

BUREAU OF CONSUMER FINANCIAL PROTECTION | OCTOBER 2018

# Remittance Rule Assessment Report



Revised April 2019

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# Executive Summary

Remittance transfers generally include almost all international electronic transfers of money by consumers. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) directed the Bureau of Consumer Financial Protection (BCFP or Bureau) to issue new rules for remittance transfers. The Bureau's initial rule and certain amendments took effect in October 2013. The report considers all remittance rules that took effect through November 2014 and refers to them collectively as the Remittance Rule.

Section 1022(d) of the Dodd-Frank Act requires the Bureau to conduct an assessment of each of its significant rules and orders and to publish a report of each assessment within five years of the effective date of the rule or order. Having determined that the Remittance Rule is a significant rule, the Bureau used both its own research and external sources to conduct its assessment and prepare this report. The Bureau developed plans for assessments in 2015 and began work on the remittance assessment in 2016. Pursuant to decisions made at that time, although this assessment addresses matters relating to the costs and benefits of the Rule, neither this report nor other assessments under development include a benefit-cost analysis of the Rule or parts of the Rule. For Section 1022(d) assessments that the Bureau undertakes going forward, the Bureau in its discretion is reconsidering whether to include cost-benefit analysis in its assessment and its published report. The Bureau expects that this report will help inform the Bureau's future policy decisions concerning remittance transfers, including whether to commence a rulemaking proceeding to make the Remittance Rule more effective in protecting consumers, less burdensome to industry, or both.

Section 1 lays out the requirement to conduct an assessment, the goals of the Rule, discusses the methodology and data used in the report, and provides context about remittance transfers and the marketplace. Section 2 discusses the statutory background, scope, and major provisions of the Remittance Rule, including relevant definitions and exceptions to the Rule. As discussed in greater detail in Section 2, the Remittance Rule includes three main requirements to protect consumers: (1) disclosures, which must include the price of a remittance transfer, the amount of currency to be delivered to the recipient (but with an additional disclosure in certain circumstances that the recipient may receive less), and the date of availability; (2) cancellation and refund rights; and (3) error resolution provisions requiring providers to investigate disputes and remedy certain errors.

Section 3 discusses the structure of the remittance market and reviews the available evidence with respect to the effect of the Rule on the number and dollar volume of remittance transfers, the number of remittance providers, the price of remittance transfers for consumers, the cost of the Rule to providers, and innovation. In 2017, consumers in the U.S. transferred over 325 million remittances worth more than \$175 billion. Money services businesses (MSBs) conducted 95.6% of all remittance transfers and accounted for 54.6% of the dollar volume. The average size of remittance transfers through banks and credit unions is typically much larger than through MSBs. Key findings include:

- New and repurposed technologies and new entrants have had a substantial effect on the remittance transfer market. Most significantly, the widespread use of mobile phones to access the Internet and the ability to transfer remittances online have changed the way that many consumers send remittances. These trends started before the Rule came into effect and are expected to continue. Against this rapidly changing marketplace, discerning the effect of the Remittance Rule is difficult.
- The volume of remittance transfers by MSBs was increasing before the effective date of the Rule and continued to increase afterwards at the same or higher rate. Similarly, the dollar volume of remittance transfers by MSBs was increasing both before and after the Rule became effective. However, many factors other than the Rule may affect consumer demand for remittance transfers, and the evidence does not eliminate the possibility that remittance transfers would have increased more rapidly in the absence of the Rule.
- The percentage of all banks that transfer more than 100 remittances, which are thus generally subject to the Rule's requirements, has been steady or increasing since 2014, the first full year after the Rule took effect. The percentage of all credit unions that transfer more than 100 remittances has increased slightly. While a number of banks and credit unions stop transferring more than 100 remittances in each year, about an equal number start transferring more than 100, so the net change is small.
- The number of credit unions that report offering remittance transfers increased in the two years after the Rule took effect, compared to the two years before, although that increase is likely driven at least in part by changes in the question used to collect these data. Comparable data for banks are not available before the Rule took effect.
- The average price of remittances was declining before the Rule took effect and has continued to do so. The available evidence cannot rule out the possibility that prices would have fallen even faster in the absence of the Rule. Comparing trends in the U.S. with those in other industrialized

countries, the evidence does not seem to support the Rule causing either substantial price declines or substantial price increases.

- The Bureau's examinations have uncovered mixed levels of Remittance Rule compliance across the industry, including general compliance at certain institutions as well both individual violations and wholesale failures to comply at others. The evidence from many of the Bureau examinations, however, is consistent with consumers generally receiving disclosures, albeit in many instances with inaccuracies and errors. The evidence from Bureau examinations is also mixed for error resolution because systems to correctly track and investigate error claims were identified as weak at some providers. As of the date of this Report, the Bureau has not filed any enforcement actions against remittance transfer providers.
- When the Rule took effect, remittance transfer providers incurred one-time costs to come into compliance. The Bureau estimates these initial compliance costs were between \$86 million, based on analysis at the time of the rulemaking, and \$92 million, based on estimates from a survey of industry conducted by the Bureau. These costs correspond to between \$0.30 and \$0.33 per remittance transferred in 2014. For context, the average cost to transfer a \$200 remittance ranges between approximately \$8 and \$18 depending on the destination.
- In addition to the one-time costs, remittance transfer providers continue to incur ongoing compliance costs. The limited available evidence for the ongoing costs of compliance suggests a wider possible range from \$19 million per year, based on the Bureau's industry survey and largely reflecting the costs of a few large providers, to \$102 million per year, based on analysis at the time of rulemaking. These costs correspond to between \$0.07 and \$0.37 per remittance transfer in 2017. The Bureau expects that the actual cost is somewhere in this range. The full methodology and findings for estimating costs are in Section 3.3.3

Section 4 examines the available evidence with respect to whether particular provisions of the Rule are accomplishing the goals of those provisions. Key findings include:

- The information consumers received about the price of a remittance transfer before the Rule became effective varied from provider to provider. Because consumers generally now receive the disclosures required by the Rule, in at least some cases consumers are now receiving more information than they did before the Rule took effect. In a survey of remittance transfer consumers by a consumer advocacy group, 59% recalled that the Rule-required disclosures included information about fees and 63% recalled that the disclosures included an exchange rate. In this survey, a majority of consumers reported choosing the provider with the lowest fee.

- Available data sources report that consumers cancel between 0.3% and 4.5% of remittance transfers. Unless the funds are picked up or deposited, the Remittance Rule gives consumers 30 minutes after payment to cancel a transfer, although some providers allow transfers to be cancelled for even longer. Of cancellations that occur within five hours, approximately 70% happen within 30 minutes after payment. There is evidence that some banks or credit unions delay initiating at least some transfers to make it easier for them to provide a refund if a consumer requests a cancellation within the 30-minute period, but the evidence does not indicate how prevalent this practice is.
- Available data sources report that consumers assert errors under the Rule’s provisions for between 0.5% and 1.9% of remittance transfers. The Rule provides consumers with 180 days to assert errors. Nearly all error assertions, however, are made within 30 days of the remittance transfer. Less than 0.5% are made after the 180-day deadline provided for in the Rule. The amount of time that it takes to resolve claims of error ranges widely among providers. Around one-fourth of asserted errors are ultimately found to be provider errors as defined by the Rule. Available evidence therefore suggests that most asserted errors are attributable to consumer mistakes or other issues.
- The Remittance Rule contains a safe harbor for entities that provide 100 or fewer remittance transfers in both the prior and the current calendar years. Approximately 80% of banks and 75% of credit unions that offer remittance transfers are below the 100-transfer threshold in a given year. Data analysis suggests that few credit unions that offer remittance transfers constrain the number of transfers that they are willing to provide to stay under the 100-transfer threshold. Data on banks that provide 100 or fewer remittance transfers is not as robust but also suggests that they rarely limit the transfers that they are willing to provide to stay below the 100-transfer threshold.
- The statute created a “temporary exception” to allow insured institutions to provide estimated disclosures in certain circumstances. The percentage of banks using the temporary exception has fallen since the Rule took effect. Nonetheless, in their call reports, 11.6% of banks still report using the temporary exception and do so for 10.2% of their remittance transfers. These represent 6.4% of all bank remittance transfers. There is only limited data on the use of the temporary exception by credit unions. The exception expires on July 21, 2020.

# 1. Introduction

Consumers in the United States send billions of dollars to recipients in foreign countries each year. The funds that consumers send abroad are commonly referred to as remittances. Consumers send remittances (often for a fee) in a variety of ways, including by using banks, credit unions, or money services businesses (MSBs) that offer remittance transfer services. The term “remittance transfer” is sometimes limited to consumer-to-consumer transfers of small amounts of money, often made by immigrants supporting friends and relatives in other countries. In this report, however, the term generally refers to one or more of the types of transfers covered by the Bureau of Consumer Financial Protection’s (Bureau’s or BCFP’s) Remittance Rule.<sup>1</sup> The transfers of remittances covered by the Remittance Rule—*i.e.*, remittance transfers—include most electronic transfers of funds sent by consumers in the United States to recipients in other countries.

Prior to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),<sup>2</sup> remittance transfers fell largely outside the scope of federal consumer protection laws. Section 1073 of the Dodd-Frank Act amended the Electronic Fund Transfer Act (EFTA) to create section 919, which provides for a comprehensive new system of consumer protection for remittance transfers sent by consumers in the United States to individuals and businesses in foreign countries. The Dodd-Frank Act also directed the Bureau to issue rules to carry out the requirements that Congress established by law.<sup>3</sup>

In February 2012, the Bureau published a final rule in the *Federal Register* titled, “Electronic Fund Transfers (Regulation E)” (February 2012 Final Rule), which implemented these new statutory

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<sup>1</sup> The definitions of Remittance Rule and remittance transfer are both discussed in more detail below and in Chapter 2.

<sup>2</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111–203, 124 Stat. 1376 (2010).

<sup>3</sup> 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 administer and carry out the purposes and objectives of the Federal consumer financial laws and to prevent evasions thereof. 12 U.S.C. § 5512(b)(1). The Federal consumer financial laws include EFTA (except with respect to section 920 of EFTA). In particular, Congress initially granted the Board of Governors of the Federal Reserve System authority to implement EFTA section 919. This authority was transferred to the Bureau effective July 21, 2011. 75 Fed. Reg. 57252 (Sept. 20, 2010).



consumer protections for money transfers by consumers in the United States to individuals and businesses in foreign countries.<sup>4</sup> The Bureau amended the February 2012 Final Rule both before it took effect on October 28, 2013 and afterwards. For purposes of determining whether the February 2012 Final Rule was significant under section 1022(d) of the Dodd-Frank Act, the Bureau made its determination based on the February 2012 Final Rule and amendments to it that took effect on October 28, 2013.<sup>5</sup> However, in order to facilitate a clearer and more meaningful assessment, the assessment and this report take into consideration amendments that took effect in November 2014 and which in main effect extended the expiration date of certain requirements beyond the time frame of the assessment.<sup>6</sup> Therefore, the term “Remittance Rule” (or Rule) generally refers throughout this report to the remittance transfer requirements in effect as of November 2014.

The Remittance Rule, among other things, defines remittance transfers and remittance transfer providers, setting out which transactions and entities are covered by the Rule’s protections. The Remittance Rule provides three significant consumer protections, as discussed in greater detail in Section 2: (1) disclosures, which must include the price of a remittance transfer, the amount of currency to be delivered to the recipient (but with an additional disclosure in certain circumstance that the recipient may receive less), and the date of availability; (2) cancellation and refund rights; and (3) error resolution provisions requiring providers to investigate disputes and remedy certain errors. The Remittance Rule also implements certain exceptions, including a temporary statutory exception that permits remittance transfer providers that are insured banks or insured credit unions (insured institutions) to estimate, under certain circumstances, the amount of currency that a designated recipient will receive instead of disclosing the exact amount (temporary exception).<sup>7</sup>

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.<sup>8</sup> As discussed further below, the Bureau has determined that, for purposes of section 1022(d), the Bureau rule on remittance transfers that took effect on October 28, 2013 is a significant rule. Another requirement of section 1022(d) is that the Bureau publish a report of the assessment within five years of the effective

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<sup>4</sup> 77 Fed. Reg. 6194 (Feb. 7, 2012).

<sup>5</sup> See Section 1.1.2; n.18.

<sup>6</sup> See *infra* note, 19.

<sup>7</sup> The term “insured institution” is defined in 12 C.F.R. § 1005.32, which provides for the temporary exception.

<sup>8</sup> 12 U.S.C. § 5512(d).

date of the significant rule or order. This document is the report of the Bureau's assessment of the Remittance Rule in accordance with section 1022(d).

In March 2017, the Bureau published a Request for Information (or RFI) requesting public comment on its plans for assessing the Remittance Rule as well as certain recommendations and information that may be useful in conducting the planned assessment.<sup>9</sup> The Bureau received approximately 40 comments in response to the RFI. The Bureau considered data and other relevant information provided by commenters, as well as comments on the assessment plan, as it conducted the assessment and prepared this report.<sup>10</sup>

This report does not generally consider the potential effectiveness of alternative requirements on remittance transfers that might have been or might be adopted, nor does it include specific proposals by the Bureau to modify any rules. The Bureau expects that the assessment findings made in this report and the public comments received in response to the RFI will help inform the Bureau's future policy decisions concerning remittance transfers, including whether to commence a rulemaking proceeding to make the Remittance Rule more effective in protecting consumers, less burdensome to industry, or both. In future policy development, the Bureau expects to consider other public comments, including comments received in 2018 in response to a series of requests for information about Bureau activities.<sup>11</sup> Those comments are not summarized in this report.

Finally, the Bureau's assessments pursuant to section 1022(d) of the Dodd-Frank Act are not part of any formal or informal rulemaking proceedings under the Administrative Procedure Act. This report does not represent legal interpretation, guidance, or advice of the Bureau and does not itself establish any binding obligations. Only the rules and their official interpretations (commentary) establish the definitive requirements.

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<sup>9</sup> See Request for Information Regarding Remittance Rule Assessment, 82 Fed. Reg. 15009 (Mar. 24, 2017).

<sup>10</sup> Summaries of the different types of comments received in response to the RFI are included in Appendix B to this report. See also Section 1.1.4 and Section 1.2.7 below.

<sup>11</sup> See Request for Information Regarding the Bureau's Adopted Regulations and New Rulemaking Authorities, 83 Fed. Reg. 12286 (Mar. 21, 2018).

# 1.1 Purpose, scope, and methodology

## 1.1.1 Statutory requirement for assessments

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.<sup>12</sup> 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.<sup>13</sup> 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.<sup>14</sup>

The purposes and objectives of title X of the Dodd-Frank Act are set out in section 1021 of the Dodd-Frank Act. Pursuant to section 1021(a) of the Dodd-Frank Act, the purpose of the Bureau 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.<sup>15</sup> The objectives of the Bureau are listed in section 1021(b) of the Dodd-Frank Act. Specifically, section 1021(b) provides that the Bureau is authorized to exercise its authorities under Federal consumer financial law for the purposes of ensuring that, with respect to consumer financial products and services:<sup>16</sup>

1. Consumers are provided with timely and understandable information to make responsible decisions about financial transactions;
2. Consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;

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<sup>12</sup> 12 U.S.C. § 5512(d).

<sup>13</sup> The specific goals of the Remittance Rule are discussed below in Section 1.1.2.

<sup>14</sup> See *supra* note, 9.

<sup>15</sup> 12 U.S.C. § 5511(a).

<sup>16</sup> 12 U.S.C. § 5511(b).

3. Outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens;
4. 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
5. Markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

## 1.1.2 Overview of the Remittance Rule and goals of the Rule

The Dodd-Frank Act amended EFTA by adding a new section 919 to create a comprehensive system of consumer protection for remittance transfers sent by consumers in the United States to individuals and businesses in foreign countries.<sup>17</sup> As noted above, the Bureau first implemented these new consumer rights in the February 2012 Final Rule. The Bureau amended the February 2012 Final Rule both before it took effect on October 28, 2013, and afterwards. For purposes of determining whether the February 2012 Final Rule was significant under section 1022(d) of the Dodd-Frank Act, the Bureau made its determination based on the February 2012 Final Rule and amendments to it that took effect before October 28, 2013.<sup>18</sup> However, in order to facilitate a clearer and more meaningful assessment, the assessment and this report take into consideration amendments that took effect in November 2014 and which in main effect extended the expiration date of certain requirements beyond the time frame of the assessment.<sup>19</sup> Therefore, the term “Remittance Rule” (or Rule) generally refers throughout this report to the remittance transfer requirements in effect as of November 2014.

EFTA section 919 includes four general new requirements for remittance transfers:

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<sup>17</sup> 15 U.S.C. § 1693 *et seq.*; EFTA section 919 is codified at 15 U.S.C. § 1693o-1.

<sup>18</sup> The amendments are the July 2012 Final Rule, which was a technical correction, *see* 77 Fed. Reg. 40459 (July 10, 2012); the August 2012 Final Rule, 77 Fed. Reg. 50243 (Aug. 20, 2012); the January 2013 Final Rule, which delayed the effective date of the three previous rules, *see* 78 Fed. Reg. 6025 (Jan. 29, 2013); the May 2013 Final Rule, 78 Fed. Reg. 30661 (May 22, 2013); and the August 2013 Final Rule, which was also a technical correction, *see* 78 Fed. Reg. 49365 (Aug. 14, 2013).

<sup>19</sup> 79 Fed. Reg. 55970 (Sept. 18, 2014).

1. Mandates that remittance transfer providers disclose the exchange rate, the amount to be received, and other information both prior to and at the time the consumer pays for the transfer;<sup>20</sup>
2. Provides for Federal rights regarding consumer cancellation and refund policies;<sup>21</sup>
3. Requires remittance transfer providers to investigate disputes and remedy errors regarding remittance transfers;<sup>22</sup> and
4. Establishes standards for the liability of remittance transfer providers for the acts of their agents.<sup>23</sup>

EFTA also provides a specific, temporary exception allowing insured institutions to estimate disclosures of the amount to be received in certain circumstances.<sup>24</sup> As discussed further in Section 2, this was in apparent recognition of the fact that insured institutions would need time to improve communications with foreign financial institutions regarding certain transactions.

The Bureau first implemented these new consumer rights in the February 2012 Final Rule. The requirements apply broadly. As discussed in greater detail in Section 2, the Remittance Rule defines “remittance transfer” as the electronic transfer of funds requested by a sender to a designated recipient that is sent by a remittance transfer provider. Such a transfer meets the definition 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 under EFTA. However, Congress limited the term “remittance transfer” to exclude small-value transactions and limited the term “remittance transfer provider” to any person or financial institution that provides remittance transfers for a consumer in the normal course of its business.<sup>25</sup> The Remittance Rule established, respectively, a \$15

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<sup>20</sup> 15 U.S.C. § 16930-1(a)(1) and (2).

<sup>21</sup> 15 U.S.C. § 16930-1(d).

<sup>22</sup> 15 U.S.C. § 16930-1(a)(1) and (2). The statute mandates that all remittance transfer providers investigate and remedy errors that are reported by the sender within 180 days of the promised date of delivery, specifically including situations in which the amount of currency designated in the disclosures was not in fact made available to the recipient in the foreign country. *Id.*

<sup>23</sup> 15 U.S.C. § 16930-1(f).

<sup>24</sup> 15 U.S.C. § 16930-1(a)(4)(A).

<sup>25</sup> 15 U.S.C. § 16930-1(g)(2) and (3).

threshold for small-value transactions and a 100-transfer threshold below which a person is not deemed to be providing remittance transfers in the normal course of business.<sup>26</sup>

The Bureau stated that the specific goals of the February 2012 Final Rule were to improve the predictability of remittance transfers and to provide consumers with better information for comparison shopping.<sup>27</sup> The Bureau amended the February 2012 Final Rule several times before it took effect. As described below, the goals of the amendments were generally to limit potential market disruption that might have resulted from implementing the February 2012 Final Rule as originally issued.

In August 2012, the Bureau amended the February 2012 Final Rule to, among other things, add 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 transfer providers for the purposes of the Rule. The Bureau explained that it believed that a safe harbor would reduce compliance burden by increasing legal certainty in the market.<sup>28</sup>

In May 2013, the Bureau further amended the Rule to make it optional in some circumstances to disclose certain third-party fees and foreign taxes. Pursuant to this exception, a remittance transfer provider may choose not to disclose these amounts or may choose to estimate the amounts of these fees and taxes based on reasonable sources of information. The amendment also created exceptions to the general error resolution provisions in cases where a remittance transfer is not delivered to a recipient's account because the sender provided an incorrect account number or recipient institution identifier.

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<sup>26</sup> Respectively, 12 C.F.R. § 1005.30(e)(2)(i) and 12 C.F.R. § 1005.30(f)(2).

<sup>27</sup> 77 Fed. Reg. 6194 (Feb. 7, 2012). “The new protections will significantly improve the predictability of remittance transfers and provide consumers with better information for comparison shopping.... [T]he new requirements also increase consumer protections where transfer go awry by requiring providers to investigate disputes and remedy errors.”

<sup>28</sup> 77 Fed. Reg. 50243 (Aug. 20, 2012). “[T]he Bureau believes that a safe harbor can reduce compliance burden by increasing legal certainty in the market.... Increased legal certainty may encourage some such persons to continue providing remittance transfers, when they might not otherwise be inclined to offer such products, due to concerns about legal uncertainty or the cost of compliance with subpart B of Regulation E.” *Id.* at 50249. “The Bureau believes that a safe harbor will provide the most certainty if it is based on a bright-line measure that permits persons to identify easily whether or not they qualify.” *Id.* at 50250. The August 2012 Final Rule also contained provisions that apply to preauthorized remittance transfers and one-time remittance transfers scheduled in advance of the transfer date, including a provision that permits a remittance transfer provider, in some circumstances, to provide estimates for certain disclosures for these types of remittance transfers.

The Bureau adopted these changes out of concern that otherwise the Rule could result in a significant contraction in consumer access to remittance transfers.<sup>29</sup>

In September 2014, the Bureau extended the temporary exception that permits insured institutions to estimate, under certain circumstances, disclosures related to the exchange rate and certain fees, along with the amount that the recipient will receive. The Bureau extended the temporary exception by five years from July 21, 2015, to July 21, 2020, based on its determination that a failure to do so would negatively affect the ability of insured institutions to send remittance transfers.<sup>30</sup>

When the February 2012 Final Rule and some of the subsequent amendments were issued, the Bureau released public statements that generally reiterated or elaborated on the goals described above. The Bureau stated when issuing the February 2012 Final Rule that senders would know the costs of remittance transfers ahead of time, be able to compare prices, and not have to worry about hidden fees, and that remittance transfer providers would be held accountable for errors.<sup>31</sup> The Bureau also stated that if the February 2012 Final Rule succeeded in making remittance transfers more transparent and

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<sup>29</sup> 78 Fed. Reg. 30662 (May 22, 2013). “[T]he Bureau believes that requiring disclosure of such [recipient institution fees] in cases in which the recipient institution is not an agent of the provider would at this time either require a substantial delay in implementation of the overall Dodd-Frank Act regime for remittance transfers or produce a significant contraction in access to remittance transfers, particularly for less popular corridors.” *Id.* at 30672. “[T]he Bureau is concerned that requiring disclosure of taxes collected by a person other than the provider could at this time produce increased costs for all transactions or result in a significant contraction in access to remittance transfers, particularly for less popular corridors.” *Id.* at 30676. “The new exception [to the error resolution requirements] will also allow senders to avoid disruptions in available remittance transfer services, to the extent it would enable more providers to stay in the market or preserve the breadth of their current offerings, thus preserving competition.” *Id.* at 30698.

<sup>30</sup> 79 Fed. Reg. 55970 (Sept. 18, 2014). “[The Bureau] has made the determination that the expiration of the temporary exception would negatively affect the ability of insured institutions to send remittance transfers.” *Id.* at 55982. “[The Bureau] understands that some small and some large insured institutions rely on the temporary exception for remittance transfers from accounts in which they believe covered third-party fee and/or exchange rate information are not readily available. Some of these institutions have indicated to the Bureau that they are unlikely to find an alternative to their reliance on the temporary exception by July 21, 2015, for at least some portion of the remittance transfers for which they currently use the temporary exception.” *Id.* at 55987.

<sup>31</sup> Press Release, Bureau of Consumer Fin. Prot., *CFPB Adopts Rule to Protect Consumers Sending Money Internationally* (Jan. 20, 2012), available at <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-adopts-rule-to-protect-consumers-sending-money-internationally/>. “People sending money to their loved ones in another country should not have to worry about hidden fees.... With these new protections, international money transfers will be more reliable. Consumers will know the costs ahead of time and be able to compare prices. Transfer providers will also be held accountable for errors that occur in the process.”

reliable, then it would also facilitate confidence in international money transfers, attract more customers to remittance transfer providers, and benefit the financial industry as well as consumers.<sup>32</sup>

With the August 2012 Final Rule, the Bureau stated that the 100 remittance transfer safe harbor would make the transfer process easier for community banks, credit unions, and other small providers that do not send many remittance transfers.<sup>33</sup>

When the Bureau issued the May 2013 Final Rule, the Bureau stated that the amendments making certain disclosures optional and eliminating the liability of providers for funds deposited into the wrong account in certain circumstances would preserve market competition and consumers' access to remittance transfer services and facilitate implementation of and compliance with the new Rule's requirements, while also maintaining the Rule's new consumer protections.<sup>34</sup> With the September 2014 Final Rule, the Bureau noted concerns expressed by insured institutions that if the Bureau did not extend the temporary exception, they might be unable to send some transfers to certain parts of the world they currently serve. The Bureau also stated that extending the temporary exception would give these institutions time to develop reasonable ways to provide consumers with exact fees and exchange rates for all remittance disclosures.<sup>35</sup>

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<sup>32</sup> Press Release, Bureau of Consumer Fin. Prot., *CFPB Director Richard Cordray's Remarks on Remittance Consumer Protections at LULAC Conference* (Feb. 15, 2012), available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-director-richard-cordrays-remarks-on-remittance-consumer-protections-at-lulac-conference/>. "People should not have to resort to mailing cash in an envelope or delivering money in person simply because they cannot depend on the system. If we can succeed in making these transactions more transparent, we will attract more customers who can compare options and achieve lower costs and reduced risk." See also 77 Fed. Reg. 6194, 6198 (Feb. 7, 2012) ("Consumers may also use informal methods to send money abroad, such as sending funds through the mail or with a friend, relative, or courier traveling to the destination country.").

<sup>33</sup> Press Release, Bureau of Consumer Fin. Prot., *CFPB Makes International Money Transfers Easier for Certain Financial Institutions* (Aug. 7, 2012), available at <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-makes-international-money-transfers-easier-for-certain-financial-institutions>. "The final remittance rule will protect the overwhelming majority of consumers while making the process easier for community banks, credit unions, and other small providers that do not send many remittance transfers."

<sup>34</sup> Press Release, Bureau of Consumer Fin. Prot., *CFPB Revises Rule Protecting Consumers Sending Money Internationally* (Apr. 30, 2013), available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-revises-rule-protecting-consumers-sending-money-internationally/>. "The CFPB's revisions are designed to preserve market competition and consumers' access to remittance transfer services and to facilitate implementation of and compliance with the rule's requirements, while maintaining the rule's valuable new consumer protections and ensuring that those protections can be effectively delivered to consumers."

<sup>35</sup> Press Release, Bureau of Consumer Fin. Prot., *CFPB Finalizes Revisions to Rule Protecting Consumers Sending Money Internationally* (Aug. 22, 2014), available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes->



### 1.1.3 Determination that the Remittance Rule is a significant rule

In the March 2017 RFI, the Bureau determined that the Remittance Rule—here, the February 2012 Final Rule and the amendments that took effect on October 28, 2013—is a significant rule for purposes of section 1022(d) of the Dodd-Frank Act.<sup>36</sup> The Bureau determined that the Remittance Rule is a significant rule partly on the basis of the estimated aggregate annual cost to industry of complying with the Rule.<sup>37</sup> In addition, as the Bureau stated at the time of issuance, the Bureau expected the February 2012 Final Rule to have important effects on the features of remittance transfers (*e.g.*, the new consumer protections), provider operations, and the overall market. The Bureau stated that certain Rule requirements, like the new pre-payment disclosures and error resolution processes, would likely necessitate changes in business operations so firms could collect and provide consumers the information required in the disclosures and track and resolve errors that 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 section 1022(b)(2)(A) of the Dodd-Frank Act) that the additional costs of the new regime might have the opposite effect.<sup>38</sup> The Bureau also

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~~revisions to rule protecting consumers sending money internationally/~~. “If the temporary exception expired in July 2015, current market conditions would make it impossible for insured institutions to know the exact fees and exchange rates associated with a minority of their remittance transfers. Without the exemption, these insured institutions reported that they would have been unable to send some transfers to certain parts of the world that they currently serve.... [The CFPB] believes that the added extension would give insured institutions that offer remittance services to their account holders additional time to develop reasonable ways to provide consumers with exact fees and exchange rates for all remittance disclosures.”

<sup>36</sup> See *supra* note 9.

<sup>37</sup> See 82 Fed. Reg. 15009, 15012 (Mar. 24, 2017). 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 Fed. Reg. 6194, 6285 (Feb. 7, 2012). In the Supporting Statement submitted to the Office of Management and Budget, 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 an 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 in October 2013. 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 Fed. Reg. 50243, 50282 (Aug. 20, 2012); 78 Fed. Reg. 30662, 30701 (May 22, 2013).

<sup>38</sup> See 77 Fed. Reg. 6194, 6273-6274 (Feb. 7, 2012). “[T]he final rule may require revisions of contract arrangements and communication systems, to ensure that depository institutions can receive the information needed for estimates (when permitted) or exact disclosures (when required) and provide that information to customers at a branch or elsewhere at the appropriate time. Third parties may have some incentive to gather this information [needed for estimates] and deliver it to [insured] depositories and credit unions, in order to preserve the remittance transfer line of business. However, the costs of doing so may be high and potentially prohibitive for transfers to some countries.”

considered that the Remittance Rule would create important new compliance risks for remittance transfer providers.<sup>39</sup>

At the time the Bureau considered whether the Remittance Rule was a significant rule for purposes of triggering an assessment, the information available to the Bureau related to these effects was generally consistent with Bureau expectations as of the time of the initial section 1022(b)(2)(A) analysis at issuance. Taking all of these factors into consideration, the Bureau formally determined in March 2017 that the Remittance Rule was “significant” for purposes of section 1022(d).

### 1.1.4 Methodology and plan for assessing effectiveness

In general, the Bureau methodology for the assessment consisted of three steps:

- First, the Bureau considered at a high level the potential relevant effects of the Rule. These effects are the intended and unintended consequences of the Rule that would potentially be useful in evaluating whether the Rule, or a specific Rule requirement, furthers the goals of the Rule that were stated at the time of the rulemaking and, as relevant, the purposes and objectives of the Bureau. The Bureau also considered the broader market context that could influence the effect of the Rule.
- Second, the Bureau developed specific measures of the potential relevant effects and market conditions. The Bureau then collected available evidence and data that would allow the Bureau to compute these measures.
- Third, the Bureau analyzed these measures and considered whether the Rule or specific Rule requirement furthered the goals of the Rule that were stated at the time of the rulemaking and, as relevant, the purposes and objectives of the Bureau or other relevant factors. In doing so, where possible, the Bureau compared the observed measures to what those measures would be under a counterfactual or “baseline.”

Specifying a baseline against which to evaluate a rule’s effects is necessary for both forecasting the future effects of proposed regulations and evaluating the historical effects of adopted regulations.<sup>40</sup>

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<sup>39</sup> For example, the Bureau described the range of potential costs to providers, through the error resolutions requirements, from failing to provide accurate pre-payment disclosures. *See* 77 Fed. Reg. 6194, 6275-6276 (Feb. 7, 2012). There are, however, several important exceptions that reduce these risks. The Rule also states that providers are liable for violations by agents when the agent acts as a provider. 12 C.F.R. § 1005.35.

Where a regulation has already taken effect, however, it is often not possible to find firms or a part of the market that is neither subject to the rule nor indirectly affected by the rule—but is nevertheless subject to the same other determinants of prices, quantities and other market outcomes—such that real-world observational data from those firms or that market provide a baseline for evaluating the effect of the rule. In particular cases, it may be possible to define a specific set of outcomes that can serve as the baseline. For example, it may be generally agreed that the purpose of the rule is to increase (or reduce) particular outcomes relative to some observed or specified benchmark. In general, however, retrospective analysis requires making a formal or informal forecast of the market absent a rule, or absent a specific provision of a rule, to serve as the baseline, and data limitations make this difficult to do in practice.

For purposes of this assessment, the Bureau has generally used a baseline that is the market absent the Rule as a whole or the specific Rule provision being evaluated. Thus, in conducting the assessment, the Bureau used available evidence to estimate, to the extent possible, what would have occurred absent the Rule. Where it is not possible to reliably estimate what a measure would have been under the baseline, the Bureau sometimes compares the relevant measure to its level before the effective date of the Rule if pre-rule data are available. Such comparisons can be helpful in evaluating the Rule or a specific Rule provision. However, the pre-rule level of a measure is an imperfect baseline because it does not take into account any market changes since the Rule took effect, including changes that would have taken place absent the Rule. This point is especially relevant in the market for remittances, which was undergoing substantial change prior to the enactment of the Dodd-Frank Act, as evidenced by changes in the number and dollar volume of transfers, pricing, and innovation.

The following example illustrates this point. Section 3.2.2 examines the trend in remittance transfers sent by MSBs before and after the Rule became effective, and finds that the number of remittance transfers sent continued to increase. This finding suggests that the Rule did not negatively affect the number of remittance transfers being sent by MSBs. The analysis cautions against concluding that the Rule caused no reduction in the number of remittance transfers sent relative to the baseline, however,

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<sup>40</sup> See, e.g., Joseph E. Aldy, *Learning from Experience: An Assessment of the Retrospective Reviews of Agency Rules and the Evidence for Improving the Design and Implementation of Regulatory Policy*, (Harv., Retrospective Rev. Rep., 2014), <https://www.acus.gov/report/retrospective-review-report> (prepared for consideration of the Administrative Conference of the United States) (“In evaluating the efficacy, benefits, and costs of any individual regulation, an analyst must make a determination about the counterfactual, i.e., what would have happened in the absence of the regulation. In ex ante analysis, this requires constructing an alternative future scenario, or baseline, from which to assess the impacts of the proposed regulation. In ex post analysis, this requires constructing an alternative historic scenario for comparison with the implemented regulation. The choice of counterfactual can be quite challenging and subject to criticism.”). *Id.* at 62–63. See also the extensive list of references contained therein.

since this before-and-after comparison cannot preclude the possibility that remittance transfers would have increased even more in the absence of the Rule.

In principle, the possibility that remittance transfers would have increased even more in the absence of the Rule could be further explored with data from around the time that the Rule took effect. For example, the absence of clear changes in the number of remittance transfer counts or trends around the time that the Rule took effect would imply that, if the Rule had a negative effect, that some additional factor began having a similarly-sized positive effect at the same time. This type of effect might be considered unlikely, or it might be explored directly with data comprehensive enough to rule out the appearance of a factor with similarly-sized positive effect. The assessment generally did not have sufficiently comprehensive data to permit this kind of analysis.

As noted above, in March 2017, the Bureau published an RFI that, among other things, described the assessment plan and requested public comment on the plan.<sup>41</sup> The RFI described the general focus of the assessment and some of the effects and outcomes that the Bureau would analyze, depending on the availability of data and the cost to obtain any new data.<sup>42</sup> Among the activities and outcomes about which the Bureau stated that it planned to gather information were:<sup>43</sup>

- Provider activities undertaken to comply with the Remittance Rule such as provision of disclosures; responses to errors; and provision of cancellation rights;
- Consumer activities including utilization of their error resolution rights;
- Consumer outcomes that the Remittance Rule sought to affect including whether the new system has brought greater transparency and predictability to the cost of sending remittance transfers and allowed for comparison shopping; and
- Other market outcomes that the Remittance Rule may have affected including the number and types of providers, the number of remittance transfers sent, and the price of transfers.

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<sup>41</sup> See “Assessment Plan” in section IV; “Request for Comment” in section V of the RFI.

<sup>42</sup> 82 Fed. Reg. 15009, 15013 (Mar. 24, 2017). “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.”

<sup>43</sup> *Id.*

Comments on the assessment plan received in response to the RFI generally proposed either specific analyses for the Bureau to consider or specific data for the Bureau to collect.<sup>44</sup> The analyses and data collections used in this assessment and discussed in this report are largely consistent with those proposed by commenters. However, a number of commenters recommended that the Bureau conduct a survey of consumers who send remittances, or they proposed analyses that would have required such a survey. For example, commenters noted that a consumer survey could be generally informative of consumer experience under the Rule, including whether consumers use the disclosures for comparison shopping, experience delays in the process of sending remittance transfers, and are satisfied in asserting cancellation and error resolution rights. Commenters also suggested more specific inquiries, such as examining how consumers respond if the remittance transfer provider that they normally use to send transfers stops offering services because the provider reaches the 100-transfer threshold, and whether consumers would benefit from receiving foreign language disclosures in circumstances in addition to those required under the Rule.

When considering whether to conduct a consumer survey, or more generally whether to collect additional data and information or to conduct additional analyses, the Bureau balanced the probative value to the assessment required by section 1022(d) against, among other things, the burdens on consumers, industry, and the Bureau. The value of a consumer survey would come from information about the effects of the Rule on consumers that the Bureau did not obtain from other sources; see Section 1.2 below. For example, the Bureau obtained from these other sources, which include remittance transfer providers, information on assertions by consumers of their rights to cancellation and error resolution. What the Bureau cannot observe from this information are certain subsequent outcomes for consumers, such as the discovery of a better price or product because of the disclosures or the benefits from cancelling a transfer.<sup>45</sup> In considering the value of surveying consumers to learn about these outcomes, the Bureau considered the difficulties in obtaining accurate information about these outcomes and benefits directly from consumers. The Bureau also considered that these outcomes might vary systematically across occasional and experienced remitters and the different channels for sending remittances, such as MSBs and insured institutions. While a survey that focused on overall averages across remitters and channels would be more feasible and might be informative, it would still present

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<sup>44</sup> Comments on the assessment plan are summarized in Appendix B.

<sup>45</sup> Prior to the May 2011 remittance transfer proposed rule, the Board of Governors of the Federal Reserve System engaged in consumer testing, where the participants were asked specific questions to test their understanding of the information presented in the disclosure forms provided to them. *See* 77 Fed. Reg. 6194, 6200-01 (Feb. 7, 2012). The Bureau determined for this assessment that there would have been little value in replicating this work.

significant challenges in organizing and executing, especially given that less than 6% of all consumers send a remittance in a given year.<sup>46</sup>

Further, even if the above challenges could be overcome, there would remain the limitation (present in the Bureau's other data) from the absence of pre-rule baseline information on the outcomes that the Rule was intended to mitigate. While in principle a survey could ask consumers about actions and outcomes that had occurred a number of years earlier, there would be some risk that the responses would not be reliable. Given these specific challenges and limitations of a consumer survey, as well as the availability of other data with which to examine the direct effects of the Rule on consumers, the Bureau considered that the potential benefits were not sufficient to justify conducting a consumer survey.

## 1.2 Sources of information and data

This section briefly describes the major sources of information and data that the Bureau examined and their limitations.

An important caveat with all of these sources of data is that the definition of "remittance transfer" varies across sources, and for most sources the data may focus on just one type of remittance transfer covered by the Remittance Rule (described in more detail in Section 2) or it may combine transfers that are covered and those that are not covered by the Rule. For example, many organizations focused on the role of remittance transfers in international aid and development include only those small dollar transfers sent home by immigrants to their family members.<sup>47</sup> This focus may make their statistics for purposes of this report both under-inclusive (by excluding transfers by other types of consumers and to other types of recipients that fall within the scope of the Remittance Rule) and over-inclusive (by including some types of transfers that fall outside the scope of the Remittance Rule). For data not collected by the Bureau, where possible, this report excludes transfers not covered by the Rule and indicates that the data being analyzed may include a broader or narrower set of remittances than those covered by the Rule. To the extent that the Bureau was able to make adjustments to over-inclusive data to exclude transactions that would not be covered by the Rule, the Bureau generally attempted to make such adjustments and considered that adjusted data to be measuring remittance transfers.

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<sup>46</sup> See Section 1.3.3 of this report.

<sup>47</sup> See *infra* n.60.

## 1.2.1 World Bank price data

The World Bank publishes worldwide remittance transfer price data (Remittance Prices Worldwide dataset).<sup>48</sup> Prices of remittance transfers vary depending on the sending and receiving countries. The World Bank collects prices on 365 country corridors annually, including price information from 48 sending countries and 105 receiving countries. The Remittance Prices Worldwide dataset was published in quarters 1 and 3 of 2011 and 2012, and has been published quarterly since the first quarter of 2013. To collect the data, researchers contact remittance transfer providers in each corridor studied, and ask the provider for the price to send a \$200 and \$500 remittance transfer along a specific country corridor. For the purposes of this dataset, price includes the foreign exchange spread (the difference in exchange rates charged to the consumer and paid by the remittance transfer provider) and fees, among other things. These data are “intended to serve as a snapshot of the cost of remittances on specific dates and time.”<sup>49</sup> This report uses these data to understand how prices charged to consumers have varied over time.

Although these data provide an important public source of remittance transfer prices since 2011, the data may not be representative of all transfers. In particular, transfers through banks are on average much larger than \$500 (see Section 3.2.3), so the Remittance Prices Worldwide dataset will not necessarily give the relevant price for larger transfers. The data are also not necessarily useful for understanding how prices for remittance transfers may differ within the United States.

## 1.2.2 State data and data from the Nationwide Multistate Licensing System

Many remittance transfer services are provided at entities that do not take deposits. State financial services regulators typically supervise and regulate these entities for compliance with state law. In 2017, the Bureau contacted several state financial regulators that collect data from nonbank “money transmitters” in the course of their supervision of these businesses and to enforce their respective states’ laws. These regulators collect information about the number of remittances and the dollar

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<sup>48</sup>World Bank, *Remittance Prices Worldwide – Making Markets More Transparent*, <https://remittanceprices.worldbank.org> (last visited Oct. 1, 2018).

<sup>49</sup>World Bank, *Remittance Prices Worldwide – Methodology*, <https://remittanceprices.worldbank.org/en/methodology>, (last visited Oct. 1, 2018).

volume of remittances transferred by money transmitters licensed in their respective states. These data are thus only informative about those remittances sent by licensees in a regulated state.

In addition, starting in 2017 the Conference of State Bank Supervisors (CSBS) instituted the Money Services Business Call Report (MSB Call Report) via the Nationwide Multistate Licensing System (NMLS). The NMLS is described by the CSBS as being “the system of record for non-depository, financial services licensing or registration in participating state agencies, including the District of Columbia and U.S. Territories of Puerto Rico, the U.S. Virgin Islands, and Guam.”<sup>50</sup> MSBs include money transmitters, many but not all of which are remittance transfer providers. The MSB Call Report includes national and state specific MSB activity (including remittance transfers) that is submitted on a quarterly basis by state licensees. Not all states require their licensees to report in the NMLS, but licensees that are required to report must submit information about the remittance transfers they send from any state.

On September 26, 2018 the CSBS released the *2017 NMLS Money Services Businesses Industry Report* (MSB Industry Report), which, among other things, reported the first estimate of both the total number and of the average size of international money transfers.<sup>51</sup> International transfers include covered remittance transfers, but also transfers by institutions primarily providing business-to-business foreign exchange and other services that are not remittance transfers. This report discusses in Section 3.2.1 and Appendix C how it derives estimates of covered remittance transfers from this information.

Data obtained directly from the states and calculations by the CSBS from the MSB Call Report are administrative data. As such, these data primarily exist to aid regulators overseeing the money services business market in their respective states. MSBs certify that these data are accurate when they submit activity information to the state regulator. Depending on the applicable state law, some money transmitters may be required to submit data only once every several years.

Compiling data from states and data reported by the CSBS allows the Bureau to understand the size of the remittance transfer market over time. However, because the total transactions are reported by firm at the state level, these data are not useful for understanding the remittance market in areas smaller than a state. Additionally, states vary in their regulation of money services businesses generally and

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<sup>50</sup> NMLS, *Resource Center*, <https://mortgage.nationwidelicingsystem.org/about/Pages/default.aspx> (last visited Oct. 10, 2018).

<sup>51</sup> Conf. of State Bank Supervisors, NMLS, *2017 NMLS Money Services Businesses Industry Report*, (Sept. 2018), available at <https://mortgage.nationwidelicingsystem.org/about/Reports/2017-NMLS-Money-Services-Businesses-Report.pdf>.



remittance transfer providers specifically. If an MSB operates only in states that do not collect administrative data (or that collect these data but do not report it via NMLS), then the MSB Industry Report will not reflect its activity. Thus, the information in Section 3 will not reflect this activity.

### 1.2.3 Bank and credit union call reports

Banks and credit unions are required to submit quarterly call reports by the Federal Financial Institutions Examination Council (FFIEC) and the National Credit Union Administration (NCUA), respectively. The majority of questions on both call reports deal specifically with safety and soundness issues; however, in 2013 both the FFIEC and NCUA instituted changes to their call report forms that ask responding institutions about their participation in the remittance transfer market.

Banks are asked a series of questions about whether and how they provide remittance transfers in the June and December call reports.<sup>52</sup> In June of each year, respondents are asked if their institutions “provide more than 100 remittance transfers in the previous calendar year...” or if the respondent estimates that “...it will provide more than 100 international remittance transfers in the current year.”<sup>53</sup> The call report defines remittance transfers to match the Remittance Rule. Respondents that answer the question and meet other conditions are asked to report the number and dollar volume of remittance transfers provided by the institution in their December and June call reports.

Respondents to the credit union call report are required to provide the number of international remittances (defined to match the Remittance Rule) originated by the institution year-to-date in every quarterly call report.<sup>54</sup> Additionally, credit union profiles with the NCUA ask credit unions whether they offer, or plan to offer in the next six months, remittance transfer services to their members.

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<sup>52</sup> See Schedule RC-M of the FFIEC Call Report. The June 2018 report is the current version, and is available here: [https://www.ffiec.gov/pdf/FFIEC\\_forms/FFIEC041\\_201806\\_f.pdf](https://www.ffiec.gov/pdf/FFIEC_forms/FFIEC041_201806_f.pdf)

<sup>53</sup> Schedule RC-M, question 16.b. RCON N521

<sup>54</sup> See question 12 of the Miscellaneous Information section of the credit union Call Report. The September 2018 report is the current version, and is available here: <https://www.ncua.gov/regulation-supervision/Pages/documents/effective-20170930-form-5300.pdf>

## 1.2.4 Industry survey

In spring 2018, the Bureau conducted a voluntary survey of remittance transfer providers to help understand their experiences with the Remittance Rule (industry survey).<sup>55</sup> The Bureau identified a representative sample of 200 banks and 200 credit unions to participate in the survey, and also included every MSB the Bureau could find contact information for (approximately 150 MSBs). The Bureau conducted the survey by email and did selective follow-up phone calls and email outreach to encourage participation.

The Bureau received 69 responses: 27 from MSBs, 25 from banks, and 17 from credit unions. Not every respondent answered every question, so the total responses may differ depending on the survey question. In examining the responses, the Bureau identified six banks and credit unions that had either entered information incorrectly or had included non-remittance transfers in their responses. When this report discusses the calculations using the survey, it excludes these six banks and credit unions from the analysis, but includes their qualitative responses.<sup>56</sup>

The MSBs that responded to the survey transferred 58% of the total remittance transfers that the Bureau calculates were provided by MSBs in 2017 (see Section 3.2.2) and 59% of the dollars transferred by MSBs. Banks responding to the survey and included in the analysis provided a smaller share of remittance transfers and dollars sent by banks, representing only 0.45% of bank transfers and 1.1% of dollars sent by banks. Credit unions responding to the survey and included in the analysis represented 48% of the total remittance transfers provided by credit unions in 2017; dollar volume data is not available for credit unions.

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<sup>55</sup> Off. of Mgmt. and Budget, Control Number 3170-0032, Consumer Financial Protection Bureau Request for Approval Under the Generic Clearance Compliance Costs and Other Effects of Regulations, [https://www.reginfo.gov/public/do/PRAViewIC?ref\\_nbr=201601-3170-001&icID=228071](https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=201601-3170-001&icID=228071) (last visited Oct. 1, 2018) (for Survey instrument).

<sup>56</sup> The Bureau's general rule for deciding which quantitative responses in the survey were not sufficiently reliable was based on a comparison to the data in the call reports, which bank and credit union officials attest are accurate. One bank or credit union reported the amount of dollars it transferred to be more than 1,000 times its reported call report values. This entity is excluded from the analysis. When the average transfer size for banks and credit unions was calculated, other survey respondents reported unusually high average transfer size. Six of the 42 respondent banks and credit unions reported an average transfer size above \$150,000. When the average transfer size is calculated for banks (a similar calculation cannot be done for credit unions because their call reports only include the number of transfers), only seven of 740 banks with transfers reported are above \$100,000. Only two are above \$150,000 (both with a small number of transfers) and the largest average is \$167,000. The Bureau confirmed that several of these banks or credit unions had lines of business that included non-remittance international money transfers. As a result, these six banks and credit unions are excluded from the analysis.

The information provided by this survey is limited, because the survey is not statistically representative of the market as a whole. The survey was informative nonetheless. The Bureau asked specific questions about the Rule’s provisions to better understand remittance transfer providers’ experience with the Rule and solicited responses from providers that may not have responded to the RFI. In addition, the survey helped the Bureau to better understand whether there are issues faced by remittance transfer providers that might not be apparent from other data sources.

## 1.2.5 Data from the Bureau’s supervision of remittance transfer providers

This assessment also uses transaction logs collected by the Bureau as part of its supervisory activities to understand the effect of certain provisions of the Rule. The Bureau collects data relevant to its supervision of relevant entities during periodic examinations. Data from these exams provide Bureau examiners with information necessary to evaluate compliance with consumer protection statutes and regulations. The data are collected through the Bureau’s supervision authority, so the remittance transfer providers covered only include those that the Bureau has examined, which may not be representative of the entire market.<sup>57</sup> In making calculations with these data, the Bureau was careful not to use data from providers whose data or systems were not sufficiently developed to warrant conclusions. Due to the sensitive nature of such examinations and the collection of data under the Bureau’s supervision authority, all identifying information for consumers was removed before the data were accessed for the assessment. Moreover, to protect the confidential supervisory information of each remittance transfer provider, this report only makes findings that combine multiple providers, thereby preventing identification of a single remittance transfer provider.

The assessment uses the information collected for supervisory activities for two purposes. The first is to discuss issues with industry compliance with the Rule in Section 3.3.2. The second is to discuss how consumers assert and rely on the rights established by the statute and implemented by the Rule as well as the effectiveness of specific rule provisions. In this market, the Bureau only has supervisory authority for the insured institutions that have total assets over \$10 billion and MSBs that qualify under the Bureau’s rule titled Defining Larger Participants of the International Money Transfer Market (*e.g.*, MSBs that send at least one million aggregate annual international money transfers).<sup>58</sup> This means that

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<sup>57</sup> Sections 1024 and 1025 of the Dodd-Frank Act, codified at 12 U.S.C. §§ 5514 and 5515.

<sup>58</sup> See 79 Fed. Reg. 56631 (Sept. 23, 2014); see also 12 C.F.R. § 1090.107.

the Bureau is unable to use these data to describe effects of the Rule’s provisions on smaller market participants. Last, supervisory data also only show an entity’s activity during the period the Bureau examined and so are not generally useful for examining changes over time or changes from before the Rule became effective.

## 1.2.6 Consumer complaints

One of the primary functions of the Bureau is collecting, investigating, and responding to consumer complaints. Consumer complaints can provide insight into problems that people are experiencing, and complaints about international money transfers are potentially informative regarding the effectiveness of the Rule. The Bureau does not verify the facts alleged in these complaints but it takes steps to confirm a commercial relationship between the consumer and the company.

## 1.2.7 Evidence from comments received from the Request for Information

The Bureau received approximately 40 comments in response to the RFI, most of which provided information about effects of the Remittance Rule. Commenters reported on their own experiences, and provided information from surveys and other types of research, regarding the overall effects of the Rule and the effects of particular Rule requirements that are within the scope of the assessment. This information is summarized in Appendix B and incorporated into other parts of the report as appropriate.<sup>59</sup> Overall:

- Approximately half the comments came from credit unions or trade associations that represent credit unions. A few of these associations conducted surveys among their members and reported results from the surveys.
- About 15% of the comments came from banks or trade associations that represent banks. A few of these associations conducted surveys among their members and reported results from the surveys.
- A few MSBs and one trade association representing MSBs reported on their experiences or the experiences of members.

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<sup>59</sup> Some commenters also directed the Bureau toward published research, which the Bureau reviewed and incorporated into other parts of the report as appropriate.

- Several consumer advocacy groups provided comments, one of which reported on a survey it conducted of consumers who send remittance transfers.

In addition, eight commenters reported results from surveys. Six of the surveys were conducted by trade associations of their members, one was a survey of small banks conducted by an independent research center, and one was a survey of consumers who send remittances conducted by a consumer advocacy group. The sample sizes for the seven that reported a sample size ranged from 53 to 811, with a median of 190. These surveys were conducted between 2013 and 2017.

The Bureau also received a number of comments that addressed certain other subjects on which the Bureau requested comment. These comments are also summarized in Appendix B.

## 1.2.8 Other sources of information

In addition to the primary sources of data discussed above, the Bureau reviewed a number of secondary sources of information, including reports suggested by commenters discussed above, the reports of other federal agencies, and published research on remittances. This report discusses and cites these reports in the relevant sections below. In addition, the Bureau held numerous conversations with industry groups, credit unions, banks, money transmitters, and consumer groups to understand their experiences with the Rule.

# 1.3 Background

## 1.3.1 What are remittance transfers?

As noted above, the definitions of remittances used by market participants and observers are sometimes limited to consumer-to-consumer transfers of small amounts of money, often made via MSBs by immigrants supporting friends and relatives in their home countries.<sup>60</sup> Not all such transfers involve

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<sup>60</sup> The United Nations estimated in 2017, the number of international migrants to be 258 million individuals worldwide. United Nations, *International Migration Report 2017*. Many international institutions center their definition of remittances on the concept of personal transfers, highlighting its important role in the market. The International Monetary Fund (IMF), for example, defines remittances as “funds and noncash items sent or given by individuals who have migrated to a new economy and become residents there, and the net compensation of border, seasonal, or other short-term workers who are

the electronic transfer of funds; conversely, consumers send electronic transfer of funds abroad not only to support other individuals but also to pay for goods and services.

The Remittance Rule defines remittance transfers very broadly. With certain exceptions, discussed in greater detail in Section 2, the Rule generally defines a “remittance transfer” as:

- the electronic transfer of funds (*e.g.*, it does not include situations where a sender mails funds directly to a recipient);
- requested by a sender (a consumer located in a state or whose account is located in a state who requests the transfer primarily for personal, family, or household purposes);
- to a designated recipient (a person or business located in a foreign country or whose account is located in a foreign country); and
- that is sent by a remittance transfer provider, regardless of whether the sender holds an account with the remittance transfer provider.<sup>61</sup>

Notably, the Rule provides that a sender is a consumer who requests the transfer for personal, family, or household purposes.<sup>62</sup> Thus, remittance transfers under the Rule include consumer-to-consumer transfers—which under some definitions is an essential characteristic of a remittance transfer—as well as consumer payments for goods and services.

Within this report, the Bureau uses the term “remittance transfers” and the verb form “to transfer remittances” to refer specifically to those transactions that meet the definition of remittance transfer in the Remittance Rule. The Bureau uses “remittances” when referring more generally to consumer-to-consumer cross-border transfers (although depending on the source of information, some consumer-to-business transfers may also be included). The Bureau notes that while definitions differ, remittance

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employed in an economy in which they are not resident.” See Int’l Monetary Fund, *Balance of Payments and International Investment Position Manual*, at 272 (6th Ed. BPM6, 2009), available at <http://www.imf.org/external/pubs/ft/bop/2007/pdf/bpm6.pdf>. However, a focus on personal transfers does not capture the entire volume of consumer fund transfers to recipients abroad. Other definitions attempt to capture more of this volume using more inclusive language. For example, the Bank for International Settlements frequently uses a broader definition for remittances, describing them as “cross-border person-to-person payments of relatively low value.” See Bank for Int’l Settlements and The World Bank, *General Principles for International Remittance Services*, at 2, (2007), available at <https://www.bis.org/cpmi/publ/d76.pdf>.

<sup>61</sup> Under the Rule, “sent by a remittance transfer provider” means that there must be an intermediary that is directly engaged with the sender to send an electronic transfer of funds to a designated recipient. The official staff commentary provides examples of direct engagement, which includes, among other things, taking funds upon a sender’s request from a consumer to send funds to a recipient located in a foreign country. See comment 30(e)-3.i.A-E.

<sup>62</sup> 12 C.F.R. § 1005.30(g).

transfers—*i.e.*, transactions covered by the Rule—include almost if not all consumer-to-consumer remittances made by formal means referenced in remittances data.

Finally, it is worth noting that most cross-border payment volume is characterized as business-to-business.<sup>63</sup> These transactions constitute most of the transfers that rely on the Society for Worldwide Interbank Financial Telecommunication (SWIFT) messaging system, which sent an average of nearly 15 million payment messages every day in the first four months of 2018.<sup>64</sup> While this is indicative of the vast scale of cross-border payments, most business-to-business transfers would not be considered remittances under any definition.

### 1.3.2 Measuring the remittance transfer market

As noted above, there is no single universally adopted definition of remittances used by regulators, industry stakeholders, and market observers. Data on the market for remittance transfers, as defined by the Rule, necessarily depends on the definition of remittance transfers, and so assembling a comprehensive quantitative picture of the remittance transfer market from available data is difficult.<sup>65</sup> When the report presents quantitative trends on the number and volume of remittance transfers and the effect of the Rule in Sections 3 and 4, it makes adjustments so that the data represent an estimate of covered remittance transfers if the underlying data uses a different definition than the Rule. The Bureau believes these adjustments are sufficient so that any conclusions apply to remittance transfers as defined by the Rule.

To illustrate just one important issue, consider the problem of measuring growth in the formal market. Observed growth in volume in a particular remittance corridor could represent not growth in the underlying total flow of funds but growth in the *share* of those funds transmitted via formal channels at

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<sup>63</sup> In 2015, such payments represented over 90% of all cross-border payment volume. EY, *#payments Volume 16*, at 12, available at <https://www.ey.com/Publication/vwLUAssets/ey-payments-insights-opinions-volume-16-gl/%24FILE/ey-payments-insights-opinions-volume-16.pdf>.

<sup>64</sup> SWIFT, *SWIFT in Figures, April 2018 YTD*, at 3, available at <https://www.swift.com/resource/swift-figures-april-2018>.

<sup>65</sup> For example, the World Bank publishes two estimates of remittances sent and received at the country level. First, these two estimates differ from each other, demonstrating that even within a single organization, settling on a single definition or method can be difficult. Furthermore, one of the two measures produces different estimates of the total amount of remittances sent globally and the total amount received; that result is, in actuality, an impossibility, as the total remittances sent from all countries precisely equals the total amount received. See The World Bank, *Migration and Remittances Data*, <http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data> (last updated Apr. 2018).

the expense of informal ones. For example, if a licensed MSB lowers the price of a remittance transfer, increases the speed and reliability of a transfer, or increases or improves its marketing, the MSB may plausibly attract consumers away not just from other MSBs or banks, but from other less-formal methods of transferring funds, such as individuals mailing prepaid cards to their families abroad. Therefore, a measure of the overall market for remittance transfers that relies on data produced by regulated financial institutions could thus show an increase in their volume, when in fact the actual volume of transfers overall did not change. Many related, similar challenges limit the confidence with which the remittance transfer market can be measured and, in some ways, analyzed in depth and detail.

Despite these challenges, the Bureau considered reviewing trends in the overall market for remittance transfers to be essential for understanding the context in which the Remittance Rule was adopted and for analyzing the effects of the Rule. This assessment report therefore provides estimates of the size of the market in Section 3.2.1. The analysis compares these estimates to those developed by other organizations.

### 1.3.3 Which consumers send remittance transfers and why?

A minority of consumers send remittance transfers. The Federal Deposit Insurance Corporation's (FDIC) biennial National Survey of Unbanked and Underbanked Households found that at least 5.7% of households sent at least one remittance in the 12 months that ended in June 2015. Of these households, the FDIC reports that roughly 40% sent a remittance in a given month. Note, the share of consumers who sent a remittance transfer covered by the Rule may be somewhat higher than the share that reported sending a remittance to the FDIC based on the survey question.<sup>66</sup> The FDIC's findings are commensurate with the findings of the Census Bureau in 2010, when they reported that, "[b]etween

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<sup>66</sup> See Susan Burhouse, et al., 2015 FDIC National Survey of Unbanked and Underbanked Households, at 107 (Underbanked Surv. Study Grp., 2016), available at <https://economicinclusion.gov/>. A further 5.4% of households were classified as "unknown," meaning that it is possible that, in actuality a somewhat larger share of households sent at least one remittance in the year than the 5.7% figure. *Id.* at 107. The FDIC's survey asked respondents whether they had "sen[t] money to family or friends living outside of the US." *Id.* at 74. This definition implicitly excludes a variety of transfers that would fall under the Remittance Rule including, for example, remittance transfers sent to merchants; therefore, the share of consumers who sent a remittance transfer covered by the Rule may be somewhat higher than the share that reported sending a remittance to the FDIC.



August 2007 and August 2008, 5% of all households reported sending monetary transfers to relatives and friends outside the United States.”<sup>67</sup>

More households use nonbanks than banks to send remittances: of those households that reported sending at least one remittance in 2015, nearly two-thirds reported using nonbanks to send, while less than one-third reported using banks.<sup>68</sup> As demonstrated in more detail below, while banks and nonbanks represent a roughly equal share of dollars remitted by U.S. households, nonbanks account for substantially more transactions than banks.

Consumers across a wide range of demographic factors measured by the FDIC sent at least some remittances. However, some sub-groups had a significantly higher propensity to remit than others. Most notably, about one-fifth of all households reported as Hispanic or Asian reported remitting in 2015.<sup>69</sup> Remittance-sending is also likelier to be observed among households who are employed; households with the lowest or highest levels of educational attainment; households in the middle of the income and age distributions; and households located in the principal cities of metropolitan areas.<sup>70</sup> While the FDIC did not ask about place of birth, the Census found that “84 percent [of households that reported sending monetary transfers abroad] were foreign born.”<sup>71</sup>

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<sup>67</sup> Elizabeth M. Grieco et al., Who in the United States Sends and Receives Remittances? An Initial Analysis of the Monetary Transfer Data from the August 2008 CPS Migration Supplement (U.S. Census Bureau, Immigration Stats. Staff, Population Div., Working Paper No. 87, 2008), available at <https://www.census.gov/library/working-papers/2010/demo/POP-twps0087.html>. Note again, the share of consumers who sent a remittance transfer covered by the Bureau’s Rule may be somewhat higher than the share that reported sending a remittance to the Census based on the survey question.

<sup>68</sup> Susan Burhouse, et al., 2015 FDIC National Survey of Unbanked and Underbanked Households, at 107, (Underbanked Surv. Study Grp., 2016), available at <https://economicinclusion.gov/>. There is some overlap between those groups; specifically, about 9% of remitting households reported using both banks and nonbanks to send remittances in 2015. *Id.* Fifteen percent of remitting households could not remember or otherwise did not report which method they used to remit. *Id.* Note also, the FDIC asks whether the respondent sent money abroad “using a bank” or “using a place other than a bank,” meaning the definition of bank and nonbank resulting from consumer’s responses do not align perfectly with the usage of this distinction elsewhere in this report. *Id.* at 74.

<sup>69</sup> Susan Burhouse, et al., 2015 FDIC National Survey of Unbanked and Underbanked Households, at 107, (Underbanked Surv. Study Grp., 2016), available at <https://economicinclusion.gov/>.

<sup>70</sup> Susan Burhouse, et al., 2015 FDIC National Survey of Unbanked and Underbanked Households, (Underbanked Surv. Study Grp., 2016), available at <https://economicinclusion.gov/>.

<sup>71</sup> Elizabeth M. Grieco et al., Who in the United States Sends and Receives Remittances? An Initial Analysis of the Monetary Transfer Data from the August 2008 CPS Migration Supplement, at 10 (U.S. Census Bureau, Immigration Stats. Staff, Population Div., Working Paper No. 87, 2008), available at <https://www.census.gov/library/working-papers/2010/demo/POP-twps0087.html>.

As shown below in Section 3.2.1, consumers in the U.S. send hundreds of millions of remittances each year. The number of consumers who report sending even one remittance is far smaller than this, so many (perhaps most) remitting consumers each send many remittances over the course of a year. This conclusion is supported by other evidence, such as the use of remittances reported by consumers who participated in focus groups convened by the Board of Governors of the Federal Reserve System (Federal Reserve Board) before preparing a Notice of Proposed Rulemaking in connection with the Remittance Rule.<sup>72</sup> It is also supported by the Census, which found that “[o]f all households that reported sending monetary transfers to relatives and friends outside the U.S. and the number of times money was sent, over half (54%) remitted between one to four times and about 30% remitted 10 or more times. On average, households sent monetary transfers 6 to 7 times during the previous 12 months.”<sup>73</sup>

Available data do not allow the Bureau to estimate with precision the circumstances in which consumers use remittances. Likely the most common remittance transfer involves those transfers sent by immigrants in the United States to family members and friends living in their country of origin. These remittance transfers provide a vital service to such consumers, allowing them to send critical resources to friends and family abroad.<sup>74</sup> The World Bank reports that such transfers “reduce the level and severity of poverty and lead to: higher human capital accumulation; greater health and education expenditures; better access to information and communication technologies; improved access to formal financial sector services; enhanced small business investment; more entrepreneurship; better preparedness for adverse shocks such as droughts, earthquakes, and cyclones; and reduced child labor” in remittance-receiving countries.<sup>75</sup>

While an immigrant sending funds to his or her family and friends abroad represents a well-documented use case for remittance transfers, use cases in this market vary substantially. A parent

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<sup>72</sup> Bureau of Consumer Fin. Prot., *Report on Remittance Transfers*, at 9–10, (July 20, 2011), available at [https://files.consumerfinance.gov/f/2011/07/Report\\_20110720\\_RemittanceTransfers.pdf](https://files.consumerfinance.gov/f/2011/07/Report_20110720_RemittanceTransfers.pdf).

<sup>73</sup> Elizabeth M. Grieco et al., *Who in the United States Sends and Receives Remittances? An Initial Analysis of the Monetary Transfer Data from the August 2008 CPS Migration Supplement*, at 10, (U.S. Census Bureau, Immigration Stats. Staff, Population Div., Working Paper No. 87, 2008), available at <https://www.census.gov/library/working-papers/2010/demo/POP-twps0087.html>.

<sup>74</sup> See Dean Yang, *Migrant Remittances*, 25 *U. of Mich., J. of Econ. Persps.* 3, 129–52, (2011) (for a summary of the literature on the uses of remittances by the recipient).

<sup>75</sup> The World Bank, *Understanding Poverty – Overview*, <http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/overview> (last visited Oct. 1, 2018).

transferring money to his or her child studying abroad is sending a remittance transfer, as is a consumer who sends money from the United States to a friend on vacation in a foreign country who has lost his or her wallet. A consumer may send himself or herself a remittance transfer; these so-called self-to-self remittance transfers might occur if an individual maintains bank accounts in multiple countries and wants to transfer funds between them. As noted above, consumer-to-business payments can also be considered remittance transfers.

These examples highlight the varied nature of consumer uses of remittances. As demographics, economies, and lifestyle preferences evolve, it is likely that the remittances market will shift and new consumer uses will emerge, reflecting changes in how consumers live, move, and handle their finances.

### 1.3.4 Background to the Remittance Rule

Measures of the market for remittances show that it grew significantly in the decades prior to the passage of the Dodd-Frank Act. From 1990 to 2008, the volume of certain outbound remittances from the United States increased nearly fivefold.<sup>76</sup> This growth in the market saw an attendant increase in regulation.<sup>77</sup>

In the United States, remittance transfers sent by MSBs, banks, and credit unions have generally been subject to federal anti-money laundering laws and restrictions on transfers to or from certain persons for a number of years. As noted in this report, MSBs are also subject to state licensing and (in some cases) state regulatory regimes, which vary widely. Notably, before the enactment of section 1073 of the Dodd-Frank Act, remittance transfers fell largely outside the scope of existing federal consumer protections. For instance, EFTA was enacted in 1978 to provide a basic framework establishing the rights, liabilities, and responsibilities of participants in electronic fund transfer (EFT) systems. As implemented by Regulation E (12 C.F.R. part 1005), EFTA governed transactions such as transfers initiated through automated teller machines, point-of-sale terminals, Automated Clearing House (ACH) systems, telephone bill payment plans, or remote banking services. However, prior to the enactment of

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<sup>76</sup> See The World Bank, *Migration and Remittances Data*, <http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data> (last updated Apr. 2018).

<sup>77</sup> The broader growth in both remittances and cross-border transactions more generally also saw a parallel increase in interest in building a regulatory framework to prevent bad actors from utilizing the financial system to effect cross-border transactions. Other regulations relating to cross-border transactions are discussed further in Section 3.2.8.

section 1073 of the Dodd-Frank Act, Congress had specifically structured EFTA to exclude wire transfers, and transfers sent by MSBs also generally fell outside the scope of the original Regulation E.<sup>78</sup>

Following the financial crisis and “Great Recession” of the late 2000s, Congress passed the Dodd-Frank Act in 2010 with the stated intent of “improving accountability and transparency in the financial system.”<sup>79</sup> The Dodd-Frank Act established the Bureau, and transferred responsibility for implementing several preexisting statutes to the Bureau, including EFTA. As discussed in greater detail in Section 2 of this report, section 1073 of the Dodd-Frank Act amended EFTA by adding a new section 919 addressing remittance transfers.<sup>80</sup> It specifically charged the Bureau with implementing regulations for section 1073 within 18 months of the passage of the Dodd-Frank Act.

Section 2 lays out the history of the Bureau’s remittance transfer rulemakings and the content of the Remittance Rule. As noted above, the Remittance Rule is only one part of the broader regulatory framework that applies to remittance transfers. This larger regulatory environment is discussed in Section 3.2.8.

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<sup>78</sup> The original Regulation E became Subpart A when the new remittance transfer rules were added to what became Subpart B.

<sup>79</sup> Pub. L. No. 111–203, 124 Stat. 1376 (2010).

<sup>80</sup> 15 U.S.C. 16930–1.

## 2. The Remittance Rule

This section discusses the statutory background for and the major provisions of the Remittance Rule.

### 2.1 Statutory background

As noted in Section 1.1.2, the Dodd-Frank Act amended EFTA by adding a new section 919 to create a comprehensive system of consumer protection for remittance transfers sent by consumers in the United States to individuals and businesses in foreign countries.<sup>81</sup> EFTA section 919 includes four general new requirements for remittance transfers:

1. Mandates that remittance transfer providers disclose the exchange rate, the amount to be received, and other information both prior to and at the time the consumer pays for the transfer;<sup>82</sup>
2. Provides for federal rights regarding consumer cancellation and refund policies;<sup>83</sup>
3. Requires remittance transfer providers to investigate disputes and remedy errors regarding remittance transfers;<sup>84</sup> and

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<sup>81</sup> 15 U.S.C. § 1693 *et seq.* EFTA section 919 is codified at 15 U.S.C. § 16930-1.

<sup>82</sup> 15 U.S.C. § 16930-1(a)(1) and (2).

<sup>83</sup> 15 U.S.C. § 16930-1(d).

<sup>84</sup> 15 U.S.C. § 16930-1(d). The statute mandates that all remittance transfer providers investigate and remedy errors that are reported by the sender within 180 days of the promised date of delivery, specifically including situations in which the amount of currency designated in the disclosures was not in fact made available to the recipient in the foreign country. 15 U.S.C. § 16930-1(d).

4. Establishes standards for the liability of remittance transfer providers for the acts of their agents.<sup>85</sup>

The requirements apply broadly. EFTA section 919(g)(2) defines “remittance transfer” to include all electronic transfers of funds to recipients located in foreign countries that are initiated by a remittance transfer provider upon the request of consumers in the United States; only very small dollar transfers are excepted by the statute. However, EFTA also provides certain exclusions and limitations. For example, it excludes companies that do not provide remittance transfers in the “normal course of business” from the definition of remittance transfer provider.<sup>86</sup>

## 2.2 Remittance Rule overview

This section describes the February 2012 Final Rule,<sup>87</sup> as well as certain, relevant amendments that the Bureau made to that rule to implement section 919 of EFTA by creating a new subpart B to Regulation E.<sup>88</sup> The February 2012 Final Rule, among other things, defined remittance transfers and remittance transfer providers; specified the information that must be disclosed to consumers who send remittance transfers and certain exceptions to these disclosures; provided consumers with cancellation and refund rights; and specified procedures and other requirements for providers to follow in resolving errors.<sup>89</sup> The February 2012 Final Rule also implemented a statutory temporary exception in EFTA section

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<sup>85</sup> 15 U.S.C. § 16930-1(f).

<sup>86</sup> As discussed further in Section 3.1.1, the statute thus expands the scope of EFTA, which has historically focused on electronic fund transfers involving “accounts” held at financial institutions, including banks, credit unions, and other companies that directly or indirectly hold checking, savings, or other assets accounts. The remittance transfer provisions, in contrast, apply regardless of whether the consumer holds an account with the remittance transfer provider or whether the remittance transfer is also an “electronic fund transfer” as defined under EFTA. *See* 15 U.S.C. § 16930-1(g)(2) (defining “remittance transfer”).

<sup>87</sup> The February 2012 Final Rule established the rule in a new subpart B to the Bureau’s Regulation E. *See* 12 C.F.R. § 1005.77.

<sup>88</sup> EFTA authorizes the Bureau to issue regulations necessary to carry out the purposes of the statute, which are to establish “the rights, liabilities, and responsibilities of participants in electronic fund and remittance transfer systems” and to provide “individual consumer rights.” 15 U.S.C. § 16930-1(b).

<sup>89</sup> *See* 77 Fed. Reg. 6194 (Feb. 7, 2012).

919(a)(4) permitting insured institutions to estimate, under certain circumstances, the amount of currency that the recipient will receive (the “temporary exception”).<sup>90</sup>

The Bureau subsequently amended the February 2012 Final Rule several times to delay temporarily the effective date and address important questions raised by industry, consumer advocacy groups, and other stakeholders. The Bureau determined that these amendments were necessary 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.<sup>91</sup>

## 2.2.1 Amendments to the Rule considered in the assessment

As discussed in Section 1, the Bureau has determined that the February 2012 Final Rule and several amendments related to it—referred to in this report as the Remittance Rule—collectively make up a significant rule for purposes of determining that an assessment is required under the Dodd-Frank Act. The amendments that the Bureau considered as part of the assessment are described below.

*August 2012 Final Rule.* In August 2012, the Bureau amended the February 2012 Final Rule to, among other things, add 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 transfer providers.<sup>92</sup> The August 2012 Final Rule also contained provisions that apply to preauthorized remittance transfers and one-time

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<sup>90</sup> 77 Fed. Reg. 6194 (Feb. 7, 2012).

<sup>91</sup> 82 Fed. Reg. 15009, 15010 (Mar. 24, 2017).

<sup>92</sup> 77 Fed. Reg. 50243 (Aug. 20, 2012). In the August 2012 Final Rule, the Bureau explained that it believed that a safe harbor would reduce compliance burden by increasing legal certainty in the market. Without a safe harbor, some persons who had been providing remittance transfers at the time of the February 2012 Final Rule, or were contemplating doing so, could have faced uncertainty and litigation risk as to whether under the Rule’s facts and circumstances test they met the definition of “remittance transfer provider” when they provided a small number of transfers in a given year. *Id.* at 50249-50. The Bureau had initially proposed 25 transfers as a potential threshold. However, after reviewing comments responding to the proposed threshold, the Bureau decided to establish a 100-threshold safe harbor. The Bureau explained several reasons for the 100-transfer threshold including that the threshold was high enough that persons would not risk exceeding the safe harbor based on the needs of just two or three customers seeking monthly transfers, and was low enough to serve as a reasonable basis for identifying persons who occasionally provide remittance transfers, but not in the normal course of their business. *Id.* at 50251.

remittance transfers scheduled in advance of the transfer date, including a provision that permits a remittance transfer provider, in some circumstances, to provide estimates for certain disclosures.<sup>93</sup>

*May 2013 Final Rule.* To ensure continued access to remittance transfer services, the Bureau issued a rule in May 2013 to make it optional in some circumstances to disclose certain third-party fees and foreign taxes.<sup>94</sup> For these fees and taxes, estimates may be provided. This rule also created certain exceptions to the general error resolution provisions.<sup>95</sup>

*August 2013 Final Rule.* In August 2013, the Bureau published a clarificatory amendment and a technical correction to the May 2013 Final Rule.<sup>96</sup>

*September 2014 Final Rule.* In September 2014, the Bureau issued a final rule extending the temporary exception that permits insured institutions to estimate, under certain circumstances, the amount that the recipient will receive. The Bureau extended the temporary exception by five years from July 21, 2015, to July 21, 2020, based on its determination that a failure to do so would negatively affect the ability of insured institutions to send remittance transfers.<sup>97</sup> The Bureau also made several clarifications and technical corrections to the regulatory text and commentary.<sup>98</sup>

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<sup>93</sup> 77 Fed. Reg. 50243 (Aug. 20, 2012).

<sup>94</sup> 78 Fed. Reg. 30662 (May 22, 2013). See *infra* note 130 for a discussion of the Bureau's rationale for creating this exception.

<sup>95</sup> The exceptions applied to situations in which a remittance transfer is not delivered to a recipient's account because the sender provided an incorrect account number or recipient institution identifier that resulted in the transferred funds being deposited in the wrong account. 78 Fed. Reg. 30662, 30681-86 (May 22, 2013).

<sup>96</sup> 78 Fed. Reg. 49365 (Aug. 14, 2013). The Bureau's clarifying amendment related to the measures a provider is required to take to remedy certain errors under 12 C.F.R. § 1005.33(c)(2)(iii). The clarification explained that this provision requires a remittance transfer provider to refund or, at the consumer's request, reapply to a new transfer, the total amount that the sender paid to the provider but to permit the provider to deduct from this amount fees actually imposed and, where not otherwise prohibited by law, taxes actually collected as part of the first unsuccessful remittance transfer attempt.

<sup>97</sup> 79 Fed. Reg. 55970 (Sept. 18, 2014).

<sup>98</sup> The September 2014 Final Rule included five clarifications. *First*, the September 2014 Final Rule clarified that U.S. military installations abroad are considered to be located in a state for purposes of the rule. *Second*, the September 2014 Final Rule clarified that whether a remittance transfer from an account is for personal, family, or household purposes (and thus, whether the transfer could be a remittance transfer) may be determined by ascertaining the primary purpose of the account. *Third*, the September 2014 Final Rule clarified that faxes are considered writings for purposes of satisfying certain provisions of the rule that require remittance transfer providers to provide disclosures in writing, and that, in certain circumstances, a provider may provide oral disclosures after receiving a remittance inquiry from a consumer in writing. *Fourth*, September 2014 Final Rule permits providers to include the Bureau's new remittance-specific consumer webpages as the Bureau website that providers must disclose on remittance transfer receipts. *Fifth*, the September 2014 Final Rule



## 2.2.2 Other rules affecting remittance transfers

The Bureau also issued other rules that affect remittance transfers but that were not considered in the assessment because these rules did not amend the substantive requirements of the Remittance Rule (*i.e.*, subpart B of Regulation E).<sup>99</sup>

## 2.3 Scope of the Remittance Rule

Generally, the Remittance Rule applies to transactions that qualify as remittance transfers.<sup>100</sup>

Remittance transfers are electronic transfers of funds that are more than \$15 and that are requested by consumers in the United States and sent to people or companies in foreign countries by a remittance transfer provider on the consumer's behalf.<sup>101</sup> These transfers include several types of international transfers, including cash-to-cash money transfers, international wire transfers and international ACH transactions that are typically deposited into accounts located in other countries, and certain prepaid card transfers.<sup>102</sup>

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clarified two of the rule's error resolution provisions: What constitutes an "error" caused by delays related to fraud and related screenings, and the remedies for certain errors, including the clarification of a comment in the official interpretation to the rule. 79 Fed. Reg. 55970 (Sept. 18, 2014).

<sup>99</sup> On September 23, 2014, under its authority to define larger participants of certain consumer financial product and service markets, the Bureau issued a rule to define larger participants of a market for international money transfers. This final rule identified a market for international money transfers and defined "larger participants" of this market that are subject to the Bureau's supervisory authority. 79 Fed. Reg. 56631 (Sept. 23, 2014). Then, on November 22, 2016, a Bureau final rule generally extending Regulation E protection to prepaid accounts (the "Prepaid Rule") was published in the *Federal Register*. The Prepaid Rule adopted a definition of "prepaid account" and as a result, a number of prepaid products that were not previously considered accounts under Regulation E subpart A will be considered accounts once the Prepaid Rule goes into effect. The Bureau made certain clarifications to the Remittance Rule to make clear that it intended to continue treating transfers from most prepaid products as non-account based transfers for purposes of the Remittance Rule. 81 Fed. Reg. 83934 (Nov. 22, 2016). For additional discussion of all of the rules the Bureau has adopted that amended the Remittance Rule, see the RFI. 82 Fed. Reg. 15009, 15010-11 (Mar. 24, 2017).

<sup>100</sup> 12 C.F.R. § 1005.30(e).

<sup>101</sup> 12 C.F.R. § 1005.30(e)(2)(i).

<sup>102</sup> 12 C.F.R. § 1005.30(e)(1).

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 that person.<sup>103</sup> Whether a person provides transfers in the normal course of business depends on the facts and circumstances, such as the total number and frequency of transfers sent.<sup>104</sup> To make this determination easier, the Remittance Rule provides a safe harbor if a person provides 100 or fewer remittance transfers in both the previous and the current calendar years. That person is not considered to be providing remittance transfers in the normal course of business and therefore is exempt from the Remittance Rule.<sup>105</sup>

## 2.4 Major provisions of the Remittance Rule

Below the report describes the three major topics addressed in the Remittance Rule. As indicated, many of the requirements in the Rule, which was promulgated to implement the requirements in EFTA, closely mirror those EFTA requirements. In other places, the Bureau adjusted or elaborated on the statutory requirements to address implementation concerns and other considerations.

### 2.4.1 Disclosure obligations (§§ 1005.31 and 1005.32)

As specifically required by EFTA section 919(a)(2)(A),<sup>106</sup> the Remittance Rule generally requires a provider to give two disclosures—a pre-payment disclosure and a receipt—to their customers (referred

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<sup>103</sup> 12 C.F.R. § 1005.30(f)(1). Money transmitters, banks, credit unions, and broker-dealers can be remittance transfer providers.

<sup>104</sup> 12 C.F.R. § 1005.30, comment 30(f)-2. The comment notes that, for example, if a financial institution generally does not make international consumer wire transfers available to customers, but sends a couple of international consumer wire 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 international consumer wire transfers generally available to customers (whether described in the institution's deposit account agreement, or in practice) and makes transfers multiple times per month, the institution provides remittance transfers in the normal course of business.

<sup>105</sup> 12 C.F.R. § 1005.30(f)(2)(i).

<sup>106</sup> EFTA section 919(a)(2)(A) states that the remittance transfer provider shall provide a disclosure “at the time at which the sender requests a remittance transfer to be initiated, and prior to the sender making any payment in connection with the remittance transfer” and EFTA section 919(a)(2)(B) states that the provider shall provide a receipt “at the time at which the sender makes payment in connection with the remittance transfer.”

to in the Rule and this report as “senders”).<sup>107</sup> Amounts disclosed must be exact, although as discussed in detail below, providers can estimate certain amounts in certain limited circumstances.<sup>108</sup> Disclosures must always be made in English. In certain circumstances, a provider must also provide disclosures in a foreign language.<sup>109</sup>

*Pre-payment disclosure.* The Remittance Rule requires that the first disclosure—known as a pre-payment disclosure—be given to the sender before he or she pays for the remittance transfer.<sup>110</sup> The pre-payment disclosure must contain specific information about a remittance transfer, such as any fees imposed by the remittance transfer provider directly,<sup>111</sup> the exchange rate, if any,<sup>112</sup> certain applicable fees and taxes that will be imposed on the transfer by downstream parties,<sup>113</sup> and the amount to be received by the recipient.<sup>114</sup>

*Receipt.* The Remittance Rule requires that a provider also give senders a receipt when payment is made.<sup>115</sup> The receipt must include the information provided on the pre-payment disclosure,<sup>116</sup> as well as

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<sup>107</sup> 12 C.F.R. § 1005.31(b)(1) and (2). As an alternative to providing a written receipt, the Rule allows a provider to give a single written disclosure prior to payment containing all of the information required on the receipt, so long as the remittance transfer provider also provides proof of payment. 12 C.F.R. § 1005.31(b)(3).

<sup>108</sup> 12 C.F.R. § 1005.31(b).

<sup>109</sup> 12 C.F.R. § 1005.31(g). The Rule generally requires that the remittance transfer provider either provide a sender disclosures in each of the foreign languages principally used by the provider to advertise, solicit, or market remittance transfer services at the office in which a sender conducts a transaction or asserts an error.

<sup>110</sup> 12 C.F.R. § 1005.31(b)(1). The Rule’s pre-payment disclosure requirements closely track EFTA, which requires that a remittance transfer provider give the consumer a disclosure that includes “the amount of currency that will be received by the [recipient], using the values of the currency into which the funds will be exchanged; the amount of transfer and any other fees charged by the [provider] for the remittance transfer; and any exchange rate to be used by the [provider] for the [transfer], to the nearest 1/100th of a point.” 15 U.S.C. § 1693o-1(a)(2)(A).

<sup>111</sup> 12 C.F.R. § 1005.31(b)(1)(ii).

<sup>112</sup> 12 C.F.R. § 1005.31(b)(1)(iv).

<sup>113</sup> 12 C.F.R. § 1005.31(b)(1)(ii) and (vi). If the remittance transfer provider does not include covered third-party fees or foreign taxes in the amount to be received, the disclosure must also include a statement indicating that non-covered third-party fees or taxes collected on the transfer by a person other than the provider may apply to the transfer and result in the recipient receiving less than the amount disclosed. 12 C.F.R. § 1005.31(b)(1).

<sup>114</sup> 12 C.F.R. § 1005.31(b)(1)(vii).

<sup>115</sup> 12 C.F.R. § 1005.31(b)(2). The Rule’s receipt requirements closely track EFTA, which requires that the receipt contain the information included on the pre-payment disclosure, as well as additional information related to “the promised date of

certain additional information, such as the date of availability of the funds<sup>117</sup> and information regarding the sender's error resolution and cancellation rights.<sup>118</sup>

*Combined disclosure.* Instead of providing a separate pre-payment disclosure and receipt, a provider may opt to provide a single combined disclosure before the sender pays for the transfer, so long as proof of payment is given when payment is made.<sup>119</sup>

## 2.4.2 Exceptions to disclosure requirements

EFTA<sup>120</sup> and the Remittance Rule generally require the disclosure of exact amounts, like the fees and exchange rate, that apply to a remittance transfer.<sup>121</sup> There are, however, exceptions to this requirement, which are described below.

### Temporary exception for insured institutions

EFTA section 919(a)(4) provides a temporary exception through July 21, 2015, for insured institutions, which allows insured institutions to provide estimated disclosures regarding the amount of currency that will be received by the designated recipient where exact information could not be determined for reasons beyond their control.<sup>122</sup> This temporary exception was provided in apparent recognition of the fact that institutions might be unable to send some remittance transfers to certain parts of the world

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delivery to the [recipient], and the name and either the telephone number or the address of the [recipient]. . . and a statement containing information about the rights of the sender . . . regarding the resolution of errors; and appropriate contact information for the [provider], and the State agency that regulates the [provider] and the Bureau, including the toll-free telephone number.” 15 U.S.C. § 16930-1(a)(2)(B).

<sup>116</sup> 12 C.F.R. § 1005.31(b)(2)(i).

<sup>117</sup> 12 C.F.R. § 1005.31(b)(2)(ii).

<sup>118</sup> 12 C.F.R. § 1005.31(b)(2)(iv).

<sup>119</sup> 12 C.F.R. § 1005.31(b)(3).

<sup>120</sup> 15 U.S.C. § 16930-1(a)(4).

<sup>121</sup> 12 C.F.R. § 1005.31.

<sup>122</sup> 15 U.S.C. § 16930-1(a)(4)(A).

they currently serve and therefore would need time to improve communications with foreign financial institutions that conduct currency exchanges or impose fees on certain open network transactions.<sup>123</sup>

The Remittance Rule implements this statutory temporary exception, recognizing that an estimate of the amount of currency would implicate other required disclosures as well.<sup>124</sup> Specifically, the Rule allows for estimates for disclosures related to the exchange rate and certain fees, along with the amount that will be received by the recipient, if the provider meets certain conditions.<sup>125</sup>

EFTA section 919(a)(4) permits the Bureau to extend the exception for not longer than ten years after the date of the enactment of the Dodd-Frank Act if the Bureau determined that termination of the exception would negatively affect the ability of remittance transfer providers to send remittance transfers to locations in foreign countries. The Bureau so found and extended the temporary exception by five years from July 21, 2015, to July 21, 2020, and published an amendment to the rule in the *Federal Register* on September 18, 2014.<sup>126</sup>

## Exception for transfers to certain countries

EFTA also allows the Bureau to prescribe rules to except transfers to certain countries if the Bureau determines that a recipient country does not legally allow, or that the method by which the transactions are made in the recipient country does not allow, a remittance transfer provider to know the amount of currency that will be received by the recipient.<sup>127</sup>

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<sup>123</sup> As discussed in the February 2012 Final Rule, the Bureau understood that this exception was intended to avoid an immediate disruption of remittance transfer services by insured institutions using international wire transfers. The exception was intended to give these institutions time to reach agreements and modify systems to provide accurate disclosures. 77 Fed. Reg. 6194, 6196 (Feb. 7, 2012). See Section 3.1.1 for more information about closed network and open network systems.

<sup>124</sup> 77 Fed. Reg. 6194 (Feb. 7, 2012).

<sup>125</sup> Specifically, a remittance transfer provider may estimate: (1) The exchange rate used by the provider; (2) the total amount that will be transferred to the recipient inclusive of covered third-party fees, if any; (3) any covered third-party fees; and (4) the amount that will be received by the recipient (after deducting covered third-party fees). 12 C.F.R. § 1005.32(a). The conditions to use this exception are: (1) The provider must be an insured institution; (2) the provider must not be able to determine the exact amounts for reasons beyond its control; and (3) the transfer must be sent from the sender's account with the provider. 12 C.F.R. § 1005.32(a)(1).

<sup>126</sup> 79 Fed. Reg. 55970 (Sept. 18, 2014).

<sup>127</sup> 15 U.S.C. § 16930-1(c).

To implement EFTA section 919(c), the Remittance Rule permits estimates on transfers to certain countries 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.<sup>128</sup> In addition, pursuant to the February 2012 Final Rule, the Bureau publishes a safe harbor list of countries that qualify for this exception. The list contains countries and other areas whose laws the Bureau believes, based on its interpretation of the permanent exception and relevant countries' laws, prevent providers from determining, at the time the required disclosures must be provided, the exact exchange rate on the date of availability for a transfer involving a currency exchange. The most recent list is comprised of Aruba, Brazil, China, Ethiopia, and Libya.<sup>129</sup>

## Option to disclose certain fees and taxes

The Remittance Rule also includes an exception related to the disclosure of certain third-party fees and foreign taxes.<sup>130</sup> Specifically, pursuant to this exception, a remittance transfer provider, may but is not required to disclose: (1) fees imposed on the remittance transfer for receiving a transfer into an account by a recipient's bank, credit union, or similar institution where such institution is not an agent of the provider; and (2) foreign taxes imposed on the transaction.<sup>131</sup> A provider may choose to estimate the amounts of these fees and taxes based on reasonable sources of information.<sup>132</sup>

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<sup>128</sup> 12 C.F.R. § 1005.32(b)(1).

<sup>129</sup> On September 26, 2012, the Bureau issued the safe harbor list of countries and published it on the Bureau's website. On November 5, 2013, the Bureau published the most recent list, which was unchanged from the prior release, in the *Federal Register*. The Bureau recognized that the list may need to change and it welcomed suggestions for additions or deletions to the list. 78 Fed. Reg. 66251, 66251-52 (Nov. 5, 2013).

<sup>130</sup> 77 Fed. Reg. 30662 (May 22, 2013). The Bureau explained that the exceptions were necessary and proper both to effectuate the purposes of EFTA and to facilitate compliance with the rule. *Id.* at 30668, 30676. With respect to allowing estimation of fees, the Bureau noted several concerns, including that requiring disclosure of such fees in cases in which the recipient institution is not an agent of the provider would have either required a substantial delay in implementation of the overall Dodd-Frank Act regime for remittance transfers or produced a significant contraction in access to remittance transfers, particularly for less popular corridors. Regarding the estimation of foreign taxes, the Bureau explained that while this information is important for consumers, the Bureau was concerned that requiring disclosure of taxes collected by a person other than the provider could have produced increased costs for all transactions or resulted in a significant contraction in access to remittance transfers, particularly for less popular corridors. The Bureau determined that these results would have substantially harmed consumers and undermined the broader purposes of the statutory scheme. *Id.* at 30672, 30676.

<sup>131</sup> 12 C.F.R. § 1005.32(b)(3).

<sup>132</sup> 12 C.F.R. § 1005.32(b)(3); comment 32(b)(3)-1.

## Transfers scheduled before the date of the transfer

Finally, the Remittance Rule includes an exception permitting a remittance transfer provider to provide estimates of certain amounts required to be disclosed for some types of remittance transfers that are scheduled in advance of the date of the transfer.<sup>133</sup>

### 2.4.3 Cancellation and refund rights (§ 1005.34)

As required by EFTA,<sup>134</sup> the Remittance Rule provides consumers with the right to cancel certain transactions and get a refund.<sup>135</sup>

*Cancellation rights.* Except for remittance transfers scheduled before the date of transfer, a sender can cancel a remittance transfer for up to 30 minutes after payment, as long as (i) the funds have not yet been picked up or deposited, and (ii) the sender provides specified sender contact information and enough information for the provider to identify the transaction.<sup>136</sup>

*Refund rights.* The Remittance Rule requires that, within three business days of receiving a sender's timely cancellation request, a remittance transfer provider must provide a refund, at no additional cost to the sender, of the total amount of funds the sender provided in connection with the remittance transfer, including, to the extent not prohibited by law, taxes.<sup>137</sup>

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<sup>133</sup> Specifically, the Rule provides that for disclosures for transfers scheduled before the date of transfer (and each subsequent preauthorized transfer), estimates may be provided for the amounts to be disclosed if the remittance transfer is scheduled by a sender five or more business days before the date of the transfer. 12 C.F.R. § 1005.32(b)(2)(i). Covered third-party fees, however, may be estimated only if the exchange rate is also estimated and the estimated exchange rate affects the amount of such fees. In addition, fees imposed and taxes collected on the remittance transfer by the provider may be estimated only if the amount that will be transferred in the currency in which it is funded is also estimated, and the estimated amount affects the amount of such fees and taxes. 12 C.F.R. § 1005.32(b)(2)(ii) and (iii).

<sup>134</sup> 15 U.S.C. § 16930-1(d)(3).

<sup>135</sup> 12 C.F.R. § 1005.34.

<sup>136</sup> 12 C.F.R. § 1005.34. The Rule contains special cancellation requirements for certain remittance transfers scheduled before the date of transfer, including preauthorized remittance transfers. Specifically, the Rule states that 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 meets certain conditions. 12 C.F.R. § 1005.36(c).

<sup>137</sup> 12 C.F.R. § 1005.34(b).

## 2.4.4 Error resolution (§ 1005.33)

As required by EFTA,<sup>138</sup> the Remittance Rule includes error resolution requirements and processes.<sup>139</sup> The Remittance Rule implements the statutory requirement that a remittance transfer provider must 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.<sup>140</sup> The Remittance Rule also specifies the identifying information that must be included in the notice from the sender to trigger the error resolution provisions<sup>141</sup> and provides further clarification concerning whether the notice is considered timely.<sup>142</sup>

To implement EFTA section 919(d)(1)(B), the Remittance Rule also requires that if the sender sends a timely and complete notice as provided for in the Rule, the remittance transfer provider must investigate and determine whether an error has occurred within 90 days of receiving an error notice.<sup>143</sup> The Remittance Rule further requires the provider to report its investigation results to the consumer in writing within three business days after completing the investigation.<sup>144</sup> In addition, the Rule requires the provider to correct the error “within one business day of, or as soon as reasonably practicable, after

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<sup>138</sup> 15 U.S.C. § 16930-1(d)(1) and (2).

<sup>139</sup> 12 C.F.R. § 1005.33.

<sup>140</sup> 15 U.S.C. § 16930-1(d)(1); 12 C.F.R. § 1005.33(b).

<sup>141</sup> The Rule requires that the notice from the sender “enable[] the provider to identify the sender’s name and telephone number or address; the recipient’s name, and if known, the telephone number or address of the recipient; and the remittance transfer to which the notice of error applies.” 12 C.F.R. § 1005.33(b)(1)(ii) (internal numbering references omitted). The Rule also requires that the notice indicate why the sender believes an error exists and include information about the error, if possible. 12 C.F.R. § 1005.33(b)(1)(iii).

<sup>142</sup> The Rule states, “When a notice of error is based on documentation, additional information, or clarification that the sender previously requested . . . the sender’s notice of error is timely if received by the [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.” 12 C.F.R. § 1005.33(b)(2).

<sup>143</sup> 12 C.F.R. § 1005.33(c)(1). The Rule requires a provider to “investigate promptly and determine whether an error occurred within 90 days of receiving a notice of error.” *Id.*

<sup>144</sup> 12 C.F.R. § 1005.33(c)(1). The Rule requires a provider to “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.” *Id.*



receiving the sender’s instructions regarding the appropriate remedy.”<sup>145</sup> Furthermore, the Remittance Rule also includes certain remedies that depend on the type of error.<sup>146</sup>

*Record keeping requirements.* To implement EFTA section 919(d)(2),<sup>147</sup> the Remittance Rule includes certain record keeping requirements. The Rule’s requirements state that a provider must develop and maintain written policies and procedures to ensure compliance with the rule’s error resolution requirements applicable to remittance transfers.<sup>148</sup>

*Liability for agents.* To implement EFTA section 919(f),<sup>149</sup> the Remittance Rule provides that a remittance transfer provider is liable for any violation of the Rule by an agent or authorized delegate when that party acts on the provider’s behalf.<sup>150</sup>

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<sup>145</sup> 12 C.F.R. § 1005.33(c)(2).

<sup>146</sup> 12 C.F.R. § 1005.33(c)(2).

<sup>147</sup> EFTA provides that “[t]he Bureau shall establish . . . clear and appropriate standards for remittance transfer providers with respect to error resolution relating to remittance transfers, to protect senders from such errors [which] shall include appropriate standards regarding record keeping, as required, including documentation of the complaint of the sender; that the sender provides the [provider] with respect to the alleged error; and of the findings of the [provider] regarding the investigation of the alleged error that the sender brought to their attention.” 15 U.S.C. § 16930-1(d)(2) (internal numbering references omitted).

<sup>148</sup> 12 C.F.R. § 1005.33(g)(1). These policies and procedures must include “policies and procedures regarding the retention of documentation related to error investigations [which] 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 [provider] regarding the investigation of the alleged error.” 12 C.F.R. § 1005.33(g)(2).

<sup>149</sup> EFTA states, “A remittance transfer provider shall be liable for any violation of this section by any agent, authorized delegate, or person affiliated with such provider, when such agent, authorized delegate, or affiliate acts for that remittance transfer provider.” 15 U.S.C. § 16930-1(a)(f)(1).

<sup>150</sup> 12 C.F.R. § 1005.35.

# 3. The remittance transfer market

This section describes the remittance transfer market and how it has changed. While the section's primary purpose is to examine the effect of the Remittance Rule on the market, it also provides background information on how remittances are transferred, different market segments, and other drivers of change besides the Rule. This background is helpful for placing the potential effects of the Rule in context. Overall, the picture that emerges is of a market that was undergoing substantial change prior to the effective date of the Rule, and that continues to undergo such change today.

Specifically, this section begins with an overall description of how remittance transfers work, the major market participants, and the importance of sending-location to receiving-location corridors. Section 3.2.1 presents quantitative evidence on the evolution of the number and dollar volume of transfers in the market as a whole and Sections 3.2.2 through 3.2.4 discuss the evolution of important segments of the market. Section 3.2.5 examines the evolution of remittance transfer prices. Section 3.2.6 then draws on the preceding sections to examine what the evidence can say about the effect of the Rule on remittance transfer volumes and prices. Section 3.2.7 examines innovation in the market place, while Section 3.2.8 discusses the legal and regulatory landscape beyond the Rule. These sections are intended to help understand the broader environment in which remittance transfer providers operate. Finally, Section 3.3 discusses evidence concerning compliance with the Rule drawn from examinations and consumer complaints, and the cost of compliance to remittance transfer providers.

In places, this section discusses alternative methods of sending money overseas and services related to remittance transfers.<sup>151</sup> Doing so helps clarify the evolving choices for consumers and the broader context of the market in which remittance transfer providers operate.

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<sup>151</sup> The discussion of these alternatives does not necessarily imply that the providers of these international transfers or other services either are or are not remittance transfer providers as defined by the Rule.

# 3.1 Market structure

## 3.1.1 Closed network and open network systems

A remittance requires an input of funds by a sending consumer and the output of funds to a recipient in a different country. As discussed above, there are a wide variety of ways, formal and informal, such a transfer could be accomplished.<sup>152</sup> Nevertheless, most arrangements to facilitate cross-border transactions can generally be divided into two broad categories: “closed network” and “open network” systems.<sup>153</sup> These two categories differ in how the cross-border transfer of funds is handled institutionally.<sup>154</sup>

### Closed network systems

Closed network systems are characterized by a single entity that exerts a high degree of end-to-end control over a transaction. As discussed in more detail below, this is the model relied on by most MSBs.

Just because a payment system is “closed” does not mean that the entity operating the system is the only entity providing services to make the transaction occur. Many closed-system operators rely on the many vendors and service providers with whom all types of remittance transfer providers do business. Moreover, many closed-system operators rely on a large number of agents or franchisees who provide

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<sup>152</sup> Consumers do, in fact, avail themselves of many different means for sending remittance transfers, some of which eschew the mainstream financial system altogether, or rely on it in unconventional ways. For example, some consumers may use the *hawala* system, or mail prepaid cards loaded with funds to recipients. The term *hawala* refers to an “informal funds transfer system found predominantly in the Middle East and South Asia.” World Bank & Int’l Monetary Fund, *Informal Funds Transfer Systems: An Analysis of the Informal Hawala System*, at 3 (Fin. Sector Vice Presidency, World Bank Monetary and Exchange Affairs Dept., Middle Eastern Dept’t Working Paper, 2003), available at <http://documents.worldbank.org/curated/en/410351468765856277/pdf/multi0page.pdf>. Informal or indirect methods of transferring funds across borders are difficult to measure, and in many cases may not be covered by the Bureau’s Remittance Rule. Uncovered methods are beyond the scope of this report, except to note that they exist for context, and also to note that at least some such less-formal remittance methods could theoretically see wider adoption or usage if formal methods become more expensive, less reliable, or otherwise provide less utility to consumers.

<sup>153</sup> See, e.g., 77 Fed. Reg. 6194. It should be noted, however, that these designations are not mutually exclusive, either conceptually or factually. Some systems and arrangements incorporate elements of both—for example, some transactions utilizing the International ACH system, discussed in more detail in Section 3.2.7.

<sup>154</sup> For a general discussion of the payment system aspects of remittances, see, e.g., Committee on Payment and Settlement Systems and the World Bank, *General Principles for International Remittance Services* 6 (Jan. 2007), available at: [http://siteresources.worldbank.org/INTPAYMENTREMITTANCE/Resources/New\\_Remittance\\_Report.pdf](http://siteresources.worldbank.org/INTPAYMENTREMITTANCE/Resources/New_Remittance_Report.pdf).

the “on-the-ground” services to both senders and recipients. These “on-the-ground” entities can range from the system operator’s branded franchisees, who may appear to consumers in most respects identical to storefronts owned and operated directly by the system operator; to third-party dedicated money transmission outlets that operate under their own name but send money along the networks maintained by one or more closed-system operators; to a wide variety of brick-and-mortar businesses whose primary offering to consumers is not money transmission, but nevertheless provide it as an ancillary service. This last group of entities can include banks and credit unions, but it can also include entities whose primary offerings are non-financial, such as convenience stores and grocery stores.

## Open network systems

Open network systems are those in which no one institution exerts end-to-end control over a cross-border transaction. Open network systems are primarily utilized by banks and credit unions, and include the system by which consumers send “wires” or other transfers from their deposit accounts to overseas recipients.<sup>155</sup> There are two dominant open system models currently in operation: bilateral arrangements and correspondent banking networks. These models substantially overlap, and many banks and credit unions rely on both of them. This section will primarily describe those two models, while acknowledging that there are other open system models currently in operation or which could potentially emerge, some of which are discussed in Section 3.2.7.

In a bilateral arrangement, two institutions (most frequently large banks) located in two different countries agree to terms, policies, and processes, either contractually or otherwise according to pre-specified parameters, that facilitate the transfer of funds from the customers of one institution to the other.

However, a network in which every provider needs to have a bilateral arrangement with every receiving institution would be very difficult to scale. To overcome the challenges of scaling a network of bilateral agreements, institutions instead rely on the second type of open system model, which is commonly called the correspondent banking network.<sup>156</sup> Despite this name, however, the correspondent banking network is not actually a network with a single, central operator, distinguishing it from the closed systems described above, as well as from other prominent payment networks, such as payment card

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<sup>155</sup> International ACH is discussed separately in Section 3.2.7.

<sup>156</sup> Generally speaking, a correspondent banking network is made up of individual correspondent banking relationships, which describe arrangements under which one bank (correspondent) holds deposits owned by other banks (respondents) and provides payment and other services to those respondent banks. *See, e.g.,* Comm. on Payments and Mkt. Infrastructures, *Correspondent Banking*, at 9, Bank for Int’l Settlements (July 2016), available at <https://www.bis.org/cpmi/publ/d147.pdf>.

networks. Instead, the correspondent banking network is a decentralized but dense latticework of relationships between the world's tens of thousands of banks and credit unions, in which most institutions only maintain relationships with a relatively small number of "correspondents." This decentralization provides benefits to providers and end users but also imposes limits on the network, such as limitations on the information that providers can give consumers when sending remittances.

A simple hypothetical transaction illustrates how correspondent banking networks work, as well as their strengths and limitations. Jane, a consumer in the U.S., wishes to send \$500 to her son, John, who is currently studying abroad in the United Kingdom. Jane has a checking account with First Main Street Bank, her local (American) community bank, and John has an account with Sparrow, a (UK) bank that offers a digital-only transaction account. John provides the relevant account information for his Sparrow account to Jane, who then places a request with First Main Street to send the \$500 to John's account.

Both First Main Street and Sparrow, called "respondent" banks in this transaction, are relatively small, and do not have a direct relationship with each other. However, First Main Street has a contract with Two Wall Street, one of the U.S.' largest banks, to facilitate cross-border payments sent by First Main Street's customers to other countries, including the United Kingdom. First Main Street relays the funds and the payment instructions to Two Wall Street pursuant to their contract and the associated procedures. Two Wall Street is a "correspondent" bank in this transaction.

However, like First Main Street, Two Wall Street has no relationship with Sparrow. It does, however, have a relationship with Royal Chartered, one of the United Kingdom's largest banks, to facilitate a variety of cross-border payments in both directions. So Two Wall Street relays the funds and the payment instructions to Royal Chartered pursuant to their contract and standing procedures, leaving Royal Chartered to send the funds to John. Royal Chartered is another correspondent bank in this transaction.

Royal Chartered does have a relationship with Sparrow, and relays the funds and payment instructions to Sparrow. Sparrow credits John's account; he now has access to the funds Jane sent, converted into British pounds minus any applicable fees and taxes.

The correspondent banking network is notable for its decentralization. In the example, not only did First Main Street and Sparrow lack a direct relationship, but there was no single intermediary between them—instead, the transfer followed a chain, from a "respondent" bank through two "correspondent" banks to a final "respondent" bank.

This example is sufficient to illustrate the key differences between the correspondent banking network and a network built solely on bilateral relationships; in the former, far fewer bilateral relationships are

necessary to facilitate transactions between most institutions. This example is, however, also significantly simplified; many transfers processed through the correspondent banking network are substantially more complex than this, and funds may pass through an even-greater number institutions before arriving at a final destination. In many cases, individual actors in the chain may not know with certainty which entities may precede or follow them in the chain.

Frequently, transactions sent using the correspondent banking network rely on a messaging service to supplement the primary flow of funds. In parallel to the flow of funds, messaging services provide rapid and standardized flow of information about the payment from at or near the beginning of the transaction flow to at or near the end. By far the most prominent such system is the one often eponymously referred to by the name of the organization which operates it, the Belgium-based SWIFT.

Although such messaging services historically played a critical role in ensuring the rapid and secure delivery of payment information around the world, their ability to dictate, enforce, or standardize the terms of transactions was limited. Recently, however, some market participants (including SWIFT) have begun introducing innovations intended to provide greater end-to-end certainty over the terms of international interbank payments.

The correspondent banking network has historically offered flexibility and resilience to banks and credit unions that want to offer cross-border payments services to their customers.<sup>157</sup> However, decentralization has also historically meant that a sending bank relying on the correspondent banking network has not always been able to offer its customers full certainty regarding the terms and costs of transfers. Furthermore, a sending bank may not always be able to track the transfer once it has been passed to the correspondent bank. As discussed in Section 3.2.7, services recently deployed to the market purport to address both of these limitations.

### 3.1.2 Market participants

The remittance transfer market has many and diverse participants. Not all of these market participants are remittance transfer providers themselves. Instead they may provide related services. These entities

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<sup>157</sup> While the correspondent banking network represents a significant share of all cross-border transfer volume, consumer-to-consumer remittance transfers represent a small share of the overall volume transferred using the network. The correspondent banking network is also the primary method banks use to facilitate cross-border payments on behalf of businesses and other institutions, the volume of which is orders of magnitude larger than the flow of consumer-to-consumer remittance transfers. *See also supra* note, Section 1.3.2 at n.63.

differ not only in their role in the market, but also in their size, their institutional makeup and history, their legal and regulatory status, and the centrality of remittance transfers to their operations and business models. This section summarizes the different types of entities that play a part in the remittance transfer market and the different types of roles entities play. In some cases these are mutually exclusive—an entity cannot be both a bank and a nonbank—but in other cases a single entity can play multiple roles described below. For example, a bank that offers remittance transfer services to its customers could also be a correspondent bank, and its accounts could also service as sources of funds for remittance transfers initiated through other providers.

*Banks and credit unions.* A wide range of banks and credit unions, encompassing both larger and smaller entities, offer remittance transfer services to their customers. Some do so primarily as a courtesy service, facilitating remittances only occasionally, while for others it is a well-developed service and major marketing point; some do very little in volume, while others process hundreds of millions or even billions of dollars annually. However, even the largest remittance-sending banks differ critically from large MSBs in that facilitating remittances is only one part of a larger and more diverse suite of offerings. Large banks also send very large volumes of commercial cross-border payments.<sup>158</sup> They therefore employ very different business models than money transmitters whose remittance volumes are comparable in some respects but who focus primarily on relatively small consumer transactions.

*Traditional money services businesses.* Nonbank businesses that specialize in facilitating money transfers have existed for a long time. Today, there are many such businesses, and they facilitate the overwhelming number of remittance transfers from the U.S. Some of these businesses, such as Western Union and MoneyGram, have immense global scope and large market share; others are more specialized, focusing, for example, on specific regions or corridors.<sup>159</sup> Traditionally, these MSBs have operated closed systems and relied on a storefront model, in which these firms' employees or agents collect payment in person from consumers at point-of-sale. However, many of these firms, including the largest ones, have begun to embrace new digital technologies as well, potentially expanding their reach and making their services more convenient and less expensive for consumers.

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<sup>158</sup> See also *supra* note, Section 1.3.2 at n.63.

<sup>159</sup> For example, Western Union alone reported facilitating consumer-to-consumer cross-border transactions amounting to \$74.5 billion in 2017. See Western Union, Annual Report (Form 10-K), at 64, (Feb. 22, 2018). While all of these transactions may not fall under the World Bank's definitions of remittance transfers, by any estimation this represents a substantial share of the \$613.5 billion in remittances sent worldwide in 2017, according to the World Bank. This statistic is based on the World Bank estimates summing across all receiving countries in the Bilateral Remittances Matrices. See World Bank, *Migration and Remittances Data*, <http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data> (last visited Oct. 4, 2018).

*“Fintech” providers.* Emerging technologies have given rise to a new class of MSBs. These entities, which are often categorized as “financial technology” or “fintech” firms, generally operate closed network systems and rely on smartphones as access points for senders, and in many cases for recipients as well. In recent years, several of these firms have gained significant market share, and may be competing aggressively on price with other providers, as discussed in more detail below.

*Other providers.* Other entities may also offer remittance transfer services, generally incidentally or as a courtesy service secondary to the core offerings of their business models. This includes, for example, broker-dealers and commodities merchants.<sup>160</sup>

*Payment networks and messaging services.* Entities that provide various forms of payment processing and messaging services play a range of often-critical roles in the remittance transfer market, even when they are not providing remittance transfer services directly. These services include processing payments electronically within the sending or receiving jurisdiction. As more remittance transfers are either being funded or distributed through electronic means, these services are becoming increasingly important to the remittance transfer market.<sup>161</sup>

Even more critically, this category also includes entities whose systems operate across borders to process or otherwise facilitate cross-border transactions. The most notable such system is SWIFT, mentioned above. SWIFT does not itself handle, move, or process the movement of funds.<sup>162</sup> Instead, SWIFT provides a messaging system widely relied on by banks and other institutions when sending

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<sup>160</sup> Even though fund transfers whose primary purpose is the purchase of a security or commodity are excluded from EFTA and Regulation E generally (and the Remittance Rule specifically), they may still offer international wire services which are covered by the Remittance Rule.

<sup>161</sup> Some entities or systems process both domestic and cross-border payments, including the card payments networks such as Visa and MasterCard and the ACH system, whose role in cross-border payments is discussed in more detail below. The multifaceted roles such entities and systems perform highlight the complexity of the cross-border payments ecosystem.

<sup>162</sup> See, e.g., SWIFT, *What is a SWIFT Payment? And What does that Mean for You*, TransferWise (Apr. 27, 2018) <https://transferwise.com/us/blog/everything-you-need-to-know-about-swift-network> (“The SWIFT network doesn’t actually transfer funds...”); Chelsea Allison, *What is Swift*, FIN (June 1, 2018), available at <https://fin.plaid.com/articles/what-is-swift> (“[SWIFT] doesn’t do any of the funds transfers itself. In fact, it doesn’t even touch money.”); John Detrixhe, *Ripple’s 40-year-old Rival is Speeding Up Payments without Using Blockchain*, Unchained (Feb. 27, 2018), available at <https://qz.com/1217017/a-40-year-old-banking-co-op-is-overhauling-payments-without-using-blockchain/> (“Swift doesn’t hold money...”); Richard Brown, *A Simple Explanation of How Money Moves Around the Banking System*, Richard Gendal Brown (2013), available at <https://gandal.me/2013/11/24/a-simple-explanation-of-how-money-moves-around-the-banking-system/> (“the SWIFT message is merely the instruction: the movement of funds is done by debiting and crediting several accounts at each institution and relies on banks maintaining accounts with each other [either directly or through intermediary banks]”).



funds abroad. Especially in cases where funds are moving across the correspondent banking network, SWIFT (or competing services, such as those offered by Ripple, discussed in more detail in Section 3.2.7) allows for information about the transaction to be directly available from at or near the time of sending through at or near the time of receipt. Market participants use such services with the goal of securely exchanging standardized transaction information, in the pursuit of reliability, predictability, and increasingly, certainty about the terms and timing of transactions in what is otherwise a transaction flow that can frequently be indirect and opaque.

*Correspondent banks.* As discussed above, the correspondent banking network is central to how banks and credit unions process cross-border transactions. This decentralized network depends on a core of larger or specialized institutions that maintain relationships with many other banks both domestically and abroad. These institutions may provide remittance transfer services directly to consumers apart from providing correspondent services.

*Account providers.* Entities that provide consumer transaction accounts, such as checking account or prepaid account issuers, may serve as remittance transfer providers, as discussed above. However, both account providers that do offer remittance transfer services and those that do not may nevertheless find that their accounts can be and are used as funding sources for remittance services offered by third parties. For example, some nonbank remittance transfer providers may accept (or even require) payment be made electronically, often via the ACH system or major payment card networks. Account providers who are not themselves remittance transfer providers, but provide accounts that can fund remittance transfers, have a dual responsibility to their accountholders—to facilitate valid transactions while preventing fraudulent ones.

*Consumer-facing third parties.* When sending remittances in person, many consumers interact not with an employee (or digital interface) of a provider but with the employee or interface of a third party. These third parties may take many forms, from branded franchisees, to MSBs operating under their own brand, to storefronts whose primary businesses are non-financial, such as convenience stores or grocery stores.<sup>163</sup> In some cases, it is the third party's brand that is predominant, and larger entities with strong consumer loyalty may have significant influence in negotiating with remittance transfer service providers. In some cases, third parties may serve as the agent of several different remittance transfer providers. Consumers may also find their digital interactions in the course of transferring a

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<sup>163</sup> In some cases, these third parties may be “agents” as defined by the Remittance Rule. 12 C.F.R. §1005.30(a). However, it is not always or necessarily the case that an entity of any of the types described here is an agent per the Rule's definition. For more, see “New providers, players, and models” in Section 3.2.7.

remittance electronically to be increasingly intermediated by branded third parties, such as when they use a “chatbot” embedded in a social media or messaging service to initiate a transaction.

*Virtual currencies.* Recent years have seen notable innovations in virtual currencies. The market capitalization of major virtual currencies, while in flux, has consistently measured in the hundreds of billions of dollars in recent months.<sup>164</sup> Virtual currencies have attracted increased attention from financial institutions, regulators, and the media.

While some such currencies are proprietary to a specific institution or operator (such as the currency operated by Ripple, discussed in more detail below), others are decentralized, meaning no single person or entity is ultimately responsible for its operation or functioning. While there is little evidence virtual currencies have had a major effect to date on how consumers send and receive remittances, at least some market participants and observers have asserted that these technologies have the ability to reshape, perhaps drastically, the consumer remittance landscape.<sup>165</sup> This report discusses virtual currencies in more detail in Section 3.2.7.

### 3.1.3 Corridors

#### What is a remittance corridor?

The remittance transfer market is, in practice, composed of multiple “sub”-markets: pairs of sending and receiving locations, where each pair is governed by similar, but not necessarily identical, principles, parameters, and regulatory schema. The term used by most market participants in referring to a specific sending country-to-receiving country market is a “corridor.”<sup>166</sup> For example, the market for sending remittances from the U.S. to Vietnam is a “corridor,” distinct from the market for sending

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<sup>164</sup> Coin MarketCap, *Top 100 Cryptocurrencies by Market Capitalization*, <https://coinmarketcap.com/> (last visited October 4, 2018).

<sup>165</sup> Per Ripple, its “mission is to revolutionize cross-border payments using both blockchain technology and XRP [Ripple’s proprietary virtual currency].” See Team Ripple, *Demystifying Digital Assets Part 1*, Ripple (Feb 27, 2018), available at <https://ripple.com/insights/demystifying-digital-assets-part-1/>; see also, e.g., Talie Baker, *Cross-Border Remittances: Global Trends*, Aite Group (Apr. 6, 2016) (“It goes without saying that new technologies are driving transformational changes in the global economy, particularly in the area of mobile payments and funds-transfer solutions. An important development in this process of transformation has been the emergence of virtual currencies... The promise of virtual currency definitely has the attention of the international remittance industry.”).

<sup>166</sup> An analysis here and elsewhere in the report relating to corridors and receiving jurisdictions should not be interpreted as defining geographic markets for other legal purposes, such as in government merger analysis.

remittances from Australia to Vietnam, or for sending remittances from Vietnam to either the U.S. or Australia.<sup>167</sup>

Generally, this report uses the term “corridor” to refer to country-to-country remittance transfer markets. In actuality, however, consumers may find the availability, reliability, and competitiveness of options available to them depends not just on the sending and receiving country but the state, province, or city. For example, consumers who share a connection to a certain country may tend to cluster geographically, such as senders with ties to Ethiopia being clustered in the greater Washington, D.C. area.<sup>168</sup> Such consumers may find more options for sending money to that country if they live in one of those clusters, especially if they are sending money to less-popular destinations for remittances within that country.

There are significant economies of scale in servicing a corridor. In order to facilitate even a single remittance transfer to a given country, a provider must develop the policies, processes, and programs that ensure compliance with U.S. laws, as well as (to the extent applicable) any laws of the receiving jurisdiction. A provider also must build any necessary infrastructure and develop necessary partnerships to allow the provider to disburse funds in the receiving jurisdiction.

While the costs of such up-front investments can vary based on a number of factors, such as the specifics of applicable regulations and the forms in which the provider will permit recipients to claim funds, they are nevertheless substantial in almost every case. Once a provider is able to initiate service in a corridor, however, the marginal costs of each additional transaction tend to be very low—meaning there are large economies of scale for providers in serving a given corridor.

While the largest providers service almost all corridors, not all remittance transfer providers do, with many providers specializing in distinct groups of corridors. Some remittance transfer providers specialize in remittance transfers to high-volume corridors, where even a relatively small market share can represent a great many dollars being remitted. Other providers may specialize in serving lower-

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<sup>167</sup> The term “corridor” is used here to refer here primarily to the various markets for sending from the United States to various destination countries, as only those transactions are in the scope of the Remittance Rule and the assessment. However, from the perspective of market participants, “corridors” can and do refer to all send-receive pairings, including those where the United States is the location of the receiving party as well as those where the remittance is neither sent from nor received in the United States.

<sup>168</sup> Christopher Connell, *Ethiopians Put Down Roots in Washington to Build Their Largest U.S. Community*, Share America (Aug. 10, 2015), available at (“the greater Washington area has the [US]’s largest concentration [of Ethiopian immigrants].”).

volume corridors, with the benefits of such specialization driven by factors including the regulatory complexity or the uneven geographic distribution of consumers attempting to transfer remittances.

## Corridor metrics

The World Bank reports annually on remittance corridor volumes. Section 3.2.1 and Appendix C compares and discusses the differences between these estimates and Bureau estimates of covered remittance transfers from the U.S. While the World Bank estimates rely on a definition of remittances distinct from the Rule's, they are still informative about covered transfers.

According to the World Bank, the worldwide dollar amount of remittances sent in 2017 was \$613.5 billion.<sup>169</sup> Of this amount, \$148.5 billion was sent from the U.S.<sup>170</sup> This 24.2% share of all remittances sent from the U.S. was sufficient to make the U.S. the single-largest “send corridor” in the world that year.<sup>171, 172</sup>

When examining all country-to-country corridors globally in 2017, seven of the ten largest are U.S.- “send” corridors, according to World Bank data. The ten largest corridors represent 23% of all global remittance transfer volume.

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<sup>169</sup> This statistic is based on the World Bank estimates summing across all receiving countries in the Bilateral Remittances Matrices. See World Bank, *Migration and Remittances Data*, <http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data> (last visited Oct. 4, 2018).

<sup>170</sup> An additional \$6.6 billion was sent to the U.S.

<sup>171</sup> While no single European Union (EU) country neared the United States' remittance-sending total, the EU as a whole remitted \$147.98 billion, nearly matching the United States' total. That total is split nearly in half between remittances sent to other EU countries and remittances sent outside the Union. However, remittances sent from the U.S. in recent years have grown significantly faster than remittances sent from the EU; 2017 was the first time since the World Bank began releasing bilateral remittance data in 2010 that U.S.-sent remittances exceeded remittances sent from EU countries.

<sup>172</sup> The Bureau's estimates of the total remittances sent from the U.S. differ from the World Bank calculations based on different definitions and estimates drawn from administrative international money transfer data. These estimates are discussed in Section 3.2.1 and Appendix C. The World Bank estimates are used here because they provide a consistent basis for comparison to other country corridors in which the U.S. is not the sending jurisdiction.

**TABLE 1: TEN LARGEST REMITTANCE CORRIDORS GLOBALLY, 2017 (WORLD BANK)<sup>173</sup>**

Sending jurisdiction	Receiving jurisdiction	Remittance transfer volumes (\$ billions)
U.S.	Mexico	30.0
U.S.	China	16.1
Hong Kong SAR, China	China	15.5
United Arab Emirates	India	13.8
U.S.	India	11.7
Saudi Arabia	India	11.2
U.S.	Philippines	11.1
Saudi Arabia	Egypt	7.7
U.S.	Vietnam	7.7
U.S.	Guatemala	7.7
U.S.	Nigeria	6.2

## 3.2 Trends and developments

This section examines recent trends and developments in the remittance transfer market. It first examines broad quantitative market indicators across the market as a whole and by major market segment. These market indicators are helpful for understanding the general pace of change in the market as well as possible effects of the Remittance Rule on access to remittance transfers and their cost. It then reviews what the Bureau believes represents trends or developments of importance or interest in the market—specifically, those regarding the nature, pace, and effect of innovation in the market and more general shifts in the market’s regulatory context. This discussion provides important context for sources of market change independent of the Rule as well as informing the evaluation of the effect of the Rule.

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<sup>173</sup> World Bank data distinguishes the Special Administrative Regions of Hong Kong and Macau from the People’s Republic of China as both remittance-sending and remittance-receiving jurisdictions for the purposes of measuring bilateral remittances.

Because the sources and time periods of the quantitative information differ by market segment, after discussing the overall market in Section 3.2.1, Sections 3.2.2 through 3.2.4 discuss money services businesses, banks, and credit unions, respectively, in greater detail and in some cases over longer time periods. These sections consider the number and dollar volume of remittance transfers as a measure of consumer access to remittance transfers. Section 3.2.5 examines changes in the cost to consumers of remittance transfers as another measure of access. Section 3.2.6 then examines evidence for the Remittance Rule causing changes to the number, dollar volume, and cost of remittance transfers.

### 3.2.1 Snapshot of the overall market: number and dollar volume of remittance transfers

Figure 1 shows estimates of the total number of remittance transfers each year from 2014—the first full calendar year in which the Remittance Rule was in effect—through 2017. Figure 2 shows estimates of the total dollar volume of these remittance transfers over the same period.<sup>174</sup> While the Bureau has information before the Rule for some market segments discussed below, the information for banks starts in 2014, so the charts only represent the entire market since 2014.

Specifically, these figures combine information from several sources including bank and credit union call reports, information obtained from individual states, and information from state licensing of MSBs as reported by the Conference of Bank Supervisors (CSBS).<sup>175</sup> Appendix C reviews the assumptions necessary to combine these sources and to create estimates of covered remittance transfers. While the sources for banks and credit unions measure covered remittance transfers directly (discussed in more detail in Sections 3.2.3 and 3.2.4), the data source for MSBs includes international transfers, not all of which are covered by the Rule. Appendix C discusses how the Bureau made adjustments to estimate remittance transfers from these data and compares alternative approaches, all of which yield similar results. The most consequential assumption for producing the trends is that the estimates use the trend in MSBs licensed in California from 2014 to 2017 (for which the Bureau has good estimates) to infer the trend nationally over the same time period. These California data are used because the Bureau has a good estimate of nationwide MSB remittance transfer volume only in 2017. The discussion of MSBs in

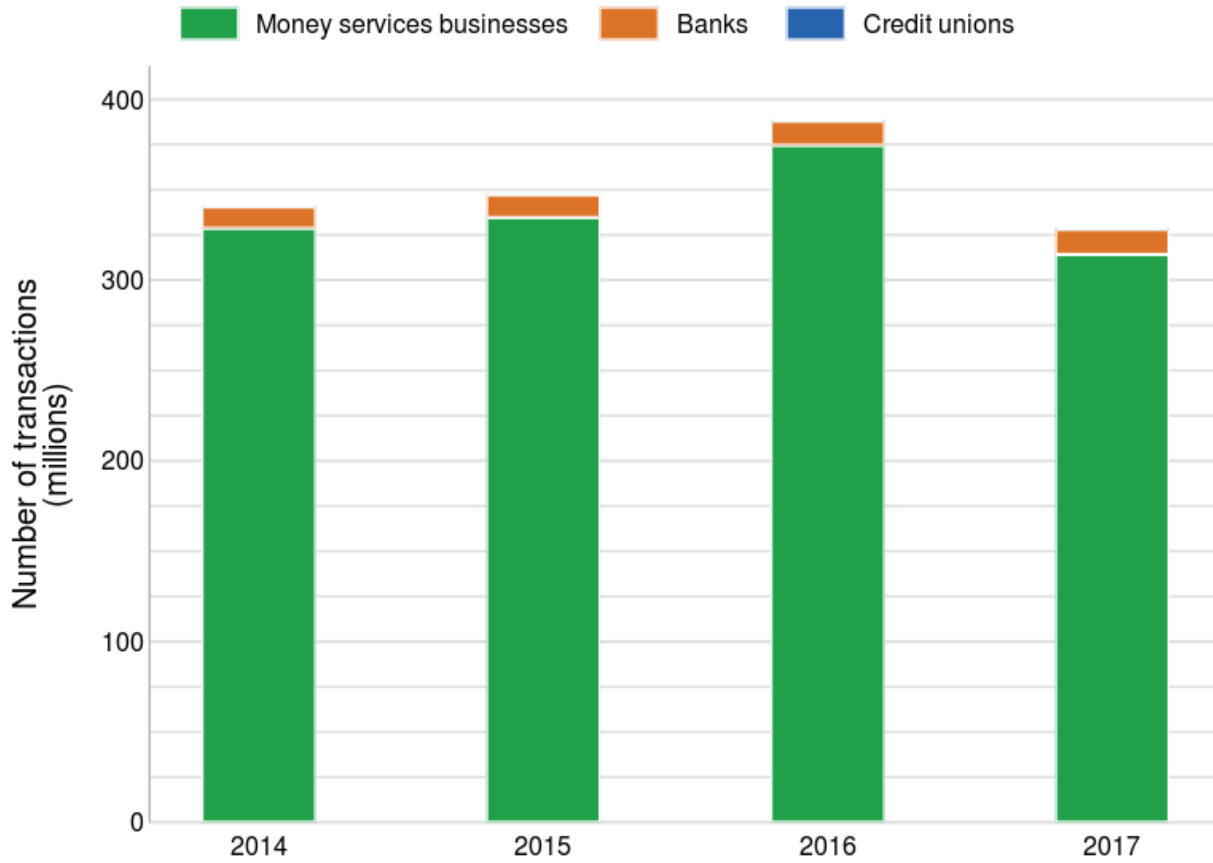
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<sup>174</sup> See Figure 25 in Appendix C for comparison with World Bank estimates.

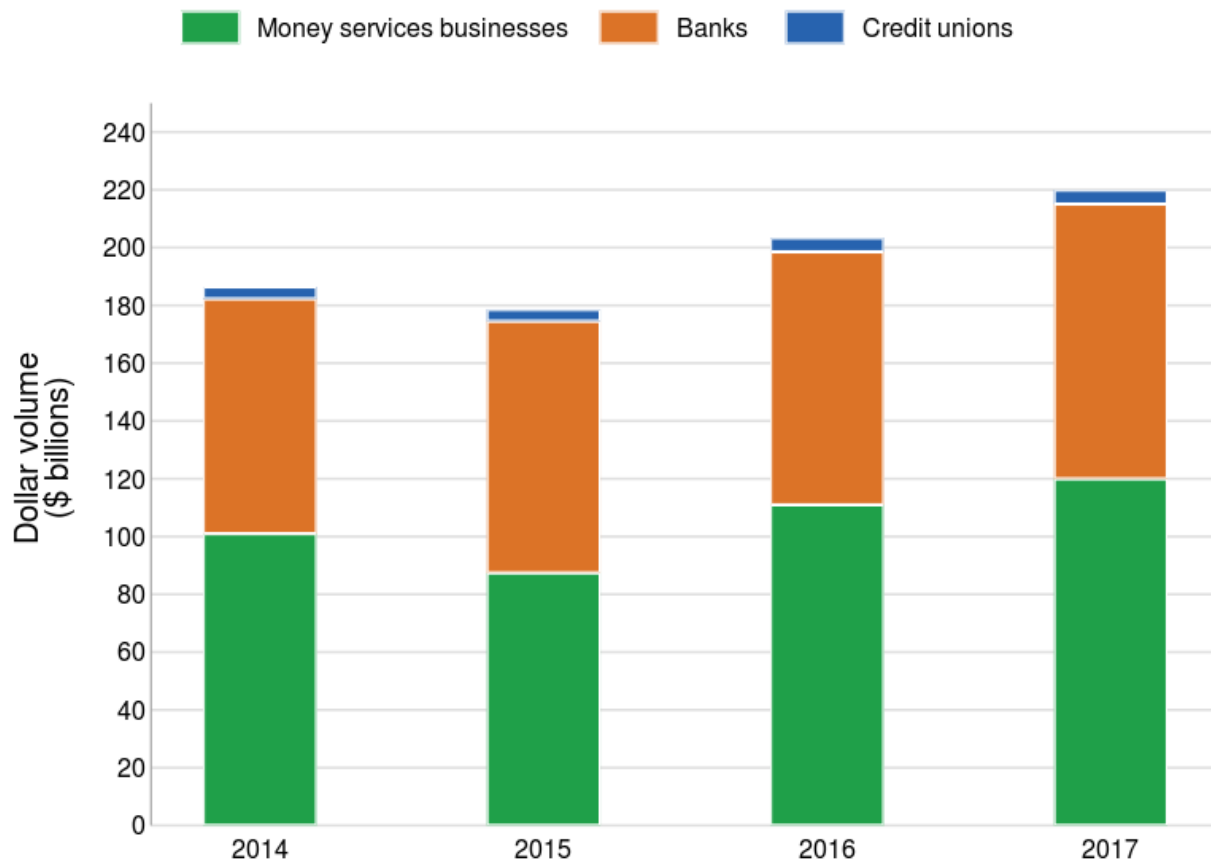
<sup>175</sup> In addition, some number of remittances are transferred by broker-dealers and commodities merchants. The Bureau does not have good sources for tracking these transfers by other entities, except to the extent those entities' transfers are included in call reports (for example, a bank that owns a broker-dealer may include the broker-dealers' transfers in its reported total). However, the Bureau believes that the number of transfers sent by such entities is relatively low.

Section 3.2.2 provides evidence that this approach likely slightly understates the growth of remittance transfers by MSBs.

**FIGURE 1:** REMITTANCE TRANSFERS BY MONEY SERVICES BUSINESSES, BANKS, AND CREDIT UNIONS, 2014-2017



**FIGURE 2:** REMITTANCE TRANSFER DOLLAR VOLUME BY MONEY SERVICES BUSINESSES, BANKS, AND CREDIT UNIONS, 2014-2017



In each year other than 2016, the total number of remittance transfers was between 325 and 350 million. There was sharp increase in the number of transfers in 2016 with a subsequent fall in 2017.<sup>176</sup> Consumers transferred \$186 billion in 2014, the total dollar volume transferred dropped to \$179 billion in 2015, increased to \$203 billion in 2016, and increased to \$220 billion in 2017.<sup>177</sup> Section 3.2.2 will put these trends in greater context for MSBs.

MSBs provide the vast majority of remittance transfers, so changes in remittances transferred by MSBs account for the largest changes from year to year. In 2017, MSBs conducted 95.5% of all remittance

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<sup>176</sup> For comparison with the dollar volume estimated by the World Bank, see Figure 25 in Appendix C.

<sup>177</sup> The increase in 2016 was mainly because of an increase in remittance transfers by MSBs. Multiple MSBs reported these increases, so they are not caused by reporting errors at a single institution.



transfers and 54.6% of the dollar volume. Banks conducted 4.2% of transfers, but 43.2% of the dollar volume. Banks transfer a much larger share of dollars because the average transfer size at banks is much larger than MSBs. In 2017, credit unions conducted 0.2% of remittance transfers and, the Bureau estimates, 2.2% of the dollar volume based on the average dollar value of remittance transfers by credit unions in the industry survey. The Bureau lacks data on the number of remittance transfers by broker-dealers and commodities merchants. The remittance transfers for MSBs include newer entrants with online-only business models as well as more traditional MSBs (see Section 3.2.7 for a discussion of innovation in this market). While the number and dollar volume of transfers by banks and credit unions are discussed in Sections 3.2.3 and 3.2.4, given how relatively few transfers such institutions execute, MSBs have a much bigger effect across the market than banks and credit unions on the consumer experience of sending a remittance transfer and on the price of the average transfer.

These estimates of the total remittance market are substantially larger than estimates by the Bureau of Economic Analysis (BEA) and only somewhat higher than World Bank estimates. The World Bank estimates that migrant worker remittance outflows from the U.S. were \$148.8 billion in 2017,<sup>178</sup> while the BEA estimates they were \$48 billion in 2017.<sup>179</sup>

There are several reasons for these differences. Compared to “remittance transfers” as defined by the Rule, the World Bank and BEA definitions and estimates are both under- and over-inclusive. Most notably, “remittance transfers” as defined by the Rule include transfers by consumers regardless of whether they are immigrants, but they neither include non-electronic fund transfers nor impose an upper limit on the size of the transfer. The BEA definition of remittances includes all transfers,

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<sup>178</sup> This statistic is based on the World Bank estimates summing across all receiving countries in the Bilateral Remittances Matrices. See World Bank, *Migration and Remittances Data*, <http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data> (last visited Oct. 4, 2018). Based on information reported to the IMF by the BEA, the World Bank also provides estimates of outflows from the United States of \$66 billion in 2016. The differences between these numbers are explained in question 7 of the World Bank Frequently Asked Questions on Migration and Remittances Data. World Bank, *Frequently Asked Questions on Migration and Remittances Data*, <http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/overview#2> (last visited Oct. 3, 2018).

<sup>179</sup> See *U.S. International Economic Accounts: Concepts & Methods*, at 10–45 (<https://www.bea.gov/sites/default/files/methodologies/ONE%20PDF%20-%20IEA%20Concepts%20Methods.pdf>), (“Personal transfers, often called ‘remittances’, consist of all current transfers in cash or in kind sent by the foreign-born population resident in the United States to households abroad. The foreign-born population resident in the United States is defined as that part of the total foreign-born population that has resided, or intends to reside, in the United States for more than 1 year.”).

including cash or in-kind, by the foreign-born population in the U.S.<sup>180</sup> The BEA estimates the value of remittances by estimating the value of transfers sent by an average foreign-born resident in a particular demographic group and multiplying by an estimate of the number of foreign born residents in that group.<sup>181</sup> The World Bank definition is similarly based on migrant worker flows.<sup>182</sup>

Another reason for the difference between estimates is that the values in Figures 1 and 2 are based on data provided by institutions for regulatory and licensing reasons, rather than based on surveys of consumers like the BEA conducted. Regulatory and licensing data are far more likely to capture high value remittance transfers and do not suffer from the limitations in sampling associated with consumer surveys.

### 3.2.2 Remittances transferred by money services businesses

This section examines remittance transfers provided by MSBs. Figure 3 shows the number of remittance transfers from 2004 to 2017 and Figure 4 shows the dollar volume transferred by MSBs over the same period. As discussed in Section 3.2.1 and Appendix C, these are estimates of covered remittance transfers under the Rule.<sup>183</sup> Because the Bureau has good estimates of the nationwide transfers by MSBs only in 2017, these figures are created by multiplying the remittance transfers by MSBs from California from 2004 to 2016 (for which the Bureau also has good estimates) by the ratio of nationwide transfers to California transfers in 2017. Bureau estimates suggest 20% of all U.S. remittance transfers and 24.4% of the U.S. dollar volume originated in California in 2017, so California

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<sup>180</sup> See “U.S. International Economic Accounts: Concepts & Methods” (<https://www.bea.gov/resources/methodologies/us-international-economic-accounts-concepts-methods>), pp. 10-45: “Personal transfers, often called ‘remittances’, consist of all current transfers in cash or in kind sent by the foreign-born population resident in the United States to households abroad. The foreign-born population resident in the United States is defined as that part of the total foreign-born population that has resided, or intends to reside, in the United States for more than 1 year.”

<sup>181</sup> The Government Accountability Office (GAO) has criticized the BEA methodology and the documentation of its methodology. See generally, U.S. Gov’t Accountability Off., *International Remittances – Actions Needed to Address Unreliable Official U.S. Estimate*, (GAO Report, GAO-16-60, 2016), available at <https://www.gao.gov/assets/680/675248.pdf>.

<sup>182</sup> See Dilip Ratha & William Shaw, *South-South Migration and Remittances*, (World Bank Working Paper No. 102, 2007), available at <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1110315015165/SouthSouthMigrationandRemittances.pdf>, for the development of the World Bank methodology.

<sup>183</sup> For transactions that occurred before the Rule went into effect, the data presented in this section is referring to those transactions that would have met the definition of remittance transfer in the Rule had the Rule been in effect at that time.

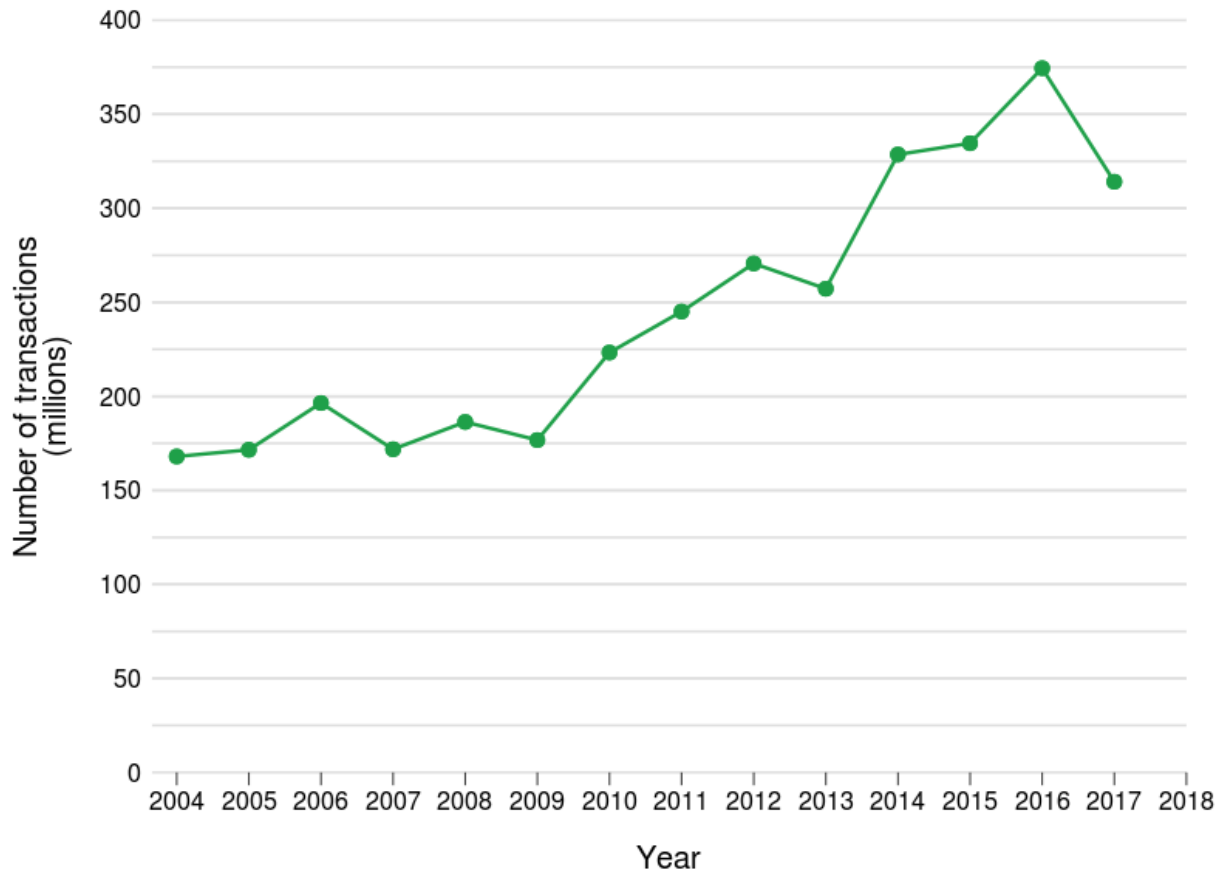
data provide an important view into the market in its own right, as well as the best available source for estimating historical nationwide numbers. The Bureau does not have good information on the number of MSB remittance transfer providers historically, so this section focuses on the number and dollar volume of remittance transfers by MSBs.

The methodology for estimating the total U.S. remittance transfers by MSBs assumes that the share of remittance transfers sent from California has been constant, so changes in remittance transfers from California are informative of nationwide remittance transfers. It is likely that this calculation underestimates the growth in remittance transfers by MSBs slightly. As discussed in Section 1.3.3, most remittances are sent by first-generation immigrants. Because California's share of first-generation immigrants has declined somewhat in recent decades, it is likely that California's share of remittance transfers has also decreased somewhat over time.<sup>184</sup>

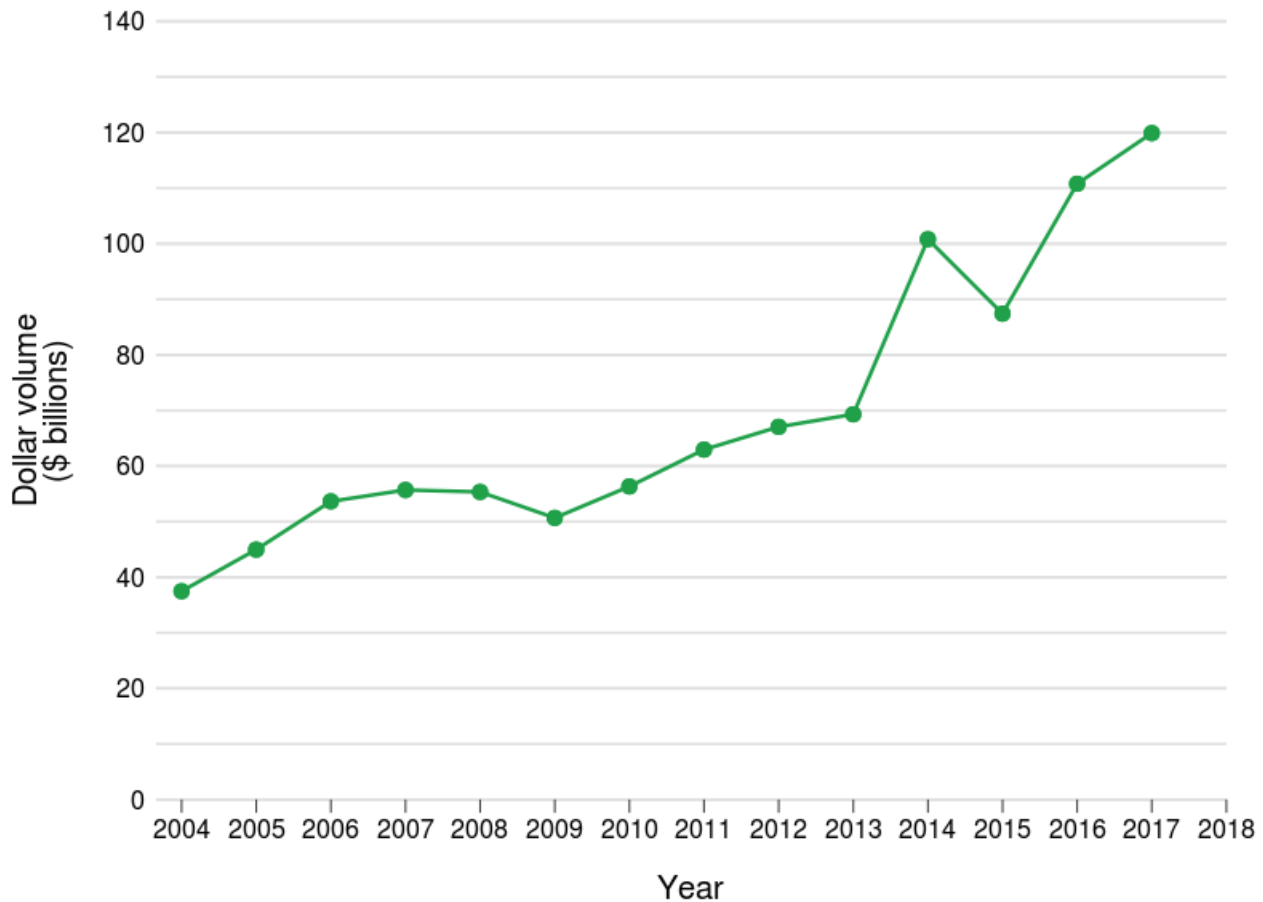
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<sup>184</sup> From 2000 to 2010, California's share of the foreign-born population in the United States declined from 28.5% to 25.4% (based on calculations from the 2000 Census and combined 2008 to 2012 American Community Survey, obtained from the National Historical Graphical Information System). Because the foreign-born population outside of California was increasing faster than inside California, the share of remittance transfers sent from California is likely to be declining slightly, suggesting that Figure 3 underestimates the total number of transfers sent before 2017. If California remitters have been increasing the size of their transfers, however, the dollar volume of transfers in Figure 4 may be either an underestimate or an overestimate overall, accounting for both effects.

**FIGURE 3:** REMITTANCE TRANSFERS BY MONEY SERVICES BUSINESSES, 2004-2017



**FIGURE 4:** REMITTANCE TRANSFER DOLLAR VOLUME BY MONEY SERVICES BUSINESSES, 2004-2017



Figures 3 and 4 suggest that both the number and size of remittance transfers have been growing rapidly since 2009, with some changes from year to year. Specifically, Figure 3 suggests that the number of remittance transfers by MSBs has increased rapidly since 2009, more than doubling from 176 million in 2009 to over 374 million in 2016, before falling sharply in 2017. The nominal dollar volume of transfers shown in Figure 4 has similarly more than doubled from \$50.7 billion in 2009 to \$119 billion in 2017. At least some of this increase may have come as consumers sent more transfers through formal channels captured by the data. The average transfer size using an MSB was \$381 in 2017. For comparison, Figure 25 in Appendix C shows World Bank estimates of the dollar volume of remittances sent from the U.S. from 2010 to 2017. As discussed in Section 3.2.1, these estimates are potentially both over- and under-inclusive of covered remittance transfers, but the overlap is large, so they are still informative about covered transfers, most of which are provided by MSBs. The World Bank estimates show similar growth over the same time period.

### 3.2.3 Remittances transferred by banks

This section examines the remittance transfers by banks. The primary data source for the number of remittance transfers initiated at banks is the FFIEC Call Report from the first quarter 2014 to the fourth quarter of 2017.<sup>185</sup> Prior to the first quarter of 2014 the call reports did not ask about remittance transfers, and thus these data cannot be used to compare pre-rule and post-rule participation levels. The call report questions ask banks to report transfers matching the definition in the Remittance Rule.<sup>186</sup> All banks report whether they offer remittance transfers. Only banks that report in their June call reports that they transferred more than 100 remittances in the prior year or expect to transfer more than 100 in the current year are required to report the number of transfers in their June and December call reports. The Bureau thus has limited information on the number of transfers banks make at or below 100. This report examines the effect of the 100-transfer threshold safe harbor in Section 4.4.

The share of all banks that transferred more than 100 remittances has not changed much since 2014.<sup>187</sup> In 2014, 10.4% of all banks transferred more than 100 remittances. The percentage was 10.7% in 2015, 11.4% in 2016, and 12.0% in 2017. During the same time period, the raw number of banks that transferred more than 100 remittances was 686 banks in 2014, 666 banks in 2015, 680 banks in 2016, and 685 banks in 2017.

The share of banks that transfer more than 100 remittances is driven by two trends: the share that offer remittance transfer services and the share of banks offering these services that transfer more than 100. These trends have moved somewhat differently since 2014, resulting in the nearly constant number and share of banks transferring over 100 remittances.

Figure 5 shows that the share of banks offering remittance transfer services, but not necessarily transferring any remittances, decreased from 67.7% in 2014 to 60.1% in 2015, and has increased since

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<sup>185</sup> The Reports of Condition and Income (Call Reports) and Uniform Bank Performance Reports (UBPRs) for most FDIC-insured institutions are available at <https://cdr.ffiec.gov/public/>. (“Every national bank, state member bank, and insured nonmember bank is required by its primary federal regulator to file a Call Report as of the close of business on the last day of each calendar quarter (the report date).”). FFIEC, *About the Federal Financial Institutions Examination Council (FFIEC) Central Data Repository (CDR) Public Data Distribution (PDD) Website and its Data*, <https://cdr.ffiec.gov/public/HelpFileContainers/WelcomeAdditionalInfo.aspx/>, (last visited Oct. 10, 2018).

<sup>186</sup> See FFIEC, *Reporting Forms*, [https://www.ffiec.gov/ffiec\\_report\\_forms.htm](https://www.ffiec.gov/ffiec_report_forms.htm) (last visited Oct. 3, 2018) (for FFIEC Call Report forms).

<sup>187</sup> These calculations are based on a single year of transfers. The Rule’s safe harbor 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 transfer providers.

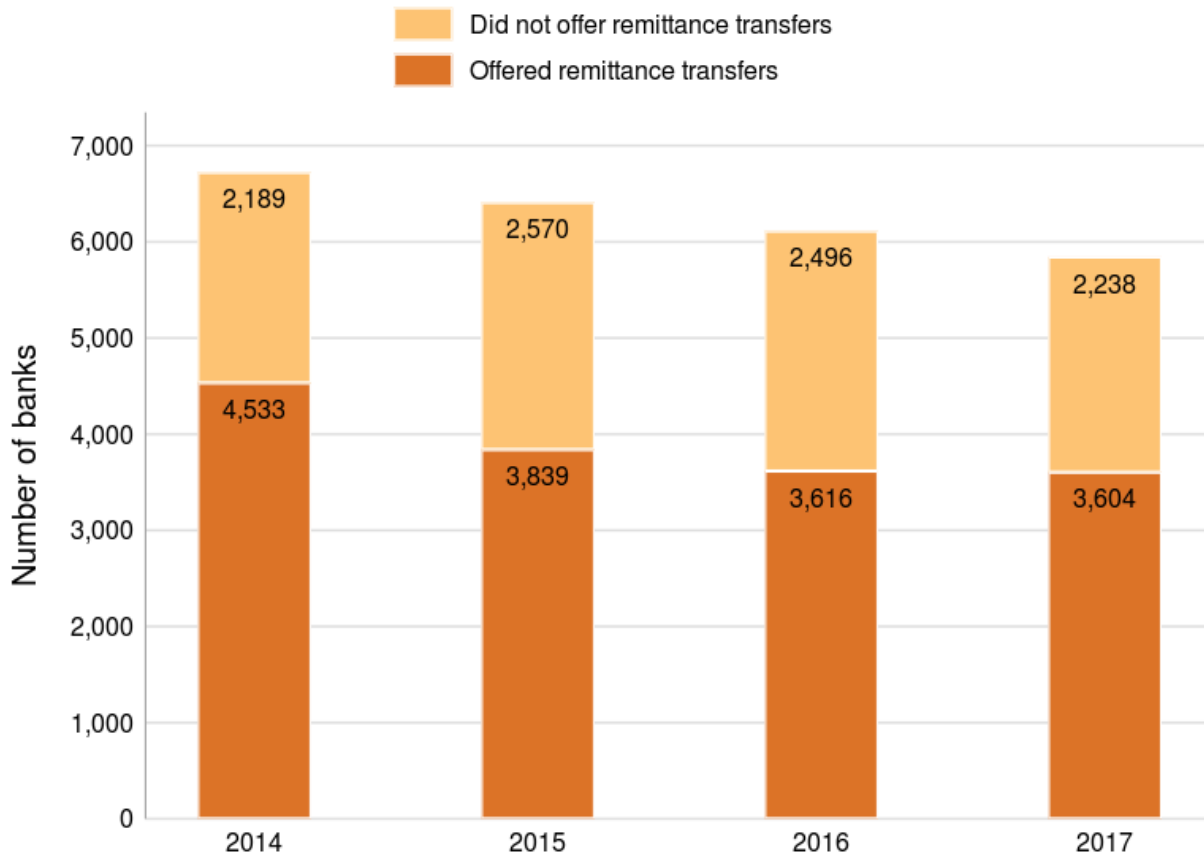
then to 61.8% in 2017.<sup>188</sup> During this same time period, the absolute number of banks declined. Ninety-nine percent of the change in the number of banks was because of banks merging. The number of banks offering remittance transfers declined at a rate similar to the decline in the overall number of banks: 4,450 banks reported offering remittances in 2014, 3,750 in 2015, 3,542 in 2016, and 3,538 in 2017. Because the number of banks transferring more than 100 remittances has been constant, all of this decrease has been among banks offering remittance transfers but transferring 100 or fewer remittances in a given year and so not necessarily covered by Rule requirements.<sup>189</sup> It is therefore difficult to attribute this decrease to the effect of the Rule. To the extent that any of these declines are due to factors other than market consolidation, it is possible that one factor in banks' decision making may be other regulatory requirements that apply to all transfers with no safe harbor similar to the 100-transfer threshold in the Remittance Rule. Section 3.2.8 discusses the broader regulatory environment faced by remittance transfer providers.

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<sup>188</sup> The Bureau received comments from community banks and trade associations suggesting that banks had left or were planning to leave the market prior to the Rule becoming effective. See Appendix B for a summary of these comments.

<sup>189</sup> The Remittance Rule provides a safe harbor if a person provides 100 or fewer remittance transfers in both the previous and the current calendar years (see Section 2.3). Focusing on a single year may miss some banks that transferred more than 100 in the previous year. The number of banks that move above 100 or move below 100 from year to year is generally the same and typically small. See the discussion surrounding Table 3.

**FIGURE 5:** TOTAL NUMBER OF BANKS THAT OFFERED REMITTANCE TRANSFERS, 2014-2017<sup>190</sup>

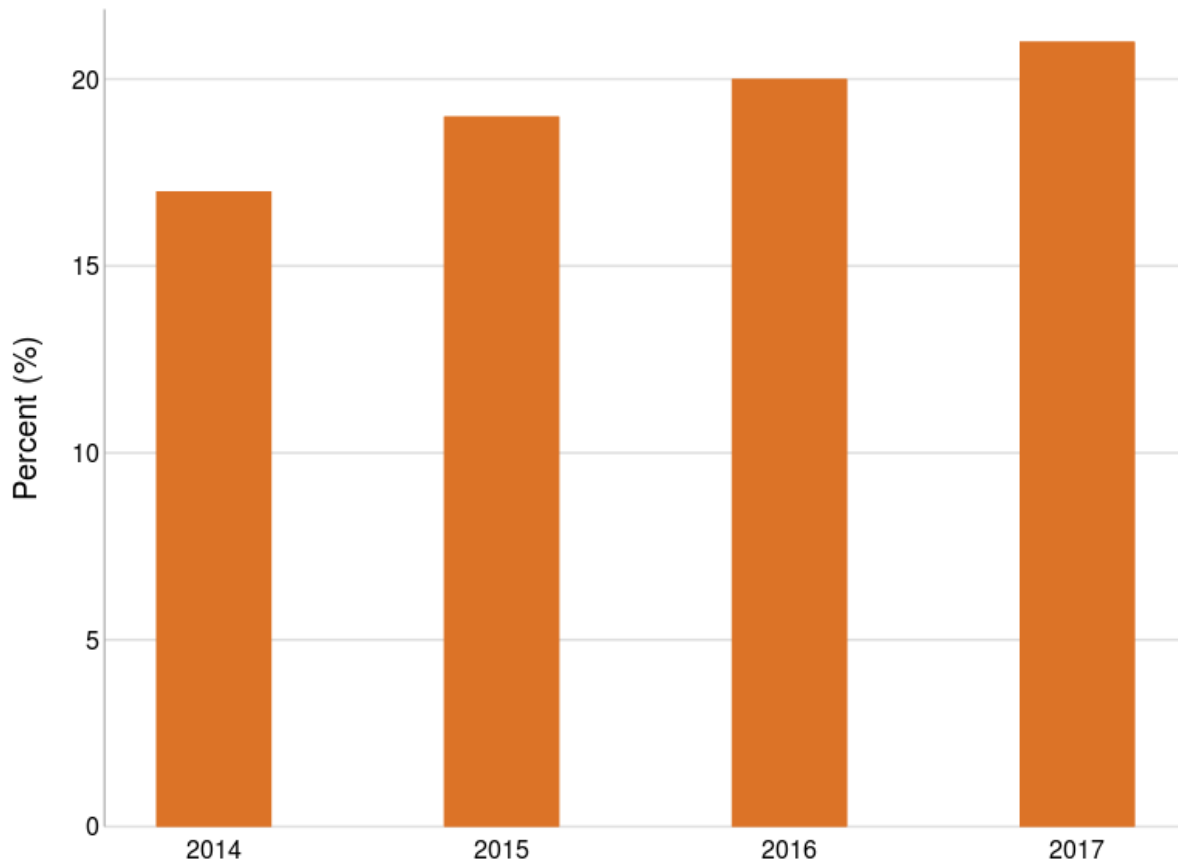


Of the banks that offer remittance transfers, Figure 6 shows that 21% transferred more than 100 remittances in 2017. The share transferring more than 100 has been increasing since 2014, when 17% transferred more than 100. The combined effect of the share of banks offering and the share of banks offering and providing more than 100 transfers has been a slight increase in the share of banks that transfer more than 100 remittances.

<sup>190</sup> This figure is based on answering yes in the June or December report to any part of the call report question 16.a in Schedule RC-M (RCONN517-20): “As of the report date, did your institution offer to consumers in any state any of the following mechanisms for sending international remittance transfers? (1) International wire transfers; (2) International ACH transactions; (3) Other proprietary services operated by you institution; (4) Other proprietary services operated by another party.” In 2017, 3,576 banks reported using international wires, 516 reported using international ACH, 73 reported using other proprietary services by institution, and 119 reported using proprietary services by another party (banks may select more than one method).



**FIGURE 6:** PERCENT OF BANKS THAT OFFERED REMITTANCES TRANSFERS THAT TRANSFERRED MORE THAN 100 REMITTANCES, 2014-2017<sup>191</sup>



The number of banks that offer and transfer remittances is only an indirect measure of access to remittance transfer services at banks. The Bureau does not have information on the number of branches that offer remittance transfer services, which might be a better indication of local access to remittance transfers provided by banks.

A better measure of access to remittance transfer services by banks is the number of remittances consumers choose to transfer with banks. The total number of remittances transferred by banks

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<sup>191</sup> This figure is based on call report question 16.b in Schedule RC–M which is answered annually in the June report (RCONN521): “Did your institution provide more than 100 international remittance transfers in the previous year or does your institution estimate that it will provide more than 100 transfers in the current calendar year?”

increased consistently across the four-year time period, from about 11.9 million in 2014 to nearly 13.9 million in 2017 as shown in Table 2.<sup>192</sup>

**TABLE 2:** TOTAL NUMBER OF REMITTANCES TRANSFERS BY BANKS, 2014-2017

Year	Number of remittances (millions)
2014	11.9
2015	12.6
2016	13.4
2017	13.9

From 2014 to 2017, the average size of a remittance transferred by banks exceeded \$6,500.<sup>193</sup> Thus, while banks generally transferred fewer remittances than MSBs, the remittances banks transferred were typically much larger.

Table 3 reports the extent to which banks move from transferring 100 or fewer remittances in a given year to transferring more than 100 remittances in the next year or vice versa. The calculations do not count banks as having stopped transferring more than 100 remittances that no longer submit a call report because they close or merge with another bank. Similarly, the calculations do not count banks that start reporting more than 100 remittance transfers after merging with a bank that transferred more than 100 in the year before. The calculations account for banks that merge with other institutions by allowing the predecessor bank to pass along its market activity to the successor bank.<sup>194</sup> The number of

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<sup>192</sup> Banks that either provide 100 or fewer remittance transfers or estimate that they will provide 100 or fewer remittance transfers in June in question 16.b are not required to report the number of transfers on their call reports in December. If the non-reporting banks actually sent 99 transfers, then the total remittance transfers by banks is an underestimate of at most approximately 200,000 transfers in each year. In addition, banks that act as a correspondent for other institutions are instructed not to include the transfers they send as a correspondent in their reported remittance transfers. They are instructed to say they offer remittance transfer services if they act as a correspondent.

<sup>193</sup> The average remittance size for each bank was calculated by dividing the total number of remittance transfers provided by the total dollar value of those remittance transfers as reported in fields RCONN524 (total dollars remitted) and RCONN523 (total number of remittance transfers) of the FFIEC Call Report.

<sup>194</sup> For example, if bank A transfers 150 remittances in 2014 and then merges with bank B, which transferred zero remittances in 2014, and the new bank B transfers 200 remittances in 2015, then bank B is not considered to have started transferring more than 100 remittances for 2015 and bank A is not considered to have left the market.

banks that start transferring more than 100 remittances is slightly larger than the number that stop. The net change is small compared to the more than 600 banks that provide more than 100 transfers each year.

**TABLE 3:** BANKS STARTING AND STOPPING TRANSFERRING MORE THAN 100 REMITTANCES 2015-2017

Year	Number of banks that start transferring more than 100 remittances	Number of banks that stop transferring more than 100 remittances	Net change
2015	89	82	7
2016	80	56	24
2017	81	42	39

As indicated in Table 4, banks that transfer more than 100 remittances are substantially larger (as measured by asset size) than banks that offer remittance transfers but transfer 100 or fewer. From 2014 through 2017, the median asset size for banks that report more than 100 remittance transfers exceeded \$1 billion and was about seven to eight times larger than banks that did not report more than 100 remittance transfers.

**TABLE 4:** MEDIAN AND AVERAGE ASSET SIZE (BILLIONS OF DOLLARS) FOR BANKS THAT OFFERED REMITTANCE TRANSFERS AND DID OR DID NOT TRANSFER MORE THAN 100 REMITTANCES, 2014-2017

Year	Median, banks transferring more than 100 remittances	Average, banks transferring more than 100 remittances	Median, banks transferring 100 or fewer remittances	Average, banks transferring 100 or fewer remittances
2014	1.22	14.49	.19	.38
2015	1.43	16.04	.19	.43
2016	1.49	16.84	.20	.46
2017	1.58	17.16	.21	.45

Figure 7 shows how the number of banks is distributed by the number of remittances transfers for each year of the analysis. This analysis is limited to banks that reported more than 100 transfers because banks are not required to report the number of remittances if they transfer 100 or fewer.<sup>195</sup> On the horizontal-axis of Figure 7 is the number of annual remittance transfers and on the vertical-axis is the number of banks that transfer at least 101 remittances each year. For each point on the curve, the vertical-axis shows the number of such banks that transfer up to the number of remittances shown on the horizontal-axis. All banks, including those that transferred 2,000 or more, are included in the count of banks at 2,000 transfers. For example, Figure 7 shows that in each year, approximately 400 of the banks that transferred at least 100 remittances transferred fewer than 500 (about 60% of such banks). Similarly, in each year around 500 banks transferred fewer than 1,000 (about 80% of banks that transferred more than 100). The distribution across banks of the number of transfers has not changed much each year.

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<sup>195</sup> There is a slight ambiguity to the reporting. Banks are required to report the number of transfers over the previous year in December if in June they answered yes to question 16.b (see the full text above) of having transferred more than 100 in the previous calendar year or estimate that they will transfer more than 100 in the current calendar year. A small portion of banks answer yes to question 16.b, but then report 100 or fewer transfers in December. Only those who transfer more than 100 in that calendar year are reported.

**FIGURE 7:** CUMULATIVE DISTRIBUTION OF BANKS BY TOTAL NUMBER OF ANNUAL REMITTANCE TRANSFERS, AMONG BANKS THAT TRANSFERRED MORE THAN 100 REMITTANCES, 2014-2017

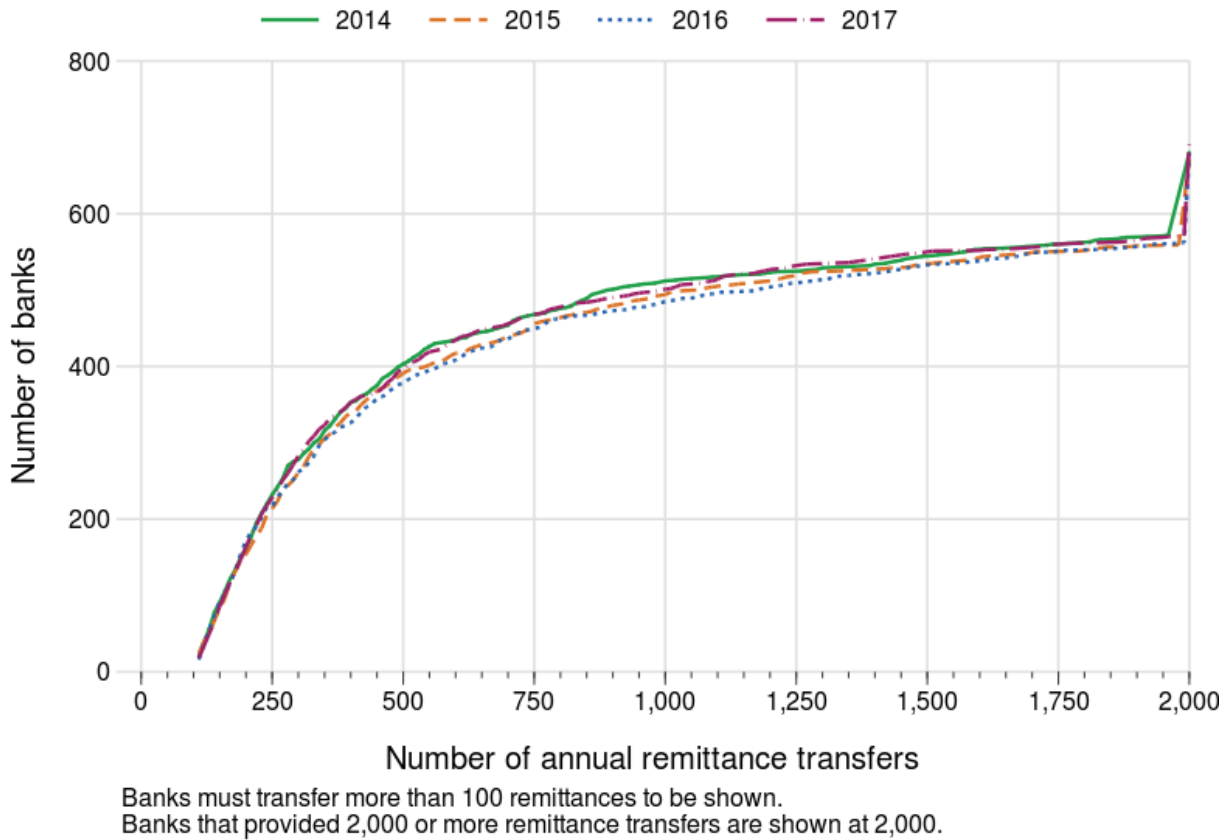
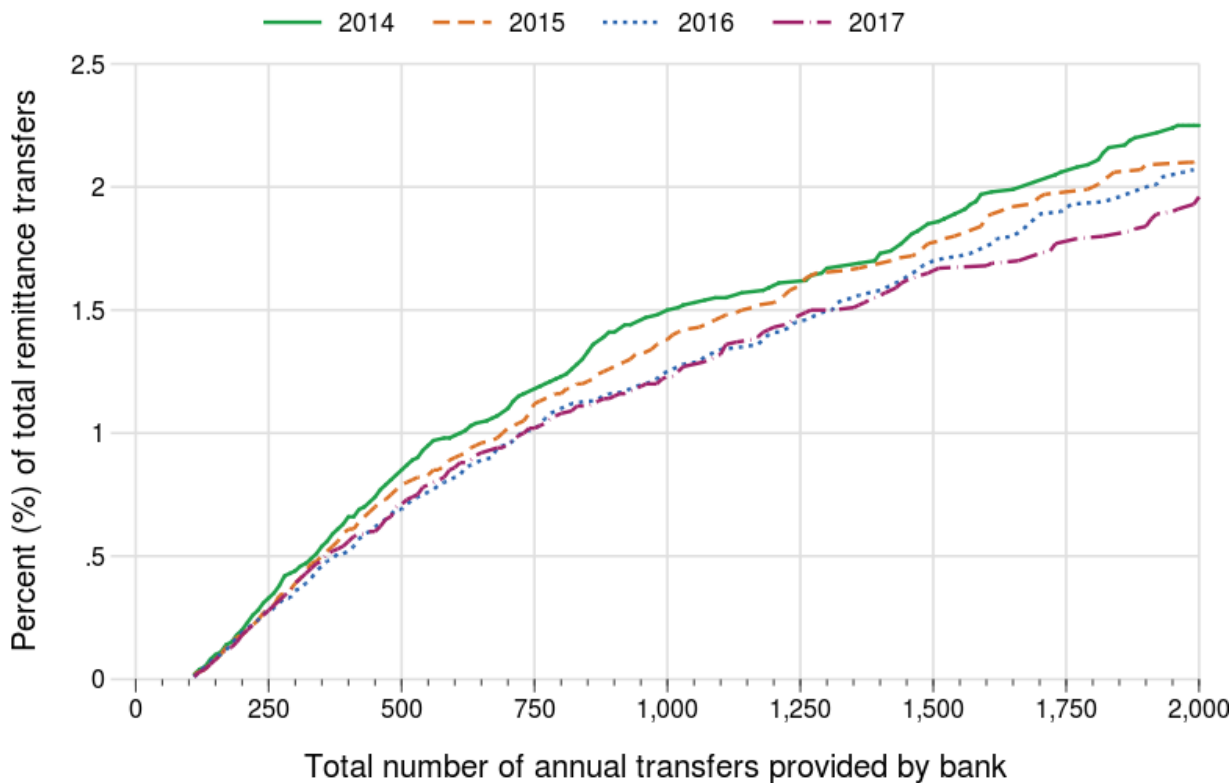


Figure 8 shows the share of all bank remittance transfers by these banks. In each year, banks that transferred 500 or fewer remittances, but more than 100, provided around 0.75% of all transfers by banks. In 2017, banks that transferred 1,000 or fewer remittances provided 1.25% of all transfers by banks.

**FIGURE 8:** CUMULATIVE DISTRIBUTION OF BANK TRANSFERS BY TOTAL NUMBER OF ANNUAL REMITTANCE TRANSFERS, AMONG BANKS THAT TRANSFERRED MORE THAN 100 REMITTANCES, 2014-2017



Banks must transfer more than 100 and 2,000 or fewer remittances to be shown.  
All other transfers provided by institutions which transferred more than 2,000 remittances.

Remittance transfer volumes are highly concentrated among banks. Banks that transfer more than 2,000 remittances transfer 98% of all of the remittances transferred by banks. The top 10 providers accounted for 90% of remittance transfers in 2017. The share of total bank assets of the top 10 banks by remittance transfers is 50.5% of the total banking assets in 2017. Providing remittance transfers is a sizable business for some, but not all, of the largest banks and banks specialize to some extent in the remittance transfer business, as shown by the fact that the top banks transfer a larger share of remittances than their asset size would suggest.

### 3.2.4 Remittances transferred by credit unions

This section examines the remittance transfers provided by credit unions. The primary source of data is credit union call reports from National Credit Union Administration (NCUA). In the first quarter of 2009, credit unions started answering a question about whether they “currently offer, or plan to offer in the next six months” international remittances, which were defined as “cross-border person-to-person

payments of relatively low value.”<sup>196</sup> After the effective date of the Rule, the forms defined “international remittances” as remittance transfers covered by EFTA.<sup>197</sup> Starting in the second quarter of 2013, the call reports asked all credit unions for the number of covered remittance transfers, even if the credit union did not provide remittance transfers in the normal course of business as defined by the Remittance Rule, either by qualifying for the 100-transfer threshold safe harbor or otherwise.<sup>198</sup> However, the call report for credit unions does not ask for the dollar volume transferred, so this section estimates dollar volumes based on the average size of transfers reported by credit unions that responded to the Bureau’s industry survey. In Section 4.4, this report further examines the effect of the 100-transfer threshold safe harbor on credit unions.

Figure 9 shows the number of credit unions that report offering remittance transfer services from 2009 to 2017. The number of credit unions offering such services was relatively steady between 2009 and 2012, increased sharply from 2012 to 2014, and was relatively steady after 2014. The increase from 2012 to 2014 is likely driven, at least in part, by the question changing from offering “international remittances” to offering remittance transfers as defined by the Rule. In particular, high-value international transfers by consumers were specifically excluded under the earlier instructions, but are remittance transfers under the Rule. However, even if all of the increase from 2012 to 2014 is attributable to the change in definition, the evidence is inconsistent with any notable decrease in credit unions offering remittance transfer services around the effective date of the Rule.<sup>199</sup>

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<sup>196</sup> See Nat’l Credit Union Admin., *Call Report Form and Instructions*, at 41, Form 5300 (2009), available at <https://www.ncua.gov/DataApps/Documents/CRF200903.pdf> (for the NCUA call report archive, first quarter call report).

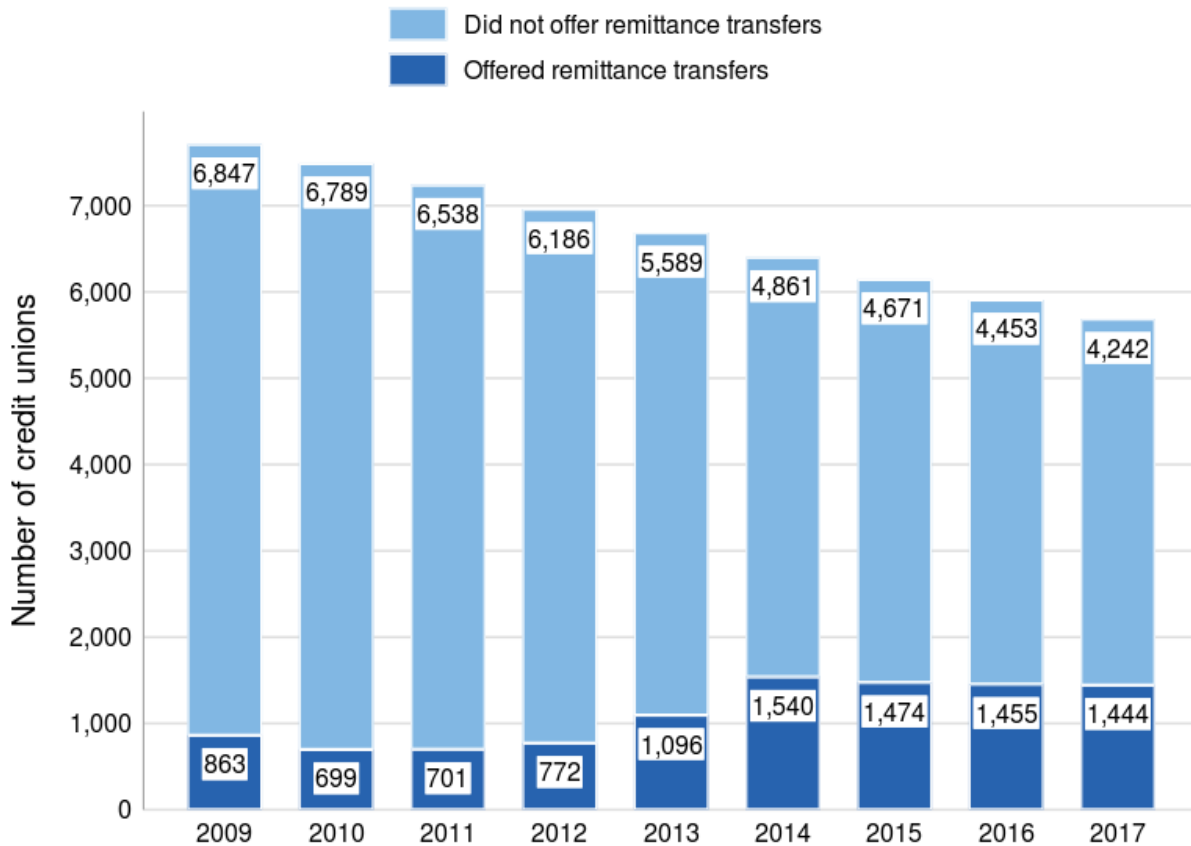
<sup>197</sup> Specifically, the instructions state “This applies if you offer your consumer members in the United States international transfers that are “remittance transfers” under subpart B of Regulation E (12 C.F.R. §§ 1005.03(e)).” See Nat’l Credit Union Admin., *NCUA Profile Form 4501A Instructions*, at 16, <https://www.ncua.gov/regulation-supervision/Pages/documents/credit-union-profile-form-instructions-4501A-9302017.pdf> (last updated Sept. 30, 2017).

<sup>198</sup> The instructions include “Count all international transfers for consumer members for which the credit union is the provider and that fall into either of the following two categories: A. Transfers that are remittance transfers as defined by subpart B of Regulation E (12 CFR § 1005.30(e)); or B. Transfers that would qualify as remittance transfers under subpart B of Regulation E (12 CFR § 1005.30(e)) but that are excluded from that definition only because the credit union is not providing those transfers in the normal course of its business.” See Nat’l Credit Union Admin., *Call Report Form and Instructions*, at 36, form 5300, (2009), available at <https://www.ncua.gov/DataApps/Documents/CRF200903.pdf> (for the NCUA Call Report archive, second quarter call report).

<sup>199</sup> In contrast, several commenters that responded to the RFI have claimed that many credit unions have left the market because of the Rule (see the comments summarized in Appendix B). Some of these comments discussed surveys in which a larger portion of respondents report leaving the market. Data below show that, while some credit unions have ceased providing more than 100 remittance transfers, others have commenced providing more than 100.

While the number of credit unions offering remittance transfers has been steady since 2014, the proportion of credit unions that offer remittance transfers has been steadily increasing. This increase is largely explained by the declining total number of credit unions.

**FIGURE 9:** TOTAL NUMBER OF CREDIT UNIONS THAT OFFERED REMITTANCES TRANSFERS, 2014-2017

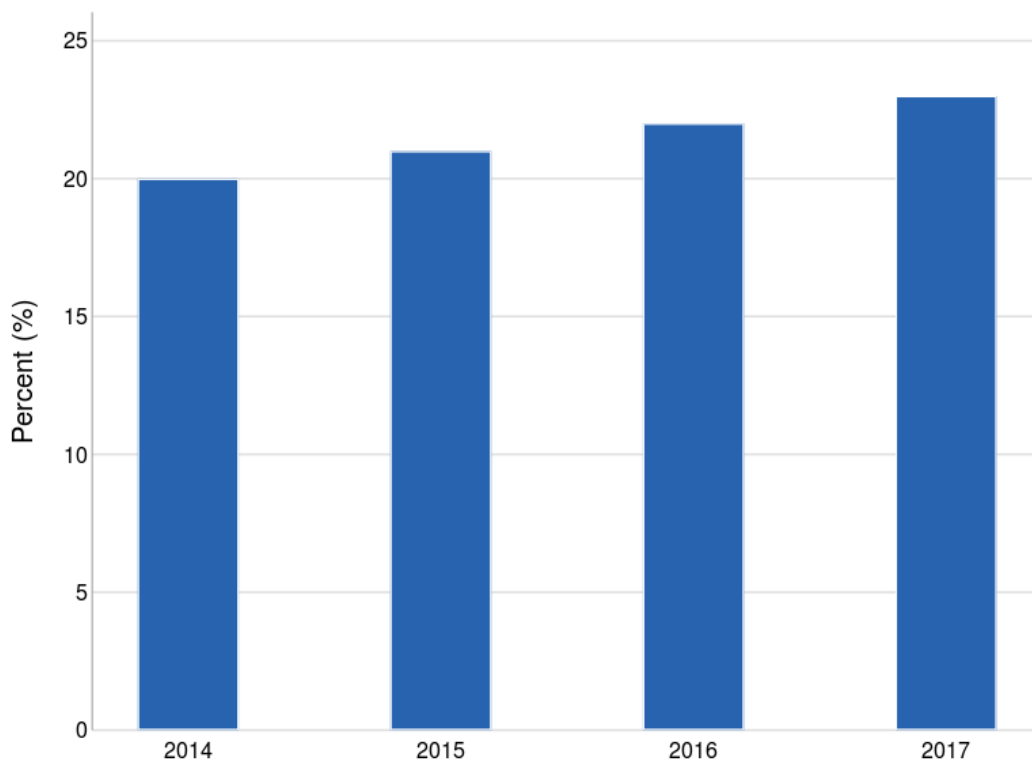


Of the credit unions that reported offering remittance transfers, Figure 10 shows that 23% transferred more than 100, up from a low of 20% in 2014. The number of credit unions that transferred more than 100 remittances fell from 372 in 2013, to 280 in 2014, but has been increasing since then to 301 in 2015, 301 in 2016, and 330 in 2017.<sup>200</sup>

<sup>200</sup> The Remittance Rule provides a safe harbor if a person provides 100 or fewer remittance transfers in both the previous and the current calendar years (see Section 2.3). Focusing on a single year may miss some credit unions that transferred more than 100 in the previous year and so may also be covered. The number of credit unions that move above 100 or move below



**FIGURE 10:** PERCENT OF CREDIT UNIONS THAT OFFERED REMITTANCES TRANSFERS AND TRANSFERRED MORE THAN 100 REMITTANCES, 2014-2017



Credit unions transferred over 750,000 remittances in 2016 and 2017, an increase from previous years when the number of remittance transfers was less than 700,000. Despite this growth, remittance transfers by credit unions consistently made up a small share of the overall remittance market (see the discussion in Section 3.2.1).

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100 from year to year is generally the same and typically small. See the discussion surrounding Table 7. Because of the increase in the number of credit unions offering remittances from 2013 to 2014 and the change in the definition of “offering” on the call report, the number of credit unions offering and transferring more than 100 is somewhat different than the number that are transferring more than 100 in 2013.

**TABLE 5:** TOTAL NUMBER OF REMITTANCES TRANSFERS BY CREDIT UNIONS, 2013-2017

Year	Number of remittance transfers
2013	668,105
2014	658,778
2015	639,258
2016	765,632
2017	762,607

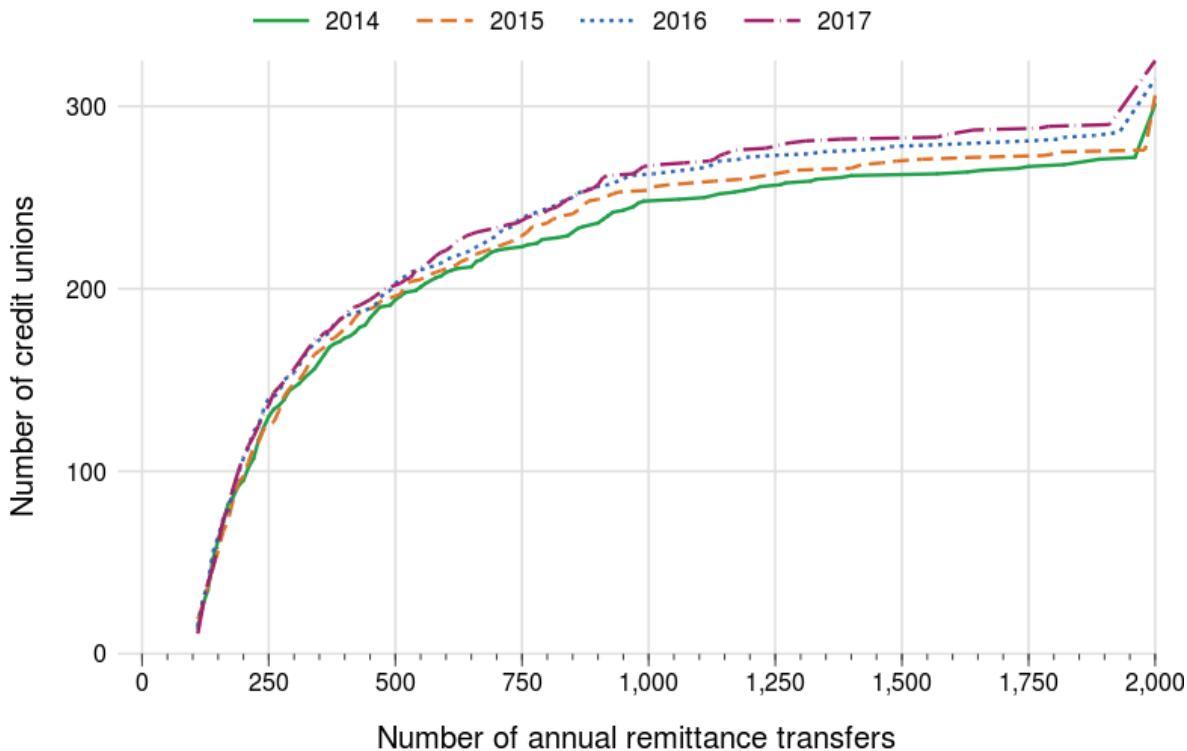
Credit unions that offer and transfer more than 100 remittances are typically larger, as measured by asset size, than credit unions that offer but transfer 100 or fewer remittances. As shown in Table 6, the median asset size of credit unions that offered but did not transfer more than 100 remittances was well under \$20 million in every year. In contrast, the median asset size of credit unions that offered and transferred more than 100 remittances exceeded \$125 million in every year. Table 6 also reports average asset sizes for credit unions that did and did not transfer more than 100 remittances. The difference between the median and average asset size suggests that relatively large credit unions are included in both categories.

**TABLE 6:** MEDIAN AND AVERAGE ASSET SIZE (MILLIONS OF DOLLARS) FOR CREDIT UNIONS THAT OFFERED REMITTANCE TRANSFERS AND DID AND DID NOT TRANSFER MORE THAN 100 REMITTANCES, 2013-2017

Year	Median, credit unions transferring more than 100 remittances	Average, credit unions transferring more than 100 remittances	Median, credit unions not transferring more than 100 remittances	Average, credit unions not transferring more than 100 remittances
2013	131	475	14.6	64.0
2014	127	469	14.0	75.6
2015	137	505	14.7	81.9
2016	149	559	16.0	90.0
2017	154	615	16.9	96.0

Figure 11 shows how the number of credit unions is distributed by the number of remittances transferred each year, conditional on transferring at more than 100 remittances. On the horizontal axis is the number of annual remittance transfers and on the vertical axis is the number of credit unions that transferred that many or fewer remittances. Credit unions that transferred 2,000 or more are included in the count of credit unions at 2,000 transfers. Figure 10 shows that fewer than 25% of credit unions that offer remittance transfer services transfer at least 100 remittances. Of the credit unions that do transfer 100 or more, Figure 11 shows that around 200 in each year transfer fewer than 500 remittances (about 60% of such credit unions) and over 250 credit unions transfer fewer than 1,000 (about 80%). This report discusses the 100 transfer safe harbor in greater detail in Section 4.4.

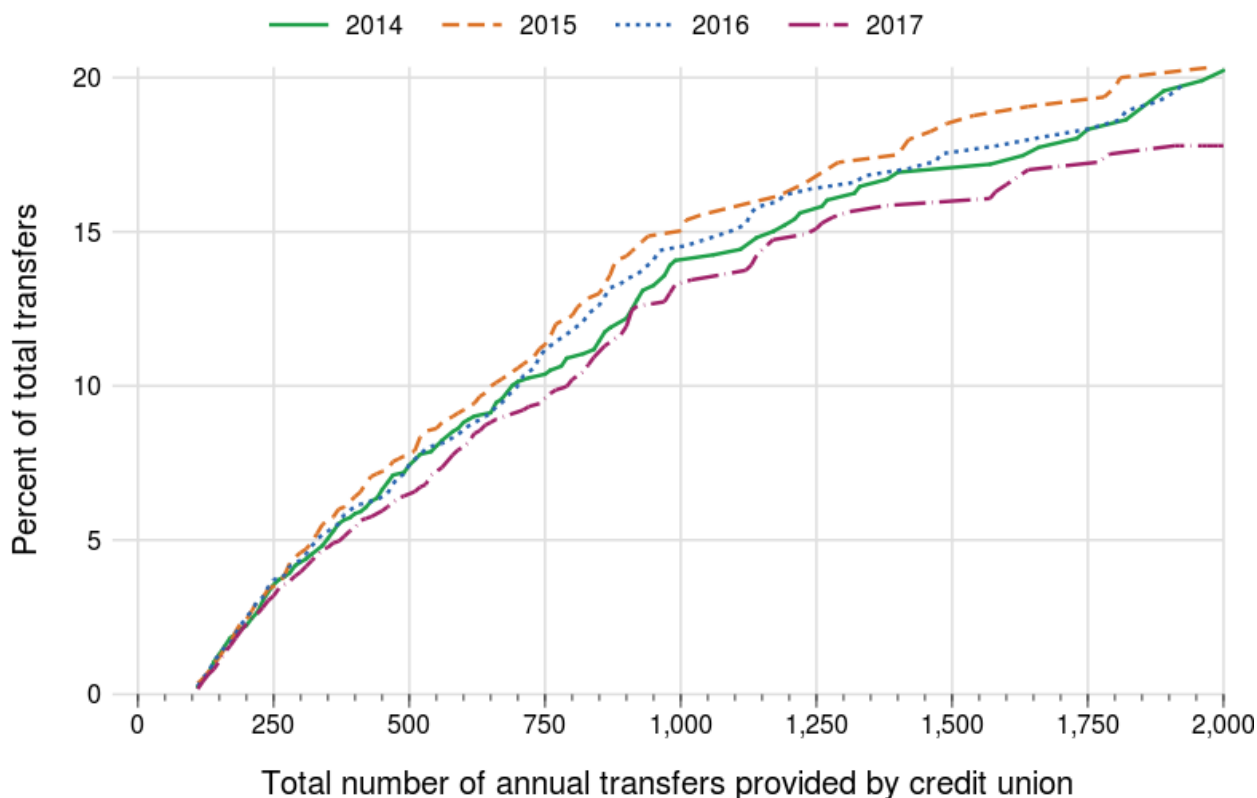
**FIGURE 11:** CUMULATIVE DISTRIBUTION OF CREDIT UNIONS BY TOTAL NUMBER OF ANNUAL REMITTANCE TRANSFERS, AMONG CREDIT UNIONS THAT TRANSFERRED MORE THAN 100 REMITTANCES, 2014-2017



Credit unions must transfer more than 100 remittances to be shown.  
 Credit unions that provided 2,000 or more remittance transfers are shown at 2,000.

Figure 12 shows the percentage of the total credit union transfers attributed to those which transfer at least 100 remittances. In each year, credit unions that transferred 500 or fewer remittances provided around 7% of all transfers by credit unions. In 2017, credit unions that transferred 1,000 or fewer remittances provided 13% of all transfers by credit unions.

**FIGURE 12:** CUMMULATIVE DISTRIBUTION OF CREDIT UNION TRANSFERS BY TOTAL NUMBER OF ANNUAL REMITTANCE TRANSFERS, AMONG CREDIT UNIONS THAT TRANSFERRED MORE THAN 100 REMITTANCES, 2014-2017



Credit unions must transfer more than 100 and 2,000 or fewer transfers to be shown. All other transfers provided by institutions which transferred more than 2,000 remittances.

Transfers by credit unions are less concentrated among the largest providers than for banks, but they are still quite concentrated. In 2017, the top 10 credit unions transferred 63% of all remittances by credit unions, yet the assets of these 10 credit unions represented only 17.6% of all credit union assets in 2017. Thus, some credit unions conduct many more transfers, relative to their asset size, than others. Credit unions that transferred more than 2,000 remittances accounted for 78% of all credit union transfers in 2017.

Figure 10 shows that the share of credit unions transferring more than 100 remittances was increasing over time, and Table 7 shows that the credit unions that are making these transfers has changed over time. Table 7 reports the extent to which credit unions move from transferring 100 or fewer remittances in a given year to transferring more than 100 remittances in the next year. It similarly shows the number that move from transferring more than 100 to 100 or fewer in the next year. The calculations do not count credit unions that no longer submit a call report because they close or merge with another credit union as having stopped transferring more than 100 remittances. Similarly, the calculations do

not count credit unions that start reporting more than 100 remittance transfers after merging with a credit union that transferred more than 100 in the year before. In each year except 2014, slightly more credit unions start transferring more than 100 remittances than stop. This net change is typically small compared to the total number transferring more than 100.

**TABLE 7:** CREDIT UNIONS STARTING AND STOPPING TRANSFERRING MORE THAN 100 REMITTANCES, 2014-2017

Year	Number of credit unions that start transferring more than 100 remittances	Number of credit unions that stop transferring more than 100 remittances	Net change
2014	51	89	-38
2015	39	29	10
2016	37	25	12
2017	32	21	11

The credit union call report data provides a more detailed picture of the institutions that are willing to provide remittance transfer services at very low volumes than does the bank call report data. Twenty-five percent of transferring credit unions transfer fewer than 10 remittances each year and 50% transfer below 50. Providing any remittance transfers requires a fixed cost of staff training, information systems for effectuating the transfer, and compliance with other types of regulatory requirements, even if the institution is not covered by the Remittance Rule because it qualifies for the 100-transfer safe harbor. For credit unions that transfer few remittances in a year, these fixed costs are likely to be larger than any revenue from the transfers.

Table 8 shows that the median number of credit unions that went from not transferring any remittances to transferring some remittances in the next year transferred fewer than 20 remittances. Similarly, credit unions that went from transferring some remittances in one year to zero in the next transferred

fewer than 20. Credit unions that start and stop transferring remittances are similar in terms of the number of transfers they provide, and are, in general, well below the 100-transfer threshold.<sup>201</sup>

**TABLE 8:** MEDIAN NUMBER OF REMITTANCE TRANSFERS BY CREDIT UNIONS THAT START OR STOP TRANSFERRING REMITTANCES, 2014-2017

Year	Median number of remittances, credit unions starting to transfer remittances	Median number of remittances, credit unions stopping transferring remittances
2014	8	13
2015	3	5
2016	4	8
2017	4	5

The Bureau received a number of comments in response to its RFI that provided evidence of exit by credit unions. These comments discussed surveys of credit unions and individual credit union experiences with the Rule. A national credit union association reported on a survey conducted in 2014 in which 5% of respondents reported that they had stopped providing remittance transfers. A state credit union association reported on surveys conducted in 2014 and 2017 that showed that 70% and 61% of respondents, respectively, that did not provide remittance transfers stated that they discontinued providing remittance transfers because of the Rule. The 2017 survey also showed that 10% of respondents considered offering the service but opted against it due to the Rule. A national credit union association reported on a survey conducted in 2017 in which 28% of respondents that offered remittance transfers during the past five years stopped offering them (and an additional 27% “cut back”) primarily because of the Rule.

The evidence of exit by credit unions in the comments is not incompatible with the results from the call reports, but needs to be balanced with the evidence of entry for a more complete picture. As Table 7 reports, a number of credit unions stop transferring more than 100 remittances each year, although in

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<sup>201</sup> Although the median credit union starting and stopping transferring remittances provided a similar number of remittance transfers, a few credit unions that started transferring remittances provided a relatively large number of remittance transfers, skewing the mean (not reported) higher for starting credit unions.

most years about the same number started transferring more than 100. Moreover, the number of credit unions offering remittance transfers has been flat and the share has been increasing steadily.

### 3.2.5 The cost to consumers of remittance transfers

The overall cost of a remittance transfer depends on three components: fees, taxes, and exchange rates. The complexity of pricing appears to be one of the reasons that the statute required provision of a pre-payment disclosure and a receipt so that consumers could better understand the full cost of a transfer.<sup>202</sup>

This section examines how the cost to consumers to send a remittance has changed since 2011. The primary source of data is the World Bank Remittance Prices Worldwide dataset. The World Bank dataset attempts to provide a global comparison of the prices from major sending countries to the major receiving countries. Within each corridor, the World Bank surveys providers, including MSBs and banks, with the goal of obtaining a representative sample of the market in each corridor of between 50 and 70 providers.<sup>203</sup> For example, in the first quarter of 2018, the dataset contains 539 U.S. to receiving country prices from 70 different providers. The survey asks respondents to provide the transfer fees and exchange rate spread to send \$200 and \$500 (or the local equivalent if the sending country is not the U.S.) to the capital city or most populous city in the receiving country. Consumers who transfer remittances at banks and credit unions tend to send much larger amounts, so these data are primarily informative about the transfers at MSBs, which also transfer the vast majority of remittances.

Figures 13 and 14 show the total price paid by U.S. consumers to send a \$200 and \$500 remittance abroad, respectively. The total price includes all fees and the exchange rate spread. These figures plot this total price as a percentage of the sending amount (either \$200 or \$500) so that the prices are

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<sup>202</sup> See February 2012 Final Rule, 77 Fed. Reg. 6194 (Feb. 7, 2012) (for further discussion).

<sup>203</sup> World Bank, *Remittance Prices Worldwide – Methodology*, <https://remittanceprices.worldbank.org/en/methodology>, (last visited Oct. 1, 2018) (for methodology).



comparable across amounts.<sup>204</sup> The figures show the average price across providers to send to countries in each World Bank region.<sup>205</sup>

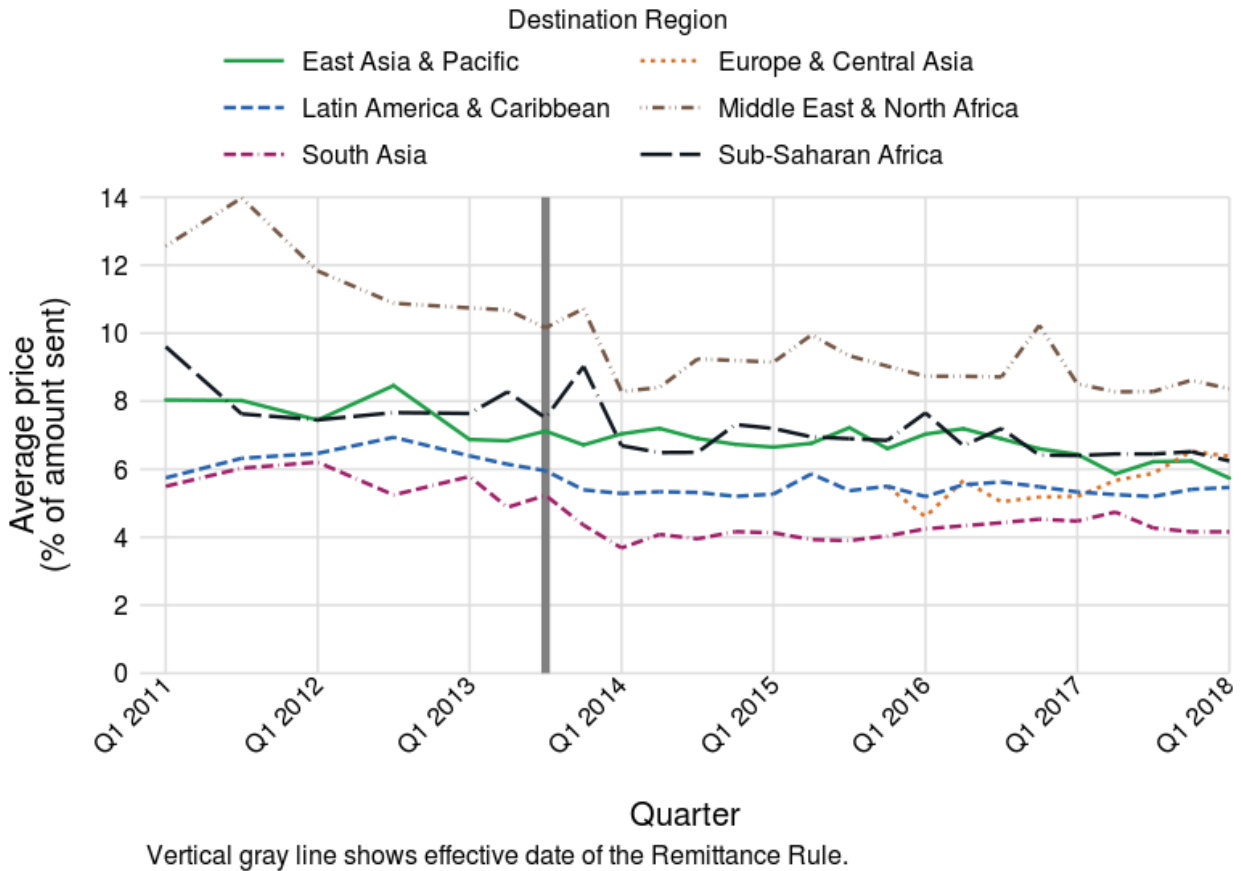
The figures show the large difference in prices paid by consumers depending on where they send money. For example, consumers sending \$200 to the Middle East and North Africa, on average, paid about 3.5 percentage points (about \$7) more than consumers sending money to South Asia in the third quarter of 2017 and about 2.5 percentage points more (about \$12.50) to send \$500.

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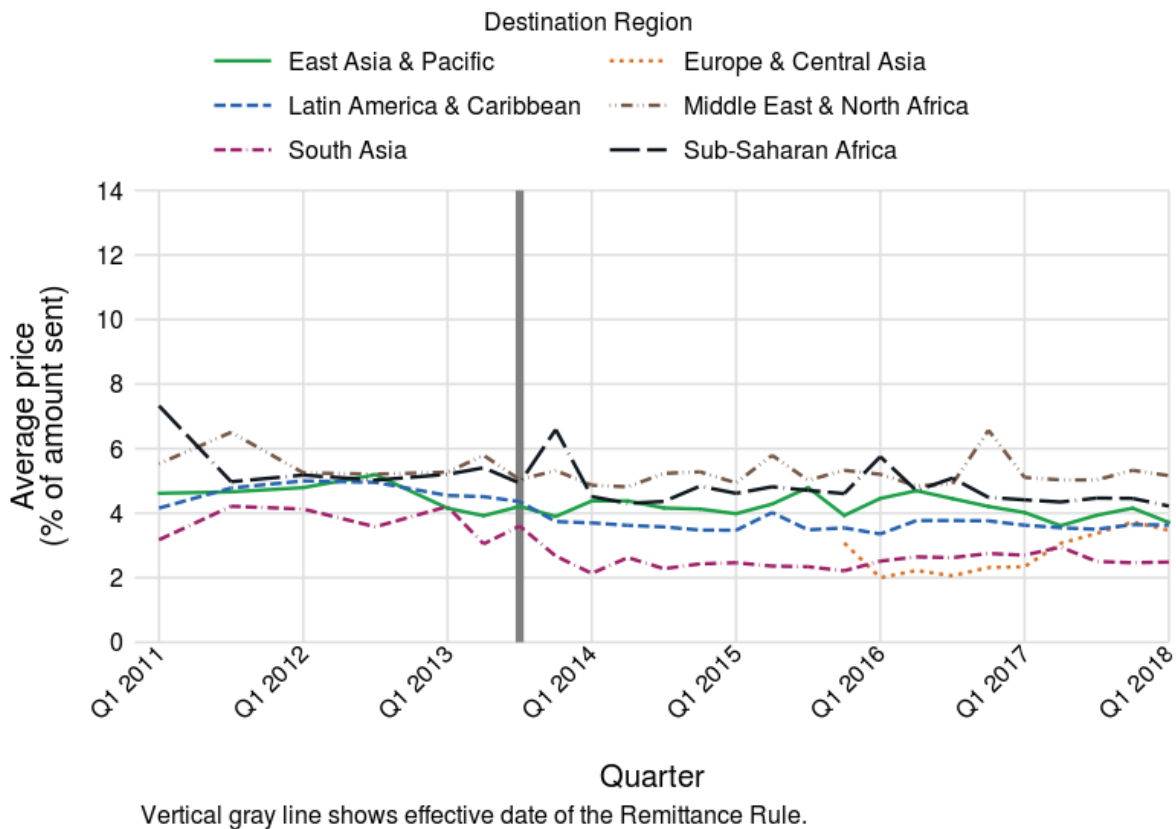
<sup>204</sup> As an example, if a remittance transfer provider charges \$14 to send \$200 abroad (inclusive of all fees and exchange rate markups) then the price as a percentage of the amount of dollars sent abroad would be 7%.

<sup>205</sup> The World Bank regions include: East Asia & Pacific, Latin America & Caribbean, South Asia, Europe & Central Asia, Middle East & North Africa, and Sub-Saharan Africa. The calculated price is the average across all providers-receiving countries in that region.

**FIGURE 13:** AVERAGE PRICE OF \$200 REMITTANCE TRANSFER FROM THE U.S. (AS PERCENTAGE OF TOTAL TRANSFER) BY WORLD BANK REGION, Q1 2011 – Q1 2018



**FIGURE 14:** AVERAGE PRICE OF \$500 REMITTANCE TRANSFER FROM THE U.S. (AS PERCENTAGE OF TOTAL TRANSFER) BY WORLD BANK REGION, Q1 2011 – Q1 2018



The price per remittance transfer has generally been decreasing since the effective date of the Remittance Rule. The vertical line in Figures 13 and 14 shows the effective date of the Rule (October 28, 2013). While there is clearly variation in the average price, most likely caused by the changing composition of providers in the dataset or changing costs in receiving countries, the overall trend across regions is downward compared to before the Rule became effective.<sup>206</sup>

<sup>206</sup> The World Bank has reached a similar conclusion that remittance transfer prices have been declining worldwide. See World Bank, *Remittance Prices Worldwide*, (Issue 26, June 2018), available at [https://remittanceprices.worldbank.org/sites/default/files/rpw\\_report\\_june\\_2018\\_0.pdf](https://remittanceprices.worldbank.org/sites/default/files/rpw_report_june_2018_0.pdf). Several commenters that responded to the RFI stated that they have increased the fees they charge to their customers. See Appendix B for a summary of comments. Several commenters stated that they could no longer offer the best exchange rate or partner with the lowest cost correspondent bank because of the Rule, so costs to consumers had risen.

Table 9 makes the price comparison before and after the Rule took effect explicit. It shows the difference in average price for a \$200 and a \$500 remittance transfer from the U.S. to each World Bank region in the periods before the effective date of the Remittance Rule (January 2011 to September 2013) and after the effective date (October 2013 to present).

**TABLE 9:** PERCENTAGE POINT DIFFERENCE BETWEEN PRICE (MEASURED AS PERCENTAGE OF AMOUNT SENT) BEFORE AND AFTER EFFECTIVE DATE OF RULE

Destination region	\$200	\$500
East Asia and Pacific	-.956	-.374
Europe and Central Asia	Pre-rule price not collected	Pre-rule price not collected
Latin America and the Caribbean	-.933	-1.05
Middle East and North Africa	-2.72	-.308
South Asia	-1.33	-1.18
Sub-Saharan Africa	-.980	-.568

### 3.2.6 Estimates of the effect of the Remittance Rule on remittances sent, dollar volume, and prices

This section examines and discusses evidence on the Remittance Rule’s effect on the total number of remittance transfers, the dollars transferred, and the price of transfers. As discussed in Section 1.1.4, where possible this section uses a baseline for comparison of what the market would have looked like absent the Rule. This baseline is by its nature an unobserved counterfactual, so this section considers different ways of measuring it.

#### Effect of the Remittance Rule on the number and dollar volume of remittance transfers

The number of remittances that consumers choose to transfer, given the available options, is directly informative about consumer access to remittance transfer services. For example, if many remittance transfer providers left the market or restricted their geographic presence it may become more costly for consumers to obtain access to remittance transfers and one thus might expect the number of transfers to fall. Similarly, if providers raised their prices to reflect higher costs, consumers might reduce the number of transfers they make in response to higher prices.

A potential baseline for comparison is whether the trend in the volume of remittance transfers from the U.S. after the Rule became effective is different than before. The Bureau's information on remittance volumes before the Rule became effective is limited to MSBs. Figure 3 in Section 3.2.2 reports an estimate of the total number of remittance transfers by MSBs. The estimates are based on California remittance volumes, so whether they are informative of the effect of the Rule elsewhere depends on whether remittance transfers in California provide a reasonable comparison for remittance transfers in the rest of the U.S. Bureau estimates suggest 23.7% of remittance transfers and 33.5% of the dollar volume originated in California in 2017. In 2017, the size of the average remittance transfer from California closely matches the size of the average remittance transfer nationally. Because California represents a substantial portion of the total remittance transfer market in the U.S. and provides the most complete historical state data available, it is the best source available for the Bureau to use in estimating historical trends over time. In addition, because MSBs transfer the vast majority of remittances, these trends are informative about consumer access more generally. Figures 3 and 4 suggest that the number and dollar volume of transfers may have increased more rapidly from 2013 to 2017 than from 2009 to 2013. Transfers by banks and credit unions have also been increasing since the effective date of the Rule.

Rather than looking at trends before and after the Rule took effect, an alternate approach to determining a baseline is to compare the number of remittance transfers in 2014, the first full year in which the Rule was in effect, and 2013, when it was in effect for less than three months. Figure 3 shows that the number of remittance transfers by MSBs increased sharply from 2013 to 2014, compared to 2012, although they fell from 2014 to 2015. The largest effect of the Rule on provider costs or provider decisions to stay in the market should occur near the effective date of the Rule as providers work to come into compliance. By the effective date of the Rule, providers that decided they wanted to continue offering remittance transfers should have updated their systems and trained staff. Some providers may have decided to try to pass on these costs to consumers in the form of higher prices (see the next section on costs). Other providers may have decided that the increased compliance cost is not worth the potential profits and exited the market. The increase in transfers in 2014 is not consistent with providers that transfer a significant number of remittances leaving the market or raising prices enough to decrease demand.

Combined, the evidence is not consistent with the Remittance Rule overall decreasing consumer access to remittance transfer services as measured by the demand for these services at the available prices. However, the demand for remittance transfer services is affected by many factors other than the Rule, and the evidence does not preclude that remittance transfers would have increased more or more quickly in the absence of the Rule. In addition, the overall increase in remittance transfers might hide geographic areas where access decreased because providers pulled back from particular corridors either

as a result of the Rule or because of other factors unrelated to the Rule (such as anti-money laundering laws and anti-terrorism concerns) in making transfers in certain corridors (see Section 3.2.8).

## Effect of the Remittance Rule on prices

It is possible that the Rule might have increased costs to providers who, in turn, passed on their costs to consumers in the form of higher prices. On the other hand, it is possible that the Rule's error resolution and disclosure provisions may have given consumers greater knowledge of prices and ability to shop and increased their willingness to try new providers, thus increasing competition and putting downward pressure on prices.

The trend of overall prices (see Figures 13 and 14 and Table 9) suggests that prices have declined since the Rule.<sup>207</sup> This evidence suggests that the Rule did not lead to a large increase in prices, but cannot rule out that prices would have fallen even faster in the absence of the Rule. Reviewing prices from the same Word Bank dataset, King (2017) reaches a similar conclusion that there is no evidence that the Remittance Rule “caused prices of low-value remittance transfers to rise.”<sup>208</sup>

To help control for factors other than the Remittance Rule, Figures 15 and 16 compare the total price of a remittance transfer from the U.S. and from other countries. The price to transfer a remittance to the same receiving region from other countries should not have been affected by the Remittance Rule, so the comparison to other countries helps control for trends in prices from other factors such as technology or receiving country costs, for example. These other countries form a baseline for comparison, assuming that there are not events that happened in other countries at the same time as the effective date of the Rule that would significantly affect prices. Figures 15 and 16 compare the average prices to transfer a remittance from the U.S. to the average price to transfer from six comparable high-income countries: Canada, France, Germany, Italy, Japan, and the United Kingdom

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<sup>207</sup> Throughout, this section continues to define the price of a transfer as the total cost to a consumer including fees, any applicable taxes, and exchange rate spread.

<sup>208</sup> “The paper concludes that there is no evidence that the issuance in 2012 of 1073 has caused consumer prices of low-value remittance transfers to rise. In fact, over the past five years, the emergence of new service providers and business models, the growth of e-commerce and mobile commerce channels, and increased pricing transparency have given consumers access to lower-priced remittance options.” See Doug King, *The Cost and Accessibility of Remittances Originating from the United States with a Focus on the Mexico Corridor*, at 3, (Fed. Reserve Bank of Atlanta, 2017), available at <https://www.frbatlanta.org/-/media/documents/rprf/publications/Cost%20Accessibility%20of%20Remittances%202017.pdf>; see also, Doug King, *The Rising Cost of Remittances to Mexico Bucks a Trend*, Fed. Reserve Bank of Atlanta Blog (Sept. 18, 2017), <http://takeonpayments.frbatlanta.org/2017/09/the-rising-cost-of-remittances-to-mexico-bucks-a-trend.html>.

(G7 countries, except the U.S.). The figures use the same World Bank Remittance Prices Worldwide dataset as in the previous section and again calculates the average price to transfer remittances to all receiving countries in each region. The calculations take the average price across all surveyed providers in the comparison countries.

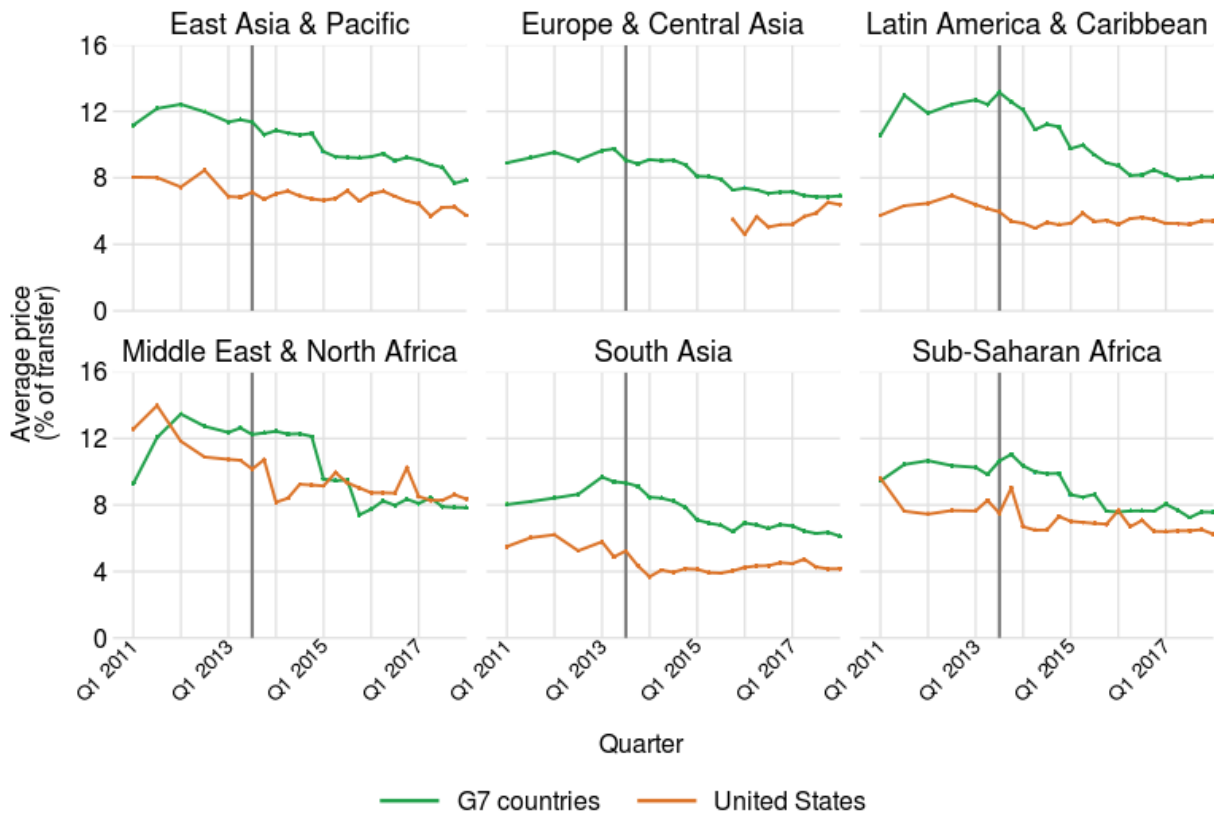
Prices to transfer remittances to each region are generally substantially lower in the U.S. than in other countries. Prices have been trending down both in the U.S. and elsewhere. Prices declined more quickly from 2011 through 2017 in the comparison countries, but started out higher. Despite this more rapid decline, prices in the U.S. were still lower in the first quarter of 2018 to send to all destination regions except the Middle East and North Africa, where the average prices are nearly identical to the U.S. for both \$200 and \$500 transfers.

What matters for assessing the Remittance Rule is whether the relative price changed after the Rule's effective date. Prices declined relatively rapidly in the year after the effective date for remittance transfers to the Middle East and North Africa, South Asia, and Sub-Saharan Africa, but not other regions. There do not appear to be large relative price declines overall, so the evidence does not support the Rule causing substantial price declines, relative to what one might expect using the price changes in other high-income countries as a baseline. However, this analysis also does not support the hypothesis that the Remittance Rule caused large price increases, relative to these other countries.

The Bureau received a number of comments in response to its RFI that provided evidence about the Rule's effect on prices. A national credit union association reported on a survey conducted in 2014 that respondents reported increasing fees from \$35 to \$50 per transaction. One credit union reported that "transfer fees" in their area had been in the \$10-\$25 range and increased to \$50-\$100. A trade association representing banks reported on a survey it conducted in 2017 in which 39% of respondents reported that they had increased fees. In contrast, a consumer group reported on a survey of international remittance customers that it conducted in late 2015 in which 69% of respondents reported that prices were stable and 6% reported that prices had decreased over the previous year.

Banks and credit unions together provide fewer than 5% of remittance transfers but the remittances they transfer are typically much larger. The average remittance transfer by banks exceeded \$6,500 from 2014 to 2017. The Bureau has limited information on the prices of large transfers. For context, if the price to send \$10,000 at a credit union or bank increased from \$50 to \$100, the implied percentage cost increased from 0.5% to 1%. As Figure 16 shows, the price in percentage terms to transfer \$500 is typically around 4% depending on the receiving region. The average remittance transfer is between \$200 and \$500.

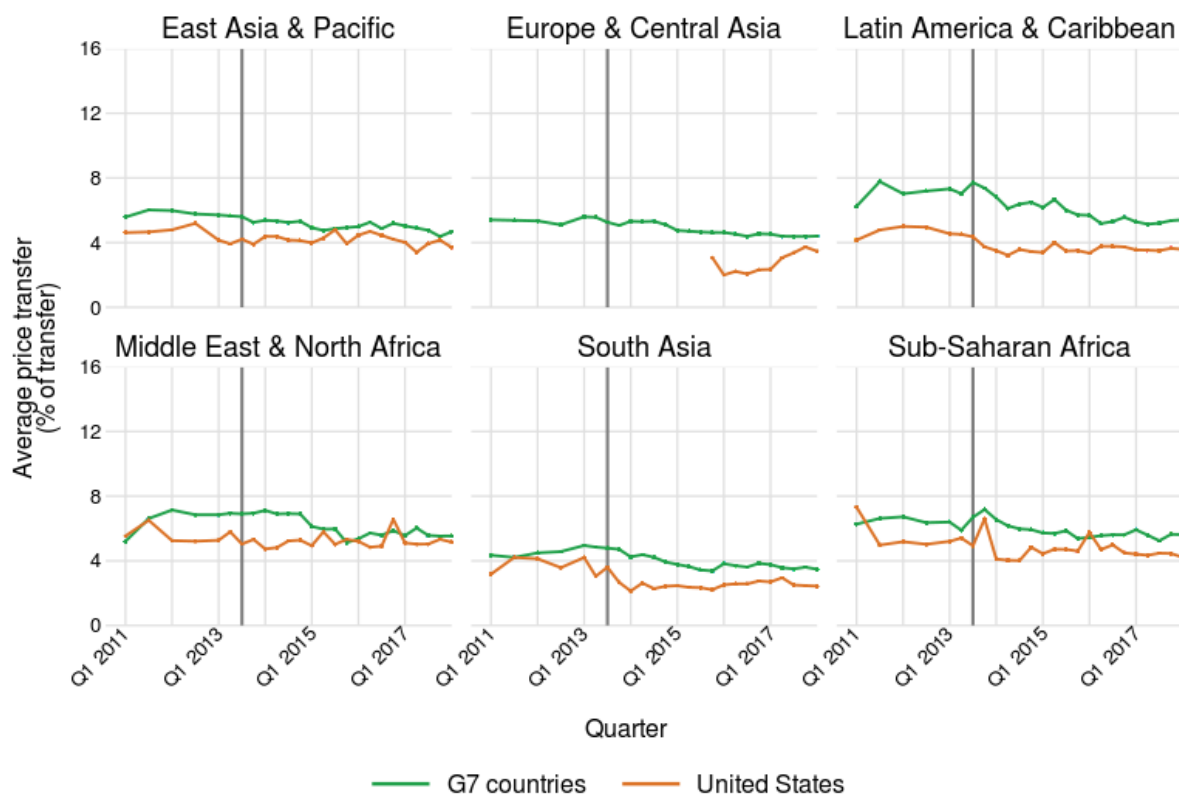
**FIGURE 15:** AVERAGE PRICE OF A \$200 (OR EQUIVALENT) REMITTANCE TRANSFER FROM THE U.S. AND ALL G7 COUNTRIES EXCEPT THE U.S. BY DESTINATION REGION, Q1 2011 – Q1 2018



Vertical gray line shows effective date of the Remittance Rule.



**FIGURE 16:** AVERAGE PRICE OF A \$500 (OR EQUIVALENT) REMITTANCE TRANSFER FROM THE U.S. AND ALL G7 COUNTRIES EXCEPT THE U.S. BY DESTINATION REGION, Q1 2011 – Q1 2018



Vertical gray line shows effective date of the Remittance Rule.

Additional analysis may provide a deeper understanding of the relationship between the Remittance Rule and prices. In a forthcoming academic working paper, Paolo Abracar and Emily Beam examine the effect of the Rule on prices by comparing the price to send remittances from the United States to the price to send from other countries.<sup>209</sup> Because they compare countries, rather than averaging at the World Bank region level, their approach can reach statistically robust conclusions. Preliminary results shared with the Bureau suggest the Rule may have had a causal role in reducing prices.

<sup>209</sup> See Paolo Abracar and Emily Beam, *The Impact of Information Disclosures in the Remittance Market*, unpublished manuscript (2018).

### 3.2.7 Innovation

The development, deployment, and widespread adoption of new technologies have substantially impacted consumer financial services, and both media and investors seem to expect that impact to accelerate in coming years.<sup>210</sup> The emergence and launch of new technologies have drawn new providers and players into the remittance transfer market and forced existing providers and players to adopt new technologies, find new applications for existing technologies and products, and rethink their business models to remain competitive.

The remittance transfer market has already experienced, and is expected to continue to experience, substantial reverberations from new and repurposed technologies and new entrants. Understanding these innovations—the benefits they provide to consumers, providers, and other players, any potential risks they engender, and the degree to which existing regulation is facilitating or hindering their development or adoption—is critical to understanding the remittance transfer market generally, and the effect of the Remittance Rule specifically.

This section describes innovation in the remittance transfer market. First, this section describes the rapid growth of smartphone penetration as a key underlying development facilitating many of the other forms of innovation discussed in this report. Second, this section examines new entrants, many of which rely on new technologies and, in some cases, business models. Third, this section examines existing players and providers and whether and how they are adopting new technologies, repurposing their existing platforms and capacities, and reorienting their business models. Lastly, this section examines virtual currencies, which have drawn significant attention and investment because of their perceived potential to transform many markets, including the remittance transfer market.

This section focuses only on those developments and players directly affecting the market for remittance transfers in the U.S. However, in many cases, these developments are occurring across many markets both within and outside the U.S. These developments may impact some players who do not operate currently within the U.S., but nevertheless may indirectly impact the U.S. market. In some cases, these foreign entities have expressed an intent to enter the U.S. market in the foreseeable future.

These large changes started before the effective date of the Rule and continued after it, which makes discerning the effect of the Rule difficult. The Bureau does not have a baseline to compare whether innovation would have been faster or slower without the Rule. But innovation has continued after the

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<sup>210</sup> See Bureau of Consumer Fin. Prot., *The Consumer Credit Card Market Report*, at Section 7, (2017), available at [https://files.consumerfinance.gov/f/documents/cfpb\\_consumer-credit-card-market-report\\_2017.pdf](https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2017.pdf).

effective date of the Rule. As this section discusses, many of these trends are driven by broader technological changes, so the Rule is not likely to have had a large effect on innovation relating to remittance transfers.

## Smartphones and digitization

One of the most significant changes in the remittance transfer market since the passage of the Dodd-Frank Act and the promulgation of the Remittance Rule is the increasing penetration of personal computing devices among both consumers who send and receive remittances. Perhaps the most important subset of this trend is the advent of broadly accessible mobile phones, especially “smartphones”—portable personal computers capable of sending and receiving data via mobile broadband cellular networks. Smartphones have created opportunities for new technological applications to facilitate remittance transfers, for existing technologies to be repurposed, and for new providers to develop services based on those opportunities.

Smartphone use has increased recently and rapidly in both the U.S. and many of the countries that receive substantial volumes of remittance transfers from senders in the U.S. According to Pew Research Center survey data, smartphone penetration in the U.S. increased from 35% in 2011 to 77% in 2018.<sup>211</sup> The Pew Research Center also reports that smartphone penetration in China and India—the world’s two most populous countries and two of the largest destinations for remittance transfers sent from the U.S.—increased from 37% and 12% respectively in 2013 to 68% and 18% in 2016.<sup>212</sup> In Mexico, the largest destination for U.S. remittance transfers, Pew reports smartphone ownership increased from 21% to 35% from 2013 to 2015.<sup>213</sup>

The rapid growth in smartphone penetration is important for two reasons. First, the vastly increased access by both remittance-sending and -receiving consumers has facilitated new entrants and new models. Second, this period of rapid change overlapped with the period following the issuance and implementation of the Remittance Rule. This makes it more difficult than it otherwise would have been to attribute only to the Remittance Rule changes that occurred during this during this period.

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<sup>211</sup> Aaron Smith, *Record Shares of Americans Now Own Smartphones, Have Home Broadband*, Pew Res. Ctr. (Jan. 12, 2017), available at <http://www.pewresearch.org/fact-tank/2017/01/12/evolution-of-technology/>.

<sup>212</sup> Jacob Poushter, *China Outpaces India in Internet Access Smartphone Ownership*, Pew Res. Ctr. (Mar. 16, 2017), available at <http://www.pewresearch.org/fact-tank/2017/03/16/china-outpaces-india-in-internet-access-smartphone-ownership/>.

<sup>213</sup> Jacob Poushter, 2. *Smartphone Owner Rates Skyrocket in Many Emerging Economies, but Digital Divide Remains*, Pew Res. Ctr. (Feb. 22, 2016), available at <http://www.pewglobal.org/2016/02/22/smartphone-ownership-rates-skyrocket-in-many-emerging-economies-but-digital-divide-remains/>.

## New providers, players, and models

The increasing prominence of new technologies has gone hand-in-hand with the rapid rise of new remittance transfer providers and non-provider players, and has seen existing players shift to new models of doing business. Data available to the Bureau strongly suggest that a substantial and growing share of remittance transfers are being facilitated by “digital-only” providers who maintain no “brick-and-mortar” presence in the U.S. Many such providers, including some facilitating substantial volume, have been founded in the last decade. Some of these providers have been digital-only since inception—including some providers with significant market share which only began operating in the past few years—while others have shifted to the digital-only model after operating for some time with a more traditional model. This makes the remittance transfer market similar to other markets, such as the domestic peer-to-peer transfer market and the personal loan market, which in recent years have seen new entrants (often, though not always, categorized as “fintechs”) and digital-centric business models take a strong or leading role.

While the precise products, platforms, technologies, and business models fintech firms employ may differ, fintech entities in the remittance transfer market share certain core characteristics. These characteristics center around the ways these providers interact with senders. Fintech companies are, at least on the send side, digital-only, a business model made possible by the rise of personal computing and smartphones. While most of these providers provide more traditional cash pickup or delivery options to those who receive remittance transfers alongside electronic funds deposit, they have also been buoyed by the increasing penetration of both bank accounts and digital wallets in receiving jurisdictions.<sup>214</sup>

Structurally, these new providers tend to adopt variations of the closed network system described in Section 3.1.1. In this way, these entities are similar to the legacy MSBs with which they compete. However, by relying on digital interfaces as their mode of engaging with consumers and processing transactions, they can scale much more quickly, while eschewing the costs of building and maintaining physical locations (or contracting with the owners or operators of existing brick-and-mortar networks).

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<sup>214</sup> In some cases, digital wallet penetration has outpaced smartphone penetration. The most well-known such case is likely the success of M-Pesa in Kenya. M-Pesa facilitates phone-to-phone value transfers on a wide variety of mobile devices less powerful and sophisticated than smartphones.

The advantages of new entrants are similar to those that fueled other new consumer financial services markets as well as other markets more broadly, such as retail.<sup>215</sup>

Some of these providers predate the widespread consumer adoption of smartphones, having seen opportunity in consumer adoption of desktop computers. For example, one such company, Xoom, was incorporated in 2001, and has been specializing solely in remittance transfer services (digital-only for sending remittances) since 2006.<sup>216</sup> However, the past decade has seen substantial growth not just in the number of new providers, but in their market share, both in the U.S. and other major remittance-sending jurisdictions, such as Canada, the United Kingdom, and the European Union.<sup>217</sup>

Another distinct trend is the entrance and increasing impact of entities whose primary line of business lays outside providing remittance transfers and who may even not be traditional financial services

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<sup>215</sup> This does not mean that scaling is frictionless. Most MSBs in the U.S. require a specialized license to do business in each state in which they operate, a license which can be expensive and time-consuming to procure. In early 2018, seven states (Georgia, Illinois, Kansas, Massachusetts, Tennessee, Texas, and Washington) formed a “compact” which would, in effect, require only a single licensing process to do business in all seven states. This was presented as “the first step among state regulators in moving towards an integrated, 50-state system of licensing and supervision for fintechs.” Conf. of State Bank Supervisors, *State Regulators Take First Step to Standardize Licensing Practices for Fintech Payments*, (Feb. 6, 2018), available at <https://www.csbs.org/state-regulators-take-first-step-standardize-licensing-practices-fintech-payments>.

<sup>216</sup> Xoom Corp., Amendment No. 1 to Registration Statement (Form S-1) (Feb. 1, 2013), at 5. In 2015, Xoom was acquired by PayPal. See Business Wire, *PayPal Completes Acquisition of Xoom*, (Nov. 12, 2015), available at <https://www.businesswire.com/news/home/2015112005780/en/PayPal-Completes-Acquisition-Xoom>

<sup>217</sup> For example, TransferWise, which was launched in 2011, “[said] it has a 10% share of the international money transfer market in the UK” last year. See Oscar Williams-Grut, *TransferWise Says it is on Track to do £100 Million in Revenue this Year and is Profitable*, Business Insider (May 17, 2017), available at <https://www.businessinsider.com/transferwise-revenue-profit-2017-5>; <http://yhponline.com/2012/03/20/taavet-hinrikus-transferwise/>. In April 2018, TransferWise reported facilitating remittances at a rate of \$2 billion per month, volumes comparable to many of the largest “legacy” nonbank remittance providers. See TransferWise, *TransferWise Mission Report Q1 2018*, TransferWise Blog (Apr. 24, 2018), <https://transferwise.com/gb/blog/transferwise-mission-report-q1-2018>. In September 2018, press reports claimed TransferWise facilitated remittances at a rate of \$3 billion per month. See TransferWise, *TransferWise Reports Second Year of Profit*, Finextra (Sept. 10, 2018), <https://www.finextra.com/pressarticle/75335/transferwise-reports-second-year-of-profit>; see also Martin Arnold, *TransferWise Plans Further Price Cuts*, Financial Times (Sept. 9 2018), [available at https://www.ft.com/content/a2b9594a-b42a-11e8-bbc3-cd7de085ffe](https://www.ft.com/content/a2b9594a-b42a-11e8-bbc3-cd7de085ffe). Further, Remitly, an American fintech company founded in just 2011, already commands 16% of the market for remittances sent to the Philippines, and is targeting a 40% share by 2022. See Roderick Abad, *Remitly Seeks to Gain 40% Share of PHL Remittance Market by 2022*, BusinessMirror (Sept. 20, 2018), available at <https://businessmirror.com.ph/remitly-seeks-to-gain-40-share-of-phl-remittance-market-by-2022/>. In 2017, the Philippines was the third-largest remittance-receiving jurisdiction in the world; about one-third of all dollars remitted to the Philippines originated in the United States. See World Bank Group & Knomad, *Migration and Remittances: Recent Developments and Outlook*, (Migration and Dev. Brief 29, 2018), available at <https://www.knomad.org/sites/default/files/2018-04/Migration%20and%20Development%20Brief%2029.pdf>, see also *id.* at *Bilateral Remittance Estimate*, available at [http://www.knomad.org/sites/default/files/2018-04/bilateralremittancematrix2017\\_Apr2018.xlsx](http://www.knomad.org/sites/default/files/2018-04/bilateralremittancematrix2017_Apr2018.xlsx).

providers. This parallels (though not necessarily to the same extent) a broader trend in the market for payments, in which retailers, technology firms, and other entities find that tighter integration with payments products serves their business model in some way, and increasingly integrate payments products and services into their broader array of offerings.

In the remittance transfer market, the entry of these entities has impacted both the physical and digital provision of services. To take just one prominent example of each, Walmart partnered with MoneyGram earlier this year to provide a Walmart-branded remittance transfer service available in Walmart locations.<sup>218</sup> Meanwhile, in 2017, Facebook partnered with both MoneyGram and Western Union to integrate “chatbots” into its Messenger service, facilitating the initiation of remittance transfers by Facebook users directly from Facebook’s interface.<sup>219</sup>

Many retailers and technology companies have made broader inroads into offering payments services and products to their customers.<sup>220</sup> In at least some cases, such companies do not appear to make a profit directly from providing these payment services; therefore, they appear to be primarily entering these markets to support their broader business models.<sup>221</sup> They nevertheless can have significant effects on pricing, availability, and other trends in payments markets they enter.

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<sup>218</sup> Anna Nicolaou & Ben McLannahan, Walmart Extends Money Transfer Operation to 200 Countries, *Financial Times* (Apr. 3, 2018), available at <https://www.ft.com/content/9b7309ae-36c3-11e8-8eee-e06bde01c544>. Walmart has been a MoneyGram agent for some time, but this new product, among other things, likely signifies a greater desire on the part of Walmart to associate its brand with the remittance transfer service it offers to its customers.

<sup>219</sup> Finextra, *Western Union and MoneyGram Unveil Facebook Messenger bots; MasterCard and Amex Pile In*, (Apr. 19, 2017), <https://www.finextra.com/newsarticle/39445/western-union-and-moneygram-unveil-facebook-messenger-bots>.

<sup>220</sup> For example, Walmart offers a domestic person-to-person money transfer service as well as a white-label general purpose reloadable prepaid card; Facebook offers a domestic person-to-person money transfer service similarly integrated into its Messenger product.

<sup>221</sup> Many banks and other entities focused on offering financial services also offer remittance transfers primarily to support their broader business models. In a previous comment to the Bureau, the American Bankers Association noted that “Account holders who seek a remittance once or twice in the course of a multi-year relationship approach their banker for convenience...For bankers these infrequent transfers are compensated not on the basis of operating a profitable business line, but rather for conducting a high-touch, individual attention, occasional transaction for an established customer.” Am. Bankers Ass’n, Comment Letter on Proposal and Request for Public Comment, at 4 (Apr. 9, 2012), [https://www.aba.com/archive/Comment\\_Letter\\_Archive/Comment%20Letter%20Archive/cjRemittancesApril2012.pdf](https://www.aba.com/archive/Comment_Letter_Archive/Comment%20Letter%20Archive/cjRemittancesApril2012.pdf). In their response to the RFI, the ABA further stated that “many ABA members offer these services only to existing customers.” Am. Bankers Ass’n, Comment Letter on Notice of Assessment of Remittance Rule and Request for Public Comment, at 7 (May 23, 2017), <https://www.regulations.gov/document?D=CFPB-2017-0004-0026>. The Credit Union National Association also responded to the RFI and stated that “many [credit unions] either price their remittance transfers to recoup their costs with no additional income from these services or they actually lose money in providing the services. Credit unions would like

## Legacy players and new or repurposed technologies

Legacy remittance transfer service providers also have increasingly invested in digital platforms, including them among the many market participants in financial services who are embracing the rapidly emerging digital ecosystem.

Some MSBs remain exclusively brick-and-mortar services, while others have gone fully digital, abandoning storefronts entirely. The largest providers, who report some figures relating to digital volumes and revenue in their public filings, appear to fall between these two extremes; they report substantial digital growth but their digital volumes remain a small part of their overall volumes.<sup>222</sup> As noted above, however, the largest MSBs facilitate a very large share of all remittance transfers—meaning that they may still be the largest providers of digital remittance transfer services, despite the rapid growth in the number and size of fintech providers.

Many entities who provide critical foundations for payments systems, but are not themselves providers, have also been developing and deploying new products and services which expand or improve their capacity for facilitating cross-border payments. Two notable and illustrative cases are the large payment card networks and SWIFT. International transactions also utilize the ACH system, for which evidence of the effect of such innovation to date is uncertain.

Major payment card networks have long facilitated large volumes of payments between consumers and merchants, both within and across national borders. In recent years, however, the largest networks have begun exploring how their infrastructure could be improved and leveraged to facilitate a wider variety of payments. The two most notable results of this have been Visa's "Direct" product and MasterCard's "Send" products, which allow cards to be used for "push" payments initiated by the sender rather than the traditional "pull" payments initiated by the recipient.

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to continue providing these services, however, as an accommodation for their members." Credit Union Nat'l Ass'n, Comment Letter on Notice of Assessment of Remittance Rule and Request for Public Comment, at 4 (May 19, 2017), <https://www.regulations.gov/document?D=CFPB-2017-0004-0020>. As noted in Section 3.2.1 of this report, data available to the Bureau confirms that many banks and credit unions that offer remittance transfer services to their customers facilitate very few transfers, further suggesting that these entities offer remittance transfer services primarily to support a broader business model. What distinguishes the trend noted in this section is that payments services are being increasingly offered by companies whose primary lines of business are not in financial services.

<sup>222</sup> For example, in the first quarter of 2018, Western Union reported that westernunion.com experienced transaction growth of approximately 24% and represented 11% of their "consumer-to-consumer" revenue. The Western Union Co., Quarterly Report (Form 10Q), at 53 (Apr. 25, 2018). In the same quarter, MoneyGram reported that moneygram.com money transfer revenue grew by 21% and represented 16% of money transfer revenue. MoneyGram Int'l, Inc., Quarterly Report (Form 10Q), at 27 (May 4, 2018).



These “push products” have already been adopted for a variety of applications, including facilitating domestic person-to-person payments, the funding of mobile wallets, or payouts from businesses to individuals. These push products have also begun to be applied to facilitate cross-border payments. While the Bureau’s market monitoring does not yet indicate that these products are being used to facilitate substantial volumes of remittance transfers, it seems likely that in coming years consumers will use them for cross-border payments.

Another case of innovation coming from a well-established entity is SWIFT’s global payments innovation (“gpi”) product. As noted in Section 3.1.2, SWIFT provides messaging services that support a large share of all cross-border interbank payments. Just last year, SWIFT debuted its new gpi product, the rapid adoption of which demonstrates the potential for innovation by established entities already possessing large scale and reach.<sup>223</sup> Within 15 months of its launch, SWIFT announced that gpi comprised a quarter of its traffic, representing more than \$100 billion in cross-border payments per day.<sup>224</sup> Further, according to SWIFT, half of gpi transactions are credited to recipient accounts within 30 minutes.<sup>225</sup>

The ACH system merits further discussion here given Congress’s goals of expanding use of the system, including a requirement that the Federal Reserve Board work with the Federal Reserve banks and the Department of the Treasury to expand the use of the ACH system and other payment mechanisms for remittance transfers to foreign countries.<sup>226</sup> The Dodd-Frank Act also includes provisions obligating the Federal Reserve Board to provide biennial reports about the ACH system to the Congress over a 10-year period.<sup>227</sup> The ACH system, which facilitates both domestic and cross-border transactions, is central to

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<sup>223</sup> SWIFT gpi purports to offer users a substantial upgrade in their ability to track payments and offers senders the potential for certainty regarding the terms and timings of payments. See Press Release, SWIFT, *Global Transaction Banks Live on Swift gpi* Finextra (Feb. 16, 2017), available at [https://www.finextra.com/pressarticle/68061/global-transaction-banks-live-on-swift-gpi?utm\\_medium=rss&utm\\_source=finextrafeed](https://www.finextra.com/pressarticle/68061/global-transaction-banks-live-on-swift-gpi?utm_medium=rss&utm_source=finextrafeed).

<sup>224</sup> Press Release, SWIFT, *25% of All Cross-border Payments Now Over gpi*, at 7, tbl. 1 (May 24, 2018), available at <https://www.swift.com/news-events/news/25-of-all-cross-border-payments-now-over-gpi>.

<sup>225</sup> *Id.*

<sup>226</sup> Under section 1073(b)(1) of the Dodd-Frank Act, the Federal Reserve Board is required to “work with the Federal reserve banks and the Department of the Treasury to expand the use of the automated clearinghouse system and other payment mechanisms for remittance transfers to foreign countries, with a focus on countries that receive significant remittance transfers from the United States.” 12 U.S.C. § 5601(b)(1).

<sup>227</sup> 12 U.S.C. § 5601(b)(2).



the overall U.S. payments system; in 2017, the system facilitated over 21 billion transactions totaling over \$46 trillion.<sup>228</sup>

International ACH transaction (IAT) volume has increased significantly since the passage of the Dodd-Frank Act, from around 42 million transactions in 2012 to around 78 million transactions in 2016.<sup>229</sup> However, IATs include a wide variety of payments, including payments initiated by business and government entities, which are not remittance transfers under the Rule.<sup>230</sup> The Federal Reserve Board is currently unable to identify which IATs are remittance transfers and which are not.<sup>231</sup>

## Virtual currencies

Recent years have seen a growing attention and interest in “virtual currencies,” also often referred to as “cryptocurrencies.” While there is no universally agreed-upon definition of virtual currencies, the term refers to a narrowly defined set of technologies including or derived from the “Bitcoin” protocol.<sup>232</sup>

The full narrative of virtual currency’s ascendancy is beyond the scope of this report. However, the total market capitalization of all such “coins” as of the time of this writing, while below late 2017 peaks, adequately demonstrates the degree of investment and interest such virtual currencies have attracted—well over \$200 billion as of October 3, 2018. This is higher than all but seven companies publicly traded on the NASDAQ exchange.<sup>233</sup>

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<sup>228</sup> NACHA, *ACH Network Volume and Value 2017*, <https://www.nacha.org/resources/ach-network-volume-and-value-2017> (last visited Oct. 5, 2018).

<sup>229</sup> Bd. of Governors of the Fed. Res. Sys., *Report to the Congress on the Use of the ACH System and Other Payment Mechanisms for Remittance Transfers to Foreign Countries*, at 7 (Apr. 2017), available at <https://www.federalreserve.gov/publications/2017-april-ach-report-introduction.htm>.

<sup>230</sup> 77 Fed. Reg. 6194, 6244–6245 (Feb. 7, 2012).

<sup>231</sup> Bd. of Governors of the Fed. Res. Sys., *Report to the Congress on the Use of the ACH System and Other Payment Mechanisms for Remittance Transfers to Foreign Countries*, at 7 n.30 (Apr. 2017), available at <https://www.federalreserve.gov/publications/2017-april-ach-report-introduction.htm>

<sup>232</sup> The protocol was first described in a 2008 white paper by an author or authors working under the pseudonym “Satoshi Nakamoto.” See Satoshi Nakamoto, *Bitcoin: A Peer-to-Peer Electronic Cash System*, (2008), available at <https://bitcoin.org/bitcoin.pdf>.

<sup>233</sup> Coin MarketCap, *Top 100 Cryptocurrencies by Market Capitalization*, <https://coinmarketcap.com/> (last visited Oct. 5, 2018); NASDAQ, *NASDAQ Companies*, <https://www.nasdaq.com/screening/companies-by-industry.aspx?sortname=marketcap&sorttype=1&exchange=NASDAQ> (last visited Oct. 3, 2018). This does not include the

The possible applications of virtual currencies—and, perhaps even more importantly, the “blockchain” ledgers that make them possible—have also drawn significant interest and investment from financial services providers.<sup>234</sup>

The decentralized, easily scalable nature of many virtual currencies means their basic functionality is not contingent on the location of the transmitter and transmittee in any given transaction.<sup>235</sup> This opens the possibility that virtual currencies, and the speed, certainty, and simplicity they bring to transactions, could improve or even revolutionize cross-border flows of funds.<sup>236</sup>

However, there appears to be little evidence to suggest that remittance-sending consumers have adopted virtual currencies in significant numbers, despite there being no clear technical or regulatory barrier to them doing so. This suggests that for virtual currency-based solutions to have an effect, institutionalized providers of some kind will have to play a significant role in building both useful applications and consumer trust. Therefore, many of the virtual currency-based developments that are garnering the most attention in the cross-border payments market are, at least to some degree, intermediated by a centralized operator.

These developments currently tend to take one of two forms. The first form is offering cross-border payments services to consumers that provide consumers the ability to send and receive virtual currency, or to send and receive fiat currency using virtual currency as the conduit. While several entities offer

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added value of companies whose technologies or business models are built upon virtual currency protocols. For example, recent rounds of investment have valued Coinbase, a platform which facilitates the exchange of virtual currencies, at over \$1 billion. See Robert Hackett, *Coinbase Becomes First Bitcoin ‘Unicorn,’* Fortune (Aug. 10, 2017), available at <http://fortune.com/2017/08/10/bitcoin-coinbase-unicorn/>.

<sup>234</sup> For example, 20 MSBs (out of a total of 420 that submitted information to the 2017 MSB Call Report) reported participating in virtual currency exchange, transmission, or both in 2017. *Conference of State Bank Supervisors, 2017 NMLS Money Services Businesses Industry Report* (Sept. 26, 2018), <https://mortgage.nationwidelicencingsystem.org/about/Reports/2017-NMLS-Money-Services-Businesses-Report.pdf>.

<sup>235</sup> Notwithstanding applicable law, which may not be so agnostic.

<sup>236</sup> In deed, Bitcoin and other virtual currencies have already been, and continue to be, put in use as a medium for cross-border transfers of value. The nature of digital currency protocols, however, makes it impossible to determine what share of the transactions already recorded on the Bitcoin blockchain, amounting to hundreds of billions of dollars, were cross-border transactions. There are some indications that certain remittance corridors have been significantly impacted by virtual currencies. See World Bank Group & Knomad, *Migration and Remittances: Recent Developments and Outlook*, at 39 n.7 (Migration and Dev. Brief 29, 2018), available at <https://www.knomad.org/sites/default/files/2018-04/Migration%20and%20Development%20Brief%2029.pdf>. However, the Bureau currently lacks comprehensive evidence which suggests that unmediated consumer utilization of virtual currencies has yet had a significant effect on the broader remittance transfer market.

variations on such products, to the Bureau’s knowledge, no single such product has garnered significant market share in cross-border payments.

The second form is offering a service or product that supports the provision of cross-border payments, potentially including remittance transfer service providers. One such example of this model is Ripple, which offers both a messaging service similar to others, such as SWIFT, discussed above, but also offers the use of a proprietary virtual currency to facilitate the settlement of cross-border transactions between participating entities. While Ripple has not yet achieved the scale or impact of other messaging services, it has formed a number of notable partnerships in recent years, both with banks and MSBs.<sup>237</sup>,  
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It appears likely that companies and services that leverage virtual currencies will continue to attract attention and investment from market participants for the foreseeable future.<sup>239</sup> The Bureau will continue to monitor the impact of virtual currencies on the remittance transfer market.

### 3.2.8 Legal and regulatory developments

As noted above in Sections 1.1.1 and 2.1, EFTA section 919 created the first comprehensive U.S. federal consumer protections for remittance transfers. However, entities that provide remittance transfers have long been subject to other federal requirements as well as to the laws and regulations of the states and foreign jurisdictions in which they operate. These legal and regulatory requirements may inform provider and consumer decisions and, thus, are also helpful in understanding the effect of the Rule.

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<sup>237</sup> Martin Arnold, *Ripple and Swift Slug it Out Over Cross-border Payments*, Financial Times (June 5, 2018), available at <https://www.ft.com/content/631af8cc-47cc-11e8-8c77-ff51caedcde6>; Felice Maranz, *Western Union Says It’s Testing Transactions With Ripple*, Bloomberg (Feb. 14, 2018), available at <https://www.bloomberg.com/news/articles/2018-02-13/western-union-says-it-s-testing-transactions-with-ripple>; Press Release, MoneyGram, *Ripple and MoneyGram Partner to Modernize Payments* (Jan. 11, 2018), available at <http://ir.moneygram.com/news-releases/news-release-details/ripple-and-moneygram-partner-modernize-payments>.

<sup>238</sup> Ripple is not the only entity offering a product which leverages the blockchain as a solution to cross-border payments. For example, IBM has introduced a product called “IBM Blockchain World Wire,” which offers the ability to “simultaneously **clear and settle** cross-border payment in near real-time...[u]sing blockchain technology” [bold original]. See Press Release, IBM, *Redefining Access to Money for People Businesses Everywhere IBM Block Chain Wire*, available at <https://www.ibm.com/blockchain/solutions/world-wire> (last visited Oct. 9, 2018).

<sup>239</sup> For example, in June 2018, “[l]eading venture capital firm” Andreessen Horowitz announced it had raised \$300 million for a “fund dedicated to crypto companies.” See Kate Rooney, *Leading Venture Capital Firm Andreessen Horowitz Raises its First Dedicated Crypto Fund* CNBC-Tech (June 25, 2018), available at <https://www.cnbc.com/2018/06/25/leading-venture-capital-firm-andreessen-horowitz-raises-its-first-dedi.html>.

This section touches briefly upon these different aspects of the legal and regulatory landscape governing remittances. The laws and regulations discussed below are not necessarily consistent in their application across entity-type. For instance, laws that may apply to MSBs may not apply to all financial institutions.

## Federal laws and regulations

Apart from the Remittance Rule, entities that provide remittance transfers must comply with several other federal laws. These laws include those that deal with anti-money laundering (AML) and combating the financing of terrorism. Other federal laws prohibit unfair or deceptive acts or practices, provide consumer protections for certain electronic fund transfer (EFT) services, and protect consumers' privacy in particular circumstances.

### THE BANK SECRECY ACT AND AML REQUIREMENTS

The Bank Secrecy Act (BSA) requires U.S. financial institutions, which under the BSA includes MSBs,<sup>240</sup> to assist U.S. government agencies in detecting and preventing money laundering.<sup>241</sup> Financial institutions must comply with BSA reporting and record-keeping requirements, as well as establishing and maintaining an effective AML compliance program.<sup>242</sup> The BSA also requires certain MSBs to

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<sup>240</sup> For BSA purposes, a “financial institution” includes, but is not limited to, “an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(h)),” “any credit union,” and “a licensed sender of money or any other person who engages as a business in the transmission of funds.” 31 U.S.C. § 5312(a)(2).

<sup>241</sup> The Currency and Foreign Transactions Reporting Act, its amendments, and the other statutes relating to the subject matter of that act, have come to be referred to as the Bank Secrecy Act. These statutes are codified at 12 U.S.C. § 1829b, 12 U.S.C. §§ 1951-1959, 18 U.S.C. § 1956, 18 U.S.C. § 1957, 18 U.S.C. § 1960, and 31 U.S.C. §§ 5311-5314 and 5316-5332 and notes thereto. *See also* 31 C.F.R. § 1010.100(e).

<sup>242</sup> For example, among other requirements, the BSA requires financial institutions to keep records of cash purchases of negotiable instruments, file reports of cash transactions exceeding \$10,000 (daily aggregate amount), and to report suspicious activity that might signify money laundering, tax evasion, or other criminal activities. *See* 31 C.F.R. part 1010 for general provisions and 31 C.F.R. § 1010.210 specifically for rules on AML programs. MSBs have similar requirements. *See* 31 C.F.R. part 1022 (Rules for Money Services Businesses); *see also* Fin. Crimes Enf't Network, *Money Laundering Prevention: A Money Services Business Guide*, U.S. Dep't of the Treasury, available at <https://www.fincen.gov/resources/statutes-regulations/guidance/money-laundering-prevention-msb-guide> (last visited Oct. 11, 2018). The BSA regulations contain other requirements not listed here.

register with the Financial Crimes Enforcement Network (FinCEN) and prepare and maintain a list of agents, if any.<sup>243</sup>

In addition, all U.S. persons, which includes consumers who send remittance transfers and entities that provide them, must comply with the U.S. Treasury Department's Office of Foreign Assets Control's (OFAC's) regulations.<sup>244</sup> OFAC administers and enforces economic sanctions programs primarily against countries and groups of individuals, such as terrorists and narcotics traffickers. The sanctions can be either comprehensive or selective, using the blocking of assets and trade restrictions to accomplish foreign policy and national security goals.<sup>245</sup> While OFAC regulations are not part of the BSA, evaluation of OFAC compliance is frequently included in BSA/AML examinations.<sup>246</sup>

These laws may also indirectly affect the remittance market. Like many other types of businesses, MSBs hold accounts with financial institutions to facilitate their business operations. Financial institutions in turn are expected to assess the risks related to each of their customers on a case-by-case basis including risk assessment for BSA/AML.<sup>247</sup> The accounts held by MSBs for their business operations are an example of accounts considered to be high risk for purposes of BSA/AML compliance in part because MSBs are associated with a high frequency of cash transactions and the risk of money laundering. For financial institutions, accounts that are considered high risk for purposes of BSA/AML compliance

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<sup>243</sup> 31 U.S.C. § 5330; 31 CFR § 1022.380. FinCEN is a bureau of the U.S. Treasury Department that implements, administers, and enforces regulations pursuant to the BSA. See U.S. Dep't of the Treasury, Treasury Order 180-01, Financial Crimes Enforcement Network (July 1, 2014), available at <https://www.treasury.gov/about/role-of-treasury/orders-directives/Pages/to180-01.aspx>.

<sup>244</sup> 31 C.F.R. part 501. Per OFAC, U.S. persons includes all U.S. citizens and permanent resident aliens regardless of where they are located, all persons and entities within the United States, and all U.S. incorporated entities and their foreign branches. See U.S. Dep't of the Treasury, *Resource Center – OFAC FAQs: General Questions*, Basic Information on OFAC and Sanctions, [https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq\\_general.aspx](https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_general.aspx) (last visited Oct. 11, 2018).

<sup>245</sup> See U.S. Dep't of the Treasury, *Resource Center – OFAC FAQs: General Questions*, Basic Information on OFAC and Sanctions, [https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq\\_general.aspx](https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_general.aspx) (last visited Oct. 11, 2018).

<sup>246</sup> See Fed. Fin. Insts. Examination Council (FFIEC), Bank Secrecy Act/Anti-Money Laundering Examination Manual, at 16 (2014), available at <http://www.occ.treas.gov/publications/publications-by-type/other-publications-reports/ffiec-bsa-aml-examination-manual.pdf>. The FFIEC manual provides guidance to examiners for carrying out BSA/AML and OFAC examinations. The development of this manual was a collaborative effort of the federal and state banking agencies and FinCEN to ensure consistency in the application of the BSA/AML requirements. In addition, OFAC assisted in the development of the sections of the manual that relate to OFAC reviews. *Id.* at 1.

<sup>247</sup> See Fed. Fin. Insts. Examination Council (FFIEC), Bank Secrecy Act/Anti-Money Laundering Examination Manual, at 16 (2014), available at <http://www.occ.treas.gov/publications/publications-by-type/other-publications-reports/ffiec-bsa-aml-examination-manual.pdf>; see also Press Release, FinCEN, *FinCEN Statement on Providing Banking Services to Money Services Businesses* (Nov. 10, 2014), available at <https://www.fincen.gov/news/news-releases/statement>.

require heightened oversight, such as more intensive account monitoring and investigation of suspicious transactions, which often leads to higher compliance costs and liabilities for both MSBs and financial institutions. There is some evidence that the costs to comply with BSA/AML laws and potential penalties for non-compliance can be substantial.<sup>248</sup>

The cost of maintaining accounts that are considered high risk for purposes of BSA/AML has been reported to be part of the reason why financial institutions have engaged in a practice known as “de-risking” with respect to these accounts.<sup>249</sup> De-risking is commonly understood to occur when financial institutions (typically large banks) restrict or terminate the accounts of corporate clients (such as MSBs) in response to risks perceived in maintaining those clients’ business. Specifically, it has been reported that financial institutions have been terminating the accounts of MSBs because of these perceived risks, or refusing to open accounts for MSBs, effectively eliminating them as a category of customers.<sup>250</sup> As a result, some MSBs may find it difficult to obtain the bank accounts they need to provide remittance services. De-risking has also negatively affected correspondent banking, such that financial institutions are terminating correspondent banking relationships with other financial institutions, thereby cutting off access to foreign countries’ payment clearing systems.<sup>251</sup>

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<sup>248</sup> The U.S. Government Accountability Office (GAO) noted in a 2018 report that most of the banks it interviewed that offer money transmitter services stated that BSA/AML compliance costs significantly increased in the last 10 years due to the need to hire additional staff and upgrade information systems. See U.S. Gov’t Accountability Off., *Remittances to Fragile Countries: Treasury Should Assess Risks from Shifts to Non-Banking Channels*, at 19 (GAO-18-313, Mar. 2018), available at <https://www.gao.gov/assets/700/690546.pdf>. The GAO also found in 2016 that from January 2009 to December 2015 the U.S. government collected over \$5 billion in penalties, fines, and forfeitures for various BSA violations. See U.S. Gov’t Accountability Off., *Financial Institutions: Fines, Penalties, and Forfeitures for Violations of Financial Crimes and Sanctions Requirements*, at 28 (GAO-16-297, Mar. 22, 2016), available at <https://www.gao.gov/assets/680/675987.pdf>.

<sup>249</sup> See U.S. Gov’t Accountability Off., *Bank Secrecy Act: Further Actions Needed to Address Domestic and International Derisking Concerns*, at 7-11 (GAO-18-642T, June 2018), available at <https://www.gao.gov/assets/700/692812.pdf>; see also U.S. Gov’t Accountability Off., *Remittances to Fragile Countries: Treasury Should Assess Risks from Shifts to Non-Banking Channels*, at 1-4 (GAO-18-313, Mar. 2018), available at <https://www.gao.gov/assets/700/690546.pdf>.

<sup>250</sup> See Press Release, FinCEN, *Fincen Statement on Providing Banking Services to Money Services Businesses* (Nov. 10, 2014), available at <https://www.fincen.gov/news/news-releases/statement>.

<sup>251</sup> See Fin. Action Task Force, *FATF Guidance: Correspondent Banking Services*, at 4 (Oct. 2016), available at <http://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-Correspondent-Banking-Services.pdf>.



De-risking is not unique to U.S. financial institutions; it is reported to be a global phenomenon that may be becoming more pervasive. The extent to which it is happening and the associated market effects, however, have not yet been quantified.<sup>252</sup>

## OTHER FEDERAL REQUIREMENTS

Remittance transfer providers are generally subject to prohibitions on unfair, deceptive, or abusive acts or practices. Specifically, section 5(a) of the Federal Trade Commission Act prohibits “unfair or deceptive acts or practices in or affecting commerce.”<sup>253</sup> The Dodd-Frank Act prohibits covered persons and service providers from engaging in unfair, deceptive, or abusive acts or practices in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service.<sup>254</sup> The FTC, the Bureau, and prudential banking and credit union regulators may enforce these prohibitions exclusively or jointly depending on the type of entity.<sup>255</sup>

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<sup>252</sup> See U.S. Gov’t Accountability Off., *Remittances to Fragile Countries: Treasury Should Assess Risks from Shifts to Non-Banking Channels*, at 4 (GAO-18-313, Mar. 2018), available at <https://www.gao.gov/assets/700/690546.pdf>. In its report, the GAO stated that several of the money transmitters they interviewed had reported that they were using nonbanking channels to transfer funds as a result of losing access to bank accounts. *Id.* at 17. The GAO also stated that money transmitters they interviewed reported increased costs associated with moving cash and bank fees. *Id.* at 18.

<sup>253</sup> 15 U.S.C. § 45. FTC cases involving MSBs include a 2009 settlement between the Federal Trade Commission (FTC) and Money Gram International, Inc., the second-largest money transfer service in the United States, relating to charges that the company allowed its money transfer system to be used for fraud. MoneyGram was required to pay \$18 million in consumer redress and implement a comprehensive anti-fraud and agent-monitoring program. <https://www.ftc.gov/news-events/press-releases/2009/10/moneygram-pay-18-million-settle-ftc-charges-it-allowed-its-money>. More recently, in 2017, the Western Union Company, a global MSB, agreed to forfeit \$586 million and enter into agreements with the FTC, the U.S. Justice Department, and the U.S. Attorneys’ Offices of the Middle District of Pennsylvania, the Central District of California, the Eastern District of Pennsylvania, and the Southern District of Florida.

<sup>254</sup> 12 U.S.C. §§ 5536, 5531(a); *see also* 12 U.S.C. § 5481(6) (defining covered person), § 5481(15)(A)(iv) (defining financial product or service to include transmitting or exchanging funds).

<sup>255</sup> Section 5(a) of the FTC Act applies to all persons engaged in commerce, however, the FTC cannot enforce the prohibition against banks and credit unions. 15 U.S.C. §§ 45(a)(2), 57a(f). The Bureau enforces the Dodd-Frank prohibition against unfair, deceptive and abusive acts and practices with respect to MSBs and certain banks and credit unions. 12 U.S.C. §§ 5531, 5536, 5515, and 5561-66. Prudential banking and credit union regulators have supervisory and enforcement authority regarding unfair or deceptive acts or practices for the banks, savings associations, and federal credit unions that they oversee. *See* 12 U.S.C. §§ 1786(e), 1786(k)(2), 1818(b), 1818(i)(2), 5516; *see also*, Bd. of Governors of the Fed. Reserve Sys., Consumer Fin. Prot. Bureau, Fed. Deposit Ins. Corp., Nat’l Credit Union Admin. & Office of the Comptroller of the Currency, Interagency Guidance Regarding Unfair or Deceptive Credit Practices, 1 & n.1 (Aug. 22, 2014) (citing relevant statutory authority).

Additionally, financial institutions<sup>256</sup> that hold consumer accounts (including checking, demand deposit, and payroll card accounts) generally are subject to subpart A of Regulation E, which includes provisions intended to provide consumer protections to consumers who use EFT services.<sup>257</sup> Subpart A applies to “electronic fund transfers” (as defined by Regulation E), which excludes wire transfers, but may include certain other types of remittance transfer services provided by covered institutions.<sup>258</sup>

Furthermore, financial institutions that offer remittance services are required to comply with privacy provisions enacted as part of the Gramm-Leach-Bliley Act (GLBA) and implemented through the Bureau’s Regulation P.<sup>259</sup> These provisions impose limitations on when financial institutions can share nonpublic personal information with third parties. They also require, under certain circumstances, that financial institutions disclose their privacy policies and permit opting out of certain sharing practices with unaffiliated entities.

## State laws and regulations

Entities that provide remittance transfers might also need to comply with some or all of the laws and regulations of the states (and territories) in which they operate. Each of these states has its own individual laws and regulations that apply to remittances and some have additional specific licensing requirements for MSBs that transfer money to foreign countries. Like other entities that do business in multiple states, MSBs that operate in more than one state may be required to comply with each state’s

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<sup>256</sup> Under Regulation E, a “financial institution” is “a bank, savings association, credit union, or any other person that directly or in directly holds an account belonging to a consumer, or that issues an access device and agrees with a consumer to provide electronic fund transfer services, other than a person excluded from coverage of this part by section 1029 of the Consumer Financial Protection Act of 2010, title X of the [Dodd-Frank Act].” 12 C.F.R. § 1005.2(i).

<sup>257</sup> Regulation E implements EFTA and contains two parts: subpart A and subpart B. Subpart A includes, for example, provisions regarding disclosures related to use of EFT services (including accounts that provide EFT services), issuance of access devices (*e.g.*, debit cards) that access such accounts, limits on consumer liability for unauthorized EFTs, error resolution procedures for financial institutions that hold consumer accounts, and provisions governing preauthorized electronic fund transfers. 12 C.F.R. §§ 1005.1-1005.20. Subpart B provides the rules for remittance transfers that are the subject of this report. 12 C.F.R. §§ 1005.30-1005.36.

<sup>258</sup> Regulation E defines “electronic fund transfer” as any transfer of funds that is initiated through an electronic terminal, telephone, computer, or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit a consumer’s account. 12 C.F.R. § 1005.3(b)(1).

<sup>259</sup> 15 U.S.C. §§ 6801-6809; 12 C.F.R. part 1016. For GLBA purposes, a “financial institution” means “any institution the business of which is engaging in financial activities as described in [12 U.S.C. § 1843(k)].” 15 U.S.C. § 6809(3)(A).



requirements.<sup>260</sup> For example, it appears that, with one exception, all states require MSBs to secure a license if they are incorporated or conducting business in the particular state.<sup>261</sup>

Most state regulatory agencies license and regulate MSBs to ensure compliance with state and federal regulatory requirements.<sup>262</sup> For example, MSBs must ensure they have appropriate policies, procedures, and internal controls in place to facilitate compliance with BSA/AML laws and regulations.<sup>263</sup> MSBs must also comply with state consumer protection laws, including statutes that prohibit unfair and deceptive practices.

Most licensed MSBs are examined periodically by their state examiners. During an examination, state examiners might review an MSB's operations, financial condition, management, and compliance function, including compliance with the BSA and the institution's AML compliance program.<sup>264</sup> State enforcement actions vary depending on the type of entity, substantiated behavior, and type and nature of violation.<sup>265</sup>

## Foreign legal and regulatory requirements

Entities that provide remittance transfers might also need to comply with the laws of the foreign jurisdictions in which they do business. Many countries have versions of the laws described above. These countries may also impose other requirements, including currency restrictions, that may make providing remittance transfers difficult or, at times, impossible. In addition, intergovernmental bodies

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<sup>260</sup> For MSBs licensed in more than one state, the Nationwide Multistate Licensing System and Registry (NMLS), developed collectively by states through the Conference of State Bank Supervisors, allows MSBs to maintain their licenses in one location. NMLS, *Welcome to the NMLS Resource Center*, <https://mortgage.nationwidelicencingsystem.org/Pages/Default.aspx> (last visited Oct. 11, 2018).

<sup>261</sup> See U.S. Gov't Accountability Off., *Bank Secrecy Act: Further Actions Needed to Address Domestic and International Derisking Concerns*, at 4 & n.13 (GAO-18-642T, June 2018), available at <https://www.gao.gov/assets/700/692812.pdf> (referencing the U.S. Treasury Department and reporting that money transmitters are not required to obtain a license to operate in Montana).

<sup>262</sup> Conf. of State Bank Supervisors & Money Transmitter Regulators Ass'n, *The State of State Money Services Businesses Regulation & Supervision*, at 7 (May 2016), available at <https://cca.hawaii.gov/dfi/files/2016/06/CSBS-MSB-Regulation-and-Supervision.pdf>.

<sup>263</sup> *Id.*

<sup>264</sup> *Id.* at 9.

<sup>265</sup> *Id.* at 10.

and international organizations have developed standards and guidance that countries can use to help mitigate the risks associated with remittances.<sup>266</sup>

## 3.3 Compliance with the Remittance Rule

### 3.3.1 Consumer complaints

As noted in Section 1.2.6 above, the Bureau collects, investigates, and responds to consumer complaints. The Bureau receives complaints through its website, by telephone, mail, email, or fax, and by referral from the White House, congressional offices, and other federal and state agencies. The disclosures consumers receive that are required by the Remittance Rule provide information about submitting a complaint to the Bureau, including the Bureau’s phone number and website.

When consumers submit complaints online, the Bureau’s complaint form prompts them to select the consumer financial product or service with which they have a problem as well as the type of problem they are having. This provides information that can be used to group complaints to understand the financial products and services about which consumers complain to the Bureau. The complaint form also requires consumers to affirm that the information provided in their complaint is true to the best of their knowledge and belief. The Bureau does not verify all of the facts alleged in complaints, but takes steps to confirm a commercial relationship between the consumer and the company.<sup>267</sup>

This section uses Bureau consumer complaint data to better understand the consumer experience with remittance transfer services. The Bureau’s complaint form lists “international money transfers” as an option for consumers to select when submitting a complaint. This is the closest available approximation for the Remittance Rule’s definition of remittance transfers. This section examines how international money transfer complaint volume has changed over time and what percentage of total consumer

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<sup>266</sup> For example, the Financial Action Task Force (FATF) developed a series of recommendations to combat money laundering, terrorist financing, and other related threats to the integrity of the international financial system. *See generally* Fin. Action Task Force, *FATF Guidance: Correspondent Banking Services* (Oct. 2016), available at <http://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-Correspondent-Banking-Services.pdf>.

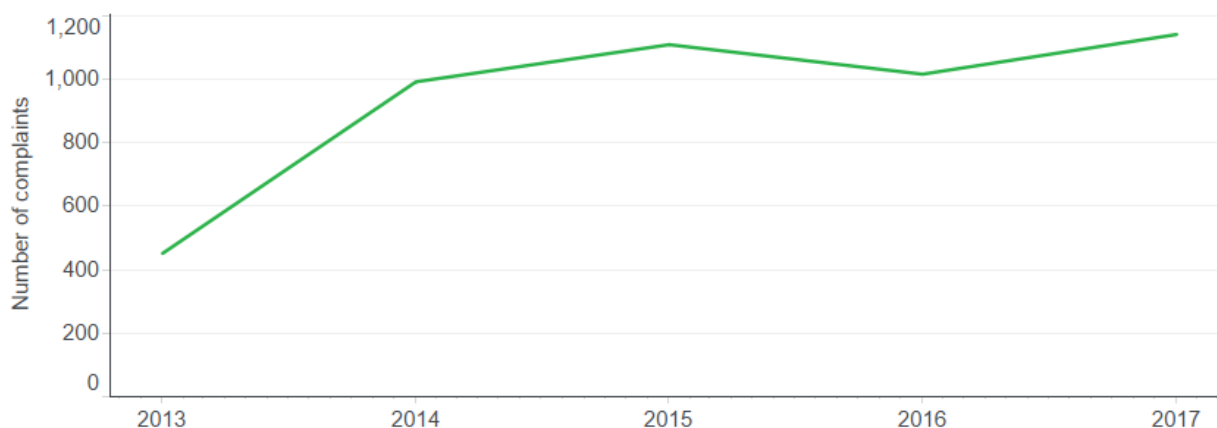
<sup>267</sup> For more information on the Bureau’s complaint process refer to the Bureau’s website, <https://www.consumerfinance.gov/complaint/process>.

complaint volume is represented by international money transfer complaints. The Bureau began accepting international money transfer complaints in April 2013.

As discussed in Section 1.3.3, the population of remittance senders contains many first-generation immigrants and consumers with limited English proficiency. Consumers in this population may be less likely to know that they can submit complaints to the Bureau and less likely to seek help from a government agency than other consumers, so consumer complaints may not provide a complete picture of consumer experience in this market.<sup>268</sup> For example, the Bureau’s complaint form on its website appears in English.

During the period from April 1, 2013, through December 31, 2017, the Bureau received approximately 1,260,600 consumer complaints, including 4,700 international money transfer complaints representing about 0.4% of total complaints received.<sup>269</sup>

**FIGURE 17: INTERNATIONAL MONEY TRANSFER COMPLAINTS OVER TIME**



<sup>268</sup> For example, see the discussion in Section 4.1.2 on evidence of language barriers understanding disclosures. Similarly, language barriers can be problems for immigrants in accessing financial products and systems. See, e.g., U.S. Gov’t Accountability Off., *Consumer Finance: Factors Affecting the Financial Literacy of Individuals with Limited English Proficiency*, (GAO-10-518, May 2010), available at <http://www.gao.gov/new.items/d10518.pdf>.

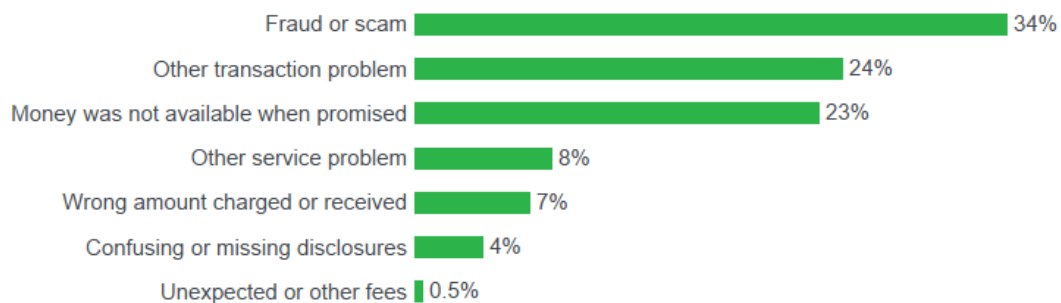
<sup>269</sup> All data are current through December 31, 2017. This analysis excludes multiple complaints submitted by a given consumer on the same issue and whistleblower tips. See Bureau of Consumer Fin. Prot., *Learn How the Complaint Process Works*, <https://www.consumerfinance.gov/complaint/process> (last visited Oct. 9, 2018) (for more information on the Bureau’s complaint process).

The total number of international money transfer complaints submitted increased significantly between 2013 and 2014. This could be for a number of reasons. Among other things:

- the total number of complaints received by the Bureau was also increasing during this time as consumer awareness of the Bureau’s consumer complaint process, and the Bureau in general, grew;
- the Remittance Rule went into effect in October 2013, and consumers began receiving disclosures informing them how to submit a complaint; and
- the Bureau took steps to raise consumer awareness about the Rule.<sup>270</sup>

The number of international money transfer complaints has held relatively stable since 2014, ranging from 1,000 to 1,200 a year.

**FIGURE 18:** TYPES OF INTERNATIONAL MONEY TRANSFER COMPLAINTS SUBMITTED BY CONSUMERS



Consumers select one of the categories shown in Figure 18 to describe their complaint when submitting to the Bureau.<sup>271</sup> Not all complaints about international money transfers are about remittance transfers or about violations of the Remittance Rule. Around one third of international money transfer complaints were categorized by the consumer as “fraud or scam.” These complaints do not necessarily indicate that the complaining consumer suspected the fraud or scam was perpetrated or knowingly abetted by the remittance transfer provider.<sup>272</sup> A further quarter of international money transfer

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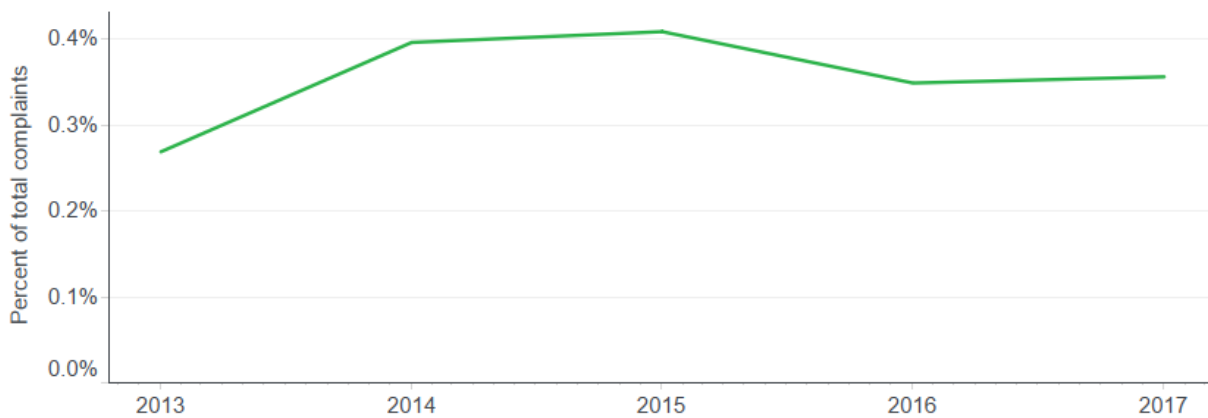
<sup>270</sup> For example, the Bureau produced free consumer education materials about the Rule.

<sup>271</sup> In April 2017, the Bureau updated the form consumers use to submit complaints. The changes include making some plain language improvements and reorganizing how products, sub-products, issues, and sub-issues are grouped.

<sup>272</sup> For example, many consumers complain about having been fraudulently induced to send a transfer to a recipient who has misled the consumer about the purpose of the transfer. *See, e.g.,* Bureau of Consumer Fin. Prot., *consumer.gov: What to*

complaints involved money not being available for the recipient when promised. As discussed in Section 2, a primary intervention of the Rule was to require the disclosure of the date and time when funds would become available and to make it an error if funds were not available on time. Only 4% of all international money transfer complaints were about confusing or missing disclosures.

**FIGURE 19:** INTERNATIONAL MONEY TRANSFER AS A PERCENTAGE OF TOTAL COMPLAINTS RECEIVED OVER TIME



### 3.3.2 Compliance with the Remittance Rule

The Bureau began examining large banks for compliance with the Remittance Rule after the effective date, and, in December 2014, the Bureau gained supervisory authority over certain nonbank remittance transfer providers pursuant to one of its larger participant rules.<sup>273</sup> The Bureau’s examination program for both bank and nonbank remittance providers assesses the adequacy of each entity’s compliance management systems (CMS) for remittance transfers. These reviews also check for providers’ compliance with the Remittance Rule and other applicable federal consumer financial laws. As of the date of this Report, the Bureau has not filed any enforcement actions against remittance transfer providers.

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*Know and Do*, <https://www.consumer.gov/articles/1008-sending-money-overseas#what-to-do> (accessed on October 16, 2018) (explaining the types of scams that commonly involve wire transfers). These complaints largely center on the fact that the consumer felt defrauded.

<sup>273</sup> The Bureau has had authority to examine large banks for compliance with the other provisions of EFTA and Regulation E, Subpart A, since it began to carry out its examination program in 2011. 12 C.F.R. § 1090.107; *see also* Defining Larger Participants of the International Money Transfer Market, 79 Fed. Reg. 56631 (Sept. 23, 2014).

The Bureau discusses in its Supervisory Highlights patterns and trends in exams that have taken place, and specifically focused on remittance transfers in the Winter 2016 edition.<sup>274</sup>

In cases where examinations found violations of the Remittance Rule, the entities are making appropriate changes to CMS to prevent future violations and, where appropriate, remediating consumers for harm they experienced.

The Bureau's examinations have uncovered mixed levels of compliance across the industry, including general compliance at certain institutions as well both individual violations and wholesale failures to comply at others. The evidence from many of the Bureau examinations, however, is consistent with remittance transferring consumers generally receiving disclosures, albeit in many instances with inaccuracies and errors. The evidence is also mixed for error resolution because systems to correctly track and investigate error claims were identified as weak at some providers.

More specifically, examinations identified the following violations at one or more providers:

- Providing incomplete and, in some instances, inaccurate disclosures;
- Failing to adhere to the regulatory timeframes for refunding cancelled transactions;
- Failing to communicate the results of error investigations at all or within the required timeframes, or communicating the results to an unauthorized party instead of the sender; and
- Failing to promptly credit consumers' accounts (for amounts transferred and fees) when errors occurred.

Examinations have also cited various violations of the Rule related to oral disclosures. Compliance with the Remittance Rule's foreign language requirements has generally been adequate, though the Bureau has cited one or more providers for failing to give oral disclosures and/or written results of investigations in the appropriate foreign language.

### 3.3.3 Costs of compliance

This section reviews evidence on the activities and costs that remittance transfer providers have undertaken to become compliant with the Rule and continue being in compliance. As discussed at several points in this report, remittance transfer providers differ significantly from each other in size,

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<sup>274</sup> See Bureau of Consumer Fin. Prot., *Supervisory Highlights*, (Issue 10, Mar. 2016), available at [http://files.consumerfinance.gov/f/201603\\_cfpb\\_supervisory-highlights.pdf](http://files.consumerfinance.gov/f/201603_cfpb_supervisory-highlights.pdf).

institutional makeup, and the methods they use to transfer remittances. Information about the compliance activities of one provider may not help in understanding the activities of others. This section therefore attempts to summarize these activities broadly. The Bureau's information on costs comes from several sources: the Bureau's 2018 industry survey (discussed above in Section 1.2.4), comments in response to the RFI,<sup>275</sup> discussions with remittance transfer providers, and information collected through examinations.

The industry survey asked for the dollar values of costs to come into compliance. However, as noted Section 1.2.4, the industry survey is not necessarily representative, and the quantitative responses to the information provided varied, were specific to the provision and provider, and were incomplete across providers. In the industry survey, 14 providers responded with quantitative answers describing the initial costs, while 42 described the kinds of costs they faced. The industry survey asked respondents for the total costs of coming into compliance, which may have been spread over several years. The Bureau calculated the total cost of coming into compliance reported for each respondent over all years they reported. Respondents varied in size, so to calculate what the responses imply about the total cost to industry, the Bureau calculated the cost per transfer reported in the survey and multiplied by the total transfers in 2014. Because the industry survey is not necessarily representative of the industry, this calculation is not necessarily representative of the industry's costs. In particular, it is weighted towards the costs of MSBs that responded. The initial costs per transfer were substantially larger for the credit unions and banks who responded to the survey, although the small sample size means that this calculation may not be representative.<sup>276</sup> The banks and credit unions that responded to this question and to the survey transfer fewer remittances than the average remittance transferring bank and credit union. The industry survey implies a total cost to come into compliance of \$92 million. If all of the costs were incurred in 2014, the resulting cost per remittance transfer is \$0.327.

The Bureau did not have the data necessary to provide a quantitative analysis of benefits and costs for the Remittance Rule requirements that came into effect in October 2013.<sup>277</sup> However, the Bureau did conduct a Paperwork Reduction Act (PRA) analysis of the burden imposed on industry by these

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<sup>275</sup> See the summary of comments to the RFI in Appendix B.

<sup>276</sup> Community banks and credit unions, as well as associations representing them, reported increased costs in response to the Bureau's RFI as well.

<sup>277</sup> The discussion in the February 2012 Final Rule analysis reads: "In light of the lack of data, this analysis generally provides a qualitative discussion of the benefits, costs, and impacts of the final rule. General economic principles, together with the limited data that is available, provides considerable insight into these benefits, costs and impacts but they do not support a quantitative analysis." February 2012 Final Rule, 77 Fed. Reg. 6194, 6272 (Feb. 7, 2012).

requirements.<sup>278</sup> Because many, but not all, of the costs to industry are covered by the PRA analysis, the Bureau's estimates of PRA burden provide an alternative estimate of potential costs. Including adjustments made to the February 2012 Final Rule in the August 2012 and May 2013 amendments, the Bureau estimated that the one-time cost of compliance would be \$86 million or \$0.30 per remittance transfer in 2014.

Remittance transfer providers report that the initial costs of compliance were largely divided into three groups:

- Costs and time to design disclosures to comply with the Rule, including researching and understanding the new requirements of the Rule.<sup>279</sup>
- Costs to develop new information systems. Providers report costs in developing new systems to manage additional information provided to the consumer, for tracking transfers to manage errors and cancellation requests, and for compliance management. These costs include programming and "back office" costs to develop new procedures and management systems and may include fees to third parties.
- Resources to train staff on the Rule's requirements and on using the new information and compliance management systems.

The Bureau noted in 2016 that while remittance transfer providers had devoted resources to creating or updating compliance management systems to address compliance with the Rule, for some providers these systems were still in early development even several years after the effective date of the Rule.<sup>280</sup> The initial costs of compliance therefore may have been spread over several years.

After incurring the initial costs to come into compliance with the Rule, remittance transfer providers also face ongoing costs of compliance. In the industry survey, 12 providers responded with quantitative estimates of their ongoing costs. The industry survey is only representative of the respondents, not necessarily of the industry, and is weighted towards the costs incurred by MSBs. Based on the

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<sup>278</sup> 44 U.S.C. § 3501 *et seq.*

<sup>279</sup> The Bureau provided model disclosures in its materials to help industry come into compliance. See Bureau of Consumer Fin. Prot., *Remittance Transfer Rule (subpart B of Regulation E): Model Forms*, <https://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/remittance-transfer-rule/> (last visited Oct. 11, 2018).

<sup>280</sup> See Bureau of Consumer Fin. Prot., *Supervisory Highlights*, at 12 (Issue 10, Mar. 2016), available at [http://files.consumerfinance.gov/f/201603\\_cfpb\\_supervisory-highlights.pdf](http://files.consumerfinance.gov/f/201603_cfpb_supervisory-highlights.pdf).



responses, the industry survey suggests an annual, ongoing compliance cost of \$19 million, or \$0.07 per remittance transfer in 2017.

The Bureau's PRA estimates were higher for the requirements that went into effect in October 2013. The Bureau's PRA analysis implies ongoing costs of \$102 million per year, or \$0.37 per remittance transfer in 2017. The Bureau expects that the actual ongoing costs are somewhere between the costs implied by the industry survey and its PRA analysis. For context, the price of sending a \$200 remittance transfer ranges between \$10 and \$18 depending on the destination (see Section 3.2.5).

Overall, providers of many different types reported ongoing regulatory compliance costs including staff training and conducting compliance reviews. Providers also reported that the cost to provide a remittance transfer has increased in several ways. The most important of these additional costs appears to be an increase in paper and printing costs of providing disclosures and receipts. Providers have dealt with these costs in various ways, including investing in new, more paper efficient, printing systems. In addition, several banks and credit unions reported that transactions now take longer, so are more costly in terms of staff and customer time. The additional time per transaction may require hiring additional staff. At least one provider reported that additional staff was necessary. After a transfer is sent, several providers reported needing additional staff time to respond to and investigate errors. In addition, following an error, providers reported facing additional costs of refunds or other restitution.

A number of credit unions and banks reported that they have contracted with a corporate credit union or a large bank to handle their wire transfers.<sup>281</sup> They report that the amounts charged by these larger corporate entities for transfers are higher than their costs for wire transfers before the Rule took effect.

Several providers pointed to specific cases where responding to errors or potential errors was costly. For example, an MSB responding to the RFI stated that it had incurred costs dealing with handling incorrect information provided by the sender, such as the recipient's name. While these issues may often be corrected quickly, the MSB stated that it sends a letter to the consumer stating that no error as defined by the Rule occurred, which the MSB claimed is costly to the MSB and may be confusing to the consumer. In addition, a credit union responding to the RFI stated that it faces additional costs from dealing with errors when foreign institutions impose fees. For more information on comments related to the Rule's error resolution procedures, see the summary of comments in Appendix B.

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<sup>281</sup> The Bureau also understands that service providers can include nonbanks that offer specialized international fund transfer services, which in turn may rely on other entities to generate the information required on the disclosures, such as lifting fees and exchange rates.

# 4. Evidence on individual Remittance Rule provisions

This section discusses the evidence on the effect of individual rule provisions. Each section examines a particular provision using the available evidence. Where sufficient data are available, the individual subsections use as a baseline what the market for remittance transfers would be like absent the specific provision, but with the balance of the Rule in effect.

## 4.1 Disclosures

As discussed more in Section 2, consumers now, in general, receive disclosures with the following information as required by the Rule:

- Amount to be transferred
- Front-end fees and taxes
- The exchange rate
- Covered third-party fees
- The total amount to be received by designated recipient
- Disclaimer regarding non-covered third party fees and foreign taxes (if applicable)

The evidence available to the Bureau, discussed in Section 3.3 which examines compliance, is consistent with consumers now generally receiving these disclosures.

What information consumers received before the Rule took effect varied from provider to provider, but the Bureau lacks representative data to document the extent of the variation. One study conducted by a consumer group focused on the U.S.-Mexico corridor found that providers were not uniformly

disclosing exchange rate and other fee information before a transfer.<sup>282</sup> In at least some instances, such information was not available to consumers even upon request. Treating the evidence before the Rule became effective as a baseline, it appears that the Rule’s pre-payment disclosure requirement has provided consumers with additional information in some cases.

### 4.1.1 Shopping

An objective of the Remittance Rule was to “provide consumers with better information for comparison shopping.”<sup>283</sup> This section examines the available evidence for whether the information in disclosures has aided consumers in comparison shopping. The fall in the average price since the Rule (see Section 3.2.6) and the continuing innovation in the online market for remittance transfers (discussed in Section 3.2.7), which may make it easier for consumers to compare providers directly, suggest a possible role for the disclosures in putting downward pressure on prices. The additional certainty given by a robust error resolution requirement discussed below may have also given consumers greater confidence to try new or online providers, including those offering services at a lower price.

It is difficult to measure and evaluate consumer shopping behavior for several reasons. By definition, shopping involves interactions with more than one potential remittance transfer provider, so shopping may be difficult to track across providers. In addition, while some shopping behavior may involve looking for the best provider for a given transfer, other shopping behavior may involve sampling different providers over time. As discussed in Section 1.3.3, consumers who send remittances tend to do more than one transfer a year, so many could practice such serial shopping. Because the Rule requires that the pre-payment disclosure or combined disclosure be provided before the consumer pays for the remittance transfer, serial shopping behavior may have become easier by making transfers at different providers more comparable.

Appleseed Network (Appleseed), a network of connected consumer advocate centers that work on education, financial access, and immigrant rights, conducted a survey examining consumer shopping

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<sup>282</sup> Ann Baddour & Sonja Danburg, et al., *Creating a Fair Playing Field for Consumers: The Need for Transparency in the US-Mexico Remittance Market*, at 9–10, Appleseed (May 2012), available at <https://www.appleseednetwork.org/exactdn/wp-content/uploads/2012/05/Creating-A-Fair-Playing-Field-For-Consumers-The-Need-For-Transparency-In-The-US-Mexico-Remittance-Market.pdf>. This study surveyed 210 remittance transfer providers repeatedly from June 13 to 24, 2005 to understand exchange rate fluctuations and fees. *Id.* at 10. Commenters to the Bureau’s RFI brought these reports to the Bureau’s attention.

<sup>283</sup> February 2012 Final Rule, 77 Fed. Reg. 6194 (Feb. 7, 2012).

behavior for remittance transfers and how consumers use the information on disclosures after the effective date of the Rule. Appleseed asked remittance transfer consumers to complete a survey in order to discuss their experiences with the Remittance Rule. The survey was conducted in Connecticut, Kansas, Nebraska, Texas, and Washington from September 2015 through December 2015. Consumers were recruited by local community partners in these states, asked to take a 15 minute paper survey, and given a \$10 gift card on completing the survey. This survey resulted in 702 completed responses; however, it may not be representative of all consumer experiences. In particular, nearly all consumers who reported a destination for their remittance were sending to countries in Latin America or the Caribbean and 87% reported that Spanish is their primary language. The Appleseed survey asked questions about comparison shopping, how often consumers report receiving the required disclosures, and consumer experiences related to error resolution, among other topics.

In May 2016, Appleseed published a report examining the effect of the Remittance Rule.<sup>284</sup> Appleseed's report provides information on selective consumer experiences when sending remittances. The Appleseed report suggest that consumers are receiving pre-payment disclosures. Some consumers, however, did not pay attention to the information in them. Appleseed reports that "59% noticed that the disclosures included information about fees," and "63% remembered seeing an exchange rate."<sup>285</sup> However, the surveyed consumers do compare fees between remittance transfer providers. Appleseed reports that more than half "always chose the service with the lowest fee."<sup>286</sup> The Appleseed responses are compatible with both shopping for a given transfer and serial shopping behavior.

The industry survey asked remittance transfer providers how often consumers received the pre-payment disclosure but then did not send a transfer with that provider. Such behavior could be indicative of shopping using disclosures for a given transfer. Of the 43 respondents that answered the question, only five reported that a consumer received a pre-payment disclosure and then did not transfer a remittance in 2017. However, many of the largest providers did not answer this question and a review of transaction logs from exam data suggests that providers may not track such information.

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<sup>284</sup> See Annette LoVoi et al., *Sending Money: The Path Forward*, Appleseed (May 2016), available at <http://www.appleseednetwork.org/wp-content/uploads/2016/05/SendingMoney.pdf>; Appleseed pointed the Bureau to its report in their comments to the Request for Information.

<sup>285</sup> Annette LoVoi et al., *Sending Money: The Path Forward*, at 22 Appleseed (May 2016), available at <http://www.appleseednetwork.org/wp-content/uploads/2016/05/SendingMoney.pdf>.

<sup>286</sup> Annette LoVoi et al., *Sending Money: The Path Forward*, at 11 Appleseed (May 2016), available at <http://www.appleseednetwork.org/wp-content/uploads/2016/05/SendingMoney.pdf>.

Several commenters that responded to the RFI also discussed disclosures (see Appendix B). Some commenters asserted that consumers do not or cannot use the disclosures to shop around. One credit union association stated that its members reported that consumers do not use the disclosures to shop around. One money transmitter stated that the pre-payment disclosure is not used for shopping around, citing research showing that price is only one factor that consumers use. One credit union stated that comparison shopping was not possible because of the use of estimates. One money transmitter stated that providers disclose later availability dates to ensure compliance, so the date is not really useful to consumers. A number of commenters reported that customers are annoyed or confused by the disclosures. The Bureau notes that there are significant challenges in accurately determining what consumers do with these disclosures and that some of the available evidence is conflicting.

#### 4.1.2 Language of disclosures

The Rule requires that disclosures be available in English. A provider also generally must provide disclosures in any other language that a company principally uses to advertise, solicit, or market its services at a particular office, or in which the transaction was conducted. In addition, a provider can choose also to provide disclosures in the language primarily used by the sender to conduct the remittance transfer or to assert an error.<sup>287</sup>

The industry survey asked whether respondents provided disclosures in a language other than English and, if so, which languages. Of the 24 MSBs that answered the question, 15 reported providing disclosures in a language other than English. The largest MSBs were the most likely to do so. Therefore, nearly all of the remittance transfers provided by MSBs in the survey were with an MSB that offered disclosures in at least one other language. Of these 15 MSBs, nine provided disclosures in one additional language, three in two other languages, and three in three or more languages. The most common language other than English was Spanish.

Banks and credit unions were much less likely to provide disclosures in languages other than English in the survey. Of the 39 banks and credit unions that answered the question, only four provided disclosures in a language other than English.

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<sup>287</sup> 12 C.F.R. §1005.31(g)

The Appleseed survey discussed above noted that even with the foreign language requirement, when consumers did not understand or remember information in disclosures, “language barriers appear to have played a consistent role in these discrepancies.”<sup>288</sup>

The Bureau does not have information available on the languages used for disclosures or receipts before the effective date of the Rule. Therefore, the Bureau does not have evidence sufficient to determine whether the foreign language provisions in fact created or improved access to or understanding of remittance transfers.

## 4.2 Cancellation

As described in Section 2, except for remittance transfers scheduled before the date of transfer, a sender can cancel a remittance transfer for up to 30 minutes after payment, as long as (i) the funds have not yet been picked up or deposited, and (ii) the sender provides specified recipient contact information and enough information for the provider to identify the transaction.<sup>289</sup>

This section considers the cancellation requirement. The data used in this section are primarily drawn from two sources: the de-identified transaction-level exam data available to the Bureau through its supervisory role for remittance transfer providers; and data from the industry survey collected in May and June of 2018. These two data sources are further described in Sections 1.2.4 and 1.2.5 of this report.

While at least some remittance transfer providers allowed for cancellations prior to the Rule taking effect, the Bureau does not have information on how prevalent or consistent cancellation practices were before the effective date of the Rule to form a baseline for comparison. This section primarily focuses on how often and when consumers have been asserting the right to cancellation after the effective date of the Rule.

In particular, the analysis in this section addresses several questions about remittance transfer cancellations. First, statistics from the exam data and industry survey illustrate what share of initiated transfers are cancelled, and what share of these cancellations occur within the 30-minute period referenced by the Rule. Second, de-identified transaction-level information from the exam data shows

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<sup>288</sup> Annette LoVoi et al., *Sending Money: The Path Forward*, at 22 Appleseed (May 2016), available at <http://www.appleseednetwork.org/wp-content/uploads/2016/05/SendingMoney.pdf>.

<sup>289</sup> 12 C.F.R. §1 005.34.

what share of cancellations occur within various other time periods of interest, for example, the first 15 minutes of that 30-minute period. Third, responses in the industry survey provide evidence of what share of remittance transfers are picked up by, or deposited into the account of, the foreign recipient within that 30-minute period.<sup>290</sup>

The share of transfers that are cancelled ranges from an average of 0.29% in the survey data to a high of 4.5% in the reviewed exam data. Many of these sender-requested cancellations occur after the 30-minute cancellation period provided under the Rule: the available data suggest that roughly 60% occur more than 30 minutes after a transfer is initiated. In these instances, some remittance transfer providers are honoring requests that are outside the Rule's 30-minute period. In contrast, many cancellations also occur quite quickly: roughly an additional 30% of cancellations occur within the first 15 minutes after a transaction is initiated. However, the industry survey data also suggest that roughly 20% of all remittance transfers are picked up by, or deposited into the account of, the designated recipient within the 30-minute period referenced by the Rule; in these cases the sender's right to cancel a transfer is extinguished.

Several caveats should be noted. First, as discussed in Section 1.2, the industry survey data and exam data are drawn from two substantially different kinds of remittance transfer providers. The exam data are drawn from a subset of supervised banks and MSBs covered by the Bureau's Larger Participant rule.<sup>291</sup> Meanwhile, the industry survey saw relatively low response rates from large depository institutions, but the industry survey data provide some insights into the experience of smaller depository institutions that are not included in the exam data. Furthermore, neither the exam data nor the industry survey data are designed to be representative of the market as a whole, so conclusions drawn from these data should be interpreted cautiously. Likewise, in the industry survey not all respondents answered all survey questions; for the statistics presented in this section, response rates across questions ranged from 43% to 69%.

With these caveats noted, across entities represented in the exam data, the share of remittance transfers that were ultimately cancelled during the period covered by the exams ranged from 1.4% to 4.5%, with

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<sup>290</sup> When the transferred funds have been picked up by the designated recipient or deposited into the designated recipient's account, the consumer's right to cancel a transfer is extinguished. 12 C.F.R. § 1005.34(a)(2).

<sup>291</sup> See Defining Larger Participants of the International Transfer Market, 79 Fed. Reg. 56631, 56633–36 (Sept. 23, 2014) (effective date Dec. 1 2014) ("larger participants" as defined by the Bureau in this final rule).

an average across institutions of 1.8%.<sup>292</sup> On average, respondents in the industry survey reported lower cancellation rates, at 0.29% of initiated transfers. The differences suggest there could be important variation in cancellation rates among different customer bases and institution types.<sup>293</sup>

Among cancelled remittance transfers, many cancellations occurred either quickly after, or a relatively long time after, the transaction was initiated. This point is illustrated in Figure 20, which plots the distribution of time to cancellation in hours using transactions from the exam data.<sup>294</sup> Cancellation times over 48 hours are shown on the graph as 48 hours. As can be seen, roughly 40% of cancellations occur within one hour after initiation, and nearly 15% of cancellations occur 48 hours or more after initiation. Overall, the top quartile of cancellation times is roughly a day or more, and the second quartile of cancellation times falls between three hours and one day after initiation. A substantial number of cancellations, therefore, occur long after the 30-minute cancellation period, and there are also a substantial number that occur quite close to the 30-minute cancellation period.

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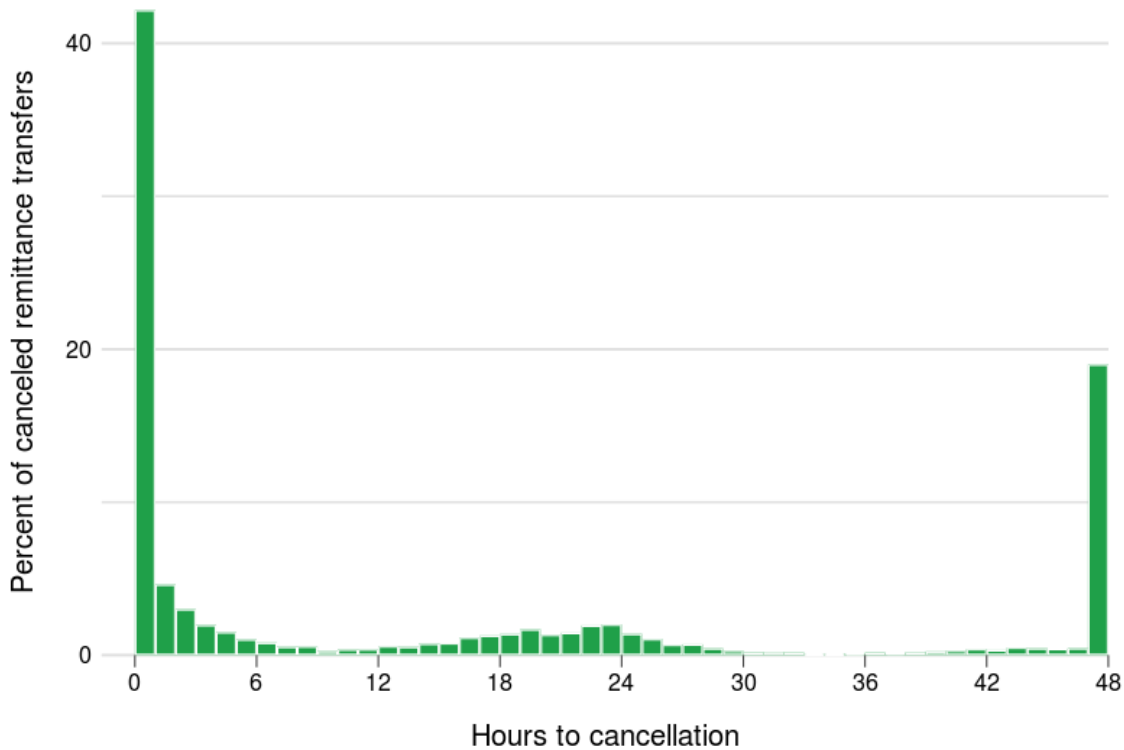
<sup>292</sup> In order to best reflect the typical experience of consumers who use these institutions to send remittance transfers, this average reflects weighting by the annual transaction volume of each institution, rather than equal weights across institutions.

<sup>293</sup> Several industry commenters that responded to the RFI reported similar rates of cancellation. See the summary of comments in Appendix B.

<sup>294</sup> This analysis excludes cancellations for which a time to cancellation cannot be calculated, either because the time of initiation or the time of cancellation is not reported in sufficient detail. The Bureau's analysis suggests these excluded cancellations are not systematically different from other cancellations studied in the exam data, as the transaction amounts for these cancelled remittances are not, within institution, significantly different from the transaction amounts for which a time to cancellation can be calculated. This analysis also excludes a substantial number of cancellations reported as occurring less than one minute after initiation, which may be consistent with staff making corrections to clerical errors rather than consumers initiating cancellations.



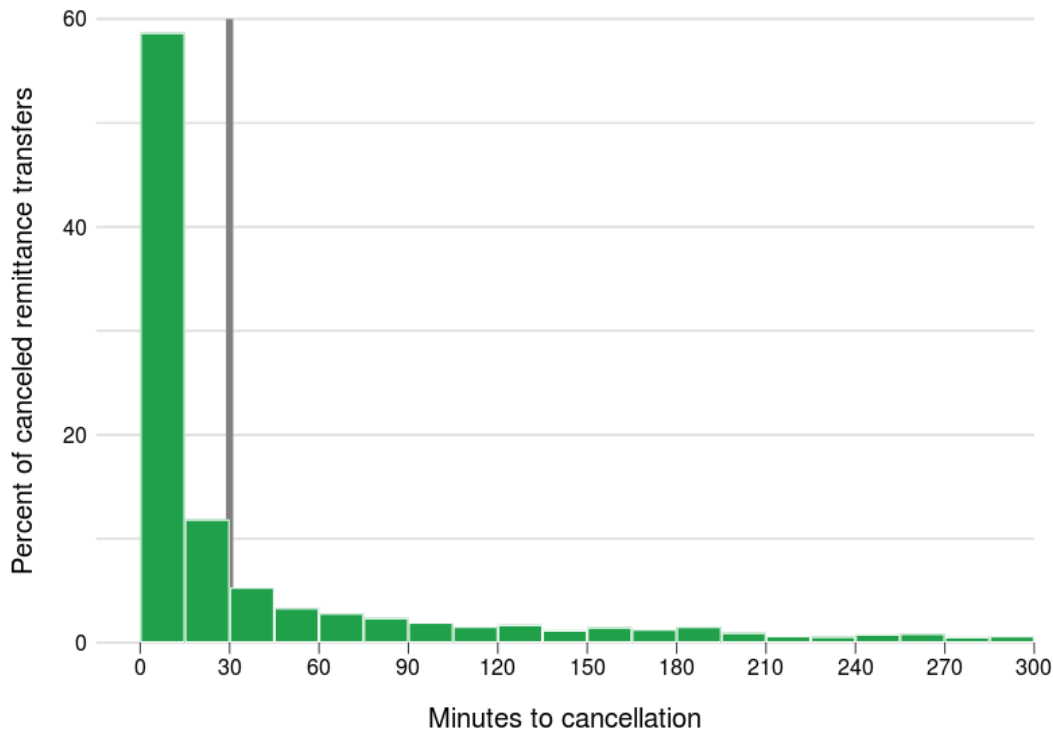
**FIGURE 20:** DISTRIBUTION OF HOURS TO CANCELLATION, AMONG CANCELLED TRANSFERS



Note: If a cancellation was requested more than 48 hours after the transaction, then time to cancellation is shown as 48 hours.

Figure 21 presents further evidence on cancellation times that fall close to the Rule’s 30-minute cancellation period. The figure uses a sub-sample of the data shown in Figure 20, focusing only on cancellations that occur in five hours or less, and presents these cancellation times in minutes. The majority of cancellations that occur within this five-hour window occur just 15 minutes or less after the transaction is initiated, while a substantial share also falls within the second half (minutes 16 through 30) of the 30-minute cancellation period. Only a thin tail of cancellations occur at times greater than 30 minutes but less than five hours.

**FIGURE 21:** DISTRIBUTION OF MINUTES TO CANCELLATION, UNDER 5 HOURS



Note: Vertical gray line shows the 30 minute Rule provision.

The Remittance Rule’s right to cancellation may also have costs for consumers, particularly if remittance transfer providers delay transferring a remittance for 30 minutes to ensure that they can more easily provide a refund if a cancellation is requested within the 30-minute period.<sup>295</sup> The industry survey provides some evidence of this potential for delay. Among banks and credit unions, 35 out of the 43 survey respondents reported that they sometimes delay transactions by 30 minutes to ensure cancellation is possible. Eleven of the 24 responding MSBs also reported doing so. However, neither the industry survey data nor other data available to the Bureau indicate what percentage of these providers’ transfers are held for 30 minutes.<sup>296</sup>

<sup>295</sup> Several commenters that responded to the RFI stated that the cancellation right results in delays to consumers for some transactions. See Appendix B.

<sup>296</sup> The data available to the Bureau also do not make it possible to determine whether and how often providers adjust their end-of-day cutoff for accepting transfers by 30 minutes. However, the Bureau notes that some remittance transfer providers batch their wire transfers to send at the same time at the end of each business day. Accordingly, the Bureau does not believe that for consumers that use these providers, the Rule’s cancellation provision creates a delay that these consumers would not

In light of these data on the potential for delay, it is informative to examine what share of remittance transfers are nonetheless picked up by, or deposited into the account of, the designated recipient during the 30-minute period.<sup>297</sup> While the Bureau's data on this question are more limited than data on the time between payment and cancellation, the industry survey data suggest that, on average, 23% of remittance transfers provided by survey respondents are picked up or deposited during the 30-minute cancellation period.<sup>298</sup> This share, however, does not necessarily indicate how many consumers put substantial value on the ability to have remittance transfers completed within 30 minutes.

While the Rule's cancellation right may delay some transfers, it is possible that the consumers who care most about speed go to providers who complete transfers without delay. If consumers can make choices among remittance transfer providers in this way, then the consumer harm from the Rule's cancellation requirement may be very low. Several remittance transfer providers consider the speed of the transfer a competitive advantage and advertise it prominently on their websites. Consumers for whom speed is a primary consideration therefore may often have the option of using such a provider.

## 4.3 Error resolution

As described in Section 2, the Remittance Rule generally requires a remittance transfer provider to investigate errors upon receiving an oral or written error notice from a sender within 180 days after the disclosed date of availability of the remittance transfer.<sup>299</sup> This section considers this error resolution requirement. The analysis addresses several questions related to error resolution: how frequently consumers assert that an error occurred; how long consumers typically must wait for errors to be resolved; and the share of error assertions for which the remittance transfer provider determined that an actual error occurred. This analysis again primarily draws on the exam data and the industry survey used in the preceding section. The Bureau does not have data on the ways that remittance transfer providers dealt with errors before the Rule to form an appropriate baseline.

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have experienced otherwise. That being said, to the extent that some providers that batch wires have moved up their cut-off times for sending wire transfers by 30 minutes in response to the Rule's cancellation requirement, consumers that use these providers in the final 30 minutes of the business day may experience a delay.

<sup>297</sup> When the transferred funds have been picked up by the designated recipient or deposited into the designated recipient's account, the consumer's right to cancel a transfer is extinguished. 12 C.F.R. § 1005.34(a)(2).

<sup>298</sup> This average is weighted by number of transfers, so as to reflect the typical consumer experience across all institutions for which survey data are available.

<sup>299</sup> 12 CFR 1005.33(b).

Many of the same caveats from the previous section apply to this analysis. As before, it should be noted that the industry survey data and exam data are drawn from two substantially different sets of remittance transfer providers, with the former offering better representation of smaller providers and the latter offering better representation of larger providers, especially among banks and credit unions. Neither dataset is designed to be representative of the market overall or of any particular set of institutions, so results should be interpreted accordingly. Finally, as before, in the industry survey not all respondents answered all survey questions; for the statistics presented in this section, response rates across questions were between 60% and 70%.

The existence of a detailed error resolution process requirement may also encourage remittance transfer providers to monitor for errors and prevent errors before they occur. As noted in Section 4.2, a large number of cancellations occur within one minute.<sup>300</sup> While the analysis in Section 4.2 excludes these cancellations, they may represent providers catching sender mistakes or potential errors and quickly correcting them. Similarly, the disclosure requirement may help sending consumers avoid mistakes.<sup>301</sup> These two factors suggest that the observed frequency of consumer-asserted errors may be lower than the frequency of the same types of errors in the absence of the Rule. The Bureau notes again that it does not have evidence available to compare provider behavior to a pre-Rule baseline.

In the relevant exam data, the Bureau's analysis indicates that the share of remittance transfers that lead to an error assertion by a consumer range from 1.5% to 1.9% for all institutions reviewed in the data. Responses in the industry survey suggest lower error assertion rates, at an average of 0.5% of transactions. Error assertion rates as a share of transacted dollars rather than of transactions are slightly higher in both data sources but are broadly similar. For example, on average in the industry survey data the error assertion rate as a share of transacted dollars is 0.9%. The differences across data sources again may indicate important variation among different client bases and types of remittance transfer providers. Additionally, evidence from the exam data should be interpreted in view of the fact that some providers' processes for tracking asserted errors may still be in various stages of development, which can lead these estimated error rates to be either over- or under-estimates.

Senders also tend to assert errors relatively quickly after initiating a transfer. This can be seen in Figure 22 below, which plots the distribution of days until error assertion for all institutions in the reviewed

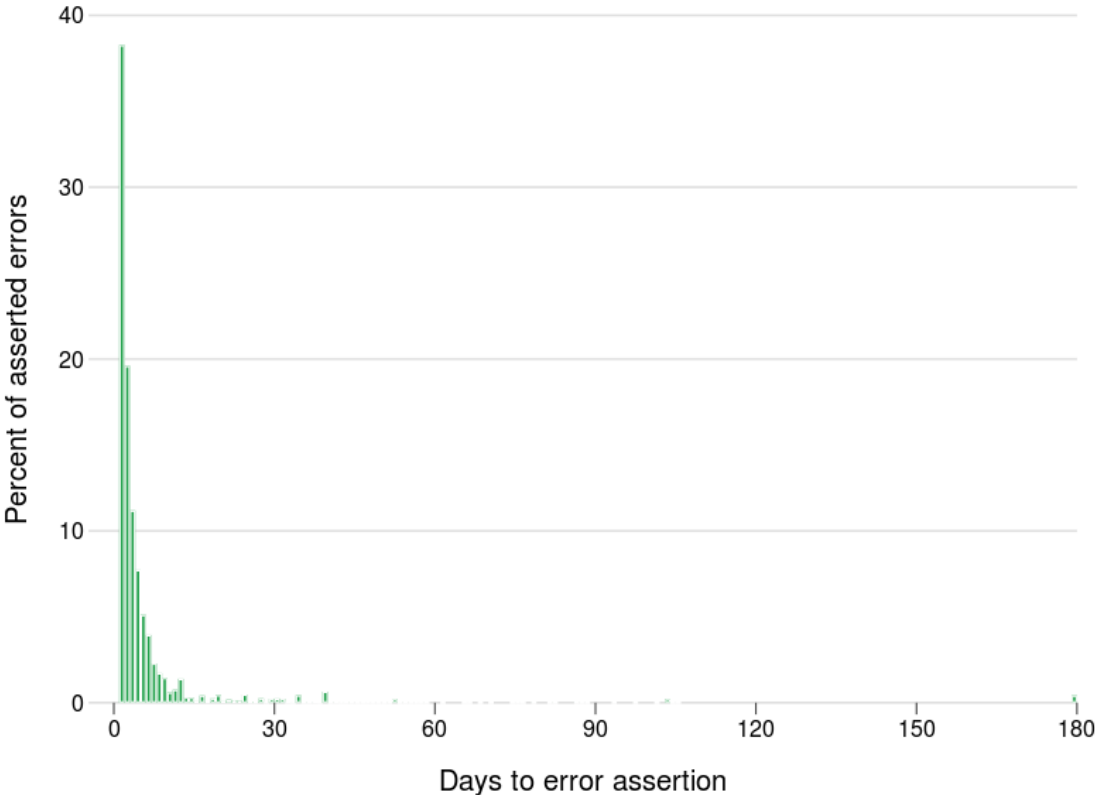
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<sup>300</sup> See *supra* footnote 294 on cancellations that occur within one minute.

<sup>301</sup> The Bureau notes that sender errors, for example an incorrect account number, are generally not covered by the Rule.

exam data.<sup>302</sup> Thirty-eight percent of senders’ error assertions are made within a day, and 58% are made within two days after initiating a transaction. Nearly all, or over 97%, of error assertions are made within 30 days, and less than 0.5% of error assertions are made after 180 days. Although there may be some consumers who wish to assert an error after 180 days and are not able to do so, the steady tapering of the distribution shown in the figure, together with the relative rarity of error assertions that occur after 30 days but before 180 days, suggests that few consumers wish to assert an error after 180 days.

**FIGURE 22:** DISTRIBUTION OF DAYS TO ERROR ASSERTION



After a sender asserts an error, the relevant exam data suggest there is wide variation in the amount of time it takes to resolve the error. Some errors are resolved quite quickly: MSBs resolve at least 25% of senders’ errors in 1 to 2 days, and banks resolve at least 25% of senders’ errors in 7 to 9 days. Some

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<sup>302</sup> In the figure, data values over 180 days are top-coded to the value of 180, so the percentage shown for 180 days in the figure represents the share of all error assertions that are made after 180 days or more.

errors take longer: the median time until error resolution ranges from 3 to 19 days across providers, and the 90<sup>th</sup> percentile of error resolution time ranges from 19 days to as high as 91 days.

By the end of the error resolution process, remittance transfer providers report that roughly 25% of asserted errors are found to reflect actual provider error, including errors by downstream agents and financial institutions.<sup>303</sup> Specifically, in the exam data reviewed, the share of asserted errors that are reported as actual errors ranges from 17% to 35% across remittance transfer providers. Meanwhile, the industry survey data indicate that a similar share, 25% of transfers in which errors are asserted, are ultimately reported to reflect actual errors.<sup>304</sup> Notwithstanding the similarity between the shares in these two data sources, these shares may still be over- or under-estimates, given that some providers' error-tracking processes may still be in development. Note that in both data sources a majority of asserted errors are found by providers to be attributable to consumer mistakes or other issues rather than provider error.<sup>305</sup>

## 4.4 Safe harbor for institutions transferring 100 or fewer remittances

As discussed in Section 2, the Remittance Rule provides a safe harbor if an institution provides 100 or fewer remittance transfers in both the previous and the current calendar years. In creating this safe harbor provision to define which institutions do not provide remittance transfers in the “normal course of business,” the Bureau explained that it believed that a safe harbor would reduce compliance burden by increasing legal certainty in the market.<sup>306</sup> This section provides evidence about how this provision may affect provider or potential provider decisions. Our focus in this section is on banks and credit

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<sup>303</sup> This rate may reflect instances where the provider, as an accommodation to the consumer, admits an error without finding one, as well as cases where a provider indeed finds an error after an investigation. The Bureau has no evidence suggesting this practice of accommodation either does or does not occur. Providers may also provide an accommodation to the consumer whether or not a Rule defined error occurred, so the rate of error resolution may undercount or over-count the rate at which consumers are helped following an error assertion.

<sup>304</sup> The survey data also suggest that the rate of actual errors may be higher on a dollar-weighted basis: roughly 50% of transacted dollars for which errors are asserted are ultimately found to reflect actual errors.

<sup>305</sup> Furthermore, the data available to the Bureau do not make it possible to examine what occurred in cases where an error was asserted but the provider reported finding no such error. For example, providers may still provide some relief, even if the provider, upon investigation, determines no error occurred.

<sup>306</sup> 77 Fed. Reg. 50243, 50249 (Aug. 20, 2012).

unions for which remittance transfers may only be a small portion of their overall business. Banks and credit unions may still wish to provide remittance transfer services to their customers and the safe harbor may affect their decisions to do so. As discussed in Sections 3.2.3 and 3.2.4, of the banks and credit unions that offer remittance transfers, approximately 80% of banks and 75% of credit unions transfer 100 or fewer remittances in a given year. While this report considers in Sections 3.2.3 and 3.2.4 the extent to which banks and credit unions continue to offer remittance transfers, this section asks whether there is evidence that banks or credit unions intentionally limit the number of transfers they are willing to process to stay under the 100-transfer threshold for the safe harbor.<sup>307</sup>

Although the safe harbor requires transferring 100 or fewer remittances for both the current and previous calendar years, the analysis focuses on whether there is evidence that banks and credit unions restrict the number of remittances they transfer in a single year. Passing the threshold means the bank or credit union is covered for both this year and the next year. Moreover, the threshold is still a meaningful threshold even for banks or credit unions that are already covered as a result of transferring more than 100 in the previous year, because they will continue to be covered until they transfer 100 or fewer in two consecutive calendar years.

Banks that transfer 100 or fewer remittances are not required to report the actual number of transfers in their call reports. Any examination of the threshold should take this reporting difference into account. Banks are required to report the transfers they make in their December and June call reports if in their June call report they expect to transfer more than 100 remittances that year. In 2014, 195 banks that offered remittance transfers reported transferring between 1 and 100 remittances, inclusive. The number of banks fell to 128 in 2015, 120 in 2016, and 88 in 2017. As Figure 6 in Section 3.2.3 shows, the percentage of banks that offered remittance transfers services and transferred more than 100 remittances increased from 2014 to 2017.

If banks chose to limit the number of transfers they processed to 100 or fewer to stay within the threshold, one would expect the number of banks processing just below 100 transfers to be substantially larger than the number processing just over 100 transfers and larger than banks that are well under the threshold. For example, a bank that has already processed 100 transfers might refuse to process any more until the end of the year to stay below the threshold. Banks that have processed 90 or fewer transfers are not as close to the threshold and have a lower incentive to reduce the number of transfers they are willing to process. Substantial bunching at or just below 100, compared to just above 100 or

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<sup>307</sup> Several commenters that responded to the RFI stated that they or other entities restrict the number of remittance transfers they provide in this way. See Appendix B for a summary of comments.

well below 100, might indicate that banks were intentionally limiting the number of transfers to stay below the threshold.

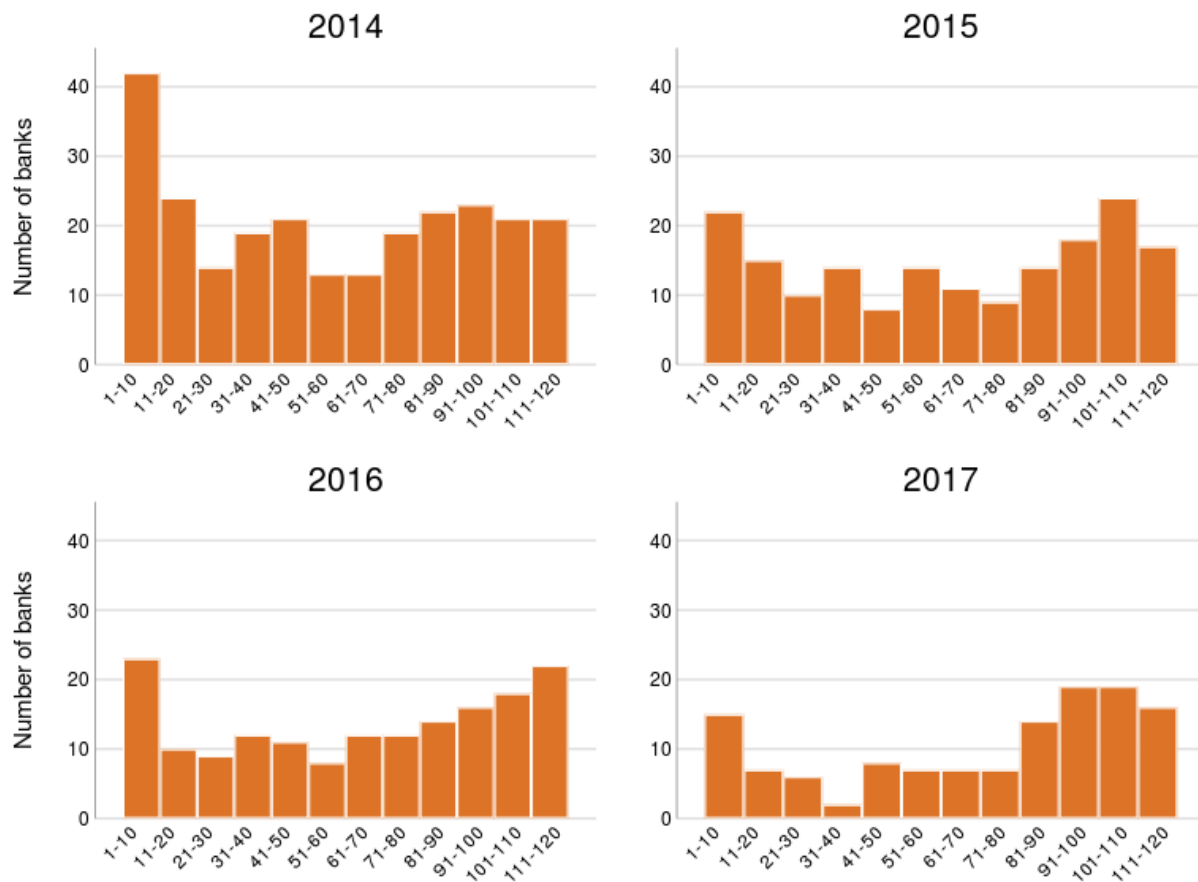
As Figure 23 shows, for each year between 2014 and 2017 the number of banks transferring 101 to 110 remittances is sometimes larger and sometimes smaller than the number of banks transferring 91-100 remittances, but the difference is always five or fewer banks. The number of banks transferring 80-89 is similarly sometimes larger and sometimes smaller than the number of banks transferring 90-99 remittances. Note again that banks are not required to report the number of transfers if the number is below 100, so the comparison of banks between 91-109 and 101-110 may understate the number between 91 and 100. However, banks reporting between 81 and 90 are also not required to report the number of transfers, so the comparison to 91-100 is still meaningful under the assumption that the underreporting is similar between 81-90 and 91-100. The evidence is thus inconsistent with the 100-transfer safe harbor causing more than a few banks to reduce the number of transfers they are willing to process, although because the underlying data is incomplete, this finding may not be robust.<sup>308</sup>

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<sup>308</sup> It is possible that banks stop transferring remittances well below 100, depending on how closely and often they monitor the number of transfers across their branch network. The evidence does not suggest this is common because the number of banks transferring 51 to 60 is typically similar to 61 to 70, 71 to 80, and 81 to 90. The reporting below 100 makes it difficult to reach strong conclusions, yet the number of banks possibly limiting the number of transfers appears small.



**FIGURE 23:** ANNUAL NUMBER OF REMITTANCE TRANSFERS BY BANKS<sup>309</sup>



Unlike banks, all credit unions are required to report the number of remittance transfers on their call reports. Figure 10 shows that the percentage of credit unions that offer remittance transfers services and transfer more than 100 remittances has been increasing since 2014.

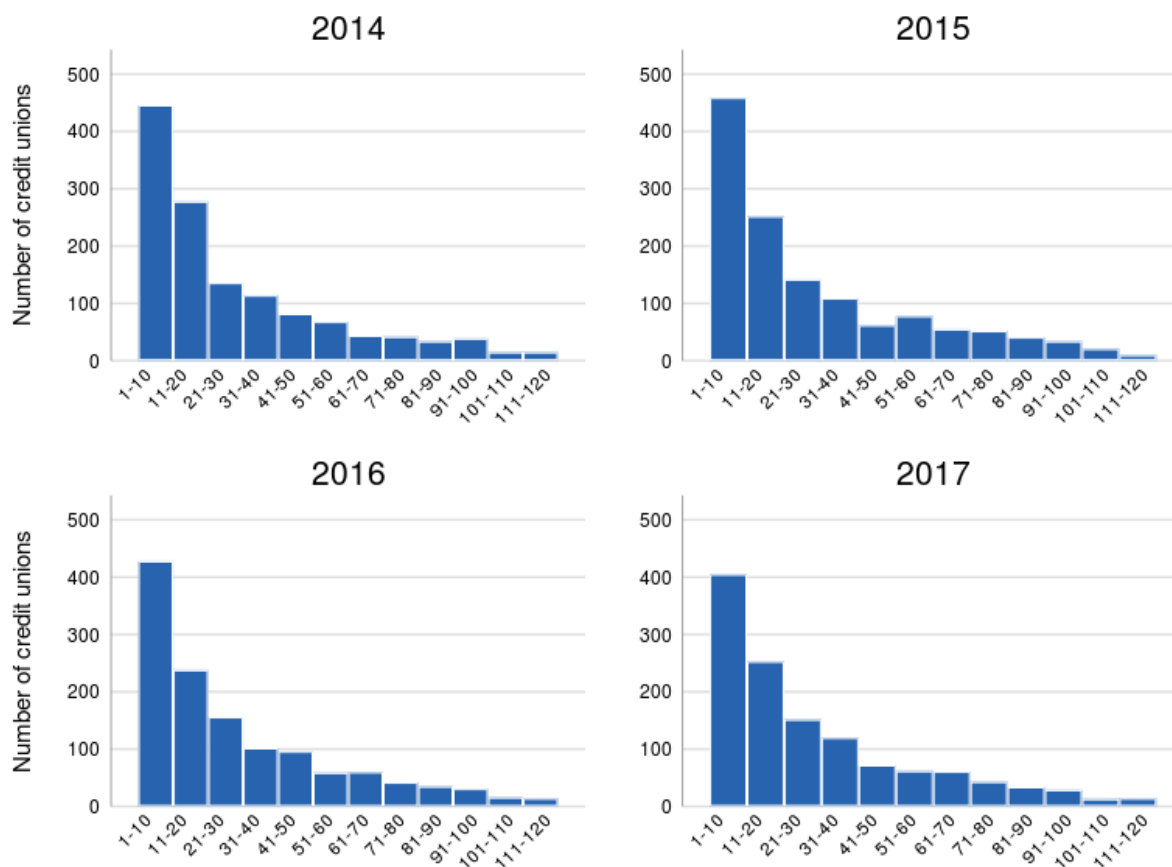
If many credit unions chose to limit the transfers they provide to 100 or fewer to stay under the threshold, one would expect the number of credit unions transferring just below 100 remittances to be substantially larger than the number transferring just over 100. As Figure 24 shows, the number of credit unions transferring 91-100 does appear to be slightly larger than the number transferring 101-110 or 111-120 remittances. In addition, the number of credit unions transferring 91-100 is slightly larger than 81-90, rather than slightly smaller, as the rest of the distribution suggests it should be. If no credit unions were limiting the number of transfers, one would expect the number of credit unions providing

<sup>309</sup> FFIEC, *Central Data Repository's Public Data Distribution*, <https://cdr.ffiec.gov/public/> (last visited Oct. 11, 2018).

101-110 transfers to be the same or slightly smaller than the number providing 91-100. Treating as a baseline the hypothesis that the number of credit unions transferring 101-110 would be equal to or smaller than the number transferring 91-100, then the difference between these two groups gives an estimate of the maximum number of credit unions that may be limiting their transfers. The 91-100 group was 24 credit unions larger than the 101-110 in 2014, 13 larger in 2015, 15 larger in 2016, and 16 larger in 2017. The evidence therefore suggests that at most 24 credit unions in any year, and fewer than 20 since 2014 may be limiting the transfers they provide to stay at or below the 100 transfer threshold. Because close to 1,500 credit unions offer remittance transfers in a given year, the proportion of credit unions engaged in this behavior appears to be very low.

It is possible that some credit unions limit their transfers at numbers well below 100 to ensure they stay below the threshold. In this case, a more appropriate comparison may be the number of credit unions transferring 81-100 and 101-120. In 2017, 36 more credit unions transferred 81-100 remittances than 101-120 remittance. This number is an upper bound on the number of credit unions limiting transfers because, as Figure 24 illustrates, the number of credit unions in each remittance transfer bin is generally declining.

**FIGURE 24:** NUMBER OF CREDIT UNIONS PROVIDING REMITTANCE TRANSFERS



## 4.5 Reliance on the temporary exception for insured institutions

As discussed in Section 2, the temporary exception allows insured institutions to provide estimated disclosures where exact information could not be determined for reasons beyond their control.<sup>310</sup> In

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<sup>310</sup> The Rule defines “insured institution” as 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). 12 C.F.R. § 1005.32(a)(3).

2014, the Bureau extended the temporary exception by five years from July 21, 2015, to July 21, 2020, to give insured institutions time to develop reasonable ways to provide consumers with exact fees and exchange rates for all remittance disclosures so that transfers to certain parts of the world would not be disrupted.<sup>311</sup> This section examines the extent of continued industry reliance on the temporary exception.

Banks report their use of the temporary exception in their call reports. Credit unions do not. This report discusses credit union use of the temporary exception based on the industry survey below. Table 10 shows the percentage of banks that report using the temporary exception and the percentage of transfers for which these banks use the temporary exception. In 2017, 11.8% of banks used the temporary exception. These banks used it for 10.2% of all bank transfers, down from 15.8% of transfers in 2014.

**TABLE 10:** USE OF TEMPORARY EXCEPTION BY BANKS

Year	Percent of bank remittance transfer providers using temporary exception	Percent of transfer for which temporary exception was used, of banks using temporary exception	Percent of all bank transfers for which temporary exception is used
2014	14.7	15.8	9.1
2015	13.6	10.5	6.2
2016	13.3	9.7	6.3
2017	11.8	10.2	6.4

As Table 10 shows, the percentage of all transfers by banks that use the temporary exception was 6.4% in 2017, down from 9.1% in 2014. The largest banks tend to be the ones using the temporary exception, so 10.2% of transfers at the 11.8% of banks that use it still accounts for 6.4% of the total transfers. As discussed in Section 3.2.3, a relatively small number of banks conduct most transfers. The call reports do not detail for which countries banks use the temporary exception. The call reports also do not

<sup>311</sup> 79 Fed. Reg. 55970 (Sept. 18, 2014).

indicate whether banks use the exception for all transfers to certain countries, or whether banks use the exception to fees or exchange rates, or both.

During its discussions with banks, credit unions, and industry groups as part of the assessment and market monitoring, the Bureau asked about use of the temporary exception. From these discussions, the Bureau's understanding is that banks and credit unions tend to rely on the temporary exception to estimate fees more often than they rely on it to estimate exchange rates. With respect to fees, the Bureau understands that banks and credit unions tend to use it when they (or, as applicable, their service providers) do not know all the lifting fees (fees charged by foreign banks) that may be imposed on a remittance transfer or when they lack a way to guarantee that no such fees will be deducted from the transfer.<sup>312</sup> This could happen when transferring to certain countries, such as countries where banks and credit unions do relatively little business, or to countries they perceive to have high Bank Secrecy Act/Anti-Money Laundering risk. However, the manner by which the payment is routed and the correspondent relationships needed to reach the beneficiary bank, rather than the country in which the beneficiary bank is located, could also play a role in the use of the temporary exception to estimate fees, such that a bank could provide actual fee information for certain transfers, but only estimated fee information for other transfers, even though the transfers are sent to the same country.

With respect to the exchange rate, the Bureau's discussions with providers and industry groups suggest that banks and credit unions do not rely on the temporary exception for the exchange rate if they convert the funds senders provide them to the applicable foreign currency upfront by using a fixed exchange rate they obtained themselves or through a service provider. However, for certain currencies, the Bureau understands that a fixed exchange rate cannot be provided. There are generally two issues related to disclosing an exact exchange rate: (1) some currencies are so thinly traded that purchasing such currencies and obtaining a fixed exchange rate for consumer wire transfers is nearly impossible, impracticable, or very costly; and (2) it may be impracticable to buy currencies for other reasons (for example, foreign laws may bar the purchase of that currency in the U.S.).

The industry survey asked whether providers are relying on the exception and, if so, whether they use it for estimating fees, exchange rates, or both. Of the 41 banks and credit unions that answered the question, six respondents replied that they did use the temporary exception, close to the proportion in the call reports for banks. Three reported using it to estimate both exchange rates and fees, two reported using it to estimate exchange rates only, and one reported using it to estimate fees only. Of the 35 banks and credit unions that answered that they did not use the temporary exception, 23 also

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<sup>312</sup> The Bureau recognizes that many banks and credit unions use third-party providers to send remittance transfers.

responded that they use a correspondent bank or credit union to set exchange rates for at least some transactions.<sup>313</sup>

Because the industry survey gives some information into credit union's use of the temporary exception, this section reports credit unions separately. Only one of the 17 credit unions that answered the question reported using the temporary exception. That credit union reported using it for fees only.

While broker-dealers are not insured institutions as defined in the Rule, some may rely on the temporary exception because the SEC staff has given them a no-action letter on which they may rely.<sup>314</sup> The Bureau does not have data on broker-dealers' use of the temporary exception. However, given that most broker-dealers use wire services provided by banks for remittance transfers, the Bureau expects their reliance on the temporary exception to mirror that of the banks with whom they are associated.

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<sup>313</sup> There was at least some confusion about this question and whether the temporary exception applies to a given responder. Six institutions that are not banks or credit unions answered that they used the temporary exception. Two of them reported for which countries they make use of the exception. One reported Poland and Mexico. The other reported "all countries." Given this confusion, it is possible that these institutions may have misunderstood the question. It is also possible that some banks and credit unions are relying on the exception and do not realize it.

<sup>314</sup> 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. See Letter from David W. Blass, Chief Counsel, Secs. and Exch. Comm'n to Manisha Kimmel, Exec. Dir., Fin. Info. Forum (Dec. 14, 2012) (staff recommending no enforcement action under Regulation E).

# APPENDIX A: THE REMITTANCE RULE AND BUREAU PURPOSES AND OBJECTIVES

## Introduction

As discussed in Section 1, 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. Section 1022(d) requires that the assessment address, among other relevant factors, the rule's effectiveness in meeting the specific goals stated by the Bureau, as well as the Bureau's purposes and objectives, specified in section 1021 of title X of the Dodd-Frank Act. Whereas the body of the report addresses the specific goals stated by the Bureau, this appendix highlights certain core findings in the body of the report with respect to the latter requirement.<sup>315</sup>

## Purposes and objectives

### Purposes

Under section 1021(a) of the Dodd-Frank Act, “[t]he Bureau shall seek 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.”<sup>316</sup>

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<sup>315</sup> As evidenced below, the degree to which the Remittance Rule implicates each of the purposes and objectives of title X of the Dodd-Frank Act varies, and the Bureau has endeavored to include in this appendix information that may be relevant to those purposes and objectives directly and indirectly implicated. The Bureau further acknowledges that some of the title X purposes and objectives may overlap and some of the findings discussed below may be relevant for multiple purposes and objectives. Thus, while this appendix distinguishes between purposes and objectives in order to highlight key findings in the body of the report, the appendix is not meant as a comprehensive summary of all findings relevant to each purpose and objective.

<sup>316</sup> 12 U.S.C. § 5511(a).

## All consumers have access to markets for consumer financial products and services.

Remittance transfer providers have continued to offer remittance transfer services to consumers since the effective date of the Rule. Sections 3.2.1 and 3.2.2 describe the continued dominant role played by MSBs in the remittance transfer market. Sections 3.2.3 and 3.2.4 report on the extent to which banks and credit unions have continued to offer remittance transfer services. The percentage of all banks offering remittance transfer services decreased slightly in the year after the effective date of the Rule and has been steady since then. Meanwhile, the share of banks transferring more than 100 remittances per year has been increasing. The share of credit unions offering remittance transfer services has increased or held steady since before the effective date of the Rule. Section 4.4 examines whether banks and credit unions have limited the number of remittances they transfer to stay below the 100-transfer threshold to avoid having to comply with the Rule. The evidence suggests that few banks or credit unions limit remittance transfers in this way, although the evidence for banks is less robust than for credit unions. Again, it is possible that the number of remittance transfer providers could have been even greater without the Rule, but the evidence does not support substantial exit from the market and so loss of access. These overall trends also might hide specific geographic areas where access decreased.

In addition, consumers over time have gained new or increased access to innovative forms of remittance transfer services. This trend started before the Rule became effective and continues today. Section 3.2.7 discusses innovation in the remittance transfer market including new and repurposed technologies and new entrants. This includes the widespread use of mobile phones to transfer remittances and the growth of online-only providers. This innovation may have increased consumer access to remittance transfers, but the evidence does not suggest that the Rule caused the innovation that may have increased access. Indeed, the evidence does not foreclose the possibility that there could have been more, faster, or different innovation absent the Rule.

Lower prices for remittance transfers are another possible source of increased access. Average prices for remittances were falling before the effective date of the Rule. Prices have also generally been falling since the Rule became effective, although this does not foreclose the possibility that some consumers pay more for certain transfers (*e.g.*, wire transfers). The evidence overall suggests that consumers have greater access to remittance transfer services. Sections 3.2.5 and 3.2.6 examine the price of remittance transfers. Based on a comparison with other industrialized countries, there is little evidence that the Rule caused a notable change in prices in the United States.

A goal of the Rule was to provide consumers more price information to allow greater comparison shopping. The Rule could have contributed to the price declines by promoting comparison shopping by consumers, which, in turn, may have caused providers to compete more aggressively on price. Section 4.1.1 discusses the evidence on shopping. However, as discussed in Section 3.3.3, remittance transfer



providers incurred costs to come into compliance with the Rule that could have been passed onto consumers. Accordingly, it is possible that on balance prices would have fallen more or would have fallen faster absent the Rule.

## **Markets for consumer financial products and services are fair, transparent, and competitive.**

The Rule provides an error resolution process that allows consumers to assert and resolve provider errors, which promotes a more fair marketplace. Section 4.3 addresses the extent to which consumers assert their error rights. The Bureau has limited evidence to compare the extent to which consumers were able to assert and obtain redress for errors before and after the Rule became effective.

With regard to transparency, the Rule requires remittance transfer providers to provide standardized pricing disclosures, which give consumers and providers insight into the costs associated with remittance transfers. Section 3.3.2 discusses the degree of compliance with the disclosure provisions. Section 4.1.1 examines evidence related to the required disclosures and suggests that some consumers had less price information available before the effective date of the Rule. The increased price information available under the Rule may have facilitated consumers' comparison shopping based on price, but the Bureau does not have data establishing whether or how much comparison shopping based on price actually occurred.

The foreign language disclosure requirements of the Rule, implementing specific statutory requirements from the Dodd-Frank Act amendments to EFTA, were apparently designed to improve transparency for consumers who were only or better able to comprehend the terms of the transaction in the relevant foreign language. The Rule requires remittance transfer providers to provide disclosures in the foreign language that the provider uses to advertise, solicit, or market remittance transfer services. Section 4.1.2 examines the available evidence on foreign language disclosures, which is limited. The Bureau does not have evidence sufficient to determine whether the Rule's foreign language requirements in fact made covered transactions more transparent.

Certain evidence and findings regarding the market for remittance transfers may provide rough indicators of competitiveness of the market for remittance transfer services. To the extent that certain measures are probative of competitiveness in that market, the Bureau is unable to draw definitive conclusions regarding the role of the Rule in the trends observed in those measures.

More specifically, as discussed in Sections 3.2.1 and 3.2.7, the overall market for remittance transfers generally has been characterized by prices dropping, diversity of market participants, new entrants and innovation, which are conditions consistent with competition existing in the marketplace both before and after the effective date of the Rule. However, as noted in Section 3.1.3, remittance corridors operate as distinct sub-markets, and competition in certain corridors may have changed in ways not

represented by these aggregate trends. Although the remittance transfer market had and continues to have characteristics consistent with competition between providers of remittance transfers, the Bureau does not have evidence sufficient to draw conclusions on the effect, if any, the Rule had on competition in the remittance transfer market.

## Objectives

The objectives of the Bureau are listed in section 1021(b) of the Dodd-Frank Act.<sup>317</sup>

### **Consumers are provided with timely and understandable information to make responsible decisions about financial transactions.**

The findings of this report suggest that after the effective date of the Rule, more consumers are provided with timely information to make better informed decisions when sending remittance transfers. The Rule requires that a remittance transfer provider give the consumer a pre-payment disclosure that includes price information before the consumer executes a remittance transaction and provides the consumer with the right to cancel a remittance transfer up to 30 minutes after payment. Section 3.3.2 reviews evidence regarding compliance with the Rule. To the extent providers comply with these provisions of the Rule, it suggests that consumers are receiving mandated information in time for them to consider that information in order either to proceed with or to cancel the transfer.

Prior to issuing the Rule, both the Board of Governors of the Federal Reserve System and thereafter the Bureau conducted consumer testing to assess whether draft model disclosure forms were comprehensible to consumers and found that the forms were comprehensible. As discussed in Sections 1.1.4 and 1.2, the Bureau, however, did not conduct additional consumer testing for this assessment.

Section 4.1.1 references a study conducted by a consumer advocacy group before the Rule became effective, which found that consumers were not consistently getting the pricing information that is now required to be disclosed to them under the Rule. The same group conducted a survey of consumers after the Rule took effect and found that consumers do compare fees. The studies, however, are not of a nationally representative population. The Bureau does not have a representative, comparative baseline from before the Rule became effective. The Bureau thus cannot definitely conclude that the Rule resulted in consumers having more information about prices.

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<sup>317</sup> 12 U.S.C. § 5511(b).

## Consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination.

The specific goals of the Rule, which are noted in Section 1, do not explicitly include protecting consumers from unfair, deceptive, or abusive acts and practices or from discrimination. Although many of the protections in the Rule might prevent or deter such acts or practices or discrimination, the information and data the Bureau obtained and generated in conducting this assessment do not provide a basis for the Bureau to offer views as to any meaningful effect the Rule may have had on this general Bureau objective.

## Outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens.

The initial rulemaking established a new regulatory regime implementing Dodd-Frank Act amendments to EFTA as mandated by Congress, and, therefore, the specific goals of that rulemaking, as outlined in Section 1, did not seek to identify or address any pre-existing regulations that created unwarranted regulatory burdens that the Bureau needed to address. However, in developing the initial rule and in subsequent amendments, the Bureau furthered the objective of reducing regulatory burden.

More specifically, as described in the summary of the provisions and evolution of the Rule in Sections 1 and 2, the Bureau sought to avoid regulatory burden in developing the Rule by, among other things, (i) amending the Rule so that remittance transfer providers would not be obligated to gather information to disclose taxes or certain third party fees imposed on remittance transfers; (ii) amending the Rule so that remittance transfer providers would not be held liable if a consumer provides erroneous information that results in a remittance transfer not being received by the intended recipient; (iii) implementing and then extending a temporary statutory exemption for insured institutions that relieves these institutions of the obligation to disclose the exact amount of certain fees and the exchange rate; (iv) permitting the use of text messages to deliver disclosures; (v) adopting special rules for remittance transfers scheduled in advance, including preauthorized remittance transfers, to avoid the requirement to provide disclosures immediately before the remittance transfer is sent; and (vi) creating a safe harbor from coverage for persons that provide 100 or fewer remittance transfers in both the prior and the current calendar years. The findings in Sections 3.2.3 and 3.2.4 suggest that of the banks and credit unions that offer remittance transfer services, based on a single year's transfers, roughly 80% and 75%, respectively, might qualify for the safe harbor for persons that provide 100 or fewer remittance transfers in both the prior and current calendar years. The report further finds in Section 4.5 that almost 12% of banks are taking advantage of the "temporary exception" permitting them to provide estimated disclosures in certain circumstances. This exception appears likely to reduce the burden associated with these entities obtaining and providing exact amounts in the disclosures rather than estimated information to consumers. Although certain entities have informed the Bureau that they rely

on the temporary exception because the exception facilitates their ability to continue to provide remittance transfers in certain corridors, the Bureau does not have information with which to quantify this benefit.

Overall, although the Bureau undertook each of the measures listed above to avoid or reduce regulatory burden, the Bureau did not obtain or generate data in this assessment that would allow it to estimate the decreased burden associated with the amendments individually or collectively.

Note that the Bureau also examined certain elements of the Rule where questions have been raised, for instance, about the burden imposed on industry relative to the consumer benefit. Section 4.2 reports on the extent to which consumers utilize the right to cancel and the effect on providers and consumers of making such a right available. Section 4.3 examines when consumers assert errors to assist the Bureau in better understanding the burden imposed by the length of time to assert an error relative to the consumer benefit. Section 3.3.3 includes information on the extent to which the Rule has increased the costs incurred by smaller depositories and finds costs have increased. Sections 3.2.3 and 3.2.4 report on the extent to which banks and credit unions have remained in the market after the Rule took effect and finds more firms start transferring more than 100 remittances than stop.

## **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.**

The specific goals of the Rule, which are noted in Section 1, do not explicitly include whether Federal consumer financial law is enforced consistently without regard to status as a depository or non-depository institution.

The Bureau has enforcement authority with respect to MSBs and with respect to depositories with assets over \$10 billion and the prudential regulators have enforcement authority with respect to smaller depositories. As Section 3.3.2 reports the Bureau has not brought enforcement actions against any providers, depository or non-depository, for violating the Rule to date.

The Bureau has supervisory authority with respect to depositories with assets over \$10 billion and, as discussed in Section 3.3.2, gained supervisory authority over certain nonbank providers in December 2014 pursuant to one of its larger participant rules. As discussed in Section 3.3.2, the Bureau has conducted examinations of both large depositories and MSBs.

Although it is not directly related to the consistent enforcement of the law, the Dodd-Frank Act created a temporary exception to disclosing the exact amount received by the recipient for insured institutions when making account-based remittance transfers where exact information could not be determined for reasons beyond the institution's control. As noted, the temporary exception covers only insured institutions; it does not extend to MSBs. Section 3.2 discusses that banks and credit unions are

differently situated from MSBs in disclosing costs of a transaction to consumers because of the banks' and credit unions' reliance on open network systems in which no institution exerts end-to-end control over a transaction.

## **Markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.**

Potential effects of the Rule on transparency and access are discussed above, along with broader innovation in the market for remittance transfers. However, the Bureau does not have sufficient evidence to conclude that the remittances market is operating more transparently and efficiently because of the Rule. Nor can the Bureau analyze whether the trends discussed above would have been even more pronounced in the absence of the Rule.

## APPENDIX B: COMMENT SUMMARIES

On March 24, 2017, the Bureau published a request for information on the Remittance Rule assessment and invited the public to submit comments and information on a variety of topics.<sup>318</sup> The public comment period closed on May 23, 2017. The Bureau received approximately 40 comments in response to the RFI. The Bureau summarizes the information received on certain topics below and the full comments are available on [www.regulations.gov](http://www.regulations.gov).<sup>319</sup>

Generally, commenters reported on their own experiences, and provided information from surveys and other types of research, regarding the overall effects of the Rule and the effects of particular requirements that are within the scope of the assessment report. This information is summarized here and incorporated into other parts of the report as appropriate. See Section 1, “Sources of information and data,” for a detailed summary of the data and information used in the assessment.<sup>320</sup> This appendix also contains a summary of recommendations for modifying, expanding, or eliminating the Remittance

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<sup>318</sup> 82 Fed. Reg. 15009 (Mar. 24, 2017). Under section 1022(d)(3), before publishing an assessment report, the Bureau is required to seek comment on recommendations for modifying, expanding, or eliminating the newly adopted significant rule or order. In the RFI, the Bureau invited the public to submit: (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; (2) data and other factual information that may be useful for executing the Bureau’s assessment plan; (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 certain exceptions and provisions; (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); and (6) recommendations for modifying, expanding, or eliminating the Remittance Rule. *Id.* at 15014.

<sup>319</sup> As stated in the RFI, the Bureau is not generally responding to each comment received pursuant to the RFI. 82 Fed. Reg. 15009, 15010 (Mar. 24, 2017). “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 document. 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 commencing a rulemaking proceeding in the future.”

<sup>320</sup> Section 1022(d)(1) provides that the assessment report shall reflect available evidence and any data that the Bureau reasonably may collect. Some commenters also directed the Bureau toward published research, which the Bureau reviewed and incorporated into other parts of the report as appropriate.

Rule.<sup>321</sup> Finally, section IV of the RFI described the assessment plan, and the Bureau also invited comments on the plan. These comments are summarized below. The Bureau continued to develop the assessment plan after publishing the RFI, taking into account the comments received.

## Evidence about Remittance Rule effects

Regarding the overall effect of the Rule, a number of commenters reported that they, or members of their associations, no longer provide remittance transfers because of the Rule. One credit union reported that it had been sending 2000 remittance transfers per year and stopped entirely because of the Rule. A trade association representing community banks reported on a survey it conducted of its members in 2013 in which less than 5% of the one-third of respondents that offered remittance transfers in that year reported that they would do so in the next two years. A trade association representing banks reported on a survey of banks under \$10 billion conducted by a research center in 2013 that found that 22.5% of respondents offered remittance transfer services prior to the Rule, 2.3% of these providers reported that they stopped prior to the Rule effective date, and 2.7% anticipated that they would stop. A national credit union association reported on a survey it conducted in 2014 in which 5% of respondents reported that they had stopped providing remittance transfers. A state credit union association reported on surveys conducted in 2014 and 2017 that showed that 70% and 61% of respondents (respectively) that did not provide remittance transfers stated that they discontinued providing remittance transfers because of the Rule. The 2017 survey also showed that 10% of respondents considered offering the service but opted against it due to the Rule. A national credit union association reported on a survey conducted in 2017 in which 28% of respondents that offered remittance transfers during the past five years stopped offering them (and an additional 27% “cut back”) primarily because of the Rule.

A number of commenters reported that they or their members no longer provide more than 100 transfers in any given year, because of the Rule.<sup>322</sup> One state credit union association reported on a survey conducted in 2017 that showed that 55% of respondents who provide remittance transfers report

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<sup>321</sup> Section 1022(d)(3) provides that before publishing a report of its assessment, the Bureau shall invite public comment on recommendations for modifying, expanding, or eliminating the newly adopted significant rule or order. The Bureau invited the public to comment on these recommendations in the RFI.

<sup>322</sup> The Rule provides that a person is deemed not to be providing remittance transfers in the normal course of business if the person provides 100 or fewer remittance transfers in both the previous and the current calendar years. . . 12 C.F.R. § 1005.30(f)(2).

that they stop providing remittance transfers for the remainder of the year when they hit 100. A national credit union association reported on a survey conducted in 2014 that a quarter of respondents were actively limiting the number of remittances they provided annually to remain under the threshold.

A number of commenters stated that as a result of the Rule, remittance transfer providers have increased the fees that they charge customers. A national credit union association reported on a survey conducted in 2014 that respondents reported increasing fees from \$35 to \$50 per transaction. One credit union reported that “transfer fees” in their area had been in the \$10-\$25 range and increased to \$50-\$100. A trade association representing banks reported on a survey it conducted in 2017 in which 39% of respondents reported that they had increased fees. In contrast, a consumer group reported on a survey of international remittance customers that it conducted in late 2015 in which 69% of respondents reported that prices were stable and 6% reported that prices had decreased over the previous year.

Regarding costs of the Rule to remittance transfer providers, a trade association representing banks reported that 60% of survey respondents reported that costs had increased because of the Rule; 22% reported that costs had increased “significantly.” One credit union reported spending \$1 million to develop new systems to comply with the Rule. Commenters reported that each transaction requires more staff time, that they had to reorganize operations internally, or hire additional staff. One state credit union association reported on a survey conducted in 2017 that members reported significantly higher fees charged by third parties.

The pre-payment disclosure and receipt were frequently mentioned as direct and indirect sources of additional costs.<sup>323</sup> One money services business association noted the cost of software to produce the new disclosures. One large money transmitter stated that because of barriers in the Rule to providing an electronic receipt, vast amounts of paper were used for the pre-payment disclosure and especially for the receipt.<sup>324</sup>

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<sup>323</sup> 12 C.F.R. § 1005.31(b)(1) and (2). As an alternative to providing a written receipt, the Rule allows a provider to give a single written disclosure prior to payment containing all of the information required on the receipt, so long as the remittance transfer provider also provides proof of payment. 12 C.F.R. § 1005.31(b)(3).

<sup>324</sup> If a sender electronically requests a remittance transfer, the pre-payment disclosure may be provided in electronic form without regard to provisions of the E-Sign Act, but providing the receipt in electronic form is subject to provisions of the E-Sign Act. See 12 C.F.R. § 1005.31(a)(2) and comment 31(a)(2)-1.



In addition, the need to partner with entities that could provide the required information was reported to reduce flexibility and competition. One credit union reported that a consumer may know that the recipient bank offers a better exchange rate than the remittance transfer provider, but the consumer cannot have the recipient bank make the exchange, since the remittance transfer provider would not know the exact exchange rate that the recipient bank would use and therefore could not disclose it as required. One credit union reported that before the Rule, it partnered with multiple correspondents for each destination country and could choose the lowest-cost option for any particular transfer. After the Rule, it decided to rely on one correspondent for each destination that could provide the information required for the disclosures. One bank reported being unable to find any correspondents at all for certain foreign transfers. Relatedly, a trade association representing banks reported on research conducted by a banking payments data provider that showed that banks reduced their correspondent relationships by 20% between 2009 and 2016. Based on a review of FFIEC Call Report data, the same trade association reported that the use of estimates in these disclosures by its members remains important—in 2016, 5.82% of their members used estimates, down from 8.66% in 2014.

Commenters also provided evidence of the effects of the pre-payment disclosures besides costs. A consumer group reported on a survey of international remittance customers that it conducted in late 2015 in which 83% of responding consumers reported that they understand the disclosures “well” or “very well.” Further, based on this survey, this commenter reports that most customers shop on fees and that two-thirds always or sometimes choose the service with the lower fee. In contrast, some commenters asserted that consumers do not or cannot use the disclosures to shop around. One credit union association stated that its members reported that consumers do not use the disclosures to shop around. One large money transmitter stated that the pre-payment disclosure is not used for shopping around, citing research showing that price is only one factor that consumers use. One credit union stated that comparison shopping was not possible because of the use of estimates. One money transmitter stated that providers disclose later availability dates to ensure compliance, so the date is not really useful to consumers. A number of commenters reported that customers are annoyed or confused by the disclosures. Commenters also noted changes to the service because of the disclosures, such as longer wait times—due to additional administrative duties or having to obtain required information from a vendor—and shifting to an online service only.

Many commenters provided evidence of the effect of the right to cancel.<sup>325</sup> Many commenters stated that the right to cancel delays transactions and creates demands on staff. A trade association

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<sup>325</sup> 12 C.F.R. §1005.34.

representing banks reported on a survey it conducted in 2017 in which 79% of respondents reported that they had received no cancellations since the Rule took effect. A money transmitter reported that cancellations make up less than 5% of total transactions processed and that cancellations within 30 minutes are less than 30% of that 5%. A credit union association commented that one member reported less than .61% of all remittance transfers in 2016 were cancelled within 30 minutes and another member reports a .16% cancellation rate during the first quarter of 2017.

Many commenters provided evidence of the effects of error resolution rights.<sup>326</sup> Many commenters stated that the number of errors is extremely low and that few customers ever asserted an error. One bank reported that in the past 3 years it had not received any complaints or requests for refunds, one trade association representing banks reported that 74% of respondents to its survey had not received any error claims, and one money transmitter reported that errors are less than .04% of transaction volume. In addition, this provider stated that more than 90% of transactions are picked up within hours (and so there is no need for the complaint window to be open for 180 days).

Commenters also noted the burden of the error resolution requirement in particular cases. One credit union noted that foreign banks would not necessarily cooperate in resolving errors, which created costs. Commenters noted that errors were sometimes outside the control of the provider, as when a foreign bank imposes an unexpected fee or funds were unavailable to the consumer because the consumer did not take steps necessary for the funds to be available. A large money-transmitter organization reported that it can sometimes quickly correct a problem that triggers the error resolution procedures when no error occurs, as when a designated recipient cannot pick up funds because the sender misspelled the name. In these circumstances the provider must still notify the sender that no error occurred. This commenter stated that this notification is confusing for some customers and costly to the provider.

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<sup>326</sup> 12 C.F.R. §1 005.33.

# Recommendations to modify, expand, or eliminate the Remittance Rule

A few commenters, including several credit unions and a regional credit union trade association, called for the elimination of the Rule, although at least three of the commenters suggested certain modifications (*e.g.*, exempt small- or mid-sized institutions, eliminate the 30-minute cancellation requirement, or increase the 100-transfer threshold) if the Bureau does not eliminate the Rule. The trade association explained that many credit unions rely on third parties to provide certain information the Rule requires remittance transfer providers to disclose (*e.g.*, taxes, fees, exchange rates, and the date funds will be available) because they do not have the resources or relationships with foreign banks to obtain such information. These commenters stated that, as a result of the costs and burden associated with using third parties, credit unions have stopped offering remittance services and increased their fees, which in turn has led to reduced access and consumer choice. The trade association also stated that the Rule should be eliminated because it has not achieved goals that the Bureau identified for the Rule. In contrast, one consumer group strongly recommended the retention of the Rule and stated that it believed the Rule has been effective in meeting the purposes and objectives of title X of the Dodd-Frank Act.

## Scope

A number of commenters recommended modifying the scope of the Rule in various ways. For example, several industry commenters recommended raising the 100-transfer threshold, arguing that the current threshold is too low and causes consumer harm.<sup>327</sup> These commenters explained that entities are raising prices, limiting the number of transfers they send to stay below the threshold, and eliminating remittance services altogether because of compliance costs. Several of the commenters provided a specific number at which they believed the threshold should be set. One national credit union trade association, one state credit union trade association, and one credit union suggested raising it to at least 1,000 remittance transfers per year, one trade association representing banks suggested raising it to 1,200 remittance transfers per year (to ease burden on community banks), and one credit union

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<sup>327</sup> See 12 C.F.R. § 1005.30(f)(2).

suggested raising it to 10,000 remittance transfers per year.<sup>328</sup> In contrast, one consumer group argued that the current 100-transfer threshold struck an appropriate balance by exempting entities that only provide remittance transfers intermittently.

Several trade associations representing banks suggested that the Bureau exempt transfers in excess of \$10,000 from the Rule's definition of "remittance transfer."<sup>329</sup> These commenters explained that the term "remittance transfer" is commonly used to refer to small, low-value transfers, not transfers in excess of \$10,000, which are often used for investments and real estate purchases. One of the trade associations stated that consumers who send high-value transfers desire speed, and therefore, the Rule negatively affects these consumers' experience because the disclosure and cancellation requirements cause unnecessary delays. Several trade associations representing banks also added that consumers who send high-value transfers do not need the Rule's protections.

Other industry commenters suggested that the Bureau limit the scope of the Rule by recommending a number of blanket exemptions. One regional credit union trade association suggested that the Bureau create an exemption for regulated entities under \$10 billion. One national credit union trade association recommended exempting all credit unions from the Rule. Several trade associations representing banks suggested that the Bureau exempt reloadable prepaid cards from coverage under the Rule, arguing that compliance in certain situations is impracticable or impossible and that other laws and regulations already govern the mailing and use of prepaid cards outside the United States and ensure that consumer protections are in place (*e.g.*, the Bureau's prepaid accounts rule).<sup>330</sup> Another regional credit union trade association suggested that the Bureau redefine "normal course of business" to apply to entities that primarily provide remittance transfers.<sup>331</sup> One bank suggested that the Bureau expand the definition of "State" to include certain of Guam's neighboring islands, which are foreign countries, so that fund transfers between accounts at the bank's branches in Guam (a U.S. territory) and

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<sup>328</sup> Two regional credit union trade associations, one credit union, and one state bank trade association recommended raising the threshold but did not specify a number at which it should be set.

<sup>329</sup> 12 C.F.R. § 1005.30(f)(1) defines "remittance transfer" as the electronic transfer of funds requested by a sender to a designated recipient that is sent by a remittance transfer provider. The term does not include transfer amounts of \$15 or less. 12 C.F.R. § 1005.30(f)(2)(i).

<sup>330</sup> These commenters recommended modifications to the Remittance Rule that they believe would help ease compliance with respect to reloadable prepaid cards.

<sup>331</sup> The Rule provides that a person is deemed not to be providing remittance transfers in the normal course of business if the person provides 100 or fewer remittance transfers in both the previous and the current calendar years. 12 C.F.R. § 1005.30(f)(2).

accounts at the bank's branches in the neighboring islands would not be considered remittance transfers.<sup>332</sup>

## Disclosures

### Temporary exception

The Bureau received comments from both consumer groups and industry regarding the statutory expiration of the temporary exception permitting insured institutions to estimate, under certain circumstances, the amount that the recipient will receive.<sup>333</sup> One consumer group urged the Bureau to let the temporary exception expire. Several consumer groups expressed concern over this exception (as well as other exceptions that allow providers to estimate amounts) and stated that allowing estimates seriously undermines the reliability and value of the disclosures required by the statute.<sup>334</sup>

Several trade associations representing banks, a group advocating on behalf of business interests, one bank, and one credit union urged the Bureau to make the temporary exception permanent. The advocacy group asserted that, as the Bureau determined in 2014 when it extended the temporary exception from July 21, 2015 to July 21, 2020, prohibiting fee estimates after 2020 would negatively affect the ability of insured institutions to provide remittance transfers. The trade associations stated that in 2020 when the temporary exception is scheduled to expire, depository institutions would still be relying on the exception for remittance transfers sent to low-volume corridors.

### Permanent exceptions

Several trade associations representing banks suggested that the Bureau expand the list of "safe harbor" countries that have laws impacting exchange rates.<sup>335</sup> These commenters explained that expanding the

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<sup>332</sup> Section 1005.2(l) defines "State" as any state, territory, or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico; or any political subdivision of the thereof in §1005.2(l).

<sup>333</sup> EFTA section 919(a)(4)(A). The Rule implemented this statutory exception in 12 C.F.R. §1005.32(a).

<sup>334</sup> The commenter also mentioned the permanent exception that allows a remittance transfer provider to estimate amounts for transfers sent to certain countries, and the exception related to the disclosure of certain third-party fees and foreign taxes. 12 C.F.R. §1005.32(b); 12 C.F.R. §1005.32(b)(3).

<sup>335</sup> The Rule allows remittance transfer providers to rely on the list of countries published by the Bureau to determine whether estimates may be provided, unless the provider has information that the country's laws or the method by which transactions

list to include those countries would help alleviate some of the issues certain remittance transfer providers will face when the temporary exception expires in 2020, as noted above. They also urged the Bureau to retain the optional disclosure of non-covered third-party fees and taxes collected on a remittance transfer by a person other than the provider.

## Foreign language disclosures

Regarding the requirement to provide the pre-payment disclosure and receipt in a foreign language, one consumer group stated that foreign language disclosures are critical for consumers with limited English proficiency to understand their rights when sending remittance transfers. Several other consumer groups asserted that the current trigger for the requirement to provide foreign language disclosures may not be sufficiently protective of consumers and additional language disclosure requirements may be needed.

## Other disclosure issues

Several industry commenters stated that the Rule's disclosure requirements are particularly burdensome and urged the Bureau to allow for some flexibility. Specifically, two credit unions and two money transmitters suggested that the Bureau eliminate the requirement to provide either the pre-payment disclosure or the receipt because providing both is redundant and causes consumer confusion. One bank and several trade associations representing banks requested that the Bureau allow remittance transfer providers to give senders abbreviated disclosures after the first full disclosure is given, for example, when a sender initiates more than one remittance transfer during the same telephone session. Another bank suggested that the Bureau permit electronic disclosures for remittance transfers initiated over the telephone or by fax. One credit union recommended eliminating the requirement to provide disclosures entirely.

Regarding the pre-payment disclosure specifically, several trade associations representing banks suggested that the Bureau give remittance transfer providers discretion in how and when to provide the pre-payment disclosure in certain situations (*e.g.*, for telephone transactions, allowing providers to give the disclosure after the sender provides the transfer instructions). Another trade association representing money transmitters suggested that the Bureau allow providers to give the pre-payment disclosure orally even for in-person transactions.

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are conducted in that country permits a determination of the exact disclosure amount. 12 C.F.R. § 1005.32(b)(1)(ii). Providers must disclose exact amounts if the provider has information that the country's laws or the method by which transactions are conducted in that country permits a determination of the exact disclosure amount.

With respect to the receipt, a group advocating on behalf of business interests stated that requiring a remittance transfer provider to provide a receipt when payment is made causes consumers to wait longer than necessary because it can take a substantial amount of time for the transfer to complete. This commenter therefore suggested that the Bureau allow providers to mail receipts even when the transaction is done in person. One money transmitter suggested that the Bureau allow providers to send receipts electronically, including when transfers are done in person.

Several industry commenters recommended modifications to the information about a remittance transfer that must be disclosed under the Rule. Specifically, one money transmitter and one trade association representing banks suggested that the Bureau remove the requirement to disclose the date of availability of funds because senders find it confusing (as they expect the funds to be available as soon as possible) and providers overestimate the days to ensure compliance. One credit union suggested that the Bureau change the date of availability to the date when the beneficiary bank receives the funds because the sending bank has little to no control over when the funds will be deposited into the recipient's account. This commenter explained that some beneficiary banks may impose requirements on the recipient before funds can be deposited into the recipient's account (*e.g.*, physically appearing at the bank and signing for the deposit). This credit union also recommended that the Bureau eliminate the requirement to provide the foreign exchange rate and total amount received in the local currency because, in certain situations, the rate would have been more favorable if the recipient bank had converted the currency. Another credit union requested that the Bureau eliminate the requirement to disclose any third-party fees.

## Error resolution

The Bureau received comments from both consumer groups and industry regarding the Rule's error resolution requirements. Specifically, one money transmitter and one trade association representing money transmitters urged the Bureau to cut the length of time for a sender to assert an error from 180 days after the disclosed date of availability to 90 days, arguing that 180 days is excessive because more than 90 percent of remittance transfers are picked up within hours of being generated, and most remittance transfer providers address complaints regardless of when the transfer was conducted. The money transmitter also challenged the requirement for a provider to give the sender a written explanation when it determines that no error occurred. Several trade associations representing banks urged the Bureau to reduce the 180-day timeframe to 60 days, arguing that the sender is likely to realize

earlier that an error occurred.<sup>336</sup> These commenters also noted that 180 days exceeds the timeframe for senders to assert errors under subpart A of Regulation E and argued that the Rule rewards senders who are dilatory in pursuing their rights and makes it difficult for providers to seek recourse for out of pocket costs.

Several trade associations representing banks urged the Bureau to allow remittance transfer providers to limit the requirement to provide refunds when an error is due to a sender mistake, the amount of error is less than \$15, or the error has no effect on the amount of funds to be received by the recipient. They asserted that in these situations, it is unjustifiably costly or inequitable to require providers to offer to resend the remittance transfer as one of the remedy options. Furthermore, a group advocating on behalf of business interests, another trade association representing banks, and one bank stated that it is unreasonable for a provider to absorb fees and costs when a remittance transfer fails due to a sender mistake. One credit union suggested that the Bureau require senders to meet minimal levels of proof when asserting an error and evaluate whether a provider's error resolution obligations should be different for consumers that send funds to themselves versus those that send to a third party.

Several trade associations representing banks stated that the Bureau should retain the provision that provides that errors due to a sender providing an incorrect account number or RIN are generally not considered errors. A company that operates a payment network requested that the Bureau expand this exception beyond traditional bank accounts to situations in which a sender provides a wrong prepaid or credit card account number and modify the regulation such that the transfer of funds to accounts other than deposit or checking accounts (*e.g.*, credit and prepaid accounts) are also eligible for the exception.<sup>337</sup> In contrast, several consumer groups argued that this exception is inappropriate and unjustified. Specifically, these commenters argued that when the Bureau amended the Rule to allow this exception, it mistakenly looked to one aspect of state law (which the commenters stated was written for commercial transfers and deliberately rejected by Congress as applicable) and erroneously applied it to

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<sup>336</sup> These commenters also asked the Bureau to gather information on how many errors are being reported 60 days after the disclosed date of availability.

<sup>337</sup> The Rule provides in part that the failure to make funds available to a designated recipient by the disclosed date of availability is not deemed an error if the failure was the result of the sender giving the remittance transfer provider an incorrect account number. 12 C.F.R. § 1005.33(a)(1)(iv)(D). This exception applies if the incorrect account number resulted in the deposit of the remittance transfer into a customer's account that is not the designated recipient's account (among other things). 12 C.F.R. § 1005.33(h)(4).



small transfers made by consumers.<sup>338</sup> Another consumer group commenter stated that an educational campaign by the Bureau regarding the need for senders to confirm the accuracy of the information submitted to remittance transfer providers could be useful in limiting the number of errors.

A group advocating on behalf of business interests and several trade associations representing banks recommended that the Bureau eliminate the requirement to provide the long form error resolution and cancellation notice because the short form already explains the consumer's cancellation and error resolution rights. These commenters added that consumers rarely ask for these notices and that the compliance cost of having to provide them outweighs the consumer benefit.

A few industry commenters requested that the Bureau clarify certain aspects of the error resolution requirements.<sup>339</sup>

## Cancellation

A number of industry commenters asserted that the Bureau should either eliminate or modify the aspect of the Rule that generally provides a 30-minute window for a sender to cancel a remittance transfer after payment, such as allowing the sender to opt out of the requirement or replacing the requirement with the customary right of a sender to cancel a transfer if the request is received prior to a provider's execution of the payment. These commenters stated that most remittance transfer providers comply with the requirement by delaying all remittance transfers for 30 minutes. These commenters explained that this delay has had a number of negative effects on consumers, including consumer confusion and frustration and limits on the times of day in which providers accept remittance transfers.

One bank argued that the right to cancel a remittance transfer should end when the payment instruction for a remittance transfer has been executed for depository institutions using Fedwire.<sup>340</sup> A

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<sup>338</sup> This commenter stated that the Bureau allowed this exception based on the requirements imposed on providers of wire transfers pursuant to the Uniform Commercial Code, specifically U.C.C. § 4A-207. The commenter stated that if Congress wanted to make the exception, it could have copied the language from § 4A-207, but it did not. This commenter therefore believed that the Bureau acted contrary to the intent of Congress in this instance.

<sup>339</sup> For example, a money transmitter requested that the Bureau possibly clarify that a request after the date of availability by the sender to correct the sender's misspelling of a designated recipient's name or to change the designated recipient's name when the provider has implemented controls to ensure that the sender reviews and confirms the accuracy of the designated recipient's name is not subject to the error resolution procedures under the Rule.

company that operates a payment network requested that the Bureau clarify how the cancellation provision applies to prepaid cards and credit cards.<sup>341</sup>

## The assessment plan

Several commenters suggested that the Bureau obtain additional information when conducting the assessment. For example, one trade association representing banks and one consumer group recommended that the Bureau obtain information directly from consumers who use remittance transfer services (before and after the Rule became effective) via a survey, focus groups, or other research methods. The trade association explained that this information could be useful to understand consumers' experience with comparison shopping, reading and comprehending the disclosures, delays in the process (*e.g.*, when listening or reading the disclosures), and asserting cancellation and error resolution rights. The trade association also stated that, if the Bureau obtained information from consumers, it should make sure to include in the sample consumers who are frequent users of remittance services and consumers who send remittance transfers in high dollar amounts.

Several trade associations representing banks suggested that the Bureau survey remittance transfer providers regarding their experience with the Remittance Rule and their compliance efforts. Specifically, these commenters stated that the survey could be used to obtain information about the Rule's effect on remittance service offerings (*e.g.*, increase in fees or elimination of services), the frequency and nature of consumer complaints, consumer assertion of cancellation and error resolution procedures, evidence of consumer use of disclosures to comparison shop, and compliance costs.<sup>342</sup>

One consumer group suggested that, as part of the assessment, the Bureau use data that it already had collected, such as the information contained in the Bureau's complaint database and examination reports. This commenter explained that the Bureau could use the information from the complaint

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<sup>340</sup> The Federal Reserve Banks provide the Fedwire Funds Service, a real-time gross settlement system that enables participants to initiate funds transfer that are immediate, final, and irrevocable once processed. See Bd. of Governors of the Fed. Reserve Sys., *Fedwire Funds Services*, [https://www.federalreserve.gov/paymentsystems/fedfunds\\_about.htm](https://www.federalreserve.gov/paymentsystems/fedfunds_about.htm) (last visited Oct. 9, 2018).

<sup>341</sup> Specifically, the commenter requested that the Bureau modify 12 C.F.R. § 1005.34(a)(2) to provide that "account" also includes a prepaid card or credit card account number and change "deposited" to "credited." The Rule provides in part that a remittance transfer provider must comply with the cancellation requirements if the transferred funds have not been picked up by the designated recipient or deposited into an account of the designated recipient. 12 C.F.R. § 1005.34(a)(2).

<sup>342</sup> As noted above, see Section 1.2, for a summary of the data and information used in the assessment.

database to analyze trends (*e.g.*, geographically and by service), summarize the types of complaints received (and how they were resolved), and compare the data against complaint information submitted under state statutes. This commenter also stated that the Bureau could use examination reports to understand remittance transfer providers' challenges in complying with the Remittance Rule and the examiners' observations on the providers' efforts in addressing those challenges. In contrast, a group advocating on behalf of business interests warned against using information from the Bureau's complaint database because it believed that this information is unverified and can be misleading.

Both industry commenters and consumer groups suggested that the Bureau focus on specific requirements of the Remittance Rule to determine whether they benefit consumers or cause confusion. For example, two trade associations representing banks recommended that the Bureau assess the utility of the disclosures, the 30-minute cancellation requirement, and the error resolution provisions. These trade associations also suggested that the Bureau evaluate the effect of the 100-transfer safe harbor on consumer access to remittance transfers. Specifically, one of the trade associations explained that, if a remittance transfer provider has limited the number of transfers it sends to stay below the threshold and thereby denies a consumer the service of sending a transfer, the Bureau should assess whether the consumer was able to send the transfer using another provider and whether additional costs (*e.g.*, consumer time and money) were involved.

Furthermore, several consumer groups suggested that the Bureau evaluate the justification for the exceptions that allow remittance transfer providers to provide estimates in certain circumstances and the exception for errors when a consumer provides incorrect information. For example, these commenters explained that the Bureau should assess whether the exceptions for allowing estimates undermine consumer understanding of the information disclosed and whether the estimates provided are accurate. These commenters also suggested that the Bureau evaluate whether the requirements to provide disclosures in a foreign language are sufficient or whether they should be provided in additional circumstances.<sup>343</sup>

Both industry commenters and consumer groups suggested that the Bureau evaluate certain potential effects of the Rule. For example, a trade association representing banks and a group advocating on behalf of business interests stated that the Bureau should evaluate whether consumers have the same access to remittance transfers as they did before the Rule took effect or whether there has been a

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<sup>343</sup> For most transactions, the Rule requires a remittance transfer provider to give the sender disclosures in each of the foreign languages principally used by the provider to advertise, solicit, or market remittance transfer services, either orally, in writing, or electronically, at an office in which the sender conducts a transfer or asserts an error. 12 C.F.R. § 1005.31(g).

reduction in services. One consumer group stated that the Bureau should assess whether the Rule is the reason why remittance transfer providers are no longer providing remittance services or whether the cause is unrelated. One trade association representing banks stated that the Bureau should evaluate whether the price for sending remittance transfers has increased as a result of the Rule. Several consumer groups stated that the Bureau should focus on evaluating prices charged to consumers and whether the disclosures listing these amounts and the dates of delivery are actually accurate.

Several trade associations representing banks stated that when comparing current remittance transfer transactions against the baseline, the Bureau should conduct a cost-benefit analysis. These commenters stated that this analysis should consider the increase in the costs of services and compliance as well as any negative effect on the availability of remittance services and the growth of the market.

A few commenters offered other suggestions with respect to the assessment plan. For example, one trade association representing banks suggested that the Bureau make the aggregate, de-identified data it collected available to the public to promote accountability and transparency. One consumer group suggested that the Bureau send test transactions using different types of remittance transfer providers to destinations in the United States and foreign countries and then audit the transactions against the Rule's requirements. This commenter also stated that the Bureau should include, as part of the assessment data, remittance transfer providers that use Bitcoin, PayPal, Facebook, or other non-traditional methods of transferring remittance transfers. A money transmitter suggested that the Bureau consider whether clarifications or amendments to the Rule are necessary to accommodate innovation and technological advances. This commenter argued that while innovation can pose risks to consumers, new technologies can reduce costs, improve transparency, and make financial services more convenient and accessible for consumers. This commenter also suggested that the Bureau consider whether clarifications to the Rule are necessary to accommodate multi-jurisdictional challenges of providing global remittance services. This commenter explained that changes in foreign laws regarding how remittance transfers must be paid out or the geopolitical realities in troubled areas can make it impractical to implement certain requirements of the Rule. A group advocating on behalf of business interests provided a list of principles that it believes the Bureau should follow when conducting future assessments (*e.g.*, the Bureau should conduct a robust evaluation of a rule's costs and benefits to consumer and covered persons).

# APPENDIX C: CONSTRUCTION OF AGGREGATE REMITTANCE TRANSFER VOLUMES

## MSB remittance transfer estimates

Figures 1 through 4 in Sections 3.2.1 and 3.2.2 rely on information reported by the Conference of State Bank Supervisors (CSBS) in its *2017 Money Services Businesses Industry Report* (MSB Industry Report).<sup>344</sup> The MSB Industry Report reports findings from data collected via the MSB Call Report, and “compiles data concerning companies and branches that are licensed or registered in the NMLS to conduct money services activities.”<sup>345</sup> These activities include international money transfers, of which remittance transfers are a subset.

The MSB call report is filed by MSBs quarterly and was first adopted by participating states in the first quarter of 2017. In general, the MSB call report provides a single location for participating state regulators to license and oversee nonbank financial services businesses—including those that provide international money transfers, of which remittance transfers are a subset.

In 2017 \$151.3 billion was transferred abroad from companies operating in at least one of 18 states in which licensed entities were able to complete the MSB Call Report,<sup>346</sup> the average international money transfer was \$479, and the total number of international money transfers was 315,866,388.<sup>347</sup> Entities that report their transfers from any state requiring the MSB Call Report are asked to report the total

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<sup>344</sup> The *2017 NMLS Money Services Businesses Industry Report* is available at <https://nationwidelicencingsystem.org/about/Reports/2017-NMLS-Money-Services-Businesses-Report.pdf>.

<sup>345</sup> *2017 NMLS Money Services Business Industry Report*, September 2018, 2. Available at <https://nationwidelicencingsystem.org/about/Reports/2017-NMLS-Money-Services-Businesses-Report.pdf>. A primer on the NMLS money service business call report can be found here: [https://mortgage.nationwidelicencingsystem.org/licensees/resources/LicenseeResources/MSBCR%20Overview%20-%20\(FINAL\).pdf](https://mortgage.nationwidelicencingsystem.org/licensees/resources/LicenseeResources/MSBCR%20Overview%20-%20(FINAL).pdf).

<sup>346</sup> As of Q1 2017 California, Georgia, Kansas, Massachusetts, North Carolina, Puerto Rico, Rhode Island, South Dakota, Vermont, and Wyoming required licensed money transmitters to submit the MSB call report. As of Q1 2017 Arkansas, Connecticut, Louisiana, Michigan, Nebraska, North Dakota, Pennsylvania, and Washington allow licensees to submit their quarterly report via NMLS optionally.

<sup>347</sup> *2017 NMLS Money Services Businesses Industry Report*, 6.

U.S. transfers. The 18 states include large remittance transferring states, so these estimates include close to all covered remittance transfers by MSBs from the U.S., only missing entities licensed only in non-participating states.

The Bureau used firm-level international money transfer data provided by the California Department of Business Oversight to estimate the number and value of remittance transfers as defined by the Rule from this information on international transfers from the MSB Call Report. Several approaches to making these estimates are discussed below. All of these approaches yield similar estimates, so the Bureau is confident that conclusions it makes based on these estimates apply to covered remittance transfers.

The Bureau looked individually at companies licensed in California. It divided companies into ones it could positively identify as covered remittance transfer providers and could positively identify as not covered remittance transfer providers (mainly companies that provide business-to-business foreign exchange). While all of the largest entities by number of transfers or dollar volume could be positively identified one way or the other, smaller entities did not always have websites or full publicly accessible business descriptions, so these entities were divided based on what information was available. Because of their size, including them or excluding them makes almost no difference to the estimates. Some entities both provide remittance transfers and other international transfers. Where these are reported separately, the estimates only include the transfers by a remittance transfer provider. Otherwise, the estimates include all transfers by entities identified by remittance transfer providers, even though some transfers may not be remittance transfers. Based on this approach, the Bureau estimates that about 75% of licensed international money transmitters in California provided remittance transfers for the purposes of the Rule in 2017. Seventy-two percent of the dollar volume of all international transfers sent from California was transferred by these companies.

An alternative to this provider-by-provider approach is to use the average transfer size as a way of distinguishing between MSBs with a consumer focused remittance transfer business line. Based on its provider-by-provider examination and in MSB responses to the industry survey, the average remittance transfer by MSBs is typically small, generally under \$1,000. Foreign exchange providers, on the other hand, typically have much larger average transfers. Table 11 reports the share of the dollar volume of international transfers and the number of transactions sent by MSBs with an average transaction size less than \$10,000, less than \$5,000, and less than \$1,000. Almost all transactions sent by MSBs are below these thresholds, so which threshold is used does not affect the estimates in a meaningful way. The share of the dollar volume depends on the threshold. In 2017, 79.2% of the dollar volume was sent

through MSBs with an average transaction size less than \$10,000, while 71.4% was sent through MSBs with average transaction size less than \$1,000.<sup>348</sup> Based on the provider-by-provider estimates, it appears that a \$1,000 threshold likely includes only remittance transfer providers, but may exclude some remittance transfer providers, so may be slightly under-inclusive, while the \$10,000 threshold likely includes the transfers of some MSBs that are not remittance transfer providers, so may be slightly over-inclusive.

**TABLE 11:** SHARE OF TOTAL DOLLAR VOLUME AND NUMBER OF TRANSACTIONS SENT FROM CALIFORNIA BASED ON AVERAGE TRANSFER SIZE, 2017

Average transaction size (USD)	Share of dollar volume	Share of transactions
Less than 10,000	79.2	99.4
Less than 5,000	77.5	99.3
Less than 1,000	71.4	98

The share of dollar volume sent from California by probable remittance transfer providers ranges from about 70% to 80% of all international money transfers using all definitions discussed. Due to all estimates indicating similar shares of dollar volume, the Bureau chose to use the most inclusive definition of remittance transfer providers: those that transfer less than \$10,000 internationally. Some evidence suggests that the California international money transfer market is similar to the national international transfer market. The average international money transfer was \$479 in 2017,<sup>349</sup> and the average international money transfer sent from California was \$462. The calculation of the volume of MSBs in 2004-2016 is based on the share of remittances transfers from California in 2017 out of the estimate of the total international money transfers reported by the CSBS. It then uses this value and the estimates of remittances transferred from California in 2004-2016 to calculate the total national remittance transfers for these years. This calculation assumes that the share of remittances transferred from California has been constant from 2004 to 2017. This report discusses this assumption in greater detail in the Section 3.2.2 on MSBs.

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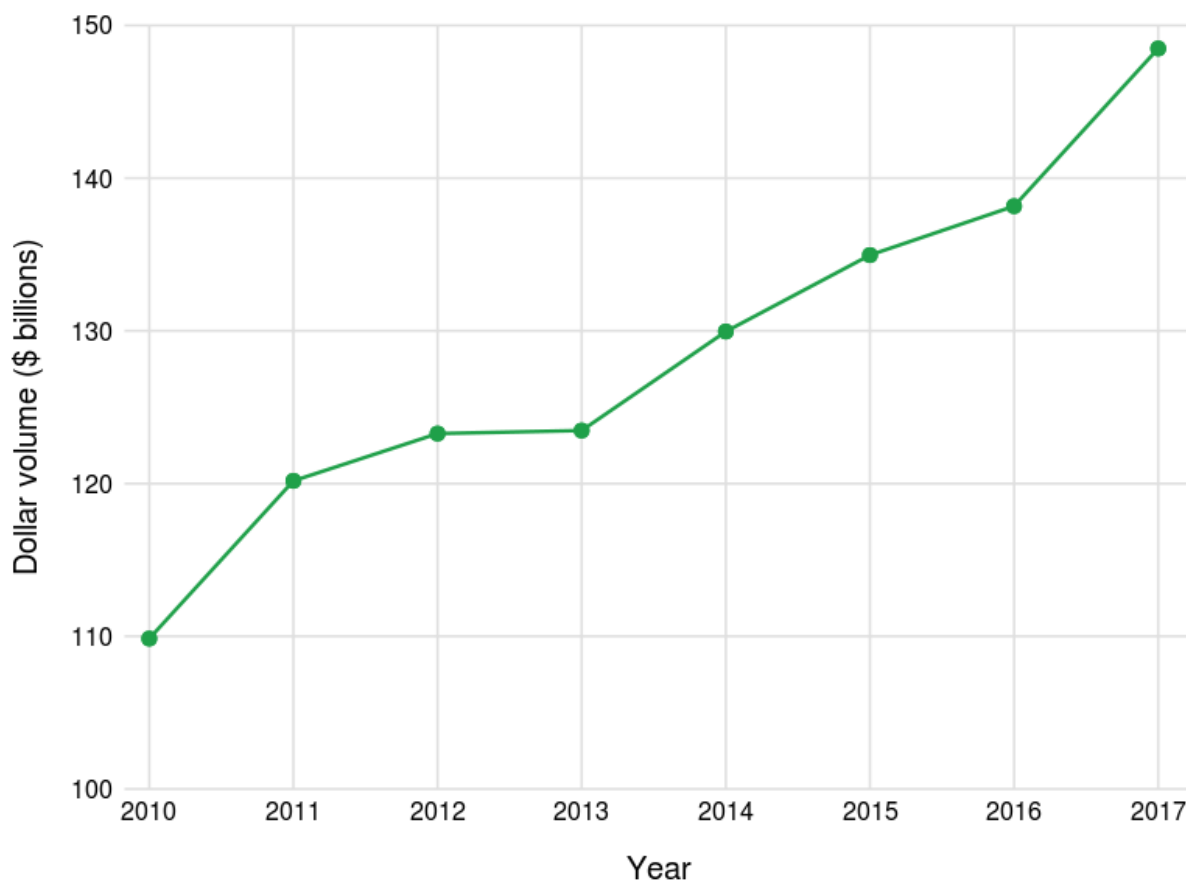
<sup>348</sup> The Bureau also looked at these thresholds for 2015 and 2016 and similarly found that in each of these years 98%-99% of transactions are accounted for by entities below these thresholds and 70%-80% of dollar volume is accounted for by entities below these thresholds.

<sup>349</sup> 2017 NMLS Money Services Businesses Industry Report, 6.

# World Bank remittance estimates

Since 2010 the World Bank has released annual estimates of the total dollar volume remitted between countries in its Bilateral Remittance Matrix.<sup>350</sup> Figure 25 shows World Bank estimates of the total dollar volume of remittances sent from the U.S. Section 3.2.1 discusses how these estimates are constructed. While the World Bank definition of remittance is distinct from remittance transfer as defined in the Rule, there is substantial overlap between the two, so trends in World Bank estimates are informative about trends in remittance transfers. Similar to Figure 2, Figure 25 shows an increase in the total nominal dollar volume of remittances sent from the U.S. in recent years.

**FIGURE 25:** WORLD BANK BILATERAL REMITTANCE ESTIMATES (BILLIONS OF DOLLARS), 2010-2017



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<sup>350</sup> Available at <http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data>