

BUREAU OF CONSUMER FINANCIAL PROTECTION

Notice and Request for Comment Regarding Remittance Rule Assessment

[Docket No. CFPB-2017-0004]

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for public comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is conducting an assessment of certain of the Bureau's regulations related to consumer remittance transfers under the Electronic Fund Transfer Act (subpart B of Regulation E) in accordance with section 1022(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Bureau is requesting public comment on its plans for assessing these regulations as well as certain recommendations and information that may be useful in conducting the planned assessment.

DATES: Comments must be received on or before: **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].**

ADDRESSES: You may submit comments, identified by Docket No. CFPB-2017-0004, by any of the following methods:

- *Electronic:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* FederalRegisterComments@cfpb.gov. Include Docket No. CFPB-2017-0004 in the subject line of the email.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street, NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1275 First Street NE., Washington, DC 20002.

Instructions: All submissions should include the document title and docket number. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to <http://www.regulations.gov>. In addition, comments will be available for public inspection and copying at 1275 First Street NE., Washington, DC 20002 on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435-7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Scott Fulford, Economist; Paul Rothstein, Section Chief; Jane Raso, Counsel; Max Bentovim, Financial Analyst; Division of Research, Markets, and Regulations at (202) 435-9798.

SUPPLEMENTARY INFORMATION:

I. Background

Congress established the Bureau in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).¹ In the Dodd-Frank Act, Congress generally consolidated in the Bureau the rulemaking authority for Federal consumer financial laws previously vested in certain other Federal agencies. Congress also provided the Bureau with the authority to, among other things, prescribe rules as may be necessary or appropriate to enable the Bureau to

¹ Public Law 111–203, 124 Stat. 1376 (2010).

administer and carry out the purposes and objectives of the Federal consumer financial laws and to prevent evasions thereof.² Since 2011, the Bureau has issued a number of rules adopted under Federal consumer financial law.³

Section 1022(d) of the Dodd-Frank Act requires the Bureau to conduct an assessment of each significant rule or order adopted by the Bureau under Federal consumer financial law. The Bureau must publish a report of the assessment not later than five years after the effective date of such rule or order. The assessment must address, among other relevant factors, the rule's effectiveness in meeting the purposes and objectives of title X of the Dodd-Frank Act and the specific goals stated by the Bureau. The assessment must reflect available evidence and any data that the Bureau reasonably may collect. Before publishing a report of its assessment, the Bureau must invite public comment on recommendations for modifying, expanding, or eliminating the significant rule or order.

In February 2012, the Bureau published a final rule concerning consumer remittance transfers to individuals and businesses in foreign countries in the *Federal Register* titled "Electronic Fund Transfers (Regulation E)" (February 2012 Final Rule) to implement section 1073 of the Dodd Frank Act.⁴ The Bureau amended the February 2012 Final Rule on several occasions both before and after it took effect on October 28, 2013.⁵ As discussed further below, the Bureau has determined that the February 2012 Final Rule and all the amendments related to it that the Bureau made and that took effect on October 28, 2013 collectively make up a significant rule for purposes of section 1022(d) and will conduct an assessment of the rule. This notice

² 12 U.S.C. 5512(b)(1).

³ 12 U.S.C. 5512(d).

⁴ 77 FR 6194 (February 7, 2012).

⁵ As discussed below, one of the amendments is a temporary delay of the original effective date, February 7, 2013.

refers to the February 2012 Final Rule as amended when it took effect on October 28, 2013 as the “Remittance Rule.” Further, the Bureau will consider certain amendments to it that the Bureau issued shortly after the Remittance Rule’s October 28, 2013 effective date to the extent doing so will facilitate a more meaningful assessment of the Remittance Rule. Specifically, the Bureau is incorporating into the assessment certain amendments related to the extension of an exception in the Remittance Rule that permits insured institutions to provide estimated amounts instead of exact amounts under certain circumstances. Those amendments were published in a final rule in the *Federal Register* in September 2014 and became effective in November 2014.⁶ In this notice, the Bureau is requesting public comment on the issues identified below regarding the Remittance Rule and these certain subsequent amendments.

II. Assessment Process

Assessments pursuant to section 1022(d) of the Dodd-Frank Act are for informational purposes only and are not part of any formal or informal rulemaking proceedings under the Administrative Procedure Act.⁷ The Bureau plans to consider relevant comments and other information received as it conducts the assessment and prepares an assessment report. The Bureau does not, however, expect that it will respond in the assessment report to each comment received pursuant to this notice. Furthermore, the Bureau does not anticipate that the assessment report will include specific proposals by the Bureau to modify any rules, although the findings made in the assessment will help to inform the Bureau’s thinking as to whether to consider

⁶ 78 FR 55970 (Sept. 18, 2014).

⁷ Public Law 79-404, 60 Stat. 237 (1946).

commencing a rulemaking proceeding in the future.⁸ Upon completion of the assessment, the Bureau plans to issue an assessment report no later than October 28, 2018.

III. The Remittance Rule

Section 1073 of the Dodd Frank Act amended the Electronic Fund Transfer Act (EFTA) to create a comprehensive new system of consumer protection for remittance transfers sent by consumers in the United States to individuals and businesses in foreign countries. Consumers transfer tens of billions of dollars from the United States each year. However, these transactions were generally excluded from existing Federal consumer protection regulation in the United States until the Dodd-Frank Act expanded the scope of the EFTA to provide for their regulation.⁹

On February 7, 2012, the Bureau published the February 2012 Final Rule in the *Federal Register* to implement section 919 of the EFTA, as set forth in section 1073 of the Dodd-Frank Act. The rule was published in a new subpart B to the Bureau's Regulation E.¹⁰ The February 2012 Final Rule, among other things, defined remittance transfers¹¹ and which persons must comply with the rule because they are remittance transfer providers;¹² established certain consumer disclosures that must be given to consumers who send remittance transfers and certain exceptions to these disclosures; provided consumers with cancellation and refund rights, and

⁸The Bureau announces its rulemaking plans in semiannual updates of its rulemaking agenda, which are posted as part of the federal government's Unified Agenda of Regulatory and Deregulatory Actions. See <http://www.reginfo.gov/public/do/eAgendaMain>.

⁹ 15 U.S.C. 1693 *et seq.* EFTA section 919 is codified in 15 U.S.C. 1693o-1.

¹⁰ 77 FR 6194 (Feb. 7, 2012).

¹¹ 12 CFR 1005.30(e) (defining a remittance transfer generally to be a transfer of funds requested by a sender to a designated recipient that is sent by a remittance transfer provider). There are specific exclusions for certain kinds of transfers, specifically, small value transactions of \$15 or less, and transfers for the purchase or sale of securities or commodities provided that certain conditions are met. A designated recipient is any natural person or organization such as a corporation specified by the sender as the authorized recipient of a remittance transfer to be received at a location in a foreign country. 12 CFR 1003.30(c) and comment 30(c)-1.

¹² 77 FR 6194, 6285 (providing that a remittance transfer provider is 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).

required providers to resolve errors. Further, the February 2012 Final Rule implemented a statutory exception that permits remittance transfer providers that are insured institutions to estimate, under certain circumstances, the amount of currency that a designated recipient will receive (the “temporary exception”).¹³

As discussed above, the Bureau subsequently amended the February 2012 Final Rule several times before the effective date of October 28, 2013 to revise the rule, temporarily delay the effective date of the February 2012 Final Rule,¹⁴ and to address important questions raised by industry, consumer advocacy groups, and other stakeholders. The Bureau believed that these amendments were warranted to increase certain consumer protections, avoid potentially significant disruption to the provision of remittance transfers, and clarify the regulations by making technical corrections and conforming changes.

First, in July 2012, the Bureau published amendments to correct certain technical aspects of the February 2012 Final Rule and to make certain non-substantive, conforming changes.¹⁵ Then, in August 2012, the Bureau published amendments to the February 2012 Final Rule that, among other things, added a safe harbor that clarified that persons that provide 100 or fewer remittance transfers in both the prior and the current calendar years are deemed not to be providing remittance transfers in the normal course of business, and thus are not remittance

¹³ EFTA section 919(a)(4) established that the temporary exception would expire on July 21, 2015, but permitted the Bureau to extend the exception for up to ten years after the enactment of the Dodd-Frank Act (*i.e.*, July 21, 2020), if it determined that the expiration of the exception on July 21, 2015, would negatively affect the ability of insured institutions to send remittances to locations in foreign countries. The Bureau extended the exception to July 21, 2020, in September 2014 based on its determination that the expiration of the exception on July 21, 2015, would negatively affect the ability of insured institutions to send remittances to locations in foreign countries. *See* 79 FR 55970 (Sept. 18, 2014).

¹⁴ 78 FR 6025 (Jan. 29, 2013). The February 2012 Final Rule had an effective date of February 7, 2013. The Bureau temporarily delayed the effective date because it had published additional proposed amendments to the February 2012 Final Rule in December 2012. In a final rule published in May 2013, the Bureau finalized these amendments and set the effective date as October 28, 2013.

¹⁵ 77 FR 40459 (July 10, 2012).

transfer providers and are not required to comply with the February 2012 Final Rule.¹⁶ The August 2012 final rule also contained provisions that apply to remittance transfers scheduled in advance of the transfer date, including a provision that permits a remittance transfer provider to provide estimates for certain disclosures for certain of these transfers.¹⁷

Subsequently, as noted above, the Bureau temporarily delayed the effective date of the February 2012 Final Rule pending the finalization of proposed amendments it published in the *Federal Register* in December 2012 to further amend the February 2012 Final Rule.¹⁸ Then, in May 2013, the Bureau finalized the proposed amendments it published in December 2012 in a final rule. Among other things, the May 2013 final rule created a permanent exception for transfers through open networks that made optional in certain circumstances the disclosure of fees imposed by the designated recipient's institution and the disclosure of taxes collected on the remittance transfer by a person other than the provider.¹⁹ It also provided that for these charges, estimates may be provided.²⁰ These amendments also created certain exceptions to the general error resolution provisions in situations in which a remittance transfer is not delivered to a designated recipient because the sender provided an incorrect account number or recipient institution identifier that results in the transferred funds being deposited in the wrong account.²¹ Lastly, in August 2013, the Bureau published a clarificatory amendment and a technical correction to the May 2013 final rule.²²

As noted above and discussed further below, the Bureau has determined that the

¹⁶ 12 CFR 1005.30(f)(2)(i).

¹⁷ 12 CFR 1005.32(b)(2); 1005.36.

¹⁸ 77 FR 77188 (Dec. 31, 2012).

¹⁹ 78 FR 30662 (May 22, 2013); 12 CFR §1005.31(b)(1)(vii).

²⁰ 12 CFR 1005.32(b)(3).

²¹ 12 CFR 1005.33(h).

²² 78 FR 49365 (Aug. 14, 2013).

Remittance Rule is a significant rule for purposes of Dodd-Frank section 1022(d) and will conduct an assessment of the rule.²³

The Remittance Rule applies to remittance transfers sent by traditional financial institutions such as banks and credit unions; non-banks, such as money transmitters; and Internet and mobile providers. Further, a remittance transfer could be a consumer-to-consumer transfer, or it could be a consumer-to-business transfer. The Remittance Rule applies to remittance transfers sent over open networks. The most common form of open network remittance transfer is a wire transfer. The rule also applies to remittance transfers sent over closed networks, in which a remittance transfer provider typically uses either its own operators or a network of agents or other partners to collect funds from senders in the United States and distribute those funds to the designated recipient abroad. The rule additionally applies to remittance transfers sent through the automated clearinghouse system (ACH), although use of ACH for consumer transfers is limited compared to its use for non-consumer (*i.e.*, business-to-business) transfers.

A. Major Provisions of the Remittance Rule

The Remittance Rule addressed three major topics, which are summarized below.

²³ As noted above, in September 2014, the Bureau published a final rule that, among other things, extended the temporary exception to July 21, 2020. The effective date of this final rule was November 17, 2014. In September 2014, the Bureau also published a final rule that extended its supervisory authority to any nonbank international money transfer provider that has at least one million aggregate annual international money transfers to determine compliance with, among other things, the Remittance Rule. 79 FR 56631 (Sept. 23, 2014). In October 2016, the Bureau amended Regulation E by issuing two final rules. The first final rule focused on prepaid accounts and made clarificatory amendments to the Remittance Rule to clarify its application to prepaid accounts. As stated in the final rule, the effective date of these clarifications is October 1, 2017. 81 FR 83934 (Nov. 22, 2016). However, on March 15, 2017, the Bureau published a proposal to extend the effective date by six months to April 1, 2018. 82 FR 13782 (Mar. 15, 2017). The second final rule made certain clerical and non-substantive corrections to errors it has identified in Regulation E, including in certain provisions of the Remittance Rule. 81 FR 70319 (Oct. 12, 2016). This rule became effective on November 14, 2016. The Bureau has discretion to choose the relevant time frame for the analysis and thus the most appropriate way to address amendments to any particular significant rule for purposes of an assessment of such rule. In this notice, except with respect to amendments related to the extension of the temporary exception, the Bureau is not seeking comment on the amendments to the Remittance Rule that became or will become effective after the October 28, 2013 effective date.

1. Disclosures. Consistent with the disclosure requirements established by section 919(a) of EFTA, the Remittance Rule generally requires a remittance transfer provider to provide a written pre-payment disclosure when the sender requests a transfer and generally requires the provider to provide a written receipt when payment is made.²⁴ The pre-payment disclosure must contain specific information about a remittance transfer, such as the fee a remittance transfer will impose on the remittance transfer,²⁵ the exchange rate, if any,²⁶ certain applicable fees and taxes that will be imposed on the transfer,²⁷ and the amount to be received by the designated recipient.²⁸ The receipt must include the information provided on the pre-payment disclosure,²⁹ as well as certain additional information, such as the date of availability of the funds³⁰ and information regarding the sender's error resolution and cancellation rights.³¹ Disclosures must always be made in English. In certain circumstances, a remittance transfer provider must also provide foreign language disclosures.³²

The Remittance Rule requires that disclosures regarding the exchange rate and amount of currency that will be received by the designated recipient must be exact, unless an exception applies. The rule contains four exceptions to this general requirement, which permit providers to

²⁴ 12 CFR 1005.31(b)(1) and (2). As an alternative to providing a written receipt, the rule permits a remittance transfer provider to give a single written disclosure prior to payment containing all of the information required on the receipt, so long as the provider also provides proof of payment. 12 CFR 1004.31(b)(3).

²⁵ 12 CFR 1005.31(b)(1)(ii).

²⁶ 12 CFR 1005.31(b)(1)(iv).

²⁷ 12 CFR 1005.31(b)(1)(ii) and (vi).

²⁸ 12 CFR 1005.31(b)(1)(vii).

²⁹ 12 CFR 1005.31(b)(2)(i).

³⁰ 12 CFR 1005.31(b)(2)(ii).

³¹ 12 CFR 1005.31(b)(2)(iv).

³² EFTA section 919(b); 12 CFR 1005.31(g). The remittance transfer provider must either provide a sender disclosures in each of the foreign languages principally used by the remittance transfer provider to advertise, solicit, or market remittance transfer services at the office in which a sender conducts a transaction or asserts an error, or provide disclosures in the language primarily used by the sender to conduct the remittance transfer or to assert an error.

disclose estimates of certain amounts instead of actual amounts.³³ Specifically, in addition to the temporary exception discussed above, the Remittance Rule implements a statutory exemption that permits estimates where a remittance transfer provider is unable to determine exact amounts due to either the laws of the recipient country or the method by which transactions are made in the recipient country.³⁴ The third exception, as discussed above, makes it optional for remittance transfer providers to disclose fees imposed by the designated recipient's institution in certain circumstances and taxes collected on the remittance transfer by third parties, and that to the extent such charges are disclosed, a remittance transfer provider may disclose estimates instead of actual amounts.³⁵ Lastly, also as discussed above, the Bureau permits a remittance transfer provider to provide certain estimates for certain transfers scheduled before the date of transfer.³⁶ The temporary exception is generally limited to insured institutions (*i.e.*, insured depository institutions or insured credit unions),³⁷ but the other exceptions are available to any remittance transfer provider that meets their criteria.

2. *Cancellation and refund.* The rule also provides consumers with cancellation and refund rights.³⁸ As a general matter, if a remittance transfer provider receives an oral or written request from a sender to cancel a remittance transfer within 30 minutes after the sender pays for

³³ The Remittance Rule also sets forth certain estimate methodologies.

³⁴ 12 CFR 1005.32(b)(1). The Bureau has published a safe harbor list of countries. *See* 78 FR 66251 (Nov. 5, 2013). A remittance transfer provider may provide estimates instead of exact amounts when sending to one of the countries on the list unless the provider has information that it is possible to disclose exact amounts. The rule permits a remittance transfer provider to make its own determination that the laws of countries, not on the list, do not permit a determination of exact amounts.

³⁵ 12 CFR 1005.32(b)(3).

³⁶ 12 CFR 1005.32(b)(2).

³⁷ Staff of the Securities and Exchange Commission (SEC) wrote a no-action letter on December 14, 2012, that concludes it will not recommend enforcement actions to the SEC under Regulation E if a broker-dealer provides disclosures as though the broker-dealer were an insured institution for purposes of the temporary exception. The letter is available at <https://www.sec.gov/divisions/marketreg/mr-noaction/2012/financial-information-forum-121412-rege.pdf>.

³⁸ EFTA section 919(d)(3) (establishing that the Board must issue rules regarding remittance transfer cancellation and refund policies for consumers).

the remittance transfer, then the remittance transfer provider must comply with the request, provided that the request contains certain identifying information and the transferred funds have not been picked up by the designated recipient or deposited into the designated recipient's account.³⁹ Within three business days of receiving a sender's cancellation request, a remittance transfer provider must provide a refund of the total amount of funds the sender provided in connection with the remittance transfer, including, to the extent not prohibited by law, taxes, at no additional cost to the sender.⁴⁰

3. Error resolution. Consistent with EFTA section 919(d), the Remittance Rule requires remittance transfer providers to remedy certain errors related to remittance transfers.⁴¹ A remittance transfer provider is generally required to investigate errors upon receiving oral or written error notice from a sender within 180 days after the disclosed date of availability of the remittance transfer. The remittance transfer provider must investigate and determine whether an error has occurred within 90 days of receiving an error notice and must report its investigation results to the consumer in writing within three business days after completing the investigation. If an error occurred, the remittance transfer provider must correct the error within one business day of, or as soon as reasonably practicable, after receiving the sender's instructions regarding the appropriate remedy.

The type of remedy that is available depends on the type of error that the remittance transfer provider has determined to have occurred.⁴² Additionally, the Remittance Rule requires

³⁹ 12 CFR 1005.34(a).

⁴⁰ 12 CFR 1005.34(b).

⁴¹ 12 CFR 1005.33. The Remittance Rule defines what "error" under the rule includes and also what it does not include. 12 CFR 1005.33(a)(1) and (2).

⁴² The May 2013 final rule adopted provisions that provide that mistakes due to senders providing incorrect account numbers or recipient institution identifiers are not errors under certain circumstances. This amendment and the

remittance transfer providers to develop and maintain written policies and procedures to ensure compliance with the rule's error resolution requirements and to keep certain records related to error investigations. The rule also provides that remittance transfer providers are liable for the acts of their agents when those agents act on their behalf.

B. Significant Rule Determination

The Bureau has determined that the Remittance Rule is a significant rule for purposes of Dodd-Frank section 1022(d). The Bureau makes this determination partly on the basis of the estimated aggregate annual cost to industry of complying with the rule.⁴³ In addition, as the Bureau stated at the time of issuance, the Bureau expected the February 2012 Final Rule to have important effects on remittance transfer service features, provider operations, and the overall market. For example, the Remittance Rule required providers to give consumers new pre-payment disclosures that contained information that providers did not uniformly provide consumers prior to the rule. The rule also established new procedures for resolving and remedying errors. The Bureau stated that these requirements would likely necessitate changes in business operations so firms could collect and provide consumers the information required in the

amendment to make optional the disclosure of recipient institution fees and certain taxes in connection with open network transfers are examples of how the Bureau made significant changes to the February 2012 Final Rule to ease compliance and prevent market disruptions, especially for remittance transfers sent through open networks to bank accounts.

⁴³ In the Paperwork Reduction Act Analysis (PRA Analysis) published with the February 2012 Final Rule, the Bureau estimated an additional 4,253,000 in ongoing burden hours (as well as an additional 3,431,000 in one-time burden hours) from the February 2012 Final Rule. 77 FR 6194, 6285 (Feb. 7, 2012). In the Supporting Statement submitted to OMB, the Bureau valued the ongoing burden hours at \$29.64 per hour. Thus, there was approximately \$126 million in additional ongoing burden from the February 2012 Final Rule. In the PRA Analysis published with the August 2012 Final Rule, the Bureau estimated that the amendments reduced annual burden by 532,784 hours; and that the amendments in the May 2013 Final Rule reduced annual burden by an additional 276,000 hours. Taking into account these reductions, there was approximately \$102 million in additional ongoing burden from the rule that took effect. The Bureau noted, however, that the decrease in burden was likely larger than the estimated amounts since the estimated reductions did not take full account of the downward revision in the number of state licensed money transmitters that offer remittance transfer services. See 77 FR 50244, 50282 (Aug. 20, 2012) and 78 FR 30662, 30701 (May 22, 2013).

disclosures and track and resolve errors consumers asserted. The improved disclosures might put downward pressure on pricing, but the Bureau also recognized in its consideration of benefits, costs and impacts (conducted pursuant to Dodd-Frank section 1022(b)(2)(A)) that the additional costs of the new regime might have the opposite effect. The Bureau was uncertain about the combined effect on price and quantity levels and observed that certain providers, though not necessarily providers with significant market shares, might attempt to increase prices or stop providing remittance transfers altogether at least in certain corridors. The Bureau also considered that the Remittance Rule would create important new compliance risks for providers although, as noted, there are several important exceptions that reduce these risks. The rule also states that providers are liable for violations by an agent when the agent acts for the provider.

Information received by the Bureau related to these effects has generally been consistent with Bureau expectations. Taking all of these factors into consideration, including the annual costs of the Remittance Rule, the Bureau concludes that the Remittance Rule is “significant” for purposes of section 1022(d).

IV. The Assessment Plan

Because the Bureau has determined that the Remittance Rule is a significant rule for purposes of 1022(d), section 1022(d) requires the Bureau to assess the rule’s effectiveness in meeting the purposes and objectives of title X of the Dodd-Frank Act and the specific goals stated by the Bureau. Section 1021 of the Dodd-Frank Act states that the Bureau’s purpose is to implement and, where applicable, enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent,

and competitive. Section 1021 also sets forth the Bureau's objectives, which are to ensure that, with respect to consumer financial products and services:

- Consumers are provided with timely and understandable information to make responsible decisions about financial transactions;
- Consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;
- Outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens;
- Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition; and
- Markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

Section 1022(d) also requires the Bureau to assess the Remittance Rule's effectiveness in meeting the specific goals stated by the Bureau. As discussed above, the Remittance Rule provides three significant consumer protections: (1) reliable disclosures including the price of a remittance transfer, the amount of currency to be delivered to the recipient, and the date of availability; (2) cancellation rights following a transfer; (3) error resolution provisions requiring providers to investigate disputes and remedy errors.⁴⁴ The objectives of the Remittance Rule include improving the predictability of remittance transfers,⁴⁵ providing consumers with better information for comparison shopping,⁴⁶ and, with regard to amendments made in 2012 and

⁴⁴ 77 FR 6193, 6194 (Feb. 7, 2012).

⁴⁵ 77 FR 6193, 6194 (Feb. 7, 2012).

⁴⁶ *Id.*

2013, limiting potential market disruption that might have resulted from implementing the February 2012 Remittance Rule as originally adopted.⁴⁷

To assess the effectiveness of the Remittance Rule in meeting these purposes, goals, and objectives, the Bureau intends to focus its assessment of the Remittance Rule in two areas: (1) whether the market for remittances has evolved after the Remittance Rule in ways that promote access, efficiency, and limited market disruption by considering how remittance volumes, prices, and competition in the remittance market may have changed; and, (2) whether the new system of consumer protections has brought more information, transparency, and greater predictability of prices to the market.

To assess the Remittance Rule, the Bureau plans to analyze a variety of metrics and data to the extent feasible. Feasibility will depend on the availability of data and the cost to obtain any new data. The Bureau will seek to gather information about activities and outcomes including the ones listed below and seek to understand how these activities and outcomes relate to each other:

- (1) Provider activities undertaken to comply with the Remittance Rule such as provision of disclosures; responses to errors; and provision of cancellation rights;
- (2) Consumer activities including utilization of their error resolution rights;
- (3) Consumer outcomes that the Remittance Rule sought to affect including whether the new system has brought greater transparency and predictability of the costs of sending remittances and allowed for comparison shopping; and

⁴⁷ See *e.g.*, 78 FR at 30683 (May 22, 2013).

(4) Other market outcomes that the Remittance Rule may have affected including the number and types of providers, the number of remittances sent, and the price of transfers.

In conducting the assessment, the Bureau will seek to compare consumer outcomes to a baseline that would exist if the Remittance Rule's requirements were not in effect. Doing so is challenging because the Bureau cannot directly observe what the remittance market would look like had the Remittance Rule not come into effect. The Bureau may have access to data from before the effective date of the Remittance Rule that is informative about the outcomes absent the Remittance Rule. In addition, some of the provisions of the rule that allow exemptions, applicable State laws in effect before the rule, or other institutional factors may allow the Bureau to observe outcomes similar to outcomes one might observe without the rule. The Bureau will draw conclusions as supported by the data, taking into account that factors other than the rule itself may affect observable outcomes.

The Bureau may also seek to compare outcomes observed with the Remittance Rule to counterfactual outcomes if specific elements of the Remittance Rule had not been in effect. For example, the Bureau may seek to understand the effects of specific amendments, provisions, or exceptions, which only makes sense when compared to a baseline in which the balance of the Remittance Rule is in effect. In addition, the Bureau may consider how other possible provisions might have changed the effects of the rule.

The Bureau has existing data sources, currently available or in development, with which to undertake these analyses, and the Bureau is also planning to secure additional data. Existing

data sources include the World Bank Migration and Remittance Database,⁴⁸ consumer complaints submitted to the Bureau, and information obtained from Bureau supervision and enforcement activities. The Bureau plans to use information provided by banks and credit unions in their Call Reports on their remittance activities. The Bureau is also exploring the availability and utility of other sources of data including State level assessments and reports on money transmitters operating within individual States.

The Bureau intends to interview various market participants, including remittance transfer providers and potential remittance transfer providers, as it analyzes the data described above and interprets the findings. The Bureau may also request information from remittance transfer providers about, for example, error assertions and resolutions and sample disclosures, including, if applicable, foreign language disclosures.

As it conducts its assessment of the Remittance Rule, the Bureau expects to consider effects of specific provisions of the rule to the extent feasible. For example, the Bureau may collect and analyze information about the use of the temporary exception allowing insured institutions to estimate certain third-party fees and exchange rates that expires in July 2020. In addition, where practical and reasonable the Bureau may also collect and analyze information about: (1) the 100-transfer safe harbor; (2) exceptions to the rule's error resolution regime for certain sender mistakes involving incorrect account numbers and recipient institution identifiers; (3) optional disclosure of recipient institution fees for remittance transfers conducted over open networks; (4) optional disclosure of taxes imposed on a remittance transfer by a person other

⁴⁸ The database is available at <https://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data>, accessed February 14, 2017.

than the remittance transfer provider; and (5) the requirement to provide foreign language disclosures under certain circumstances.

V. Request for Comment

To inform the assessment, the Bureau hereby invites members of the public to submit information and other comments relevant to the issues identified below, as well as any information relevant to assessing the effectiveness of the Remittance Rule in meeting the purposes and objectives of title X of the Dodd-Frank Act (section 1021) and the specific goals of the Bureau (enumerated above). In particular, the Bureau invites the public, including consumers and their advocates, remittance transfer providers and other industry representatives, industry analysts, and other interested persons to submit the following:

- (1) Comments on the feasibility and effectiveness of the assessment plan, the objectives of the Remittance Rule that the Bureau intends to emphasize in the assessment, and the outcomes, metrics, baselines and analytical methods for assessing the effectiveness of the rule as described in part IV above;
- (2) Data and other factual information that may be useful for executing the Bureau's assessment plan, as described in part IV above;
- (3) Recommendations to improve the assessment plan, as well as data, other factual information, and sources of data that would be useful and available to execute any recommended improvements to the assessment plan including data on the exceptions and provisions discussed at the end of part IV;
- (4) Data and other factual information about the benefits and costs of the Remittance Rule for consumers, remittance transfer providers, and others; and about the impacts of the rule on transparency, efficiency, access, and innovation in the remittance market;

- (5) Data and other factual information about the rule's effectiveness in meeting the purposes and objectives of Title X of the Dodd-Frank Act (section 1021), which are listed in part IV above;
- (6) Recommendations for modifying, expanding, or eliminating the Remittance Rule.

[THIS SIGNATURE PAGE PERTAINS TO THE NOTICE TITLED, "NOTICE AND
REQUEST FOR COMMENT REGARDING REMITTANCE RULE ASSESSMENT"]

Dated: March 15, 2017.



Richard Cordray,

Director, Bureau of Consumer Financial Protection.