used in such advertisements would be considered to be principally used at that office based on the frequency and prominence of the advertising. In contrast, an advertisement for remittance transfer services, including rate and fee information, that is featured prominently at an office and is entirely in English, except for a greeting in a foreign language, does not create an expectation that a consumer could receive information on remittance transfer services in the foreign language used for such greeting. The foreign language used in such an advertisement is not considered to be principally used at that office based on the incidental specific foreign language term used.

2. *Advertise, solicit, or market.* i. Any commercial message in a foreign language, appearing in any medium, that promotes directly or indirectly the availability of remittance transfer services constitutes advertising, soliciting, or marketing in such foreign language for

purposes of § 1005.31(g)(1). Examples illustrating when a foreign language is used to advertise, solicit, or market include:

- A. Messages in a foreign language in a leaflet or promotional flyer at an office.
- B. Announcements in a foreign language on a public address system at an office.
- C. On-line messages in a foreign language, such as on the internet.
- D. Printed material in a foreign language on any exterior or interior sign at an office.
- E. Point-of-sale displays in a foreign language at an office.
- F. Telephone solicitations in a foreign language.

ii. Examples illustrating use of a foreign language for purposes other than to advertise, solicit, or market include:

- A. Communicating in a foreign language (whether by telephone, electronically, or otherwise) about remittance transfer services in response to a consumer-initiated inquiry.
- B. Making disclosures in a foreign language that are required by Federal or other applicable law.

3. *Office.* An office includes any physical location, telephone number, or website of a remittance transfer provider where a sender may conduct a remittance transfer or assert an error for a remittance transfer. The location need not exclusively offer remittance transfer services. For example, if an agent of a remittance transfer provider is located in a grocery store, the grocery store is considered an office for purposes of § 1005.31(g)(1). Because a consumer must be located in a State in order to be considered a “sender” under § 1005.30(g), a website is not an office for purposes of § 1005.31(g)(1), even if the website can be accessed by consumers that are located in the United States, unless a sender may conduct a remittance transfer on the website or may assert an error for a remittance transfer on the website.

4. *At the office.* Any advertisement, solicitation, or marketing is considered to be made at the office in which a sender conducts a transaction or asserts an error if such advertisement, solicitation, or marketing is posted, provided, or made: at a physical office of a remittance transfer provider; on a website of a remittance transfer provider that may be used by senders to conduct remittance transfers or assert errors; during a telephone call with a remittance transfer provider that may be used by senders to conduct remittance transfers or assert errors; or via mobile application or text message by a remittance transfer provider if the mobile application or text message may be used by senders to conduct remittance transfers or assert errors. An advertisement, solicitation, or marketing that is considered to be made at an office does not include general advertisements, solicitations, or marketing that are not intended to be made at a particular office. For example, if an advertisement for remittance transfers in Chinese appears in a Chinese newspaper that is being distributed at a grocery store in which the agent of a remittance transfer provider is located, such advertisement would not be considered to be made at that office. For disclosures provided pursuant to § 1005.31, the relevant office is the office in which the sender conducts the transaction. For disclosures provided pursuant to § 1005.33 for error resolution purposes, the relevant office is the office in which the sender first asserts the error, not the office where the transaction was conducted.

Section 1005.32 – Estimates

1. *Disclosures where estimates can be used.* Sections 1005.32(a) and (b)(1) permit estimates to be used in certain circumstances for disclosures described in §§ 1005.31(b)(1) through (3) and 1005.36(a)(1) and (2). To the extent permitted in § 1005.32(a) and (b)(1), estimates may be used in the pre-payment disclosure described in § 1005.31(b)(1), the receipt disclosure described in § 1005.31(b)(2), the combined disclosure described in § 1005.31(b)(3),

and the pre-payment disclosures and receipt disclosures for both first and subsequent preauthorized remittance transfers described in § 1005.36(a)(1) and (a)(2). Section 1005.32(b)(2) permits estimates to be used for certain information if the remittance transfer is scheduled by a sender five or more business days before the date of the transfer, for disclosures described in § 1005.36(a)(1)(i) and (a)(2)(i).

32(a) Temporary Exception for Insured Institutions

32(a)(1) General

1. *Control.* For purposes of this section, an insured institution cannot determine exact amounts “for reasons beyond its control” when a person other than the insured institution or with which the insured institution has no correspondent relationship sets the exchange rate required to be disclosed under § 1005.31(b)(1)(iv) or imposes a covered third-party fee required to be disclosed under § 1005.31(b)(1)(vi). For example, if an insured institution has a correspondent relationship with an intermediary financial institution in another country and that intermediary institution sets the exchange rate or imposes a fee for remittance transfers sent from the insured institution to the intermediary institution, then the insured institution must determine exact amounts for the disclosures required under § 1005.31(b)(1)(iv) or (vi), because the determination of those amounts are not beyond the insured institution’s control.

2. *Examples of scenarios that qualify for the temporary exception.* The following examples illustrate when an insured institution cannot determine an exact amount “for reasons beyond its control” and thus would qualify for the temporary exception.

i. *Exchange rate.* An insured institution cannot determine the exact exchange rate to disclose under § 1005.31(b)(1)(iv) for an international wire transfer if the insured institution does not set the exchange rate, and the rate is set when the funds are deposited into the recipient’s

account by the designated recipient's institution with which the insured institution does not have a correspondent relationship. The insured institution will not know the exchange rate that the recipient institution will apply when the funds are deposited into the recipient's account.

ii. *Covered third-party fees.* An insured institution cannot determine the exact covered third-party fees to disclose under § 1005.31(b)(1)(vi) if an intermediary institution with which the insured institution does not have a correspondent relationship, imposes a transfer or conversion fee.

3. *Examples of scenarios that do not qualify for the temporary exception.* The following examples illustrate when an insured institution can determine exact amounts and thus would not qualify for the temporary exception.

i. *Exchange rate.* An insured institution can determine the exact exchange rate required to be disclosed under § 1005.31(b)(1)(iv) if it converts the funds into the local currency to be received by the designated recipient using an exchange rate that it sets. The determination of the exchange rate is in the insured institution's control even if there is no correspondent relationship with an intermediary institution in the transmittal route or the designated recipient's institution.

ii. *Covered third-party fees.* An insured institution can determine the exact covered third-party fees required to be disclosed under § 1005.31(b)(1)(vi) if it has agreed upon the specific fees with an intermediary correspondent institution, and this correspondent institution is the only institution in the transmittal route to the designated recipient's institution.

32(b) Permanent Exceptions

32(b)(1) Permanent Exceptions for Transfers to Certain Countries

1. *Laws of the recipient country.* The laws of the recipient country do not permit a remittance transfer provider to determine exact amounts required to be disclosed when a law or

regulation of the recipient country requires the person making funds directly available to the designated recipient to apply an exchange rate that is:

i. Set by the government of the recipient country after the remittance transfer provider sends the remittance transfer or

ii. Set when the designated recipient receives the funds.

2. Example illustrating when exact amounts can and cannot be determined because of the laws of the recipient country.

i. The laws of the recipient country do not permit a remittance transfer provider to determine the exact exchange rate required to be disclosed under § 1005.31(b)(1)(iv) when, for example, the government of the recipient country, on a daily basis, sets the exchange rate that must, by law, apply to funds received and the funds are made available to the designated recipient in the local currency the day after the remittance transfer provider sends the remittance transfer.

ii. In contrast, the laws of the recipient country permit a remittance transfer provider to determine the exact exchange rate required to be disclosed under § 1005.31(b)(1)(iv) when, for example, the government of the recipient country ties the value of its currency to the U.S. dollar.

3. Method by which transactions are made in the recipient country. The method by which transactions are made in the recipient country does not permit a remittance transfer provider to determine exact amounts required to be disclosed when transactions are sent via international ACH on terms negotiated between the United States government and the recipient country's government, under which the exchange rate is a rate set by the recipient country's central bank or other governmental authority after the provider sends the remittance transfer.

4. *Example illustrating when exact amounts can and cannot be determined because of the method by which transactions are made in the recipient country.*

i. The method by which transactions are made in the recipient country does not permit a remittance transfer provider to determine the exact exchange rate required to be disclosed under § 1005.31(b)(1)(iv) when the provider sends a remittance transfer via international ACH on terms negotiated between the United States government and the recipient country's government, under which the exchange rate is a rate set by the recipient country's central bank on the business day after the provider has sent the remittance transfer.

ii. In contrast, a remittance transfer provider would not qualify for the § 1005.32(b)(1)(i)(B) methods exception if it sends a remittance transfer via international ACH on terms negotiated between the United States government and a private-sector entity or entities in the recipient country, under which the exchange rate is set by the institution acting as the entry point to the recipient country's payments system on the next business day. However, a remittance transfer provider sending a remittance transfer using such a method may qualify for the § 1005.32(a) temporary exception.

iii. A remittance transfer provider would not qualify for the § 1005.32(b)(1)(i)(B) methods exception if, for example, it sends a remittance transfer via international ACH on terms negotiated between the United States government and the recipient country's government, under which the exchange rate is set by the recipient country's central bank or other governmental authority before the sender requests a transfer.

5. *Safe harbor list.* If a country is included on a safe harbor list published by the Bureau under § 1005.32(b)(1)(ii), a remittance transfer provider may provide estimates of the amounts to be disclosed under § 1005.31(b)(1)(iv) through (b)(1)(vii). If a country does not appear on the

Bureau's list, a remittance transfer provider may provide estimates under § 1005.32(b)(1)(i) if the provider determines that the recipient country does not legally permit or method by which transactions are conducted in that country does not permit the provider to determine exact disclosure amounts.

6. *Reliance on Bureau list of countries.* A remittance transfer provider may rely on the list of countries published by the Bureau to determine whether the laws of a recipient country do not permit the remittance transfer provider to determine exact amounts required to be disclosed under § 1005.31(b)(1)(iv) through (vii). Thus, if a country is on the Bureau's list, the provider may give estimates under this section, unless a remittance transfer provider has information that a country on the Bureau's list legally permits the provider to determine exact disclosure amounts.

7. *Change in laws of recipient country.* i. If the laws of a recipient country change such that a remittance transfer provider can determine exact amounts, the remittance transfer provider must begin providing exact amounts for the required disclosures as soon as reasonably practicable if the provider has information that the country legally permits the provider to determine exact disclosure amounts.

ii. If the laws of a recipient country change such that a remittance transfer provider cannot determine exact disclosure amounts, the remittance transfer provider may provide estimates under § 1005.32(b)(1)(i), even if that country does not appear on the list published by the Bureau.

32(b)(2) Permanent Exceptions for Transfers Scheduled Before the Date of Transfer

1. *Fixed amount of foreign currency.* The following is an example of when and how a remittance transfer provider may disclose estimates for remittance transfers scheduled five or more business days before the date of transfer where the provider agrees to the sender's request

to fix the amount to be transferred in a currency in which the transfer will be received and not the currency in which it was funded. If on February 1, a sender schedules a 1000 Euro wire transfer to be sent from the sender's bank account denominated in U.S. dollars to a designated recipient on February 15, § 1005.32(b)(2) allows the provider to estimate the amount that will be transferred to the designated recipient (*i.e.*, the amount described in § 1005.31(b)(1)(i)), any fees imposed or taxes collected on the remittance transfer by the provider (if based on the amount transferred) (*i.e.*, the amount described in § 1005.31(b)(1)(ii)), and the total amount of the transaction (*i.e.*, the amount described in § 1005.31(b)(1)(iii)). The provider may also estimate any covered third-party fees if the exchange rate is also estimated and the estimated exchange rate affects the amount of fees (as allowed by § 1005.32(b)(2)(ii)).

2. *Relationship to § 1005.10(d)*. To the extent § 1005.10(d) requires, for an electronic fund transfer that is also a remittance transfer, notice when a preauthorized electronic fund transfer from the consumer's account will vary in amount from the previous transfer under the same authorization or from the preauthorized amount, that provision applies even if subpart B would not otherwise require notice before the date of transfer. However, insofar as § 1005.10(d) does not specify the form of such notice, a notice sent pursuant to § 1005.36(a)(2)(i) will satisfy § 1005.10(d) as long as the timing requirements of § 1005.10(d) are satisfied.

32(b)(3) Permanent Exception for Optional Disclosure of Non-Covered Third-Party Fees and Taxes Collected on the Remittance Transfer by a Person Other Than the Provider

1. *Reasonable sources of information*. Pursuant to § 1005.32(b)(3) a remittance transfer provider may estimate applicable non-covered third-party fees and taxes collected on the remittance transfer by a person other than the provider using reasonable sources of information. Reasonable sources of information may include, for example: information obtained from recent

transfers to the same institution or the same country or region; fee schedules from the recipient institution; fee schedules from the recipient institution's competitors; surveys of recipient institution fees in the same country or region as the recipient institution; information provided or surveys of recipient institutions' regulators or taxing authorities; commercially or publicly available databases, services or sources; and information or resources developed by international nongovernmental organizations or intergovernmental organizations.

32(c) Bases for Estimates

32(c)(1) Exchange Rate

1. *Most recent exchange rate for qualifying international ACH transfers.* If the exchange rate for a remittance transfer sent via international ACH that qualifies for the § 1005.32(b)(1)(i)(B) exception is set the following business day, the most recent exchange rate available for a transfer is the exchange rate set for the day that the disclosure is provided, *i.e.*, the current business day's exchange rate.

2. *Publicly available.* Examples of publicly available sources of information containing the most recent wholesale exchange rate for a currency include U.S. news services, such as Bloomberg, the Wall Street Journal, and the New York Times; a recipient country's national news services, and a recipient country's central bank or other government agency.

3. *Spread.* An estimate for disclosing the exchange rate based on the most recent publicly available wholesale exchange rate must also reflect any spread the remittance transfer provider typically applies to the wholesale exchange rate for remittance transfers for a particular currency.

4. *Most recent.* For the purposes of § 1005.32(c)(1)(ii) and (iii), if the exchange rate with respect to a particular currency is published or provided multiple times throughout the day

because the exchange rate fluctuates throughout the day, a remittance transfer provider may use any exchange rate available on that day to determine the most recent exchange rate.

32(c)(3) Covered Third-Party Fees

1. *Potential transmittal routes.* A remittance transfer from the sender's account at an insured institution to the designated recipient's institution may take several routes, depending on the correspondent relationships each institution in the transmittal route has with other institutions. In providing an estimate of the fees required to be disclosed under § 1005.31(b)(1)(vi) pursuant to the § 1005.32(a) temporary exception, an insured institution may rely upon the representations of the designated recipient's institution and the institutions that act as intermediaries in any one of the potential transmittal routes that it reasonably believes a requested remittance transfer may travel.

32(d) Bases for Estimates for Transfers Scheduled Before the Date of Transfer.

1. *In general.* When providing an estimate pursuant to § 1005.32(b)(2), § 1005.32(d) requires that a remittance transfer provider's estimated exchange rate must be the exchange rate (or estimated exchange rate) that the remittance transfer provider would have used or did use that day in providing disclosures to a sender requesting such a remittance transfer to be made on the same day. If, for the same-day remittance transfer, the provider could utilize either of the other two exceptions permitting the provision of estimates in § 1005.32(a) or (b)(1), the provider may provide estimates based on a methodology permitted under § 1005.32(c). For example, if, on February 1, the sender schedules a remittance transfer to occur on February 10, the provider should disclose the exchange rate as if the sender was requesting the transfer be sent on February 1. However, if at the time payment is made for the requested transfer, the remittance transfer provider could not send any remittance transfer until the next day (for reasons such as the

provider's deadline for the batching of transfers), the remittance transfer provider can use the rate (or estimated exchange rate) that the remittance transfer provider would have used or did use in providing disclosures that day with respect to a remittance transfer requested that day that could not be sent until the following day.

Section 1005.33 – Procedures for Resolving Errors

33(a) Definition of Error

1. *Incorrect amount of currency paid by sender.* Section 1005.33(a)(1)(i) covers circumstances in which a sender pays an amount that differs from the total amount of the transaction, including fees imposed in connection with the transfer, stated in the receipt or combined disclosure provided under § 1005.31(b)(2) or (3). Such error may be asserted by a sender regardless of the form or method of payment provided, including when a debit, credit, or prepaid card is used to fund the transfer and an excess amount is paid. For example, if a remittance transfer provider incorrectly charged a sender's credit card account for US\$150, and US\$120 was sent, plus a transfer fee of US\$10, the sender could assert an error with the remittance transfer provider for the incorrect charge under § 1005.33(a)(1)(i).

2. *Incorrect amount of currency received – coverage.* Section 1005.33(a)(1)(iii) covers circumstances in which the designated recipient receives an amount of currency that differs from the amount of currency identified on the disclosures provided to the sender, except where the disclosure stated an estimate of the amount of currency to be received in accordance with § 1005.32 and the difference results from application of the actual exchange rate, fees, and taxes, rather than any estimated amounts, or the failure was caused by circumstances outside the remittance transfer provider's control. A designated recipient may receive an amount of currency that differs from the amount of currency disclosed, for example, if an exchange rate

other than the disclosed rate is applied to the remittance transfer, or if the provider fails to account for fees or taxes that may be imposed by the provider or a third party before the transfer is picked up by the designated recipient or deposited into the recipient's account in the foreign country. However, if the provider rounds the exchange rate used to calculate the amount received consistent with § 1005.31(b)(1)(iv) and comment 31(b)(1)(iv)-2 for the disclosed rate, there is no error if the designated recipient receives an amount of currency that results from applying the exchange rate used, prior to any rounding of the exchange rate, to calculate fees, taxes, or the amount received rather than the disclosed rate. Section 1005.33(a)(1)(iii) also covers circumstances in which the remittance transfer provider transmits an amount that differs from the amount requested by the sender.

3. *Incorrect amount of currency received – examples.* For purposes of the following examples illustrating the error for an incorrect amount of currency received under § 1005.33(a)(1)(iii), assume that none of the circumstances permitting an estimate under § 1005.32 apply (unless otherwise stated).

i. A consumer requests to send funds to a relative in Mexico to be received in local currency. Upon receiving the sender's payment, the remittance transfer provider provides a receipt indicating that the amount of currency that will be received by the designated recipient will be 1180 Mexican pesos, after fees and taxes are applied. However, when the relative picks up the transfer in Mexico a day later, he only receives 1150 Mexican pesos because the exchange rate applied by the recipient agent in Mexico was lower than the exchange rate used by the provider, prior to any rounding of the exchange rate, to disclose the amount of currency to be received by the designated recipient on the receipt. Because the designated recipient has received less than the amount of currency disclosed on the receipt, an error has occurred.

ii. A consumer requests to send funds to a relative in Colombia to be received in local currency. The remittance transfer provider provides the sender a receipt stating an amount of currency that will be received by the designated recipient, which does not reflect the additional foreign taxes that will be collected in Colombia on the transfer but does include the statement required by § 1005.31(b)(1)(viii). If the designated recipient will receive less than the amount of currency disclosed on the receipt due solely to the additional foreign taxes that the provider was not required to disclose, no error has occurred.

iii. Same facts as in ii., except that the receipt provided by the remittance transfer provider does not reflect additional fees that are imposed by the receiving agent in Colombia on the transfer. Because the designated recipient will receive less than the amount of currency disclosed in the receipt due to the additional covered third-party fees, an error has occurred.

iv. A consumer requests to send US\$250 to a relative in India to a U.S. dollar-denominated account held by the relative at an Indian bank. Instead of the US\$250 disclosed on the receipt as the amount to be sent, the remittance transfer provider sends US\$200, resulting in a smaller deposit to the designated recipient's account than was disclosed as the amount to be received after fees and taxes. Because the designated recipient received less than the amount of currency that was disclosed, an error has occurred.

v. A consumer requests to send US\$100 to a relative in a foreign country to be received in local currency. The remittance transfer provider provides the sender a receipt that discloses an estimated exchange rate, other taxes, and amount of currency that will be received due to the law in the foreign country requiring that the exchange rate be set by the foreign country's central bank. When the relative picks up the remittance transfer, the relative receives less currency than the estimated amount disclosed to the sender on the receipt due to application of the actual

exchange rate, fees, and taxes, rather than any estimated amounts. Because § 1005.32(b) permits the remittance transfer provider to disclose an estimate of the amount of currency to be received, no error has occurred unless the estimate was not based on an approach set forth under § 1005.32(c).

vi. A sender requests that his bank send US\$120 to a designated recipient's account at an institution in a foreign country. The foreign institution is not an agent of the provider. Only US\$100 is deposited into the designated recipient's account because the recipient institution imposed a US\$20 incoming wire fee and deducted the fee from the amount transferred. Because this fee is a non-covered third-party fee that the provider is not required to disclose under § 1005.31(b)(1)(vi), no error has occurred if the provider provided the disclosure required by § 1005.31(b)(1)(viii).

4. *Incorrect amount of currency received—extraordinary circumstances.* Under § 1005.33(a)(1)(iii)(B), a remittance transfer provider's failure to make available to a designated recipient the amount of currency disclosed pursuant to § 1005.31(b)(1)(vii) and stated in the disclosure provided pursuant to § 1005.31(b)(2) or (3) for the remittance transfer is not an error if such failure was caused by extraordinary circumstances outside the remittance transfer provider's control that could not have been reasonably anticipated. Examples of extraordinary circumstances outside the remittance transfer provider's control that could not have been reasonably anticipated under § 1005.33(a)(1)(iii)(B) include circumstances such as war or civil unrest, natural disaster, garnishment or attachment of some of the funds after the transfer is sent, and government actions or restrictions that could not have been reasonably anticipated by the remittance transfer provider, such as the imposition of foreign currency controls or foreign taxes unknown at the time the receipt or combined disclosure is provided under § 1005.31(b)(2) or (3).

5. *Failure to make funds available by disclosed date of availability – coverage.* Section 1005.33(a)(1)(iv) generally covers disputes about the failure to make funds available in connection with a remittance transfer to a designated recipient by the disclosed date of availability. If only a portion of the funds were made available by the disclosed date of availability, then § 1005.33(a)(1)(iv) does not apply, but § 1005.33(a)(1)(iii) may apply instead. The following are examples of errors for failure to make funds available by the disclosed date of availability (assuming that none of the exceptions in § 1005.33(a)(1)(iv)(A), (B), or (C) apply).

- i. Late or non-delivery of a remittance transfer;
- ii. Delivery of funds to the wrong account;
- iii. The fraudulent pick-up of a remittance transfer in a foreign country by a person other than the designated recipient;
- iv. The recipient agent or institution's retention of the remittance transfer, instead of making the funds available to the designated recipient.

6. *Failure to make funds available by disclosed date of availability –extraordinary circumstances.* Under § 1005.33(a)(1)(iv)(A), a remittance transfer provider's failure to deliver or transmit a remittance transfer by the disclosed date of availability is not an error if such failure was caused by extraordinary circumstances outside the remittance transfer provider's control that could not have been reasonably anticipated. Examples of extraordinary circumstances outside the remittance transfer provider's control that could not have been reasonably anticipated under § 1005.33(a)(1)(iv)(A) include circumstances such as war or civil unrest, natural disaster, garnishment or attachment of funds after the transfer is sent, and government actions or restrictions that could not have been reasonably anticipated by the remittance transfer provider, such as the imposition of foreign currency controls.

7. *Sender account number or recipient institution identifier error.* The exception in § 1005.33(a)(1)(iv)(D) applies where a sender gives the remittance transfer provider an incorrect account number or recipient institution identifier and all five conditions in § 1005.33(h) are satisfied. The exception does not apply, however, where the failure to make funds available is the result of a mistake by a provider or a third party or due to incorrect or insufficient information provided by the sender other than an incorrect account number or recipient institution identifier, such as an incorrect name of the recipient institution.

8. *Account number or recipient institution identifier.* For purposes of the exception in § 1005.33(a)(1)(iv)(D), the terms account number and recipient institution identifier refer to alphanumerical account or institution identifiers other than names or addresses, such as account numbers, routing numbers, Canadian transit numbers, International Bank Account Numbers (IBANs), Business Identifier Codes (BICs) and other similar account or institution identifiers used to route a transaction. In addition and for purposes of this exception, the term designated recipient's account in § 1005.30(h)(2) refers to an asset account, regardless of whether it is a consumer asset account, established for any purpose and held by a bank, savings association, credit union, or equivalent institution. A designated recipient's account does not, however, include a credit card, prepaid card, or a virtual account held by an Internet-based or mobile telephone company that is not a bank, savings association, credit union or equivalent institution.

9. *Recipient-requested changes.* Under § 1005.33(a)(2)(iii), a change requested by the designated recipient that the remittance transfer provider or others involved in the remittance transfer decide to accommodate is not considered an error. The exception under § 1005.33(a)(2)(iii) is available only if the change is made solely because the designated recipient requested the change. For example, if a sender requests to send US\$100 to a designated

recipient at a designated location, but the designated recipient requests the amount in a different currency (either at the sender-designated location or another location requested by the recipient) and the remittance transfer provider accommodates the recipient's request, the change does not constitute an error.

10. *Change from disclosure made in reliance on sender information.* Under the commentary accompanying § 1005.31, the remittance transfer provider may rely on the sender's representations in making certain disclosures. *See, e.g.,* comments 31(b)(1)(iv)-1 and 31(b)(1)(vi)-1. For example, suppose a sender requests U.S. dollars to be deposited into an account of the designated recipient and represents that the account is U.S. dollar-denominated. If the designated recipient's account is actually denominated in local currency and the recipient account-holding institution must convert the remittance transfer into local currency in order to deposit the funds and complete the transfer, the change in currency does not constitute an error pursuant to § 1005.33(a)(2)(iv).

33(b) Notice of Error from Sender

1. *Person asserting or discovering error.* The error resolution procedures of this section apply only when a notice of error is received from the sender, and not when a notice of error is received from the designated recipient or when the remittance transfer provider itself discovers and corrects an error.

2. *Content of error notice.* The notice of error is effective so long as the remittance transfer provider is able to identify the elements in § 1005.33(b)(1)(ii). For example, the sender could provide the confirmation number or code that would be used by the designated recipient to pick up the transfer, or other identification number or code supplied by the remittance transfer provider in connection with the transfer, if such number or code is sufficient for the remittance

transfer provider to identify the sender (and contact information), designated recipient, and the transfer in question. For an account-based remittance transfer, the notice of error is effective even if it does not contain the sender's account number, so long as the remittance transfer provider is able to identify the account and the transfer in question.

3. *Address on notice of error.* A remittance transfer provider may request, or a sender may provide, the sender's or designated recipient's email address, as applicable, instead of a physical address, on a notice of error.

4. *Effect of late notice.* A remittance transfer provider is not required to comply with the requirements of this section for any notice of error from a sender that is received by the provider more than 180 days from the disclosed date of availability of the remittance transfer to which the notice of error applies or, if applicable, more than 60 days after a provider sent documentation, additional information, or clarification requested by the sender, provided such date is later than 180 days after the disclosed date of availability.

5. *Notice of error provided to agent.* A notice of error provided by a sender to an agent of the remittance transfer provider is deemed to be received by the provider under § 1005.33(b)(1)(i) when received by the agent.

6. *Consumer notice of error resolution rights.* Section 1005.31 requires a remittance transfer provider to include an abbreviated notice of the consumer's error resolution rights on the receipt or combined notice provided under § 1005.31(b)(2) or (3). In addition, the remittance transfer provider must make available to a sender upon request, a notice providing a full description of the sender's error resolution rights, using language set forth in Appendix A of this part (Model Form A-36) or substantially similar language.

33(c) Time Limits and Extent of Investigation

1. *Notice to sender of finding of error.* If the remittance transfer provider determines during its investigation that an error occurred as described by the sender, the remittance provider may inform the sender of its findings either orally or in writing. However, if the provider determines that no error or a different error occurred, the provider must provide a written explanation of its findings under § 1005.33(d)(1).

2. *Incorrect or insufficient information provided for transfer.* The remedy in § 1005.33(c)(2)(iii) applies if a remittance transfer provider's failure to make funds in connection with a remittance transfer available to a designated recipient by the disclosed date of availability occurred because the sender provided incorrect or insufficient information in connection with the transfer, such as by erroneously identifying the designated recipient's address or by providing insufficient information such that the entity distributing the funds cannot identify the correct designated recipient. A sender is not considered to have provided incorrect or insufficient information for purposes of § 1005.33(c)(2)(iii) if the provider discloses the incorrect location where the transfer may be picked up, gives the wrong confirmation number/code for the transfer, or otherwise miscommunicates information necessary for the designated recipient to pick-up the transfer. The remedies in § 1005.33(c)(2)(iii) do not apply if the sender provided an incorrect account number or recipient institution identifier and the provider has met the requirements of § 1005.33(h) because under § 1005.33(a)(1)(iv)(D) no error would have occurred. *See* § 1005.33(a)(1)(iv)(D) and comment 33(a)-7.

3. *Designation of requested remedy.* Under § 1005.33(c)(2)(ii), the sender may generally choose to obtain a refund of funds that were not properly transmitted or delivered to the designated recipient or, request redelivery of the amount appropriate to correct the error at no

additional cost unless the error is determined to have occurred because the sender provided incorrect or insufficient information. Upon receiving the sender's request, the remittance transfer provider shall correct the error within one business day, or as soon as reasonably practicable, applying the same exchange rate, fees, and taxes stated in the disclosure provided under § 1005.31(b)(2) or (3), if the sender requests delivery of the amount appropriate to correct the error and the error did not occur because the sender provided incorrect or insufficient information. The provider may also request that the sender indicate the preferred remedy at the time the sender provides notice of the error although if provider does so, it should indicate that if the sender chooses a resend at the time, the remedy may be unavailable if the error occurred because the sender provided incorrect or insufficient information. However, if the sender does not indicate the desired remedy at the time of providing notice of error, the remittance transfer provider must notify the sender of any available remedies in the report provided under § 1005.33(c)(1) or (d)(1) if the provider determines an error occurred.

4. *Default remedy.* Unless the sender provided incorrect or insufficient information and § 1005.33(c)(2)(iii) applies, the remittance transfer provider may set a default remedy that the provider will provide if the sender does not designate a remedy within a reasonable time after the sender receives the report provided under § 1005.33(c)(1). A provider that permits a sender to designate a remedy within 10 days after the provider has sent the report provided under § 1005.33(c)(1) or (d)(1) before imposing the default remedy is deemed to have provided the sender with a reasonable time to designate a remedy. In the case a default remedy is provided, the provider must correct the error within one business day, or as soon as reasonably practicable, after the reasonable time for the sender to designate the remedy has passed, consistent with § 1005.33(c)(2).

5. *Amount appropriate to resolve the error.* For purposes of the remedies set forth in § 1005.33(c)(2)(i)(A), (c)(2)(i)(B), (c)(2)(ii)(A)(1), and (c)(2)(i)(A)(2) the amount appropriate to resolve the error is the specific amount of transferred funds that should have been received if the remittance transfer had been effected without error. The amount appropriate to resolve the error does not include consequential damages.

6. *Form of refund.* For a refund provided under § 1005.33(c)(2)(i)(A), (c)(2)(ii)(A)(1), (c)(2)(ii)(B), or (c)(2)(iii), a remittance transfer provider may generally, at its discretion, issue a refund either in cash or in the same form of payment that was initially provided by the sender for the remittance transfer. For example, if the sender originally provided a credit card as payment for the transfer, the remittance transfer provider may issue a credit to the sender's credit card account in the appropriate amount. However, if a sender initially provided cash for the remittance transfer, a provider may issue a refund by check. For example, if the sender originally provided cash as payment for the transfer, the provider may mail a check to the sender in the amount of the payment.

7. *Remedies for incorrect amount paid.* If an error under § 1005.33(a)(1)(i) occurred, the sender may request the remittance transfer provider refund the amount necessary to resolve the error under § 1005.33(c)(2)(i)(A) or that the remittance transfer provider make the amount necessary to resolve the error available to the designated recipient at no additional cost under § 1005.33(c)(2)(i)(B).

8. *Correction of an error if funds not available by disclosed date.* If the remittance transfer provider determines an error of failure to make funds available by the disclosed date occurred under § 1005.33(a)(1)(iv), it must correct the error in accordance with § 1005.33(c)(2)(ii)(A), as applicable, and refund any fees imposed for the transfer (unless the

sender provided incorrect or insufficient information to the remittance transfer provider in connection with the remittance transfer), whether the fee was imposed by the provider or a third party involved in sending the transfer, such as an intermediary bank involved in sending a wire transfer or the institution from which the funds are picked up in accordance with § 1005.33(c)(2)(ii)(B).

9. *Charges for error resolution.* If an error occurred, whether as alleged or in a different amount or manner, the remittance transfer provider may not impose a charge related to any aspect of the error resolution process (including charges for documentation or investigation).

10. *Correction without investigation.* A remittance transfer provider may correct an error, without investigation, in the amount or manner alleged by the sender, or otherwise determined, to be in error, but must comply with all other applicable requirements of § 1005.33.

11. *Procedure for sending a new remittance transfer after a sender provides incorrect or insufficient information.* Section 1005.33(c)(2)(iii) generally requires a remittance transfer provider to refund the transfer amount to the sender even if the sender's previously designated remedy was a resend or if the provider's default remedy in other circumstances is a resend. However, if before the refund is processed, the sender receives notice pursuant to § 1005.33(c)(1) or (d)(1) that an error occurred because the sender provided incorrect or insufficient information and then requests that the provider send the remittance transfer again, and the provider agrees to that request, § 1005.33(c)(2)(iii) requires that the request be treated as a new remittance transfer and the provider must provide new disclosures in accordance with § 1005.31 and all other applicable provisions of subpart B. However, § 1005.33(c)(2)(iii) does not obligate the provider to agree to a sender's request to send a new remittance transfer.

12. *Determining amount of refund.* Section 1005.33(c)(2)(iii) permits the provider to

deduct from the amount refunded, or applied towards a new transfer, any fees or taxes actually deducted from the transfer amount by a person other than the provider as part of the first unsuccessful remittance transfer attempt or that were deducted in the course of returning the transfer amount to the provider following a failed delivery. However, a provider may not deduct those fees and taxes that will ultimately be refunded to the provider. When the provider deducts fees or taxes from the amount refunded pursuant to § 1005.33(c)(2)(iii), the provider must inform the sender of the deduction as part of the notice required by either § 1005.33(c)(1) or (d)(1) and the reason for the deduction. The following examples illustrate these concepts.

i. A sender instructs a remittance transfer provider to send US\$100 to a designated recipient in local currency, for which the provider charges a transfer fee of US\$10 and its correspondent imposes a fee of US\$15. The sender provides incorrect or insufficient information that results in non-delivery of the remittance transfer as requested. Once the provider determines that an error occurred because the sender provided incorrect or insufficient information, the provider must provide the report required by § 1005.33(c)(1) or (d)(1) and inform the sender, pursuant to § 1005.33(c)(1) or (d)(1), that it will refund US\$85 to the sender within three business days unless the sender chooses to apply the US\$85 towards a new remittance transfer. The provider is required to refund its own \$10 fee but not the US\$15 fee imposed by the correspondent (unless the \$15 will be refunded to the provider by the correspondent).

ii. A sender instructs a remittance transfer provider to send US\$100 to a designated recipient in a foreign country, for which the provider charges a transfer fee of US\$10 (and thus the sender pays the provider US\$110) and an intermediary institution charges a lifting fee of US\$5, such that the designated recipient is expected to receive only US\$95, as indicated in the receipt. If an error occurs because the sender provides incorrect or insufficient information that

results in non-delivery of the remittance transfer by the date of availability stated in the disclosure provided to the sender for the remittance transfer under § 1005.31(b)(2) or (3), the provider is required to refund, or reapply if requested and the provider agrees, \$105 unless the intermediary institution refunds to the provider the US\$5 fee. If the sender requests to have the transfer amount applied to a new remittance transfer pursuant to § 1005.33(c)(2)(iii) and provides the corrected or additional information, and the remittance transfer provider agrees to a resend remedy, the remittance transfer provider may charge the sender another transfer fee of US\$10 to send the remittance transfer again with the corrected or additional information necessary to complete the transfer. Insofar as the resend is an entirely new remittance transfer, the provider must provide a prepayment disclosure and receipt or combined disclosure in accordance with, among other provisions, the timing requirements of § 1005.31(f) and the cancellation provision of § 1005.34(a).

iii. In connection with a remittance transfer, a provider imposes a \$15 tax that it then remits to a State taxing authority. An error occurs because the sender provided incorrect or insufficient information that resulted in non-delivery of the transfer to the designated recipient. The provider may deduct \$15 from the amount it refunds to the sender pursuant to § 1005.33(c)(2)(iii) unless the relevant tax law will result in the \$15 tax being refunded to the provider by the State taxing authority because the transfer was not completed.

33(d) Procedures if Remittance Transfer Provider Determines No Error or Different Error Occurred

1. *Error different from that alleged.* When a remittance transfer provider determines that an error occurred in a manner or amount different from that described by the sender, it must

comply with the requirements of both § 1005.33(c) and (d), as applicable. The provider may give the notice of correction and the explanation separately or in a combined form.

33(e) Reassertion of Error

1. *Withdrawal of error; right to reassert.* The remittance transfer provider has no further error resolution responsibilities if the sender voluntarily withdraws the notice alleging an error. A sender who has withdrawn an allegation of error has the right to reassert the allegation unless the remittance transfer provider had already complied with all of the error resolution requirements before the allegation was withdrawn. The sender must do so, however, within the original 180-day period from the disclosed date of availability or, if applicable, the 60-day period for a notice of error asserted pursuant to § 1005.33(b)(2).

33(f) Relation to Other Laws

1. *Concurrent error obligations.* A financial institution that is also the remittance transfer provider may have error obligations under both §§ 1005.11 and 1005.33. For example, if a sender asserts an error under § 1005.11 with a remittance transfer provider that holds the sender's account, and the error is not also an error under § 1005.33 (such as the omission of an EFT on a periodic statement), then the error-resolution provisions of § 1005.11 exclusively apply to the error. However, if a sender asserts an error under § 1005.33 with a remittance transfer provider that holds the sender's account, and the error is also an error under § 1005.11 (such as when the amount the sender requested to be deducted from the sender's account and sent for the remittance transfer differs from the amount that was actually deducted from the account and sent), then the error-resolution provisions of § 1005.33 exclusively apply to the error.

2. *Holder in due course.* Nothing in this section limits a sender's rights to assert claims and defenses against a card issuer concerning property or services purchased with a credit card under Regulation Z, 12 CFR 1026.12(c)(1), as applicable.

3. *Assertion of same error with multiple parties.* If a sender receives credit to correct an error of an incorrect amount paid in connection with a remittance transfer from either the remittance transfer provider or account-holding institution (or creditor), and subsequently asserts the same error with another party, that party has no further responsibilities to investigate the error if the error has been corrected. For example, assume that a sender initially asserts an error with a remittance transfer provider with respect to a remittance transfer alleging that US\$130 was debited from his checking account, but the sender only requested a remittance transfer for US\$100, plus a US\$10 transfer fee. If the remittance transfer provider refunds US\$20 to the sender to correct the error, and the sender subsequently asserts the same error with his account-holding institution, the account-holding institution has no error resolution responsibilities under Regulation E because the error has been fully corrected. In addition, nothing in this section prevents an account-holding institution or creditor from reversing amounts it has previously credited to correct an error if a sender receives more than one credit to correct the same error. For example, assume that a sender concurrently asserts an error with his or her account-holding institution and remittance transfer provider for the same error, and the sender receives credit from the account-holding institution for the error within 45 days of the notice of error. If the remittance transfer provider subsequently provides a credit of the same amount to the sender for the same error, the account-holding institution may reverse the amounts it had previously credited to the consumer's account, even after the 45-day error resolution period under § 1005.11.

33(g) Error Resolution Standards and Recordkeeping Requirements.

1. *Record retention requirements.* As noted in § 1005.31(g)(2), remittance transfer providers are subject to the record retention requirements under § 1005.13. Therefore, remittance transfer providers must retain documentation, including documentation related to error investigations, for a period of not less than two years from the date a notice of error was submitted to the provider or action was required to be taken by the provider. A remittance transfer provider need not maintain records of individual disclosures that it has provided to each sender; it need only retain evidence demonstrating that its procedures reasonably ensure the sender's receipt of required disclosures and documentation.

33(h) Incorrect Account Number Supplied.

1. *Reasonable methods of verification.* When a sender provides an incorrect recipient institution identifier, § 1005.33(h)(2) limits the exception in § 1005.33(a)(1)(iv)(D) to situations where the provider used reasonably available means to verify that the recipient institution identifier provided by the sender did correspond to the recipient institution name provided by the sender. Reasonably available means may include accessing a directory of Business Identifier Codes and verifying that the code provided by the sender matches the provided institution name, and, if possible, the specific branch or location provided by the sender. Providers may also rely on other commercially available databases or directories to check other recipient institution identifiers. If reasonable verification means fail to identify that the recipient institution identifier is incorrect, the exception in § 1005.33(a)(1)(iv)(D) will apply, assuming that the provider can satisfy the other conditions in § 1005.33(h). Similarly, if no reasonably available means exist to verify the accuracy of the recipient institution identifier, § 1005.33(h)(2) would be satisfied and thus the exception in § 1005.33(a)(1)(iv)(D) also will apply, again assuming the provider can

satisfy the other conditions in § 1005.33(h). However, where a provider does not employ reasonably available means to verify a recipient institution identifier, § 1005.33(h)(2) is not satisfied and the exception in § 1005.33(a)(1)(iv)(D) will not apply.

2. *Reasonable efforts.* Section 1005.33(h)(5) requires a remittance transfer provider to use reasonable efforts to recover the amount that was to be received by the designated recipient. Whether a provider has used reasonable efforts does not depend on whether the provider is ultimately successful in recovering the amount that was to be received by the designated recipient. Under § 1005.33(h)(5), if the remittance transfer provider is requested to provide documentation or other supporting information in order for the pertinent institution or authority to obtain the proper authorization for the return of the incorrectly credited amount, reasonable efforts to recover the amount include timely providing any such documentation to the extent that it is available and permissible under law. The following are examples of reasonable efforts:

i. The remittance transfer provider promptly calls or otherwise contacts the institution that received the transfer, either directly or indirectly through any correspondent(s) or other intermediaries or service providers used for the particular transfer, to request that the amount that was to be received by the designated recipient be returned, and if required by law or contract, by requesting that the recipient institution obtain a debit authorization from the holder of the incorrectly credited account.

ii. The remittance transfer provider promptly uses a messaging service through a funds transfer system to contact the institution that received the transfer, either directly or indirectly through any correspondent(s) or other intermediaries or service providers used for the particular transfer, to request that the amount that was to be received by the designated recipient be returned, in accordance with the messaging service's rules and protocol, and if required by law

or contract, by requesting that the recipient institution obtain a debit authorization from the holder of the incorrectly credited account.

3. *Promptness of Reasonable Efforts.* Section 1005.33(h)(5) requires that a remittance transfer provider act promptly in using reasonable efforts to recover the amount that was to be received by the designated recipient. Whether a provider acts promptly to use reasonable efforts depends on the facts and circumstances. For example, if, before the date of availability disclosed pursuant to § 1005.31(b)(2)(ii), the sender informs the provider that the sender provided a mistaken account number, the provider will have acted promptly if it attempts to contact the recipient's institution before the date of availability.

Section 1005.34 – Procedures for Cancellation and Refund of Remittance Transfers

34(a) Sender Right of Cancellation and Refund

1. *Content of cancellation request.* A request to cancel a remittance transfer is valid so long as the remittance transfer provider is able to identify the remittance transfer in question. For example, the sender could provide the confirmation number or code that would be used by the designated recipient to pick up the transfer or other identification number or code supplied by the remittance transfer provider in connection with the transfer, if such number or code is sufficient for the remittance transfer provider to identify the transfer. A remittance transfer provider may also request, or the sender may provide, the sender's email address instead of a physical address, so long as the remittance transfer provider is able to identify the transfer to which the request to cancel applies.

2. *Notice of cancellation right.* Section 1005.31 requires a remittance transfer provider to include an abbreviated notice of the sender's right to cancel a remittance transfer on the receipt or combined disclosure given under § 1005.31(b)(2) or (3). In addition, the remittance transfer

provider must make available to a sender upon request, a notice providing a full description of the right to cancel a remittance transfer using language that is set forth in Model Form A-36 of Appendix A to this part or substantially similar language.

3. *Thirty-minute cancellation right.* A remittance transfer provider must comply with the cancellation and refund requirements of § 1005.34 if the cancellation request is received by the provider no later than 30 minutes after the sender makes payment. The provider may, at its option, provide a longer time period for cancellation. A provider must provide the 30-minute cancellation right regardless of the provider's normal business hours. For example, if an agent closes less than 30 minutes after the sender makes payment, the provider could opt to take cancellation requests through the telephone number disclosed on the receipt. The provider could also set a cutoff time after which the provider will not accept requests to send a remittance transfer. For example, a financial institution that closes at 5:00 p.m. could stop accepting payment for remittance transfers after 4:30 p.m.

4. *Cancellation request provided to agent.* A cancellation request provided by a sender to an agent of the remittance transfer provider is deemed to be received by the provider under § 1005.34(a) when received by the agent.

5. *Payment made.* For purposes of subpart B, payment is made, for example, when a sender provides cash to the remittance transfer provider or when payment is authorized.

34(b) Time Limits and Refund Requirements

1. *Form of refund.* At its discretion, a remittance transfer provider generally may issue a refund either in cash or in the same form of payment that was initially provided by the sender for the remittance transfer. For example, if the sender originally provided a credit card as payment for the transfer, the remittance transfer provider may issue a credit to the sender's credit card

account in the amount of the payment. However, if a sender initially provided cash for the remittance transfer, a provider may issue a refund by check. For example, if the sender originally provided cash as payment for the transfer, the provider may mail a check to the sender in the amount of the payment.

2. *Fees and taxes refunded.* If a sender provides a timely request to cancel a remittance transfer, a remittance transfer provider must refund all funds provided by the sender in connection with the remittance transfer, including any fees and, to the extent not prohibited by law, taxes that have been imposed for the transfer, whether the fee or tax was assessed by the provider or a third party, such as an intermediary institution, the agent or bank in the recipient country, or a State or other governmental body.

Section 1005.35 – Acts of Agents

1. *General.* Remittance transfer providers must comply with the requirements of subpart B, including, but not limited to, providing the disclosures set forth in § 1005.31 and providing any remedies as set forth in § 1005.33, even if an agent or other person performs functions for the remittance transfer provider, and regardless of whether the provider has an agreement with a third party that transfers or otherwise makes funds available to a designated recipient.

Section 1005.36 – Transfers Scheduled Before the Date of Transfer

1. *Applicability of subpart B.* The requirements set forth in subpart B apply to remittance transfers subject to § 1005.36, to the extent that § 1005.36 does not modify those requirements. For example, the foreign language disclosure requirements in § 1005.31(g) and related commentary continue to apply to disclosures provided in accordance with § 1005.36(a)(2).

36(a) Timing.

36(a)(2) Subsequent Preauthorized Remittance Transfers

1. *Changes in Disclosures.* When a sender schedules a series of preauthorized remittance transfers, the provider is generally not required to provide a pre-payment disclosure prior to the date of each subsequent transfer. However, § 1005.36(a)(1)(i) requires the provider to provide a pre-payment disclosure and receipt for the first in the series of preauthorized remittance transfers in accordance with the timing requirements set forth in § 1005.31(e). While certain information in those disclosures is expressly permitted to be estimated (*see* § 1005.32(b)(2)), other information is not permitted to be estimated, or is limited in how it may be estimated. When any of the information on the most recent receipt provided pursuant to § 1005.36(a)(1)(i) or (a)(2)(i), other than the temporal disclosures required by § 1005.31(b)(2)(ii) and (b)(2)(vii), is no longer accurate with respect to a subsequent preauthorized remittance transfer for reasons other than as permitted by § 1005.32, the provider must provide, within a reasonable time prior to the scheduled date of the next preauthorized remittance transfer, a receipt that complies with § 1005.31(b)(2) and which discloses, among the other disclosures required by § 1005.31(b)(2), the changed terms. For example, if the provider discloses in the pre-payment disclosure for the first in the series of preauthorized remittance transfers that its fee for each remittance transfer is \$20 and, after six preauthorized remittance transfers, the provider increases its fee to \$30 (to the extent permitted by contract law), the provider must provide the sender a receipt that complies with §§ 1005.31(b)(2) and 1005.36(b)(2) within a reasonable time prior to the seventh transfer. Barring a further change, this receipt will apply to transfers after the seventh transfer. Or, if, after the sixth transfer, a tax collected by the provider increases from 1.5% of the amount that will be transferred to the designated recipient to 2.0% of the amount that will be transferred to the designated recipient, the provider must provide the sender a receipt that complies with §§ 1005.31(b)(2) and 1005.36(b)(2) within a reasonable time prior to the seventh transfer. In

contrast, § 1005.36(a)(2)(i) does not require an updated receipt where an exchange rate, estimated as permitted by § 1005.32(b)(2), changes.

2. *Clearly and conspicuously.* In order to indicate clearly and conspicuously that the provider's fee has changed as required by § 1005.36(a)(2)(i), the provider could, for example, state on the receipt: "Transfer Fees (UPDATED) \$30." To the extent that other figures on the receipt must be revised because of the new fee, the receipt should also indicate that those figures are updated.

3. *Reasonable time.* If a disclosure required by § 1005.36(a)(2)(i) or (d)(1) is mailed, the disclosure would be considered to be received by the sender five business days after it is posted in the mail. If hand delivered or provided electronically, the receipt would be considered to be received by the sender at the time of delivery. Thus, if the provider mails a disclosure required by § 1005.36(a)(2)(i) or (d)(1) not later than ten business days before the scheduled date of the transfer, or hand or electronically delivers a disclosure not later than five business days before the scheduled date of the transfer, the provider would be deemed to have provided the disclosure within a reasonable time prior to the scheduled date of the subsequent preauthorized remittance transfer.

36(b) Accuracy

1. *Use of estimates.* In providing the disclosures described in § 1005.36(a)(1)(i) or (a)(2)(i), remittance transfer providers may use estimates to the extent permitted by any of the exceptions in § 1005.32. When estimates are permitted, however, they must be disclosed in accordance with § 1005.31(d).

2. *Subsequent preauthorized remittance transfers.* For a subsequent transfer in a series of preauthorized remittance transfers, the receipt provided pursuant to § 1005.36(a)(1)(i), except for

the temporal disclosures in that receipt required by § 1005.31(b)(2)(ii) (Date Available) and (b)(2)(vii) (Transfer Date), applies to each subsequent preauthorized remittance transfer unless and until it is superseded by a receipt provided pursuant to § 1005.36(a)(2)(i). For each subsequent preauthorized remittance transfer, only the most recent receipt provided pursuant to § 1005.36(a)(1)(i) or (a)(2)(i) must be accurate as of the date each subsequent transfer is made.

3. *Receipts.* A receipt required by § 1005.36(a)(1)(ii) or (a)(2)(ii) must accurately reflect the details of the transfer to which it pertains and may not contain estimates pursuant to § 1005.32(b)(2). However, the remittance transfer provider may continue to disclose estimates to the extent permitted by § 1005.32(a) or (b)(1). In providing receipts pursuant to § 1005.36(a)(1)(ii) or (a)(2)(ii), § 1005.36(b)(2) and (3) do not allow a remittance transfer provider to change figures previously disclosed on a receipt provided pursuant to § 1005.36(a)(1)(i) or (a)(2)(i), unless a figure was an estimate or based on an estimate disclosed pursuant to § 1005.32. Thus, for example, if a provider disclosed its fee as \$10 in a receipt provided pursuant to § 1005.36(a)(1)(i) and that receipt contained an estimate of the exchange rate pursuant to § 1005.32(b)(2), the second receipt provided pursuant to § 1005.36(a)(1)(ii) must also disclose the fee as \$10.

36(c) Cancellation.

1. *Scheduled remittance transfer.* Section 1005.36(c) applies when a remittance transfer is scheduled by the sender at least three business days before the date of the transfer, whether the sender schedules a preauthorized remittance transfer or a one-time transfer. A remittance transfer is scheduled if it will require no further action by the sender to send the transfer after the sender requests the transfer. For example, a remittance transfer is scheduled at least three business days before the date of the transfer, and § 1005.36(c) applies, where a sender on March

1 requests a remittance transfer provider to send a wire transfer to pay a bill in a foreign country on March 15, if it will require no further action by the sender to send the transfer after the sender requests the transfer. A remittance transfer is not scheduled, and § 1005.36(c) does not apply, where a transfer occurs more than three days after the date the sender requests the transfer solely due to the provider's processing time. The following are examples of when a sender has not scheduled a remittance transfer at least three business days before the date of the remittance transfer, such that the cancellation rule in § 1005.34 applies.

i. A sender on March 1 requests a remittance transfer provider to send a wire transfer to pay a bill in a foreign country on March 3.

ii. A sender on March 1 requests that a remittance transfer provider send a remittance transfer on March 15, but the provider requires the sender to confirm the request on March 14 in order to send the transfer.

iii. A sender on March 1 requests that a remittance transfer provider send an ACH transfer, and that transfer is sent on March 2, but due to the time required for processing, funds will not be deducted from the sender's account until March 5.

2. *Cancelled preauthorized remittance transfers.* For preauthorized remittance transfers, the provider must assume the request to cancel applies to all future preauthorized remittance transfers, unless the sender specifically indicates that it should apply only to the next scheduled remittance transfer.

3. *Concurrent cancellation obligations.* A financial institution that is also a remittance transfer provider may have both stop payment obligations under § 1005.10 and cancellation obligations under § 1005.36. If a sender cancels a remittance transfer under § 1005.36 with a

remittance transfer provider that holds the sender's account, and the transfer is a preauthorized transfer under § 1005.10, then the cancellation provisions of § 1005.36 exclusively apply.

36(d) Date of Transfer for Subsequent Preauthorized Remittance Transfers

1. *General.* Section 1005.36(d)(2)(i) permits remittance transfer providers some flexibility in determining how and when the disclosures required by § 1005.36(d)(1) may be provided to senders. The disclosure described in § 1005.36(d)(1) may be provided as a separate disclosure, or on or with any other disclosure required by this subpart B related to the same series of preauthorized remittance transfers, provided that the disclosure and timing requirements in § 1005.36(d)(2) and other applicable provisions in subpart B are satisfied. For example, the required disclosures may be made on or with a receipt provided pursuant to § 1005.36(a)(1)(i); a receipt provided pursuant to § 1005.36(a)(2); or in a separate disclosure created by the provider. Thus, for example, a remittance transfer provider complies with § 1005.36(d)(1) for a period of one year if it provides in the receipt provided to the sender when payment is made for the initial preauthorized remittance transfer, a schedule or summary of the dates of transfer of all the subsequent preauthorized remittance transfers in the series scheduled to occur over the next 12 months (and the applicable cancellation requirements and contact information).

2. *Delivery of disclosure.* Section 1005.36(d)(2)(i) requires that the sender receive disclosure of the date of transfer, applicable cancellation requirements, and the provider's contact information no more than 12 months, and no less than 5 business days prior to the date of transfer of the subsequent preauthorized remittance transfer. For purposes of determining when a disclosure required by § 1005.36(d)(1) is received by the sender, refer to comment 36(a)(2)-3.

3. *Disclosure of the date of transfer.* The date of transfer of a subsequent preauthorized remittance transfer may be disclosed as a specific date (*e.g.*, July 19, 2013) or by using a method

that clearly permits identification of the date of the transfer, such as periodic intervals (*e.g.*, the third Monday of every month, or the 15th of every month). If the future dates of transfer are disclosed as occurring periodically and there is a break in the sequence, or the date of transfer does not otherwise conform to the described period, *e.g.*, if a holiday or weekend causes the provider to deviate from the normal schedule, the remittance transfer provider should disclose the specific date of transfer for the affected transfer.

4. *Accuracy requirements.* Section 1005.36(d)(4) sets forth accuracy requirements for disclosures required for subsequent preauthorized remittance transfers under § 1005.36(d)(1). If any of the information provided in these disclosures change, the provider must provide an updated disclosure with the revised information that is accurate as of when the transfer is made, pursuant to § 1005.36(d)(2).