

June 2, 2020

Remittance Rule FAQs related to the COVID-19 Pandemic (Regulation E)

This is a Compliance Aid issued by the Consumer Financial Protection Bureau (Bureau). The Bureau published a Policy Statement on Compliance Aids, available at <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/policy-statement-compliance-aids/>, that explains the Bureau's approach to Compliance Aids.

QUESTION 1: Is failure to deliver remittance transfer funds to the designated recipient by the disclosed date of availability considered an error under the Remittance Rule,¹ if the failure was due to a government-mandated closure of commercial activity in the relevant intermediary or recipient countries in response to COVID-19?

ANSWER (UPDATED 06/02/2020)

The provider's failure to deliver funds by the disclosed date would not be such an error if the provider could not have reasonably anticipated the closure. In general, the Remittance Rule requires a remittance transfer provider to disclose the date on which funds will be available in the foreign country to the designated recipient,² and provides that the

¹ The Remittance Rule refers to regulations in 12 CFR part 1005 (Regulation E) that apply to remittance transfers.

² 12 CFR 1005.31(b)(2)(ii).

provider's failure to deliver or transmit a remittance transfer by the disclosed date of availability is an error.³ However, the Rule also states that such a failure is not an error if it resulted from extraordinary circumstances outside the remittance transfer provider's control that the provider could not have reasonably anticipated.⁴

The Bureau understands that some foreign governments have mandated closures of commercial activity in response to the COVID-19 pandemic, and has heard that these closures may prevent remittance transfer providers from delivering or transmitting a remittance transfer by the disclosed date of availability. The Bureau also notes that the Remittance Rule recognizes that extraordinary circumstances in 12 CFR 1005.33(a)(1)(iv)(A) include government actions or restrictions that could not have been reasonably anticipated by the remittance transfer provider.⁵ Whether a closure that prevents a remittance transfer provider from delivering or transmitting a remittance transfer by the disclosed date of availability could have been reasonably anticipated by a remittance transfer provider will depend on the facts and circumstances.

QUESTION 2: What is an example of a government-mandated closure that could not be reasonably anticipated by a remittance transfer provider?

ANSWER (UPDATED 06/02/2020)

Suppose that on March 15, 2020, a sender sends a remittance transfer to a family member (designated recipient) in Country X through ABC Remittance Company for cash pickup at an ABC Remittance Company location in Country X. ABC Remittance Company discloses to the sender that the funds will be available on March 18, 2020. On March 16, 2020, the government of Country X announces a stay-at-home order that requires all nonessential businesses to close from March 17, 2020 to April 1, 2020. The government deems remittance transfer services nonessential, and ABC Remittance Company closes all its locations in Country X. The designated recipient does not receive the remittance transfer funds on March 18, 2020. This is not an error pursuant to 12 CFR 1005.33(a)(1)(iv)(A).

³ 12 CFR 1005.33(a)(1)(iv).

⁴ 12 CFR 1005.33(a)(1)(iv)(A). Other exceptions to an error involving a remittance transfer provider's failure to deliver or transmit a remittance transfer by the disclosed date of availability are set forth in 12 CFR 1005.33(a)(1)(iv)(B)-(D).

⁵ *Id.* cmt. 33(a)-6.

QUESTION 3: What is an example of a government-mandated closure that could be reasonably anticipated by a remittance transfer provider?

ANSWER (UPDATED 06/02/2020)

In contrast to the previous example, had Country X announced the same stay-at-home order on March 14, 2020, ABC Remittance Company could have reasonably anticipated the government-mandated closure. Accordingly, had it provided a date of availability of March 18, 2020 on March 15, 2020, then 12 CFR 1005.33(a)(1)(iv)(A) would not have applied. Therefore, if the funds were not made available to the designated recipient by March 18, 2020, it would be an error under the Remittance Rule, notwithstanding the government-mandated closure.