

REGULATORY ALERT

NATIONAL CREDIT UNION ADMINISTRATION
1775 DUKE STREET, ALEXANDRIA, VA 22314

DATE: July 2013 NO: 13-RA-06

TO: Federally Insured Credit Unions

SUBJ: CFPB's Amended Remittance Transfer Rule
Compliance Deadline: October 28, 2013

On September 18, 2014, the Consumer Financial Protection Bureau published amendments to Regulation E revising remittance transfer requirements. These amendments became effective on November 17, 2014. The amendments extend until July 21, 2020, the applicability of a temporary exception permitting federally insured institutions, including federally insured credit unions, to estimate certain pricing disclosures. They also make technical and clarifying changes related to error resolution procedures, permissible methods to deliver disclosures, whether the rule applies to U.S. military installations located abroad, and the treatment of non-consumer accounts. For more information, including an NCUA Regulatory Alert issued in December 2014 about these changes and other consumer protection compliance resources, please go to <http://www.ncua.gov/Resources/CUs/Pages/ConsumerCompliance/deposit-resources.aspx>.

Dear Board of Directors and Chief Executive Officer:

If your credit union sends money to foreign countries on behalf of members or non-members within your field of membership,¹ you may have to comply with the amended remittance transfer provisions under Regulation E (the Electronic Fund Transfer Act).

The purpose of this Regulatory Alert is to notify you of recent major changes to the remittance transfer rule by the Consumer Financial Protection Bureau (CFPB) and to remind you of the compliance date of October 28, 2013.

The CFPB's changes provide new flexibility for remittance transfer providers. They mainly relate to the disclosure of third-party fees imposed and taxes collected on the remittance transfer and a remittance transfer provider's liability when a remittance transfer is not delivered to the designated recipient due to the sender's provision of incorrect information.

This Regulatory Alert supplements the information provided in [NCUA Regulatory Alert 12-RA-04](#), dated October 2012.

Background

Consumers in the United States send billions of dollars to recipients in foreign countries every year. Until now, federal consumer protection rules have not applied to most of these transfers. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) required the CFPB to issue a rule on international remittance transfers.

¹ Federal credit unions are permitted to offer international remittances to non-members within their field of membership. 12 C.F.R. §701.30. The CFPB rule also applies to international remittances made on behalf of those potential members.

The term “remittance transfer” includes consumer-to-consumer transfers of low monetary value, often made through money transmitters, banks or credit unions, through wire transfers or automated clearing house (ACH) transactions.

Section 1073 of the Dodd-Frank Act added new requirements involving remittance transfers to the Electronic Fund Transfer Act. On February 7, 2012, the CFPB published a rule implementing the new law.² On May 22, 2013, the CFPB modified disclosure requirements for certain fees and taxes, and revised certain error resolution provisions of the remittance transfer rule.³ The CFPB also established October 28, 2013, as the effective date for compliance with this rule.

What Types of Remittances Are Covered?

The rule applies to a remittance transfer, or an electronic transfer of funds using a remittance transfer provider, that is:

- More than \$15;
- Made by a consumer in the United States; and
- Sent to a person or business in a foreign country.

If your credit union facilitates international wire transfers or international ACH transfers on behalf of your members or potential members, you may be subject to the remittance transfer rule requirements.

Which Credit Unions Are Exempt?

Credit unions that do *not* provide international wire/ACH transfers in the normal course of business are exempt from the remittance transfer rule. For purposes of the rule, “normal course of business” is defined as providing more than 100 remittance transfers in the previous calendar year and in the current calendar year. **Credit unions that facilitate lower volumes (100 or fewer remittance transfers per year) are eligible for the safe harbor exemption.**

The safe harbor exemption is not related to your credit union’s asset size or complexity, number of members, or number of accounts engaged in money transfer services. Instead, you must count the actual number of international transactions you provide to determine whether the safe harbor exemption applies. For example, if one member routinely sends money outside the United States twice a month beginning in January, you will have provided 24 remittance transfers by the end of December for that calendar year.

You are expected to track the number of remittance transfers conducted annually to confirm eligibility for the safe harbor exemption. When your credit union is no longer eligible for the exemption, you will have up to six months to begin complying with the regulatory requirements.

² 77 F.R. 6194 (February 7, 2012); 77 F.R. 40459 (July 10, 2012) (Correction); 77 F.R. 50244 (August 20, 2012); 78 F.R. 6025 (January 29, 2013) (Delayed effective date).

³ 78 F.R. 30662.

If you currently exceed the safe harbor threshold, you must begin complying with the regulatory requirements on October 28, 2013.

What Does the Final Rule Require?

Disclosures – The final rule requires you to provide two types of disclosures to consumers: 1) a pre-payment disclosure, and 2) a receipt when payment is made. These two disclosures may be combined in a single document before the consumer pays for the transfer, so long as proof of payment is given when payment is made.

All disclosures must be clear and conspicuous. They should be provided in writing, but can be delivered electronically if the sender electronically requests the remittance transfer.

Disclosures must be given in English and in any other language(s) that you use to advertise, solicit, or market your services at a particular office, or in the language in which the transaction was conducted.

The rule also includes formatting requirements for the disclosures that include font size and placement of required content. Model disclosure forms are found in Appendix A to the rule.

Specifically, each disclosure must list in the sender's currency, and as separate line items (as applicable):

- Transfer amount to be sent to a designated recipient;
- Transfer fees (including any up-front fees) you impose or pass onto the sender;
- Taxes (including any up-front taxes) you collect or pass onto the sender; and
- Total transaction amount (sum of the transfer amount and up-front transfer fees and taxes.)

The disclosure must also include the exchange rate applied to the remittance transfer.

In addition, items to be listed on the disclosure form in the currency in which the transfer amount will be received, as separate line items, include (as applicable):

- Transfer amount;
- Other fees (back-end fees imposed by a third party other than your credit union); and
- Total amount to the designated recipient (amount received after all fees and taxes have been deducted.)

New Provisions for Disclosing Recipient Institution Fees, Foreign and Third-Party Taxes –

The final rule provides greater flexibility in disclosing certain third-party and foreign fees and taxes.

In general, you are required to disclose fees charged by you and “covered third-party fees” imposed on a remittance transfer by an intermediary or correspondent institution, or your agent. These covered third-party fees must be included in the calculation of the amount to be received by the designated recipient. They should be listed as “Other Fees” or a substantially similar term

and in the currency in which the funds will be received by the designated recipient. The Official CFPB Interpretations in Supplement I to the rule include examples of covered third-party fees that should be disclosed, such as lifting fees for wire transfers and fees imposed by an agent of the provider at pickup for receiving the transfer.

However, fees for receiving a remittance transfer into an account imposed by a designated recipient's institution that is *not* acting as your agent are "non-covered third-party fees" and as such, are *not* required to be calculated or disclosed. The final rule also makes clear that you are *not* required to disclose taxes collected by other parties or to include this amount in the calculation of the amount to be received by the designated recipient.

New Disclaimer Requirement – The new rule requires your credit union to include a disclaimer on the disclosure form that non-covered third-party fees or taxes collected on the remittance transfer by a person other than you may apply to the remittance transfer and result in the designated recipient receiving less than the transfer amount. The rule includes model language for this disclaimer.

Optional Disclosures – As part of the new disclaimer, you may, but are *not required* to, disclose or provide reasonable estimates of any applicable non-covered third-party fees or taxes collected on the remittance transfer by a person other than the provider. The rule includes guidelines, model language and reasonable estimation methods for these optional disclosures.

Receipt – You must also provide a receipt or proof of payment to your member or potential member that repeats the information in the first disclosure. The receipt must also disclose the date when funds will be available to the designated recipient; the recipient's name and contact information; a statement of the sender's error resolution and cancellation rights; and your credit union's name, telephone number and website address.

In addition, the receipt must include a statement that for questions and complaints the sender can contact the CFPB and include the CFPB's telephone number and website. If your credit union is state-chartered, you also must provide your state regulator's name, phone number and website. The rule includes model statements for providing this information.

Accuracy and Estimates – The final rule requires that disclosures generally must be accurate at the time the sender pays for a remittance transfer, unless one of three exceptions applies. These exceptions permit the disclosure of estimates for the applicable exchange rate, back-end fees and taxes and total funds to be received.

1) The first exception is in place until July 21, 2015, and applies if you cannot determine such amounts for reasons beyond your control. (For example, the exchange rate is set by the designated recipient's institution and you have no correspondent relationship with that institution.)

2) The second exception permits the use of estimates for transfers to certain countries if you cannot determine exact amounts because either the laws of, or the method by which

transactions are made in the recipient country, do not permit such a determination. CFPB published a safe harbor list of countries that qualify for this permanent exception.

3) The third exception allows estimates for transfers scheduled for five or more business days before the date of transfer.

Error Resolution Procedures – The rule also requires that you:

- Give the sender at least 30 minutes to cancel a transfer after making payment. Senders can get their money back, at no additional cost, within three business days of you receiving the cancellation notice;
- Timely investigate if the sender reports a problem with a transfer. For certain errors, the sender can get a refund or have the transfer re-sent without charge if the money did not arrive as promised;
- Take responsibility for mistakes made by agents or third-party service providers who work for you in completing international money transfers; and
- Follow specific disclosure timing, content and cancellation provisions for transfers that senders schedule in advance, and for transfers that are scheduled to recur on a regular basis.

New Exception from Error Resolution Procedures – The final rule addresses the situation where your credit union deposits funds into the wrong account because the sender provided an incorrect account number or institution identifier (such as a routing number). The rule limits your liability in this situation if your credit union:

- Used reasonably available means to verify the institution identifier and name information;
- Provided notice to the sender before payment that the sender could lose the transfer amount if the sender provided incorrect information; and
- Attempted to recover the funds.

If you met all of these conditions, then your credit union would not bear the loss of funds that cannot be recovered.

What Should You Do Next?

If your credit union offers remittance transfer services to members, you should **take several actions to implement the regulatory requirements prior to the rule's effective date:**

- Become familiar with the new remittance transfer requirements.
- Track the number of international wire transfers and international ACH transfers your credit union completes each year.
- Modify your data processing systems, as necessary, to generate proper terms and content for the required disclosures.

- Develop and maintain written policies and procedures to ensure compliance with the error resolution provisions. Your policies and procedures should specifically address:
 - A sender's notice of error (oral and written);
 - A request for additional information or clarification;
 - The time limits for investigation, reporting results, and correcting an error (if one occurred);
 - A sender's request for documentation you used to make a decision; and
 - Records retention related to error investigations. (Please note, a remittance transfer provider must retain its records for at least two years from the date an error notice is received or corrective action is required.)

What Guidance Is Available?

The full text of the final rule published in the Federal Register is available at:

<https://www.federalregister.gov/articles/2013/05/22/2013-10604/electronic-fund-transfers-regulation-e>

CFPB resources to help you understand the rule and its implications, as well as information about subsequent adjustments to the rule, are available at:

<http://www.consumerfinance.gov/remittances-transfer-rule-amendment-to-regulation-e/#rule>

If you have questions, contact NCUA's Office of Consumer Protection at (703) 518-1140 or ComplianceMail@ncua.gov, your regional office, or state supervisory authority.

Sincerely,

/s/

Debbie Matz
Chairman